

**CONDOMINIUM PUBLIC REPORT**

Prepared & Issued by: Developer D.R. Horton-Schuler Homes, LLC, dba D.R. Horton-Schuler Division  
 Business Address 130 Merchant Street, Suite 112, Honolulu, Hawaii 96813

Project Name (\*): WAI'ULA'ULA AT MAUNA KEA RESORT (PORTION - 24 UNITS)  
 Address: 68-3200 Amaui Place, Kamuela, Hawaii 96741

Registration No. 7452 Effective date: December 20, 2013  
 Expiration date: September 20, 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:**

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

(\*) Exactly as named in the Declaration  
 This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

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

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

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

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

No prior reports have been issued by the developer. SEE SPECIAL NOTE ON PAGE 2a

Changes made are as follows:

**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:

NOT APPLICABLE

**SPECIAL NOTE:** Pursuant to that certain Wai'ula'ula at Mauna Kea Resort (the "Project") Declaration of Condominium Property Regime, dated March 2, 2005, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-044641, as amended by instruments recorded as Document Nos. 2005-096045, 2008-057052 and A-50170418, and as the same may be further amended and/or restated from time to time (the "Declaration"), **the Project consists of a total of 102 Units.** Moana Ikena, LLC, the original declarant/developer under the Declaration (sometimes, the "Original Declarant" or "Original Developer"), registered, marketed and constructed a portion of the Project in increments. 78 of the Project's 102 Units have been constructed and 24 Units remain unbuild.

**Developer acquired from the Original Developer, and this report covers, the following 24 unbuild Units (the "Subject Units"): Units 316, 318, 320, 322, 324, 325, 326, 327, 328, 329, 330, 331, 332, 334, 407, 409, 411, 413, 415, 417, 419, 420, 422, and 424 bearing Tax Map Key Nos. (3) 6-2-013-13: 65 through 78 (inclusive), and 92 through 99 (inclusive), 101 and 102.**

**Original Developer previously issued: (i) a Preliminary Public Report and a First Supplementary Public Report for all 102 units at the Project under Registration No. 5477; (ii) a Final Public Report and a Supplementary Public Report covering Units 407 and 409 under Registration No. 5631; and (iii) a Final Public Report and a Supplementary Public Report covering Units 316, 318, 320, 322, 324, 325, 326, 327, 328, 329, 330, 331, 332, 334, 411, 413, 415, 417, 419, 420, 422, and 424 under Registration No. 5774. Developer has withdrawn the Subject Units from Registration Nos. 5631 and 5774 and THIS CONTINGENT FINAL PUBLIC REPORT IS ISSUED UNDER A SEPARATE REGISTRATION.**

In connection with the Developer's acquisition from the Original Developer of the Subject Units, the Original Developer assigned to the Developer pursuant to that certain Partial Assignment of Rights Under Declaration dated September 26, 2013, recorded as Document No. A-50170418 (the "Partial Assignment of Rights Under Declaration"), certain rights of the Original Developer in, to and under the Declaration *strictly as to the Subject Units* as more particularly described in Section E.2 of this report. Developer is not affiliated in any manner with the Original Developer. Additionally, the Project has been operational for several years now and its management and administration turned over by the Original Developer to the Board of Directors of the Association of Unit Owners of Wai'ula'ula at Mauna Kea Resort (the "Association"). The Developer has made an effort to provide prospective buyers with current information regarding the Association and the Project's constituent documents. Prospective buyers are encouraged to direct any questions respecting the Association and the Project's constituent documents to the Managing Agent and/or Board of Directors.

The Subject Units are single family units, designated as SF or SF-Op Units under the Declaration, and duplex units, designated as D Units under the Declaration. The SF, SF-Op and D Unit types are more particularly described in Exhibit A to this report and Exhibit B to the Declaration. Pursuant to the Declaration, the term "Units" has the same meaning as the term "apartment" in the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended.

The following two Units of the Subject Units are SF Units: 411 and 420.

The following eight Units of the Subject Units are SF-Op Units: 407, 409, 413, 415, 417, 419, 422 and 424.

The following 14 Units of the Subject Units are D Units: 316, 318, 320, 322, 324, 325, 326, 327, 328, 329, 330, 331, 332 and 334.

**THIS REPORT IS ISSUED UNDER A SEPARATE REGISTRATION FROM PRIOR INCREMENTS OF UNITS IN THE PROJECT AND IS STRICTLY LIMITED TO THE FOREGOING 24 SUBJECT UNITS IN THE PROJECT, NOTWITHSTANDING THAT THIS REPORT DESCRIBES AT TIMES ALL 102 UNITS AND THE COMMON AND LIMITED COMMON ELEMENTS OF THE PROJECT AS DESCRIBED UNDER THE DECLARATION.**

This is a CONDOMINIUM PROJECT, not a subdivision. It does not involve the sale of individual subdivided lots. The land areas adjacent to some of the units are designated as LIMITED COMMON ELEMENTS and are not legally subdivided lots. The drawings on the Condominium Map indicating the boundaries and disclosing the approximate number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots. This report does not constitute approval of the Project by the Real Estate Commission, or any other government agency. THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONSTITUENT DOCUMENTS OF THE PROJECT REFERENCED IN THIS REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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### General Information On Condominiums

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

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

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

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

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

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

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

### Operation of the Condominium Project

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

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

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

**I. PERSONS CONNECTED WITH THE PROJECT**

Developer: D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division Phone: (808) 521-5661  
 Name\* 130 Merchant Street, Suite 112 (Business)  
 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):  
SEE ATTACHED PAGE 5a

Real Estate Broker\* : D.R. Horton-Schuler Homes, LLC Phone: (808) 521-5661  
 Name 130 Merchant Street, Suite 112 (Business)  
 Business Address Honolulu, Hawaii 96813

Escrow Title Guaranty Escrow Services, Inc. Phone: (808) 521-0209  
 Name 235 Merchant Street (Business)  
 Business Address Honolulu, Hawaii 96813

General Contractor\*: Vertical Construction Corporation Phone: (808) 521-5661  
 Name 130 Merchant Street, Suite 112 (Business)  
 Business Address Honolulu, Hawaii 96813

Condominium Managing Agent\*: Pacifica Realty Management, Inc. Phone: (808) 334-1610  
 Name 75-1029 Henry St., Suite 202 (Business)  
 Business Address Kailua-Kona, Hawaii 96740

Attorney for Developer: Case Lombardi & Pettit Phone: (808) 547-5400  
Dennis M. Lombardi, Esq. & Esther H. Roberts, Esq. (Business)  
 Name 737 Bishop Street, Suite 2600  
 Business Address Honolulu, Hawaii 96813-3283

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

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

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



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

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

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

The Declaration for this condominium is:

<input type="checkbox"/>	Proposed				
<input checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	<u>2005-044641</u>	
			Book	_____	Page _____
<input type="checkbox"/>	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]:

1) Amendment dated May 13, 2005, recorded as Document No. 2005-096045; 2) Amendment dated April 7, 2008, recorded as Document No. 2008-057052; and 3) Partial Assignment of Rights Under Declaration dated September 26, 2013, recorded as Document No. A-50170418.

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

The Condominium Map for this condominium project is:

<input type="checkbox"/>	Proposed				
<input checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances	Condo Map No.	<u>3956</u>	
<input type="checkbox"/>	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]:

1) Amendment dated April 7, 2008, recorded as Document No. 2008-057052.

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

The Bylaws for this condominium are:

<input type="checkbox"/>	Proposed				
<input checked="" type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No.	<u>2005-044642</u>	
			Book	_____	Page _____
<input type="checkbox"/>	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]:

1) Amendment to By-Laws of the Association of Apartment Owners dated May 13, 2005, recorded as Document No. 2005-096046.

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

The House Rules for this condominium are:

Proposed       Adopted  Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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

Under Section 23 of the Declaration, the Original Developer and, pursuant to the Partial Assignment of Rights Under Declaration described below, the Developer, has reserved various rights, including the rights to amend the Declaration and the Condominium Map to withdraw land and/or unsold apartments from the Project, to change the common interests, to merge the Project with a new project subsequently developed on land withdrawn from the Project, and/or to reconfigure the Project. These reservations are more fully disclosed on page 20 of this report and in Exhibit G attached hereto. Notwithstanding the lease, sale or conveyance of any of the Apartments, the Original Developer and, pursuant to the Partial Assignment of Rights Under Declaration described below, the Developer, may amend the Declaration and the Condominium Map to file the "as-built" verified statement required by Section 514A-12 of the Act. For so long as the Original Developer and, pursuant to the Partial Assignment of Rights Under Declaration described below, the Developer, retains any interest in an Apartment in the Project, the Original Developer and the Developer shall have the right (but not the obligation) to amend the Declaration and the Bylaws (and the Condominium Map, if appropriate) without the consent or joinder of any Apartment Owner, lienholder or other person or entity, for the purpose of meeting any requirement imposed by (i) any applicable law, (ii) the Real Estate Commission of the State of Hawaii, (iii) any title insurance company issuing a title insurance policy on the Project or any of the Apartments, (iv) any institutional lender lending funds on the security of the Project or any of the Apartments, or (v) any other governmental or quasi-governmental agency including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development or the Veterans Administration; provided, however, that no amendment which would change the common interest appurtenant to an Apartment or substantially change the design, location or size of an Apartment shall be made without the consent of all persons having an interest in such Apartment.

Pursuant to that certain Partial Assignment of Rights Under Declaration dated September 26, 2013, recorded as Document No. A-50170418 (the "Partial Assignment of Rights Under Declaration"), respecting the Subject Units, the Original Developer assigned to Developer the following rights of Original Developer in, to and under the Declaration with respect to the Subject Units, subject to the limitations set forth below and any and all limitations set forth in the Declaration (herein, collectively, the "Assigned Rights"): All right, title, estate and interest in and to, strictly as to the Subject Units, Original Developer's rights and obligations as Declarant. Pursuant to the Partial Assignment of Rights Under Declaration, Original Developer acknowledges and agrees that, such assignment does not include any of Original Developer's rights or obligations or liabilities respecting other portions of the Project, including without limitation, any of Original Developer's rights or obligations or liabilities as to the Common Area of the Project that are not appurtenant to the Subject Units, or to any other condominium units and limited common elements appurtenant to said other condominium units, all of which rights and obligations are expressly reserved unto Original Developer.

### 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): \_\_\_\_\_

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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): \_\_\_\_\_

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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: 68-3200 Maui Drive Tax Map Key (TMK): (3) 6-2-013: 013, 014, 016, 017  
Kamuela, Hawaii 96743 and portion of 007

Address  TMK is expected to change because No change. CPR numbers have been  
assigned to the subject apartments.

Land Area: 48.135  square feet  acre(s) Zoning: RM-6 and RM-15 (multiple  
family residential)

Fee Owner: D.R. Horton-Schuler Homes, LLC, a Delaware  
of Subject Units limited liability company  
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: 17 Floors Per Building: 1 each for SF, SF-Op and D buildings

Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other wood, steel metal studs, cementitious material, precast concrete, aluminum, glass, steel, drywall, flooring, windows

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning	
<input checked="" type="checkbox"/> Residential	<u>24*</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

\*As previously stated, this report covers the 24 Subject Units, which include: Units 316, 318, 320, 322, 324, 325, 326, 327, 328, 329, 330, 331, 332, 334, 407, 409, 411, 413, 415, 417, 419, 420, 422, and 424. The total number of Units in the Project is 102.

6. Special Use Restrictions:

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

**Pets:** Pursuant to Section A.2(b) of the House Rules, dogs, cats and other generally recognized household pets permitted in reasonable numbers with the prior approval of the Board.

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

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

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
D	14	3 / 3.5	2,517	488 / 494	lanai / garage
SF	2	3 / 3.5	2,839	649 / 496	lanai / garage
SF-Op	8	4 / 4.5	3,310	656 / 496	lanai / garage
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 24 Units\*\*

\*\*Total apartments covered by this report.

\* 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 B

Permitted Alterations to Apartments:

See Exhibit C

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 X elected to provide the information in a published announcement or advertisement. See Exhibit N.

7. Parking Stalls:

Total Parking Stalls:	<u>63**</u>			
	<u>Regular</u>	<u>Compact</u>	<u>Tandem</u>	<u>TOTAL</u>
	<u>Covered</u>	<u>Covered</u>	<u>Covered</u>	
	<u>Open</u>	<u>Open</u>	<u>Open</u>	
Assigned (for each unit)	<u>48</u>	<u>          </u>	<u>          </u>	<u>48</u>
Guest	<u>11</u>	<u>          </u>	<u>          </u>	<u>11</u>
Unassigned	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Extra for Purchase	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Other: <u>handicap</u>	<u>4</u>	<u>          </u>	<u>          </u>	<u>4</u>
Total Covered & Open:	<u>63</u>	<u>          </u>	<u>          </u>	<u>63</u>

Each SF, SF-Op and D Unit will have exclusive use of 2 parking stalls located in the unit's attached garage

\*\*Total number of parking stalls is for the units covered by this report only.

Commercial parking garage permitted in condominium project.

Exhibit A 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: not limited to a swimming pool, toddler pool, jacuzzi, pavilion, outdoor showers, men's and women's restrooms, fitness gym area, meeting room, function area, kitchen, barbeque area and landscaped areas.

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)

\*\*\*Statement is limited to the Subject Units.

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

N/A

11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted. \*
- Variance(s) to zoning code was/were granted as follows:

\*No variance to zoning code have been granted as to the Subject Units.

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	x	_____	_____
Structures	x	_____	_____
Lot	x	_____	_____

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

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

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

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

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

- described in Exhibit  D ,
- 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  E .

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  A .

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  F  describes the encumbrances against the title contained in the title report dated  October 10, 2013  and issued by  Title Guaranty of Hawaii, 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.

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>
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**F. Construction Warranties:**

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

1. **Building and Other Improvements:**

The Developer's sole warranty will be provided in the form attached to this report as Exhibit M. Prospective purchasers should read the Limited Warranty with care to understand coverage, limitations and exclusions, and procedures.

2. **Appliances:**

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

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

Developer anticipates commencing construction of the Subject Units in March 2014 and estimates completion of the Subject Units in March 2016.

H. **Project Phases:**

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

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

See page 20 and Exhibit G.

**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 H 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 (Standard basic service)  
 Other Telephone - Common Elements only; High speed Internet

\*NOTE: The Association undertook administration of the Project from the Original Developer several years ago. The 2014 operating budget (the "2014 Budget"), was compiled by the Managing Agent (a licensed property manager) and approved by the Board of Directors of the Association on October 18, 2013. The schedule of Maintenance Fee Calculations attached at Exhibit H was prepared by the Managing Agent based upon the 2014 Budget. Although the Managing Agent makes every effort to estimate the actual cost of operation, certain budget items, especially insurance in today's insurance market, may change. The prospective buyer is aware that such amounts are only estimates and may change for reasons beyond the control of Developer, and the prospective buyer hereby specifically accepts and approves any such changes. The prospective buyer is also aware that such estimates do not include the prospective buyer's obligation for payment of real property taxes. The prospective Buyer understands that such estimates are not intended to be and do not constitute any representation or warranty by Developer, including but not limited to any representation or warranty as to the accuracy of such estimates. The prospective buyer understands that Developer has not independently confirmed the accuracy or content of the estimates prepared by the licensed independent Managing Agent. The prospective buyer should examine the maintenance charges schedule to see what services are included in the schedule and address these issues with the Board. The prospective buyer should also be aware that the estimates provided are as of the date reflected in the Managing Agent's certification and do not reflect the actual charges that may be incurred upon adoption of the Board of Directors of a new budget and the actual contracting for such services such as insurance and maintenance, etc.

\*\* Water service to each Unit will be separately sub-metered by the Association, and each Unit will be separately billed for water based upon actual consumption.

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit I contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated October 16, 2013  
Exhibit J contains a summary of the pertinent provisions of the escrow agreement.
- Other Form of Apartment Deed

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 \_\_\_\_\_

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. Development in Increments. There are 102 Units in the Project, 78 of which were previously constructed and sold and 24 of which remain unbuilt and are covered by this report and herein referred to as the Subject Units. Original Developer previously issued: (i) a Preliminary Public Report and a First Supplementary Public Report for all 102 units at the Project under Registration No. 5477; (ii) a Final Public Report and a Supplementary Public Report covering a total of Units 407 and 409 under Registration No. 5631; and (iii) a Final Public Report and a Supplementary Public Report covering Units 316, 318, 320, 322, 324, 325, 326, 327, 328, 329, 330, 331, 332, 334, 411, 413, 415, 417, 419, 420, 422, and 424 under Registration No. 5774. Developer has withdrawn the Subject Units from Registration Nos. 5631 and 5774 and THIS CONTINGENT FINAL PUBLIC REPORT IS ISSUED UNDER A SEPARATE REGISTRATION. As previously stated, 24 of the Units at the Project, the Subject Units, remain unbuilt and are covered by this report. The Developer is not affiliated in any manner with the Original Developer and this report is strictly limited to the Subject Units.

2. Developer's Reserved Alteration, Withdrawal and Merger Rights. Under Section 23 of the Declaration, the Original Developer, and, pursuant to the Partial Assignment of Rights Under Declaration, the Developer, has reserved various rights, including (but not limited to) the rights to alter unbuilt and unsold units and the limited common elements appurtenant thereto, to withdraw from the Project portions of the Project's land, common elements and units, to change the common interests appurtenant to the remaining units in the Project, to sell or otherwise dispose of the withdrawn property, or to establish (or cooperate in the establishment of) a new condominium property regime on the withdrawn property and subsequently to merge (or cooperate in the merger of) such new project with the Project, all without being required to obtain the consent or joinder of any person or group of persons, including the Project's Association, any unit owner or any mortgagee, lien holder, unit purchaser, or any other person who may have an interest in the Project or in any unit. The foregoing rights are more fully disclosed in Exhibit G attached hereto, which reproduces Section 23 of the Declaration. Also attached hereto as Exhibit K is a copy of the Declaration of Merger of Condominium Phases the Original Developer recorded prior to recordation of the Declaration. THE BUYER IS ENCOURAGED TO READ EXHIBITS G AND K VERY CAREFULLY, AS THE EXERCISE OF THE ORIGINAL DEVELOPER'S RIGHTS, AND, PURSUANT TO THE PARTIAL ASSIGNMENT OF RIGHTS UNDER DECLARATION, THE DEVELOPER'S RIGHTS, RESERVED IN SECTION 23 OF THE DECLARATION MAY HAVE A MATERIAL EFFECT ON THE BUYER'S INTEREST IN THE PROJECT.

3. Master Deed. The Project is subject to the terms, conditions, restrictions and reservations set forth in that certain Limited Warranty Deed and Grant of Easements, dated May 11, 2004, recorded in the Bureau as Document No. 2004-095012 (the "Master Deed"). By the Master Deed, Mauna Kea Development Corp., a Hawaii corporation ("MKD"), conveyed the Project's land to the Original Developer. Pursuant to the terms of the Master Deed, MKD has the right, subject to the Original Developer's prior approval (which approval shall not be unreasonably withheld), to grant easements over, under, across and through the Project's land for the benefit of, or in connection with the development of, other property owned as of the date of recordation of the Master Deed by MKD; provided, however, that the exercise of such reserved rights shall not unreasonably interfere with the Original Developer's development and use of the Project's land; and provided, further, that any such reserved easements may be relocated by MKD from time to time, at MKD's sole cost and expense, provided that such relocation shall be subject to the Original Developer's prior written approval (which approval shall not be unreasonably withheld or delayed) and shall not materially impair the Original Developer's ability to develop or use the Project's land in the manner set forth in that certain Real Property Development Plan approved by MKD on May 6, 2004, and more particularly described in the Master Deed. The reservations, exceptions, rights and easements mentioned in the Master Deed are appurtenant to all land owned by MKD or its affiliated companies as of the date of recordation of the Master Deed in the vicinity of the Project and may be assigned, transferred or conveyed, in whole or in part, by MKD or its affiliated companies and their successors and assigns, without the consent or joinder of any person owning any interest in the land or any portion thereof. Pursuant to Section 8.8 of the Declaration, the foregoing approval rights (and the obligation not to withhold approval unreasonably) of the Original Developer in the Master Deed automatically transferred to the Project's Association when its first Board of Directors was elected, and such rights shall be exercised by the vote of a majority of a quorum the members of the Board, without the need for further approval by any individual unit owner. As previously stated, the Association undertook administration of the Project from the Original Developer several years ago.

4. Master Declaration. The Project is subject to that certain Declaration of Protective Covenants, Conditions and Restrictions for the Uplands at Mauna Kea, dated August 10, 1999, recorded in the Bureau as Documents No. 99-131337 and 99-131338, as amended (the "Master Declaration"), and all rules and regulations promulgated under the Master Declaration. The Master Declaration provides, among other things, that each owner of a unit in the Project shall automatically become a member of The Uplands at Mauna Kea Community Association, a Hawaii nonprofit corporation (the "Master Association"), and shall have various rights and obligations as such member. The obligations of each unit owner as a member of the Master Association include, but are not limited to, the obligation to pay various assessments levied from time to time upon members of the Master Association, and to observe and comply with various use restrictions, maintenance and design standards and requirements set forth in the Master Declaration, the Bylaws of the Master Association and any rules and regulations promulgated under either of them, and those certain Design and Construction Requirements for Homes in The Uplands, dated August 10, 1999, as amended (the "Design Requirements"). In addition, the Master Declaration contains provisions relating to water conservation measures and

other requirements designed to minimize water consumption at the Project. In order to effectuate such conservation measures and requirements, the Master Declaration provides that the "Declarant" or the "Fee Owner", both as identified in the Master Declaration, shall have the right to establish such water conservation measures and restrictions as are reasonably necessary to assure that the aggregate gallons of potable water per day used within the Project shall not exceed the maximum allocated to the Project by the Department of Water Supply of the County of Hawaii, and by acquiring title to a unit under a Condominium Unit Deed, each purchaser will thereby covenant and agree to comply at all times with all such water conservation measures and to observe and comply with all covenants, conditions, restrictions and other requirements to which the Project is subject under the Master Deed, the Master Declaration, the Bylaws of the Master Association, the Design Requirements and any and all rules and regulations promulgated thereunder. The obligations of a unit owner as a member of the Master Association are in addition to the unit owner's obligations as a member of the Project's Association of Unit Owners.

5. **Golf Course.** The Project is in the vicinity of or adjacent to a golf course. By accepting an interest in a unit and the Project, each buyer will thereby acknowledge and accept that golf cart path easements may affect portions of the Project's land, and that resort-related activities, including without limitation golf tournaments and other events, may be held on and in the vicinity of such golf course, and that the location of the Project with respect to such golf course and golf cart path easements may result in nuisances, disturbances or hazards to persons and property on or within the Project as a result of such golf course related operations (e.g., golf course maintenance and repairs, pest management, water retention pond, weed and fungus control) and other resort-related operations thereon. By acquiring an interest in a unit and the Project, each buyer will covenant and agree that the buyer assumes all risks associated with the location of the Project with respect to such golf course and golf cart path easements, including without limitation, the risk of property damage, personal injury, bodily injury or death arising out of or in connection with the use of golf carts, stray golf balls, or other activities incidental to such golf course operations and resort related activities, and the buyer will waive any rights, claims or actions the buyer may have or acquire against the Developer as a result of or in any way related to such conditions, operations or activities. By acquiring an interest in a unit and the Project, the buyer will thereby covenant and agree, as a covenant running with the Project's land and the buyer's interest therein, that the buyer shall indemnify and hold harmless Mauna Kea Development Corp., as "Grantor" under the Master Deed described above, and Mauna Kea Properties, Inc., and their affiliates (including the owners and operators of the golf course), the Developer, the Developer's members and managers, the Project's Association of Unit Owners, the Master Association described above, and all of their respective officers, directors, employees, agents, successors and assigns from any and all actions, liabilities, claims, losses, damages, costs or expenses, including attorney's fees, arising out of or in connection with any such property damage, personal injury, bodily injury or death, to property or person of the buyer, and the buyer's family members, assigns, tenants, lessees, servants, guests, invitees, licensees, agents, employees, or any other person who may use or occupy the unit or the Project by, through, or under the buyer, arising out of or in connection with such golf cart path easements, golf course related operations and other resort-related operations; and by acquiring an interest in a unit and the Project, the buyer will thereby irrevocably agree to suffer and permit all actions and consequences incidental to the construction, maintenance, operation and use of the golf course and golf cart path easements and to the carrying out of all golf course related operations and resort related activities thereon and will thereby waive any rights, claims or actions buyer may have or acquire against the Developer as a result of or in any way related to any such incidental actions, consequences, operations, activities and conditions.

6. **Volcanic Activity.** The Project is located on the Island of Hawaii, an Island that has been formed as a result of volcanic eruptions and other activity. The Project's land is within a volcanic rift zone and subject to potential earthquakes and lava flows. In the event of volcanic eruptions, the Project may be subject to volcanic haze, unpleasant odors and other inconveniences, including possible destruction of the Project. By acquiring a unit and an interest in the Project, each buyer will be required to accept such conditions and waive any rights, claims or actions the buyer may have or acquire against the Developer as a result of or in any way related to such conditions, and each buyer will be required to indemnify and hold harmless the Developer, the Developer's partners and members, and all of their respective officers, directors, employees, agents, successors and assigns from any and all loss (including but not limited to economic loss), cost expense, harm, injury or damage to person or property that the buyer or any of the buyer's family members, assigns, tenants, lessees, servants, guests, invitees, licensees, agents, employees, or any other person who may use or occupy the unit or the Project by, through, or under the buyer may suffer as a result of such conditions.

7. **Mold.** Climactic conditions where the Project is located are conducive to the growth of mold and other types of potentially irritating or harmful growths (collectively "Mold"). Each buyer acknowledges and understands that Mold can be irritating or harmful to the respiratory tract of certain individuals and can cause deterioration of property. By acquiring a unit and an interest in the Project, each buyer will thereby assume the risk that Mold may be present from time to time in the buyer's unit or elsewhere at the Project and the buyer will be required to waive any rights, claims or actions the buyer may have or acquire against the Developer as a result of or in any way related to Mold in the unit or elsewhere at the Project, and the buyer will further be required to agree to



indemnify and hold harmless the Developer, the Developer's partners and members, and all of their respective officers, directors, employees, agents, successors and assigns from any and all loss (including but not limited to economic loss), cost, expense, harm, injury or damage to person or property that the buyer or any of the buyer's family members, assigns, tenants, lessees, servants, guests, invitees, licensees, agents, employees, or any other person who may use or occupy the unit or the Project by, through, or under the buyer may suffer as a result of the presence of Mold in the unit or anywhere else at the Project.

8. Drainage; Flooding. The topography of the Project's land is varied, and the land includes low-lying areas, gulches and drainage easements that may be subject to overflow and flooding under certain extreme weather conditions. By acquiring a unit and an interest in the Project, the buyer will thereby assume the risk that flooding may occur from time to time in such areas and will be required to waive any rights, claims or actions the buyer may have or acquire against the Developer as a result of or in any way related to flooding in the low-lying areas, gulches and drainage easements at the Project, and the buyer will thereby agree to indemnify and hold harmless the Developer, the Developer's partners and members, and all of their respective officers, directors, employees, agents, successors and assigns from any and all loss (including but not limited to economic loss), cost, expense, harm, injury or damage to person or property that the buyer or any of the buyer's family members, assigns, tenants, lessees, servants, guests, invitees, licensees, agents, employees, or any other person who may use or occupy the unit or the Project by, through, or under the buyer may suffer as a result of such flooding.

9. Views. By acquiring a unit and an interest in the Project, each buyer will be required to acknowledge and accept that the unit is being conveyed with no warranties or guarantees whatsoever as to the availability of views from the unit. Each buyer will further acknowledge and agree that views that may be available from the unit now or hereafter may change or may not continue to be available in the future. By accepting title to a unit, the buyer will expressly acknowledge and agree that the buyer is not thereby acquiring a view easement or view plane easement or any other right or entitlement of any kind to have or enjoy or retain any views whatsoever from the unit or from anywhere else at the Project.

10. Security. By acquiring a unit and an interest in the Project, each buyer will be required to acknowledge and agree that neither the Project's Association of Unit Owners nor the Developer nor Mauna Kea Development Corp. shall in any way be considered insurers or guarantors of security within the Project, and neither the Project's Association nor the Developer nor Mauna Kea Development Corp. shall be held liable for any loss or damage by reason of failure to provide adequate security or the ineffectiveness of any security measures undertaken. All tenants, guests, and invitees of the buyer shall be deemed to acknowledge that the Project's Association, its Board of Directors, the Developer and any committees established by any of the foregoing entities, and Mauna Kea Development Corp. are not insurers and that each tenant, guest, and invitee assumes all risk of loss or damage to persons, to units, and to the contents of units, and further acknowledges that the Developer, the Developer's representatives, the Project's Association, the Board of Directors, the committees and Mauna Kea Development Corp. have made no representations or warranties relative to any security measures recommended or undertaken.

11. Ordnance Letter and Report. The Project's land is located within the former Waikoloa Maneuver Area/Nansay Combat Range (the "Range"). The Range (containing approximately 110,000 acres) was used during World War II for military training and maneuvers, including live-fire training. At the Original Developer's request, the Army Corps of Engineers retained Donaldson Enterprises, Inc. ("DEI"), to perform a search of the Project's land for unexploded ordnance ("UXO") and to dispose of any UXO that was found. DEI's search was conducted between November 15, 2004, and January 10, 2005. Following the search, DEI prepared a report of its activities and findings (the "Ordnance Report"). As of the date of this public report, Developer has not been able to secure a copy of DEI's report. DEI also issued a letter (the "Ordnance Letter") summarizing its activities and findings, a copy of which is attached to this report as Exhibit L. The Ordnance Letter discloses that DEI found and disposed of some scrap metal and UXO on the Project's land. The Ordnance Letter concludes as follows: "While DEI believes their techniques were effective, the nature of the site is such that no guarantee can be made that the project site is completely free of undetected UXO. These conditions notwithstanding, it is DEI's opinion that it is unlikely that hazardous UXO are present on the project site." The buyer is encouraged to read the Ordnance Letter and the Ordnance Report. The Developer makes no warranties or representations whatsoever regarding the accuracy of the Ordnance Letter or the Ordnance Report or the presence or absence of unexploded ordnance anywhere at the Project. By acquiring a unit and an interest in the Project each buyer will thereby assume the risk that unexploded ordnance may be present at the Project and the buyer will be required to waive any rights, claims or actions the buyer may have or acquire against the Developer as a result of or in any way related to the presence of unexploded ordnance at the Project, and the buyer will further be required to agree to indemnify and hold harmless the Developer, the Developer's partners and members, and all of their respective officers, directors, employees, agents, successors and assigns from any and all loss (including but not limited to economic loss), cost, expense, harm, injury or damage to person or property that the buyer or any of the buyer's family members, assigns, tenants, lessees, servants, guests, invitees, licensees,

agents, employees, or any other person who may use or occupy the unit or the Project by, through, or under the buyer may suffer as a result of the presence of unexploded ordnance anywhere at the 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.

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

Printed Name of Developer

By: 

Duly Authorized Signatory\*

December 17, 2013

Date

Robert Q. Bruhl, Vice President, Hawaii Division

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

### DESCRIPTION OF UNITS

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

As stated in Exhibit B to the Declaration, the Project contains four (4) primary types of Units, designated therein and on the Condominium Map as types SF, SF-Op, D and MF.

The Subject Units are SF, SF-Op and D type Units.

#### **A. RESPECTING THE SUBJECT UNITS ONLY:**

There is one (1) standard type of SF Unit in the Project. There is only one (1) type of D Unit in the Project, although, as stated in Exhibit B to the Declaration, "half of the D Units are designated [t]herein and on the Condominium Map as type DR, indicating that the Unit's floor plan is the reverse of the standard D floor plan. Each D and DR Unit is located in a duplex D Building, and each D Building contains one D and one DR Unit."

As previously indicated, pursuant to the Partial Assignment, the Original Developer assigned to the Developer in connection with the Developer's acquisition from the Original Developer of the Subject Units, certain rights of the Original Developer in, to and under the Declaration strictly as to the Subject Units as more particularly described in Section E.2 of this report. Therefore, both the Developer and the Original Developer retain certain reserved rights under the Declaration.

As stated in Exhibit G of this report, Developer has the reserved right pursuant to Section 23 of the Declaration to change the type, layout and dimensions of any unbuilt and unsold Unit and/or the limited common elements appurtenant thereto. Therefore, notwithstanding the current configuration of the Subject Units and their appurtenant limited common elements shown on the Condominium Map or described in the Declaration and/or Bylaws, the configuration of the Subject Units and their appurtenant limited common elements may change, including specifically, without limitation, the enclosed pool areas and swimming pools, the latter of which Developer may elect to offer only as an option to purchasers or not at all.

#### **TYPE SF UNITS:**

**Standard SF Units.** The Project initially contains three (3) standard SF Units. Each SF Unit is contained in a separate, single-story free-standing SF Building and includes an entry foyer, three (3) bedrooms, three and one-half (3½) combined net living area of approximately 2,839 square feet. Each SF Unit also includes an attached two-car garage with a net floor area of approximately 496 square feet, and a covered lanai with a net area of approximately 649 square feet, for a total aggregate net area of approximately 3,984 square feet.

**SF-Op Plan Units.** The Project initially contains eleven (11) SF-Op Units. Each SF-Op Unit will be contained in a separate, single-story free-standing SF Building and will include an entry foyer, four (4) bedrooms (one of which is a guest room with its own entry), four and one-half (4½) bathrooms, a kitchen, a dining room, a living room, a family room, laundry and storage areas for a combined net living area of approximately 3,310 square feet. Each SF-Op Unit will also include an attached two-car garage with a net floor and storage area of approximately 496 square feet, a covered lanai and an uncovered lanai with a combined net area of approximately 656 square feet, for a total aggregate net area of approximately 4,462 square feet.

**TYPE D UNITS:**

The Project contains thirty-two (32) D Units (16 of which are designated as DR and are the reverses of the D Units). Each D (or DR) Unit is one-half of a side-by-side duplex and shares a single-story free-standing D Building with a DR (or D) Unit. The D and DR Units in each D Building are connected by a common wall. Each Type D and DR Unit includes an entry foyer, two (2) bedrooms, three and one-half (3½) bathrooms, a kitchen, a living/dining area, a study, laundry and storage areas for a combined net living area of approximately 2,517 square feet. Each Type D and DR Unit also includes an attached two-car garage with a net floor and storage area of approximately 494 square feet, and a covered lanai with a net area of approximately 488 square feet, for a total aggregate net area of approximately 3,499 square feet.

**B. RESPECTING ALL UNITS WITHIN THE PROJECT, INCLUDING THE SUBJECT UNITS, AS STATED IN EXHIBIT B TO THE DECLARATION:**

"The Project contains four (4) primary types of Units, designated therein and on the Condominium Map as types SF, SF-Op, D and MF.

There is one (1) standard type of SF Unit except that Unit 401 was built according to a Floor Plan which differs from the Standard SF Floor Plan, as described below, and there is one standard type of SF-Op Unit except that Unit 403 was built according to a Floor Plan which differs from the Standard SF-Op Floor Plan, as described below.

There is only one (1) type of D Unit, although half of the D Units are designated herein and on the Condominium Map as type DR, indicating that the Unit's floor plan is the reverse of the standard D floor plan. Each D and DR Unit is located in a duplex D Building, and each D Building contains one D and one DR Unit.

There are two (2) subtypes of MF Units, designated herein and on the Condominium Map as MF-1 (and its reverse, MF-1R), and MF-2 (and its reverse, MF-2R). Each MF-1 and MF-1R Unit is on the ground floor of a 4-plex MF Building, and each MF-2 and MF-2R Unit is on the second floor of a 4-plex MF Building. Each MF Building contains one MF-1 Unit, one MF-1R Unit, one MF-2 Unit and one MF-2R Unit.

The Units, by type, are more particularly described as follows:

**TYPE SF UNITS:**

**Standard SF Units.** The Project initially contains three (3) standard SF Units. Each SF Unit is contained in a separate, single-story free-standing SF Building and includes an entry foyer, three (3) bedrooms, three and one-half (3½) combined net living area of approximately 2,839 square feet. Each SF Unit also includes an attached two-car garage with a net floor area of approximately 496 square feet, and a covered lanai with a net area of approximately 649 square feet, for a total aggregate net area of approximately 3,984 square feet.

Unit 401 was built according to a Floor Plan which differs from the Standard Floor Plan for SF Units and is shown on Sheet 3.1 of the Condominium Map, as amended. Unit 401 is

contained in a separate, single-story free-standing SF Building and includes an entry foyer, three (3) bedrooms and three and one-half (3 ½) bathrooms, a kitchen, a dining room, a living room, a family room, laundry and storage areas for a combined net living area of approximately 2,693 square feet. Unit 401 also includes an attached two-car garage with a net floor area of approximately 401 square feet, and a covered lanai with a net area of approximately 644 square feet, for a total aggregate net area of approximately 3,738 square feet.

**SF-Op Plan Units.** The Project initially contains eleven (11) SF-Op Units. Each SF-Op Unit will be contained in a separate, single-story free-standing SF Building and will include an entry foyer, four (4) bedrooms (one of which is a guest room with its own entry), four and one-half (4½) bathrooms, a kitchen, a dining room, a living room, a family room, laundry and storage areas for a combined net living area of approximately 3,310 square feet. Each SF-Op Unit will also include an attached two-car garage with a net floor and storage area of approximately 496 square feet, a covered lanai and an uncovered lanai with a combined net area of approximately 656 square feet, for a total aggregate net area of approximately 4,462 square feet.

Unit 403 was built according to a Floor Plan which differs from the Standard Floor Plan for SF-Op Units and is shown on Sheet 4.1 of the Condominium Map, as amended. Unit 403 is contained in a separate, single-story free-standing SF Building and includes an entry foyer, four (4) bedrooms and three and one-half (3 ½) bathrooms, a kitchen, a dining room, a living room, a family room, laundry and storage areas for a combined net living area of approximately 3,131 square feet. Unit 403 also includes an attached two-car garage with a net floor area of approximately 401 square feet, and a covered lanai with a net area of approximately 716 square feet, for a total aggregate net area of approximately 4,248 square feet.

#### **TYPE D UNITS:**

The Project contains thirty-two (32) D Units (16 of which are designated as DR and are the reverses of the D Units). Each D (or DR) Unit is one-half of a side-by-side duplex and shares a single-story free-standing D Building with a DR (or D) Unit. The D and DR Units in each D Building are connected by a common wall. Each Type D and DR Unit includes an entry foyer, two (2) bedrooms, three and one-half (3½) bathrooms, a kitchen, a living/dining area, a study, laundry and storage areas for a combined net living area of approximately 2,517 square feet. Each Type D and DR Unit also includes an attached two-car garage with a net floor and storage area of approximately 494 square feet, and a covered lanai with a net area of approximately 488 square feet, for a total aggregate net area of approximately 3,499 square feet.

#### **TYPE MF UNITS:**

**MF-1 Units.** The Project contains twenty-eight (28) MF-1 Units (14 of which are designated as MF-1R and are the reverses of the MF-1 Units). Each Type MF-1 and MF-1R Unit is located on the ground floor of an MF Building. Each Type MF-1 and MF-1R Unit includes an entry foyer, two (2) bedrooms, three (3) bathrooms, a kitchen, a living/dining area, a study, and laundry and storage areas for a combined net living area of approximately 2,082 square feet. Each Type MF-1 and MF-1R Unit also includes a covered lanai and an uncovered lanai with a combined net area of approximately 509 square feet, for a total aggregate net area of approximately 2,591 square feet.

**MF-2 Units.** The Project contains twenty-eight (28) MF-2 Units (14 of which are designated as MF-2R and are the reverses of the MF-2 Units). Each Type MF-2 and MF-2R Unit is located on the second floor of an MF Building. Each Type MF-2 and MF-2R Unit includes an entry foyer, two (2) bedrooms, three (3) bathrooms, a kitchen, a living/dining area, a study, and laundry and storage areas for a combined net living area of approximately 2,111 square feet. Each Type MF-2 and MF-2R Unit also includes a covered lanai with a net area of approximately 258 square feet, for a total aggregate net area of approximately 2,369 square feet."

The following is a chart summary of the Subject Units, outlining the Unit number, CPR number, Unit Type, approximate net living area, approximate net lanai area, approximate net garage area, and common interest of each of the Subject Units. This summary is based upon information contained in Exhibit C to the Declaration, with the exception of the CPR number, which is not specified in Exhibit C to the Declaration.

Unit Number	CPR Number	Unit Type	*Approx. Net Living Area	*Approx. Net Lanai Area	*Approx. Net Garage Area (SF, SF-Op & D Units)	**Common Interest
316	65	DR	2,517	488	494	1.0680%
318	66	D	2,517	488	494	1.0680%
320	67	DR	2,517	488	494	1.0680%
322	68	D	2,517	488	494	1.0680%
324	69	DR	2,517	488	494	1.0680%
325	70	D	2,517	488	494	1.0680%
326	71	D	2,517	488	494	1.0680%
327	72	DR	2,517	488	494	1.0680%
328	73	DR	2,517	488	494	1.0680%
329	74	D	2,517	488	494	1.0680%
330	75	D	2,517	488	494	1.0680%
331	76	DR	2,517	488	494	1.0680%
332	77	DR	2,517	488	494	1.0680%
334	78	D	2,517	488	494	1.0680%
407	92	SF-Op	3,310	656	496	1.1417%
409	93	SF-Op	3,310	656	496	1.1417%
411	94	SF	2,839	649	496	1.1417%
413	95	SF-Op	3,310	656	496	1.1417%
415	96	SF-Op	3,310	656	496	1.1417%
417	97	SF-Op	3,310	656	496	1.1417%
419	98	SF-Op	3,310	656	496	1.1417%
420	99	SF	2,839	649	496	1.1417%
422	101	SF-Op	3,310	656	496	1.1417%
424	102	SF-Op	3,310	656	496	1.1419%

**NOTE REGARDING NET LIVING AREAS:** Throughout the Condominium Documents, Sales Contract and this report, the area of individual Subject Units is generally expressed as "net living area" square footage. This measurement represents the architect's best estimate of the interior square footage of the Subject Unit as measured from the unit's perimeter walls, which are included in the Subject Unit. This measurement is based upon the plans for the construction of the Subject Unit and different architects performing the same measurement may obtain a larger or smaller result.

THE FOLLOWING IS A CHART SUMMARY AND CORRESPONDING NOTES RESPECTING ALL 102 UNITS IN THE PROJECT AND IS TAKEN DIRECTLY FROM EXHIBIT C TO THE DECLARATION PREVIOUSLY PREPARED AND RECORDED BY THE ORIGINAL DEVELOPER.

Unit Number	Unit Type	*Approx Net Living Area	*Approx Net Lanai Area	*Approx. Net Garage Area (SF & D Units)	***Assigned Parking (MF Units)	**Common Interest
A101	MF-1	2,082	509	--	GA1, A1	0.8840%
A102	MF-1R	2,082	509	--	GA3, A2	0.8840%
A201	MF-2	2,111	258	--	GA2, A3	0.8960%
A202	MF-2R	2,111	258	--	GA4, A4	0.8960%
B101	MF-1	2,082	509	--	GB1, B1	0.8840%
B102	MF-1R	2,082	509	--	GB3, B2	0.8840%
B201	MF-2	2,111	258	--	GB2, B3	0.8960%
B202	MF-2R	2,111	258	--	GB4, B4	0.8960%
C101	MF-1	2,082	509	--	GC1, C1	0.8840%
C102	MF-1R	2,082	509	--	GC3, C3	0.8840%
C201	MF-2	2,111	258	--	GC2, C2	0.8960%
C202	MF-2R	2,111	258	--	GC4, C4	0.8960%
D101	MF-1	2,082	509	--	GD1, D1	0.8840%
D102	MF-1R	2,082	509	--	GD3, D2	0.8840%
D201	MF-2	2,111	258	--	GD2, D3	0.8960%
D202	MF-2R	2,111	258	--	GD4, D4	0.8960%
E101	MF-1	2,082	509	--	GE1, E1	0.8840%
E102	MF-1R	2,082	509	--	GE3, E2	0.8840%
E201	MF-2	2,111	258	--	GE2, E3	0.8960%
E202	MF-2R	2,111	258	--	GE4, E4	0.8960%
F101	MF-1	2,082	509	--	GF1, F1	0.8840%
F102	MF-1R	2,082	509	--	GF3, F3	0.8840%
F201	MF-2	2,111	258	--	GF2, F2	0.8960%
F202	MF-2R	2,111	258	--	GF4, F4	0.8960%
G101	MF-1	2,082	509	--	GG1, G1	0.8840%
G102	MF-1R	2,082	509	--	GG3, G3	0.8840%
G201	MF-2	2,111	258	--	GG2, G2	0.8960%
G202	MF-2R	2,111	258	--	GG4, G4	0.8960%
H101	MF-1	2,082	509	--	GH1, H1	0.8840%
H102	MF-1R	2,082	509	--	GH3, H2	0.8840%
H201	MF-2	2,111	258	--	GH2, H3	0.8960%
H202	MF-2R	2,111	258	--	GH4, H4	0.8960%
I101	MF-1	2,082	509	--	GI1, I1	0.8840%
I102	MF-1R	2,082	509	--	GI3, I3	0.8840%
I201	MF-2	2,111	258	--	GI2, I2	0.8960%
I202	MF-2R	2,111	258	--	GI4, I4	0.8960%
J101	MF-1	2,082	509	--	GJ1, J1	0.8840%
J102	MF-1R	2,082	509	--	GJ3, J3	0.8840%



THE FOLLOWING IS A CHART SUMMARY AND CORRESPONDING NOTES RESPECTING ALL 102 UNITS IN THE PROJECT AND IS TAKEN DIRECTLY FROM EXHIBIT C TO THE DECLARATION PREVIOUSLY PREPARED AND RECORDED BY THE ORIGINAL DEVELOPER.

J201	MF-2	2,111	258	--	GJ2, J2	0.8960%
J202	MF-2R	2,111	258	--	GJ4, J4	0.8960%
K101	MF-1	2,082	509	--	GK1, K1	0.8840%
K102	MF-1R	2,082	509	--	GK3, K3	0.8840%
K201	MF-2	2,111	258	--	GK2, K2	0.8960%
K202	MF-2R	2,111	258	--	GK4, K4	0.8960%
L101	MF-1	2,082	509	--	GL1, L1	0.8840%
L102	MF-1R	2,082	509	--	GL3, L3	0.8840%
L201	MF-2	2,111	258	--	GL2, L2	0.8960%
L202	MF-2R	2,111	258	--	GL4, L4	0.8960%
M101	MF-1	2,082	509	--	GM1H, M1H	0.8840%
M102	MF-1R	2,082	509	--	GM2, M2	0.8840%
M201	MF-2	2,111	258	--	GM3, M3	0.8960%
M202	MF-2R	2,111	258	--	GM4, M4	0.8960%
N101	MF-1	2,082	509	--	GN1, N1	0.8840%
N102	MF-1R	2,082	509	--	GN3, N3	0.8840%
N201	MF-2	2,111	258	--	GN2, N2	0.8960%
N202	MF-2R	2,111	258	--	GN4, N4	0.8960%
302	DR	2,517	488	494	--	1.0680%
304	D	2,517	488	494	--	1.0680%
306	DR	2,517	488	494	--	1.0680%
308	D	2,517	488	494	--	1.0680%
309	D	2,517	488	494	--	1.0680%
311	DR	2,517	488	494	--	1.0680%
312	DR	2,517	488	494	--	1.0680%
314	D	2,517	488	494	--	1.0680%
316	DR	2,517	488	494	--	1.0680%
318	D	2,517	488	494	--	1.0680%
320	DR	2,517	488	494	--	1.0680%
322	D	2,517	488	494	--	1.0680%
324	DR	2,517	488	494	--	1.0680%
325	D	2,517	488	494	--	1.0680%
326	D	2,517	488	494	--	1.0680%
327	DR	2,517	488	494	--	1.0680%
328	DR	2,517	488	494	--	1.0680%
329	D	2,517	488	494	--	1.0680%
330	D	2,517	488	494	--	1.0680%
331	DR	2,517	488	494	--	1.0680%
332	DR	2,517	488	494	--	1.0680%
334	D	2,517	488	494	--	1.0680%
336	DR	2,517	488	494	--	1.0680%
338	D	2,517	488	494	--	1.0680%
340	DR	2,517	488	494	--	1.0680%
342	D	2,517	488	494	--	1.0680%
343	DR	2,517	488	494	--	1.0680%

THE FOLLOWING IS A CHART SUMMARY AND CORRESPONDING NOTES RESPECTING ALL 102 UNITS IN THE PROJECT AND IS TAKEN DIRECTLY FROM EXHIBIT C TO THE DECLARATION PREVIOUSLY PREPARED AND RECORDED BY THE ORIGINAL DEVELOPER.

344	DR	2,517	488	494	--	1.0680%
345	D	2,517	488	494	--	1.0680%
346	D	2,517	488	494	--	1.0680%
348	DR	2,517	488	494	--	1.0680%
350	D	2,517	488	494	--	1.0680%
401	SF	2,693	644	401	--	1.1417%
403	SF-Op	3,310	716	401	--	1.1417%
405	SF-Op	3,310	656	496	--	1.1417%
407	SF-Op	3,310	656	496	--	1.1417%
409	SF-Op	3,310	656	496	--	1.1417%
411	SF	2,839	649	496	--	1.1417%
413	SF-Op	3,310	656	496	--	1.1417%
415	SF-Op	3,310	656	496	--	1.1417%
417	SF-Op	3,310	656	496	--	1.1417%
419	SF-Op	3,310	656	496	--	1.1417%
420	SF	2,839	649	496	--	1.1417%
421	SF-Op	3,310	656	496	--	1.1417%
422	SF-Op	3,310	656	496	--	1.1417%
424	SF-Op	3,310	656	496	--	1.1419%

[Total Common Interests: 100.000%]

#### NOTES

#### \*NET AREAS

The approximate net areas shown above are in square feet. The approximate net living and net lanai areas shown above for SF Units 401 and 403 are for those Units "as built", according to plans that differ slightly from the plans for the other SF Units. The plans for SF Unit 401 are shown on Sheet 3.1 of the Condominium Map, as amended, and the plans for SF-Op Unit 403 are shown on Sheet 4.1 of the Condominium Map, as amended.

#### \*\*COMMON INTERESTS

The common interest for each Unit was determined by (i) dividing the Unit's initial net living area (excluding lanai and garage areas) by the initial aggregate net living area of all of the Units, (ii) converting the resulting fractions to percentages, and (iii) rounding the percentages and adding 0.0002% to the common interest for Unit 424 so that the aggregate common interest appurtenant to all of the Units equals 100%. Notwithstanding the foregoing method of calculating common interests, the common interests for all SF and SF-Op Units were calculated based on the aggregate net living area for Unit 401 which was built according to the original Standard Floor Plan of an SF Unit. Where the number or types of Units change in accordance with the Developer's exercise of rights reserved in section 23 of the Declaration, the Developer may (but shall not be obligated to) amend only the common interests appurtenant to unsold Units if the resulting distribution of common interests among all of the Units equals 100% and appears reasonably equitable notwithstanding that some unsold Units of a certain Unit type

THE FOLLOWING IS A CHART SUMMARY AND CORRESPONDING NOTES RESPECTING ALL 102 UNITS IN THE PROJECT AND IS TAKEN DIRECTLY FROM EXHIBIT C TO THE DECLARATION PREVIOUSLY PREPARED AND RECORDED BY THE ORIGINAL DEVELOPER.

and net living area may thereby be assigned common interests that are different from the common interests assigned to sold Units of the same Unit type and net living area.

### **\*\*\*PARKING**

**SF and D.** Each SF and D Unit includes an attached two-car garage that is part of the Unit. The net area for each SF and D Unit's attached garage is shown in the chart above. There are no other identifying numbers or designations for the garages attached to the SF and D Units. Because the SF and D Units have attached garages, they do not have any assigned limited common element parking stalls.

**MF Units.** Each MF Unit is initially assigned a limited common element parking bay in one of the MF Garages in closest proximity to the MF Building in which the Unit is located, and one limited common element uncovered standard sized parking stall, also in the vicinity of the Unit's Building. The initial parking bay and uncovered stall assignments are as shown in the chart above. Each assigned limited common element parking bay is identified in the chart above (and on the Condominium Map) by the letter "G" indicating a parking bay in an MF Garage, followed by another letter which is the letter designating the MF Building served by the MF Garage, and a number, indicating which bay is assigned. For example, in the above chart "GA1" indicates parking bay number 1 in an MF Garage serving MF Building A. Each MF Building, except MF Building M has two MF Garages, and each of those garages contains two parking bays. MF Building M has one MF Garage that contains four parking bays. Parking bay designations that end in an "H" indicate a handicap bay.

The uncovered limited common element parking stalls assigned to the MF Units are identified in the chart above (and on the Condominium Map) by a letter and a number. The letter indicates the MF Building to which the stall is closest, and the number identifies the stall in that building's group of stalls. Uncovered parking stall designations that end in "H" indicate a handicap stall. Owners of the MF Units may transfer assigned limited common element parking bays or stalls pursuant to this Declaration. Under certain circumstances described in paragraph 9.2 of this Declaration, the Owner of an MF Unit to which a handicap parking bay or stall is assigned may be required to transfer such bay or stall to another Unit in exchange for a non-handicap bay or stall.

### **GUEST PARKING**

The Project contains fifteen unassigned, uncovered guest parking stalls. Twelve of these unassigned guest stalls (one of which is a handicap stall) are in the vicinity of the Amenity Center. Each of the remaining three unassigned guest stalls is a handicap stall, one of which is located along Driveway E1, and the other two of which are located along Driveway E, as shown on the as shown on the Condominium Map.

### **END OF EXHIBIT A**

**EXHIBIT B**

**BOUNDARIES OF UNITS**

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BOUNDARIES OF THE UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

As stated in Sections 3.4 and 3.5 of the Declaration:

"Each Unit shall be deemed to include: (i) all the walls and partitions which are not load-bearing within its perimeter walls, (ii) the interior decorated or finished surfaces of all walls, floors and ceilings, including floor coverings, (iii) any doors and door frames, windows or panels along the perimeters, window frames, (iv) all fixtures originally installed therein, (v) the decorated or finished surface of the floor, walls (if any) and ceiling of the lanai(s) appurtenant to the Unit, the railing (if any) of such lanai(s) and the lanai air space. Each of the SF, SF-Op and D Units shall also be deemed to include the two-car garage attached to the Unit. The respective Units shall not be deemed to include: (a) the undecorated or unfinished surfaces of the perimeter walls, the interior load-bearing walls, or the party walls, (b) the undecorated or unfinished surfaces of the floors and ceilings surrounding each Unit, and (c) any pipes, shafts, wires, conduits or other utility or service lines waning [sic] through such Unit which are utilized for or serve more than one Unit, the same being deemed common elements as [provided in the Declaration].

Should the descriptions and divisions set forth in [the] Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map, however, is intended to show only the layout, location, Unit numbers and dimensions of the Units and elevations of the buildings and is not intended and shall not be deemed to contain or make any other representation or warranty."

The approximate areas of the Subject Units are set forth in Exhibit A attached to this report and Exhibit C to the Declaration are based on measurements taken from the interior surface of all perimeter walls, except that no reduction is made to account for interior walls, ducts, vents, shafts, and the like located within the perimeter walls. The areas set forth in Exhibit A attached to this report and Exhibit C to the Declaration are not exact but are approximations based on the floor plans of each type of Unit. The measurements set forth in Exhibit A attached to this report and Exhibit C to the Declaration may not follow the designation of the limits of the Units (the legally designated areas of the Units) set forth above and the net living areas set forth in Exhibit A attached to this report and Exhibit C to the Declaration may be greater than the floor areas of the Units as so designated and described above.

**END OF EXHIBIT B**

**EXHIBIT C**

**PERMITTED ALTERATIONS**

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE PERMITTED ALTERATIONS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

1. Section 8.3 (Alterations and Additions to Units and Limited Common Elements) of Article VIII of the Bylaws states as follows:

"(a) Subject to the provisions of the Declaration, the Act, and that certain Declaration of Protective Covenants, Conditions and Restrictions for the Uplands at Mauna Kea, dated August 10, 1999, recorded in the Bureau as Documents No. 99-131337 and 99-131338, as now or hereafter amended (the 'Master Declaration'), and all rules and regulations promulgated under the Master Declaration, and except as otherwise provided herein, no Owner of a Unit shall, without the prior written approval of the Board and, if applicable, the Uplands Design Committee established in accordance with Article X of the Master Declaration, make any structural alterations in or additions or improvements to his Unit (including the Unit's lanai(s)) or make any changes to his Unit and/or its lanai(s) or any limited common elements appurtenant to the Unit that would change the exterior appearance of the Project.

(b) An Owner may make non-structural alterations and additions solely within his Unit at the Owner's sole cost and expense, provided that such alterations or additions do not affect any other Unit or common elements or change the exterior or appearance of the Project, and provided, further, that any building permit or other governmental permit or authorization required for such alterations or additions is first duly obtained and filed with the Board and the proposed alteration or addition will not adversely affect the Project's insurance rating or premiums.

(c) No Unit Owner shall, without the prior written approval of the Board, install any wiring for electrical or telephone installations, television antenna, machines or air-conditioning units, or other equipment, fixtures, appliances or appurtenances whatsoever on the exterior of the Building or protruding through the walls, windows or roofs thereof.

(d) No Unit Owner shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to his lanai(s) or add any awnings, sunscreens, louvers, exhaust vents, wind baffles, or drain.

(e) No Owner of an SF[, SF-Op] or D Unit shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to the Unit's limited common element enclosed pool area, including the pool and spa therein.

(f) No Owner of an SF [or SF-Op] Unit shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to the limited common element courtyard and entryway adjacent to the Unit, the HVAC pad and enclosure adjacent to the Unit

and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon, or the driveway leading from common element Driveway D to the Unit's attached garage.

(g) No Owner of a D Unit shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to the limited common element courtyard and entryway adjacent to the Unit and the landscaped area immediately adjacent to the courtyard and entryway, the HVAC pad and enclosure adjacent to the Unit and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon, or the driveway (both the shared and the individual limited common element portions) leading from common element Driveway E or common element Driveway E1 to the Unit's attached garage.

(h) No Owner of a ground floor MF Unit shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to the limited common element entry walkway and landscaped area adjacent thereto.

(i) No Owner of a second floor MF Unit shall, without the prior written approval of the Board, make any modifications, changes, additions or alterations to the limited common element finished surfaces of the stairs and stairway railings leading to such Unit, the finished surfaces of the second floor landing and railings appurtenant thereto, and the finished surface of the second floor entryway leading to the Unit.

(j) No Owner of an MF Unit shall, without the prior written approval of the Board and all of the Owners of the other MF Units in the same MF Building, make any modifications, changes, additions or alterations to the shared limited common element paved driveway and motor court area leading from common element Driveway B, B1 or C, as the case may be, to the uncovered parking stalls and the MF Garages serving the MF Building in which such Unit is located, or to the shared limited common element landscaped area on the ground level extending from the exterior boundary of the study comprising part of each ground floor MF Unit to the paved edge of the shared limited common element driveway.

(k) No Owner of an MF Unit shall, without the prior written approval of the Board and the Owner of the MF Unit directly above or below, make any modifications, changes, additions or alterations to the shared limited common element HVAC pad and enclosure that serves such Unit (and the Unit directly above or below), and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon, and the enclosed area containing the water heater serving such Unit (and the Unit directly above or below).

(l) All interior window coverings (including curtains, drapes and screens of any kind) visible from outside of the Unit shall include a backing of a type, color and appearance approved by the Board. In addition, Owners may not, without the prior written approval of the Board, apply any substance, material or process to the exterior or interior surfaces of the Unit's windows that may alter the exterior color, appearance or reflectivity of the windows.

(m) It is intended that the exterior of the Project present a uniform and attractive appearance. Accordingly, whenever Board approval is required for any proposed modification, change, addition to or alteration of any Unit or limited common element, the Board shall base its decision to grant or deny approval at least in part upon considerations of whether (and to what extent) the proposed modification, change, addition or alteration will adversely affect the appearance of the Project. Except as otherwise provided in Section 8.5 below in connection with proposed modifications to accommodate Owners with disabilities, if the Board determines that the proposed modification, change, addition or alteration will materially adversely affect the appearance of the Project, the Board shall deny its approval. It is acknowledged that the Board's determination will unavoidably involve an element of subjective taste. Therefore, the Board's determination that a proposed modification, change, addition or alteration will materially adversely affect the appearance of the Project shall not be challengeable by any Unit Owner or group of

Unit Owners on the grounds that the determination is to any extent based upon subjective criteria.

(n) Whenever Board approval is required for any proposed modification, change, addition to or alteration of any Unit or limited common element, if the Board determines that the proposed modification, change, addition or alteration will not materially adversely affect the appearance of the Project, the Board shall not unreasonably withhold its approval, provided that it shall not be deemed unreasonable for the Board to withhold its approval if the proposed modification, change, addition or alteration may, in the Board's best estimate, adversely affect any of the Project's common elements or any Unit or other part of the Project in any way, or increase the Project's hazard or liability insurance premiums or other common expenses, or otherwise violate any applicable law, any provision of these Bylaws, the House Rules, the Declaration, the Master Declaration or any guidelines or rules or regulations promulgated thereunder, or the Act."

2. Section 8.4(e) of Article VIII of the Bylaws states as follows:

"(e) The Owner of any two or more adjacent Units separated by a common element wall may alter or remove all or portions of such wall if the structural integrity of the building in which the Units are located is not thereby affected and if the finish of the remaining common element(s) is restored to a condition substantially comparable to that of the common element prior to such alterations. Such alteration shall require only the written approval of the Board, including the Board's approval of the Owner's plans for such alteration, together with the approval of the holders of first mortgages on all Units affected by such alteration, and the approval of the appropriate agencies of the State of Hawaii and/or the County of Hawaii if such agencies so require. The Board's approval may be conditioned upon the Board having first received a certified written statement of a registered Hawaii architect or engineer that the proposed alterations shall not adversely affect the structural integrity of any part of the Project or jeopardize the soundness or safety of the Project in any way. Notwithstanding subsection 8.4(d) [of the Bylaws], such alteration may be undertaken without an amendment to the Declaration or the Condominium Map. If, in the reasonable judgment of the Board, the alterations or additions are substantial in nature, the Board may require that the Owner of the Units affected provide evidence satisfactory to the Board of sufficient financing to complete such alterations or additions or, in lieu thereof, require that the Owner obtain a performance and lien payment bond, naming as obligees the Board, the Association and all Unit Owners and their mortgagees of record, as their interests may appear, for a penal sum of not less than one hundred percent (100%) of the estimated cost of such construction. Prior to the termination of the common ownership of any such adjacent Units, the Owner of such Units shall be obligated to restore the intervening wall between the Units to substantially the same condition in which the wall existed prior to its alteration or removal."

3. Section 8.5 (Exemptions for Persons With Disabilities) of Article VIII of the Bylaws states as follows:

"Subject to Section 8.6 [of the Bylaws], Owners with disabilities shall be permitted to make reasonable modifications to their Units and/or the common elements, at their sole expense (including the cost of obtaining any bonds required by the Declaration, these Bylaws or the Act), if such modifications are necessary to enable them to use and enjoy their Units and/or the common elements, and when permitted under the Master Declaration and related documents, rules and guidelines, provided that any Owner with a disability desiring to make such modifications shall make such request, in writing, to the Board of Directors. That request shall set forth, with specificity and in detail, the nature of the request and the reason that the requesting party needs to make such modifications. If the proposed modification will change the exterior appearance of the Project or any part thereof, the Board's approval of the request may be conditioned upon evidence satisfactory to the Board that the needs of the disabled Owner cannot adequately be met at reasonable cost without causing such change in appearance, and that the proposed

modification shall cause the least change in appearance reasonably possible under all of the circumstances. The Board of Directors shall not unreasonably withhold or delay their consent to such request, and any such request shall be deemed to be granted if not denied in writing, within forty-five (45) days of the Board's receipt thereof, or within forty-five (45) days of the Board's receipt of additional information reasonably required in order to consider such request, whichever shall last occur. Nothing contained in this Section 8.5 shall exempt an Owner, at such Owner's sole cost and expense, from making all amendments to these Bylaws, the Declaration or the Condominium Map necessitated by any changes permitted under this Section. Such amendments need only be approved and executed by the Board and the Owner making such modifications."

4. Section 8.6 of Article VIII of the Bylaws states as follows:

"Anything herein to the contrary notwithstanding, no Unit Owner shall do any work which could jeopardize the soundness or safety of the Project, reduce the value thereof, impair any easement or hereditament, nor may any Unit Owner add any material structure or excavate any basement or cellar without in every such case the consent of seventy-five percent (75%) of the Unit Owners being first obtained, together with the consent of all Unit Owners whose Units or limited common elements appurtenant thereto are directly affected; provided that 'nonmaterial structural additions to the common elements' (as defined in Section 514A-89 of the Act), including, without limitation, the installation of solar energy devices (as defined in Section 514A-89 of the Act), or additions to or alterations of a Unit made within such Unit or within a limited common element appurtenant to and for the exclusive use of the Unit, shall require approval only by the Board of Directors and such percentage, number, or group of Unit Owners as may be required by the Declaration or these Bylaws."

5. Article VIII of the Bylaws contains additional information regarding alterations to the Units, the common elements and the limited common elements.

**END OF EXHIBIT C**



**EXHIBIT D**

**COMMON ELEMENTS**

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

The common elements consist of all portions of the Project other than the Units, including (but not limited to) those parts of the Project described in Section 4 of the Declaration as follows:

"(a) Land, in fee simple, and all rights, entitlements and easements appurtenant thereto, including (but not limited to) easements for roadway, utility and other purposes as more particularly described in the Master Deed and/or in Exhibit 'A' attached [to the Declaration];

(b) The limited common elements described in section 5 [of the Declaration (and in Exhibit 'E' attached to this report)];

(c) All slabs, foundations, columns, girders, beams, supports, perimeter walls, load-bearing walls, roofs, exterior stairs and stairways, pumps, ducts, pipes, wires, conduits, or other utility or service lines located outside of the Units and which are utilized for or serve more than one Unit, and generally all equipment, apparatus, installations and personal property existing for common use in any of the buildings or located on the Land;

(d) All pipes, wires, ducts, conduits or other utility or service lines running through a Unit which are utilized by or serve more than one Unit;

(e) All recreational facilities and other amenities of the Project, including, but not limited to, the Amenity Center and the adjacent swimming pool and pool deck;

(f) All driveways, roadways and other common ways, all uncovered parking spaces, the MF Garages and the parking bays and storage areas contained therein, and all other parking stalls and areas that are not a part of or included within an SF[, SF-Op] or D Unit's attached garage, all gates and kiosks or gatehouses (if any) at the entryway to the Project, all perimeter fences, walls and gates surrounding all or any portion of the enclosed pool areas appurtenant to SF[, SF-Op] and D Units, all storage areas not located within a Unit or its attached garage, all landscaping, courtyards, fences, gates, retaining walls, mailboxes, trash areas, maintenance structures and facilities and accessory equipment areas, including electrical and mechanical rooms or facilities located on the Land or within any of the buildings and serving more than one Unit;

(g) All other improvements on the Land which are not part of any Unit."

**END OF EXHIBIT D**

**EXHIBIT E**  
**LIMITED COMMON ELEMENTS**

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE LIMITED COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

The limited common elements set aside and reserved for the exclusive use of the Units to which they are assigned are described in Section 5 of the Declaration as follows:

5.1 **All Units.** Each Unit shall have appurtenant thereto as limited common elements all pipes, wires, ducts, conduits or other utility or service lines located within or running through the Unit and utilized by or serving only that Unit.

5.2 **SF, SF-Op and D Units Only.** Each SF, SF-Op and D Unit shall have appurtenant thereto as a limited common element the air space (if any) between the Unit's ceiling and roof.

5.3 **SF and SF-Op Units Only.** Each SF Unit shall have appurtenant thereto as limited common elements:

(a) The courtyard and entryway adjacent to the Unit as shown on the Condominium Map, and any improvements, equipment or structures placed thereon;

(b) The enclosed pool area adjacent to the Unit as shown on the Condominium Map, including the swimming pool and all pool equipment originally provided with the Unit or subsequently provided exclusively for the Unit by the Developer or the Association, and all other improvements and landscaping located in the enclosed pool area, but excluding all perimeter fences, walls and gates surrounding any part of the pool area, the same being common elements as provided in section 4 above;

(c) The two HVAC pads and enclosures adjacent to the Unit as shown on the Condominium Map, and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon; and

(d) The driveway leading from common element Driveway D, as shown on the Condominium Map, to the Unit's attached garage, including all paved additional parking or turn-around areas comprising part of the driveway.

5.4 **D Units Only.** Each D Unit shall have appurtenant thereto as limited common elements:

(a) The courtyard and entryway adjacent to the Unit, and the landscaped area immediately adjacent to the courtyard and entryway as shown on the Condominium Map, and any improvements, equipment or structures placed thereon;

(b) The enclosed pool area adjacent to the Unit as shown on the Condominium map, including the swimming pool and all pool equipment originally provided with the Unit or subsequently provided exclusively for the Unit by the Developer or the Association, and all other improvements and landscaping located in the enclosed pool area, but excluding all perimeter fences, walls and gates surrounding any part of the pool area, the same being common elements as provided in section 4 above;

(c) The HVAC pad and enclosure adjacent to the Unit as shown on the Condominium Map, and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon; and

(d) The portion of the driveway immediately adjacent to and extending approximately 20 feet from the front of the Unit's attached garage, as shown on the Condominium Map.

(e) The portion of the driveway not included in section 5.4(d) above and serving each attached pair of D Units and providing access to and from common element Driveway E or common element Driveway E1 shall be a shared limited common element appurtenant to and for the exclusive use of the two D Units served.

(f) The landscaped area at the end of the shared limited common element driveway closest to each D Building, as shown on the Condominium Map, shall be a shared limited common element appurtenant to and for the exclusive use of the two D Units to which such area is adjacent.

**5.5 MF Units Only.** Each MF Unit shall have appurtenant thereto, as limited common elements:

(a) Any parking bay(s) assigned to the Unit as shown on Exhibit 'C' [to the Declaration] and located in an MF Garage. Each parking bay shall be deemed to include an interior floor surface area (both parking and storage) of approximately 296 square feet (except for the parking bays in the MF Garage closest to MF Building M, which have an interior floor surface area, both parking and storage, of approximately 331 square feet), bounded by three walls and a garage door, the interior decorated or finished surfaces of the perimeter walls, ceiling and floor of the bay (and storage area), any window and window frame located in a bay wall, together with the bay's garage door and any mechanical and/or electrical apparatus and equipment connected to or made part of the door, and together also with any cabinets, shelves, light fixtures, electrical outlets and switches and other electrical or mechanical facilities located within the bay and serving only the bay, and together also with the airspace bounded by the bay's floor, ceiling, walls and garage door. Each parking bay shall not be deemed to include any structural components of the MF Garage within which the bay is located, nor the MF Garage's attic space (if any), nor any of the MF Garage's interior or exterior walls beneath the interior decorated or finished surfaces thereof, nor the roof or other components of the building, nor the slab upon which the MF Garage is located, the foregoing all being common elements as herein provided.

(b) Any uncovered parking stall(s) assigned to the Unit as shown on Exhibit 'C' [to the Declaration].

**5.6 MF Building Shared Limited Common Elements.** The four MF Units in each MF Building shall share, as limited common elements, (i) the paved driveway and motor court area leading from common element Driveway B, B1 or C, as the case may be, to the uncovered parking stalls and the MF Garages serving those MF Units, and (ii) the landscaped area on the ground level extending from the exterior boundary of the study comprising part of each ground floor MF Unit to the paved edge of the shared limited common element driveway, as shown on the Condominium Map.

5.7 **Ground Floor MF Units Only.** Each ground floor MF Unit shall have appurtenant thereto, as limited common elements, the entry walkway and landscaped area adjacent thereto, as shown on the Condominium Map.

5.8 **Second Floor MF Units Only.** In addition to the limited common elements described in subparagraphs 5.5 and 5.6 above, each second floor MF Unit shall have appurtenant thereto, as limited common elements, the finished surfaces of the stairs and stairway railings leading to the second floor and providing access to the Unit, the finished surface of the second floor landing and railings appurtenant thereto, and the finished surface of the entryway leading to the Unit, all as shown on the Condominium Map.

5.9 **Stacked MF Units Only.** Each ground floor MF Unit shall share with the second floor MF Unit immediately above it, as limited common elements appurtenant to both Units, the HVAC pad and enclosure adjacent to the ground floor Unit as shown on the Condominium Map, and any improvements, machinery or equipment (including air-conditioning units and related equipment) placed thereon, and also the enclosed area containing the water heaters for both units; provided, however, that each water heater shall be a limited common element appurtenant only to the MF Unit that is served by such water heater.

5.10 **All Units.** Any other common element of the Project which is rationally related to a single Unit to the exclusion of all other Units shall be deemed a limited common element appurtenant to and for the exclusive use of the Unit to which such common element is rationally related."

As previously indicated, pursuant to the Partial Assignment, the Original Developer assigned to the Developer in connection with the Developer's acquisition from the Original Developer of the Subject Units, certain rights of the Original Developer in, to and under the Declaration strictly as to the Subject Units as more particularly described in Section E.2 of this report. Therefore, both the Developer and the Original Developer retain certain reserved rights under the Declaration.

As stated in Exhibit G of this report, Developer has the reserved right pursuant to Section 23 of the Declaration to change the type, layout and dimensions of any unbuilt and unsold Unit and/or the limited common elements appurtenant thereto. Therefore, notwithstanding the current configuration of the Subject Units and their appurtenant limited common elements shown on the Condominium Map or described in the Declaration and/or Bylaws, the configuration of the Subject Units and their appurtenant limited common elements may change, including specifically, without limitation, the enclosed pool areas and swimming pools, the latter of which Developer may elect to offer only as an option to purchasers or not at all.

**END OF EXHIBIT E**

EXHIBIT F

ENCUMBRANCES AGAINST TITLE

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ENCUMBRANCES AGAINST TITLE CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE PROJECT. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE PROJECT, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. -AS TO LOT 3 ONLY:-
  - (A) Existing Easement "2" for drainage purposes, as shown on File Plan No. 2234.
  - (B) Designation of Easement "5" (20 feet wide) for cart path purposes, as shown on File Plan No. 2391.
3. -AS TO LOT 4 ONLY:-
  - (A) GRANT in favor of HAWAII ELECTRIC LIGHT COMPANY, INC. and GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as HAWAIIAN TELCOM, INC., dated February 11, 1994, recorded as Document No. 94-059840; granting an easement for electrical purposes over Easement "E-1", being more particularly described therein.
  - (B) Designation of Easement "1" for drainage purposes, as shown on File Plan No. 2391.
4. -AS TO LOT 5 ONLY:-

Designation of Easement "2" for drainage purposes, as shown on File Plan No. 2391.
5. -AS TO LOT 7 ONLY:-
  - (A) Designation of Easement "3" for drainage purposes, as shown on File Plan No. 2391.
  - (B) Designation of Easement "6" for water supply and access purposes, shown on File Plan No. 2391.
  - (C) Designation of Easement "7" for access purposes, as shown on File Plan No. 2391.
  - (D) GRANT in favor of the WATER BOARD OF THE COUNTY OF HAWAII, dated January

10, 2006, recorded as Document No. 2006-009730; granting a perpetual easement for water supply and access purposes over said Easements "6" and "7".

6. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDITIONS  
DATED : April 11, 1995  
RECORDED : Document No. 95-049097

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE UPLANDS AT MAUNA KEA  
DATED : August 10, 1999  
RECORDED : Document No. 99-131337

Consent thereto given and Joinder by SOUTH KOHALA RESORT CORP., a Hawaii corporation, by instrument recorded as Document No. 99-131338.

Said Declaration was amended by instruments dated October 7, 1999, recorded as Document No. 99-165199, dated May 11, 2004, recorded as Document No. 2004-095010, dated February 17, 2005, recorded as Document No. 2005-032812, dated February 28, 2006, recorded as Document No. 2006-038889 and dated June 21, 2010, recorded as Document No. 2010-096240.

8. The terms and provisions contained in the following:

INSTRUMENT : WARRANTY DEED  
DATED : September 27, 1999  
RECORDED : Document No. 99-156915

The foregoing includes, but is not limited to, matters relating to (1) water reservation and (2) golf-course operations on adjacent lands.

9. The terms and provisions contained in the following:

INSTRUMENT : LIMITED WARRANTY DEED AND GRANT OF EASEMENTS  
DATED : May 11, 2004  
RECORDED : Document No. 2004-095012

The foregoing includes, but is not limited to, matters relating to underground water and golf operation.

10. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF MERGER OF CONDOMINIUM PHASES

DATED : March 2, 2005  
RECORDED : Document No. 2005-044640

11. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME  
FOR "WAI'ULA'ULA AT MAUNA KEA RESORT"  
CONDOMINIUM PROJECT

DATED : March 2, 2005  
RECORDED : Document No. 2005-044641  
MAP : 3956 and any amendments thereto

Said Declaration was amended by instruments dated May 13, 2005, recorded as Document No. 2005-096045, and dated April 7, 2008, recorded as Document No. 2008-057052.

PARTIAL ASSIGNMENT OF RIGHTS UNDER DECLARATION made as of September 26, 2013, recorded as Document No. A-50170418, by and between MOANA IKENA, LLC, a Delaware limited liability company ("Assignor"), and D.R. HORTON - SCHULER HOMES, LLC, a Delaware limited liability company ("Assignee").

12. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS  
DATED : March 2, 2005  
RECORDED : Document No. 2005-044642

Said By-Laws were amended by instrument dated May 13, 2005, recorded as Document No. 2005-096046.

13. Any rights or interests which may exist or arise by reason of the following facts shown on survey map prepared by Roger D. Fleenor, Land Surveyor, dated August 25, 2013, revised September 3 and 20, 2013:

Golf cart path that falls onto Lot 4 by as much as 11.4 feet for a length of 60.6 feet.

**END OF EXHIBIT F**

## EXHIBIT G

### DEVELOPER'S RESERVED ALTERATION, WITHDRAWAL AND MERGER RIGHTS

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL OF THE RIGHTS RESERVED BY DEVELOPER UNDER THE CONDOMINIUM DOCUMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY DEVELOPER. IF ANY CONFLICT OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE DECLARATION, THE DECLARATION WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

As previously indicated, pursuant to the Partial Assignment, the Original Developer assigned to the Developer in connection with the Developer's acquisition from the Original Developer of the Subject Units, certain rights of the Original Developer in, to and under the Declaration *strictly as to the Subject Units* as more particularly described in Section E.2 of this report. Therefore, both the Developer and the Original Developer retain certain reserved rights under the Declaration.

More specifically, Section 23 (Reservation to Change Units, Withdraw Land and/or Units and Reconfigure the Project) of the Declaration states as follows in respect of the Original Developer's reserved rights, as such rights relating strictly to the Subject Units were assigned to Developer subject to the limitations stated in the Partial Assignment (accordingly, references below to "Developer" have been changed to "Original Developer and Developer" or "Original Developer or Developer, as the case may be", as the context requires):

"23.1 **Rights Generally.** Any other provision in this Declaration to the contrary notwithstanding, the [Original] Developer [and the Developer] shall have the right (but shall not be obligated) in its sole discretion under this section 23, without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser, or any other person who may have an interest in the Project or in any Unit, to change the type, layout and dimensions of any unbuild and unsold Unit and/or the limited common elements appurtenant thereto, and/or to remove and delete from the Project and from the effect of this Declaration and the Act portions of the Land, all or any unsold Units and any related common elements and limited common elements; provided, however, that the right to withdraw shall not apply to the recreational amenities described in section 4 above, nor to any common element driveways, walkways, parking areas, landscaped areas, easements or any other part of or interest in the Project actually utilized by or serving any Unit owned by any person (an 'Affected Person') other than the [Original] Developer [or the Developer, as the case may be,] at the time of such withdrawal, without first obtaining such Affected Person's consent. For purposes of this section 23, 'unsold Unit' shall mean a Unit owned by the [Original] Developer [or the Developer, as the case may be,] and for which no sales contract for the purchase and sale of the Unit has become binding upon both the seller and the buyer under the contract. Those parts of the Project withdrawn pursuant to the rights reserved to the [Original] Developer [or the Developer, as the case may be,] in this section 23 are sometimes hereinafter called the 'Withdrawn Property.'

23.2 **Effect of Withdrawal.** Upon such removal and deletion of the



Withdrawn Property as set forth in this section 23, and with no further action required, no Unit Owner, mortgagee, lien holder, Unit purchaser or any other person (other than the [Original] Developer [or the Developer, as the case may be,] and the holder of any blanket mortgage covering the Withdrawn Property) who may have an interest in the Project or any Unit shall have any legal or equitable interest in the Withdrawn Property (it being the intent hereof that upon such removal and deletion, fee simple title to the Withdrawn Property, including the Land, common elements and Units so removed and deleted and any interests appurtenant thereto, will be vested solely in the [Original] Developer [or the Developer, as the case may be]). If deemed necessary to effect the intent of this section 23, each Unit Owner, mortgagee, lien holder and any other person who may have an interest in the Project or any Unit shall, if requested by the [Original] Developer [or the Developer, as the case may be], unconditionally quitclaim and/or release its interest (if any) in the Withdrawn Property to the [Original] Developer [or the Developer, as the case may be].

**23.3 Rights to Subdivide, Amend, Etc.** In the exercise of the rights reserved in this section 23, the [Original] Developer [or the Developer, as the case may be,] may (but shall not be obligated to) at any time (i) file and process to final approval an application with the County of Hawaii for the legal subdivision of that portion of the Project to be withdrawn, (ii) file or record supporting file plans, maps or other instruments in the Bureau, (iii) record one or more amendments to this Declaration in the Bureau containing an amended description of the Land, common elements and/or Units covered by this Declaration, deleting therefrom the Withdrawn Property (if any), and amending the common interests appurtenant to the remaining Units (if necessary) so that the aggregate common interest appurtenant to all remaining Units equals 100%, (iv) file in the Bureau an amended Condominium Map reflecting the changes to the Units, common elements and/or limited common elements, and/or the removal and deletion of the Withdrawn Property, and (v) if deemed necessary or appropriate, apply for and obtain from the Real Estate Commission of the State of Hawaii an effective date for a Supplementary Public Report describing the changes made to the Project pursuant to the terms of this section 23. Any changes to the Project made pursuant to this section 23 shall be deemed effective for all purposes upon the recordation in the Bureau of the amendment(s) to this Declaration and Condominium Map referenced herein.

Except as otherwise provided in this paragraph, if the number and/or types of Units change pursuant to this section 23 and the common interests are amended, the new common interests shall be determined by (i) dividing each Unit's net living area (excluding lanai and garage areas) by the aggregate net living areas of all of the Units, (ii) converting the resulting fractions to percentages, and (iii) rounding the percentages and making minor adjustments if necessary so that the aggregate common interest appurtenant to all of the Units equals 100%; **provided, however,** that the [Original] Developer [and the Developer] reserves the right (but shall in no event be obligated) to amend only the common interests appurtenant to unsold Units if the resulting distribution of common interests among all of the Units equals 100% and appears reasonably equitable notwithstanding that some unsold Units of a certain Unit type and net living area may thereby be assigned common interests that are different from the common interests assigned to sold Units of the same Unit type and net living area.

**23.4 Rights to Deal With Withdrawn Property; Easements; Costs.** Upon the deletion and removal from the Project of the Withdrawn Property pursuant to the rights reserved to the [Original] Developer [and the Developer] in this section 23, the [Original] Developer [and the Developer] shall have the absolute right, without the joinder or consent of any other party except the holder of any blanket lien encumbering the Withdrawn Property, to convey, sell, lease, pledge or otherwise transfer to any third party (whether or not related to the Developer) some or all of the [Original] Developer's [or the Developer's, as the case may be,] interest in and/or title to some or all of the Withdrawn Property, or to develop, improve (or cooperate with any subsequent owner of the Withdrawn Property in such development or improvement) or otherwise deal with or dispose of the Withdrawn Property or any portions thereof in such manner as the [Original] Developer [or the Developer, as the case may be], in its sole

discretion, sees fit, including developing or improving the Withdrawn Property for uses and with designs, materials and plans materially different from those of the Project, subject, however, to such consents and approvals as may be required under the Master Declaration and any rules and regulations promulgated thereunder, including the Design Requirements discussed in section 24 below. This right shall expressly include the unilateral right of the [Original] Developer [and the Developer] to grant easements over, on or beneath portions of the Project in favor of and for the benefit of the Withdrawn Property for such purposes as may be necessary or convenient for the subdivision, subsequent development and use of the Withdrawn Property, including (but not limited to) easements for access and utilities. In the event that the development and use of the Withdrawn Property or any portion thereof (including, but not limited to, the use of any easement benefiting and serving all or any part of the Withdrawn Property) shall increase the common expenses of the Project (including but not limited to common expenses for roadway maintenance and repair and liability or other insurance), the owners from time to time of the Withdrawn Property so benefited shall be required to contribute to the Association an equitable portion of such costs and expenses as determined by the Developer. In the event that all or a portion of the Withdrawn Property is developed as a 'New Project' (as defined in section 23.5 below) and subsequently merged with the Project in accordance with the Declaration of Merger (described in section 23.5 below), costs and expenses pertaining to the Project and the New Project will be apportioned and allocated between the Project and the New Project in accordance with the terms of the Declaration of Merger.

**23.5 Rights Regarding New Project and Merger.** Without limiting the generality of the foregoing, the [Original] Developer [or the Developer, as the case may be] (or the [Original] Developer's [or the Developer's, as the case may be,] successor in interest in and to the Withdrawn Property) may (but shall not be obligated to) submit all or portions of the Withdrawn Property to a separate condominium property regime by executing and recording in the Bureau a separate declaration of condominium property regime, bylaws and condominium map and such other documents as may be required. At any time following the establishment of all or a portion of the Withdrawn Property as a separate condominium property regime (the "New Project"), the [Original] Developer [or the Developer, as the case may be,] shall have the right (but shall not be obligated), without the joinder or consent of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser, or any other person who may have an interest in the Project or in any Unit, to cause a merger of the Project with such New Project (and/or to cooperate with any subsequent owner of the New Project in causing such merger) in accordance with the provisions and requirements of that certain Declaration of Merger of Condominium Phases (the 'Declaration of Merger') pertaining to the Project and recorded in the Bureau immediately prior to recordation of this Declaration. This Declaration is expressly made subject to the Declaration of Merger, and all of the terms and provisions of the Declaration of Merger, including all reservations of rights in favor of the [Original] Developer [and the Developer] as 'Declarant' therein, are hereby incorporated into this Declaration by reference as if stated herein in their entirety.

**23.6 Developer's Successor in Interest.** Except as otherwise provided in this section 23.6, the [Original] Developer [and the Developer] may transfer its rights reserved under this section 23 (and all other rights specifically reserved to the [Original] Developer [and the Developer] in this Declaration, in the Bylaws, in the Declaration of Merger and under the Unit Deeds) in whole or in part to any person who acquires all or a portion of the [Original] Developer's [or the Developer's, as the case may be,] interest in the Project, including but not limited to the Withdrawn Property. Such reserved rights shall be transferred by express reference and assignment in the instrument conveying title to all or a portion of the Project to such person. The term "Developer's successor in interest" or "successor in interest of the Developer," as used in this Declaration, shall mean any person who acquires title to the [Original] Developer's [or the Developer's, as the case may be,] interest in and to all or a portion of the Project by an instrument that also expressly assigns some or all of the rights reserved to the [Original] Developer [or the Developer, as the case may be,] in this section 23 and/or elsewhere in this Declaration, the Bylaws, the Declaration of Merger and the Unit Deeds. No deed or lease of a Unit or Units in the

Project shall transfer any of the [Original] Developer's [or the Developer's, as the case may be,] reserved rights under this Declaration, the Bylaws, the Declaration of Merger or the Unit Deeds unless the deed or lease expressly refers to and assigns said rights. Absent an express assignment of such reserved rights, each deed or lease or other transfer of a Unit or Units shall only transfer title to such Unit or Units, the common interest in the common elements appurtenant to such Unit or Units, and the rights (and obligations) of a Unit Owner as set forth herein, in the Bylaws and in the Act. Once all or a portion of the [Original] Developer's [or the Developer's, as the case may be,] reserved rights are transferred to a successor in interest of the [Original] Developer [or the Developer, as the case may be,], the transferee may have and exercise all of the rights of the [Original] Developer [or the Developer, as the case may be,] to the extent transferred, but only to such extent.

**23.7 Special Power of Attorney.** The [Original] Developer [or the Developer, as the case may be,] shall have the absolute right, notwithstanding the lease, sale or conveyance of any Unit, and without being required to obtain the consent or joinder of the Association, any Unit Owner or purchaser, any eligible mortgage holder (as defined in section 18.3), lien holder or other persons, to effect the changes to the unsold Units, the common elements and/or limited common elements and/or the removal and deletion of portions of the Project, and/or the subsequent development or submission to a new condominium property regime of all or portions of the Withdrawn Property, and/or the merger of the Project with any New Project, all in accordance with this section 23, and to execute, record and/or file the herein described application, amendments, quitclaims, declarations, bylaws, maps, releases and any and all other instruments necessary or appropriate for the purpose of effecting the changes to and/or removal and deletion and/or subsequent development and merger of portions of the Project as contemplated hereby. Any such action shall be deemed taken by the [Original] Developer [or the Developer, as the case may be,] as the true and lawful attorney-in-fact of the respective Unit Owners, eligible mortgage holders, lien holders and others who may have an interest in the Project. Each and every person acquiring an interest in any Unit, the Project or the Land covered by this Declaration, by such acquisition, consents to all such changes, deletion and/or removal (including an increase in the common interest appurtenant to any Unit owned by such person and a concomitant increase in such person's ownership interest in the Project's remaining common elements), and to the recordation of such documents as may be necessary to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints the [Original] Developer [or the Developer, as the case may be,] his, her or its attorney-in-fact with full power of substitution to execute such documents and do all such other things on his, her or its behalf, as are contemplated in this section 23, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such person.

**23.8 Association Bound.** Without limiting the generality of the foregoing, if the [Original] Developer or the [Original] Developer's successor in interest exercises or wishes to exercise any of the rights reserved to the [Original] Developer in this section 23 after the first meeting of the Association and the election of the Association's first Board of Directors, the Board, acting on behalf of the Association, upon the request of the [Original] Developer or the [Original] Developer's successor in interest, and without requiring the vote or consent of any Unit Owner, Board member or other person, shall execute such instruments (including but not limited to grants of easements) and do all such other things as may be necessary or convenient to enable the [Original] Developer or the [Original] Developer's successor in interest to exercise the rights reserved in this section 23, and accomplish the purposes contemplated by the reservation of such rights.

**23.9 Amendment of this Section 23.** Notwithstanding any provision herein to the contrary, this section 23 may not be amended without the written consent and joinder of the [Original] Developer for so long as the [Original] Developer retains an ownership interest in any Unit."

The Developer will also reserve unto itself in the Unit Deeds respecting the Subject Units certain additional, limited rights in connection with construction by the Developer of such Units.

**END OF EXHIBIT G**

**EXHIBIT H**

**ESTIMATE OF MAINTENANCE FEES  
AND ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS  
FOR  
WAI'ULA'ULA AT MAUNA KEA RESORT**

**CERTIFICATE**


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

1. I am the Director for Pacifica Realty Management, Inc., a Hawaii corporation, designated by the Board of Directors of Wai'ula'ula at Mauna Kea Resort condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

2. I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as set forth in Exhibit "1" attached hereto and hereby incorporated herein by reference, were determined pursuant to a reserve study conducted in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and are reasonable estimates for the one-year period commencing January 1 2014, based on generally accepted accounting principles.

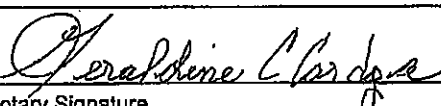
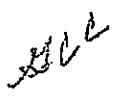
3. The Project's Board of Directors has conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

DATED: Kailua Kona, Hawaii, this 25<sup>th</sup> day of October, 2013.

  
Name: Susan Gand  
Title: Director, Pacifica Realty Management, Inc.

Subscribed and sworn to before me this  
25th day of October, 2013.

Type or print name: Geraldine C. Cardoza  
Notary Public, State of Hawaii  
My commission expires: November 25, 2015

Date of Doc:	<u>October 25, 2013</u>	# Pages:	<u>1</u>
Name of Notary:	<u>Geraldine C. Cardoza</u>	Notes:	
Doc. Description:	<u>Certification of maintenance charges</u>		
			(stamp or seal)
	<u>10.25.2013</u>		
Notary Signature	Date		
<u>3rd</u>	Circuit, State of Hawaii		
<b>NOTARY CERTIFICATION</b>			



## WAI'ULA'ULA AT MAUNA KEA RESORT AOA

### FY2014 APPROVED BUDGET

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#### FY2014 MONTHLY MAINTENANCE FEES

MF/1	\$1,496
MF/2	\$1,515
SF/A	\$2,405
SF/B	\$2,405
D	\$2,134

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Per the Association's governing documents, Maintenance Fees are due by the 1<sup>st</sup> of the month. They are considered delinquent if not received by the 15<sup>th</sup> of the month and a late charge of \$25 will be assessed for delinquent accounts.

Payment coupons will be sent separately.

If you use on-line banking to pay your fees or do not return the payment coupon with the check, please note your Unit # on the check and mail it to:

Pacifica Realty Management, Inc.  
75-1029 Henry Street, #202  
Kailua Kona, HI 96740

Those who elect to pay by Direct Debits will not receive payment coupons. The debits will be processed between the 1<sup>st</sup> and 5<sup>th</sup> of each month.

Your cooperation in making on time payments is appreciated.

Thank you,

Pacifica Realty Management, Inc.  
Managing Agent for Wai'ula'ula at Mauna Kea Resort AOA

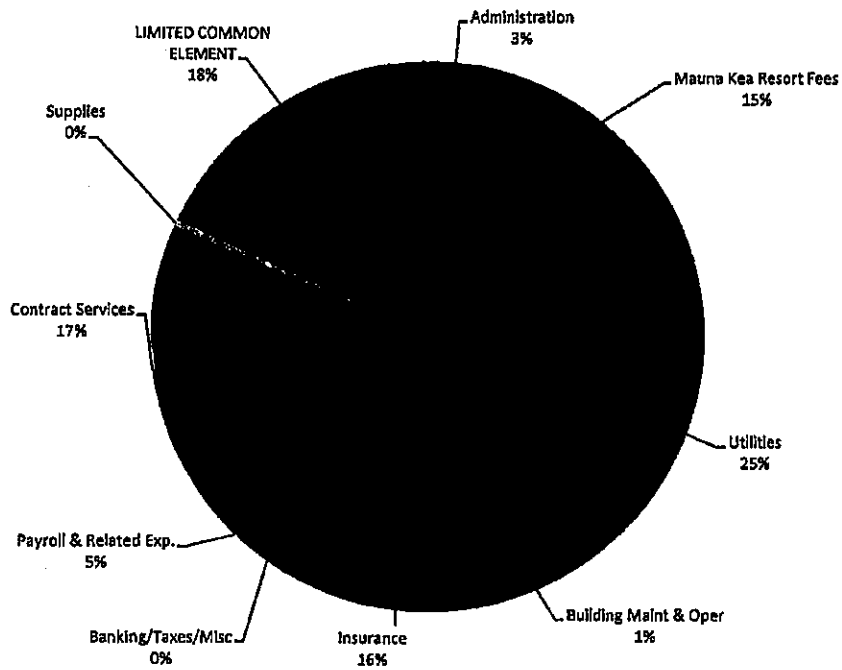
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WAI'ULA'ULA AT MAUNA KEA RESORT AOA  
2014 BUDGET

<div style="border: 2px solid black; padding: 5px; display: inline-block; transform: rotate(-2deg); font-weight: bold;">APPROVED</div> <span style="margin-left: 20px;">WAI'ULA'ULA MAINTENANCE FEE CALCULATIONS - 2014 BUDGET</span>								
UNIT TYPE	# OF UNITS	FEES	MONTHLY FEES	% COMMON INTEREST	TOTAL % COMMON	MONTHLY PER UNIT		DIFFERENCE 2014-2013
						2014	2013	
						BY UNIT TYPE		
MF/1	28	MAINT. FEES	135,832	0.8840%	24.75%	1,201	1,129	
		RESERVE	20,030	0.8840%				
		LIMITED	3,276	3.5714%				
		TOTALS						
								5.72%
MF/2	28	MAINT. FEES	135,832	0.8960%	25.09%	1,218	1,143	
		RESERVE	20,030	0.8960%				
		LIMITED	3,276	3.5714%				
		TOTALS						
								5.87%
SF/A	8	MAINT. FEES	135,832	1.1417%	9.13%	1,551	1,457	
		RESERVE	20,030	1.1417%				
		LIMITED	5,000	12.5000%				
		TOTALS						
								4.57%
SF/B	6	MAINT. FEES	135,832	1.1417%	6.85%	1,551	1,457	
		RESERVE	20,030	1.1417%				
		LIMITED	3,750	16.6667%				
		TOTALS						
								4.57%
D	32	MAINT. FEES	135,832	1.0680%	34.18%	1,451	1,363	
		RESERVE	20,030	1.0680%				
		LIMITED	15,008	3.1250%				
		TOTALS						
								4.81%
TOTALS	102				100.00%			



**AOAO WAI'ULA'ULA AT MAUNA KEA  
2014 OPERATING BUDGET**



Waialua at Mauna Kea Resort AOA  
FY2014 Operating Budget

GL #	INCOME	APPROVED 2013		APPROVED 2014	
		Monthly	Annual	Monthly	Annual
	<b>APPROVED</b>				
4118	Gate Transmitters				
4130	Interest				
4205	Rental Unit 1 Income				
4300	Income - Late Fees				
4320	Income - Limited Common Elements	30,310	363,720	30,310	363,720
4330	Income - Maintenance Fees	127,608	1,531,296	135,832	1,629,979
4958	Irrigation Reimbursement				
4960	Water Reimbursement	1,300	15,600	1,300	15,600
4985	Prior Year Surplus Rollover	3,000	36,000	-	-
	<b>TOTAL INCOME:</b>	<b>162,218</b>	<b>1,946,616</b>	<b>167,442</b>	<b>2,009,299</b>
	<b>EXPENSE</b>				
	<b>Administration</b>				
5103	Annual Meeting	100	1,200	100	1,200
5105	Board Meeting Expense	100	1,200	100	1,200
5110	Auto Expense	50	600	50	600
5115	Bank Charges	50	600	50	600
5140	Legal fees	400	4,800	400	4,800
5155	License	45	540	1	12
5160	Mailing	200	2,400	200	2,400
5165	Management fees	3,634	43,608	3,743	44,916
5180	Office & Admin	325	3,900	325	3,900
5190	Mauna Kea Resort fees	24,990	299,880	25,840	310,080
5195	Rental Unit 1 Expense				
5275	Website	90	1,080	90	1,080
	<b>Total Administration</b>	<b>29,984</b>	<b>359,808</b>	<b>30,899</b>	<b>370,788</b>
	<b>Utilities</b>				
5200	Electricity	2,893	34,716	3,207	38,484
5205	Gas/Propane	2,387	28,644	2,387	28,644
5210	Refuse	3,264	39,168	3,570	42,840
5220	Sewer	7,500	90,000	8,970	107,640
5225	Telephone	200	2,400	200	2,400
5228	Telephone - Cellular	120	1,440	120	1,440
5235	Cable	5,406	64,872	5,610	67,320
5245	Water - Grounds	13,334	160,008	14,500	174,000
5255	Water - Residential	2,013	24,156	2,079	24,948
5260	Water System Maintenance	450	5,400	450	5,400
	<b>Total Utilities</b>	<b>37,567</b>	<b>450,804</b>	<b>41,093</b>	<b>493,116</b>
	<b>Building Maint &amp; Oper</b>				
5305	Building	1,591	19,092	1,591	19,092
5311	Roof Repair				
	<b>Total Building Maint &amp; Oper</b>	<b>1,591</b>	<b>19,092</b>	<b>1,591</b>	<b>19,092</b>
	<b>Insurance</b>				
5415	Insurance - Directors and Officers	133	1,596	145	1,740
5440	Insurance - Fidelity Bond	73	876	73	876
5455	Insurance - Liability	654	7,848	654	7,848
5460	Insurance - Property	20,036	240,437	20,465	245,582
5475	Insurance - Umbrella	158	1,896	161	1,932
5499	Insurance Fund	4,845	58,140	4,845	58,140

Wal'ula'ula at Mauna Kea Resort AOA  
FY2014 Operating Budget

		APPROVED 2013		APPROVED 2014	
		Monthly	Annual	Monthly	Annual
		<b>APPROVED</b>			
<b>Banking/Taxes/Misc</b>					
5500	Audit/Tax Fees	200	2,400	209	2,508
5520	Federal Income Tax	85	1,020	95	1,140
5525	GET, Miscellaneous	50	600	50	600
5540	State Income Tax	10	120	60	720
<b>Total Banking/Taxes/Misc.</b>		<b>345</b>	<b>4,140</b>	<b>414</b>	<b>4,968</b>
<b>Payroll &amp; Related Exp.</b>					
5600	Payroll - Bonus	125	1,500	167	2,000
5620	Payroll - Manager	5,793	69,510	5,967	71,604
5635	Payroll - Taxes	592	7,102	613	7,360
5645	Uniforms	40	480	40	480
5650	Medical Insurance	660	7,920	616	7,392
5655	Insurance - TDI	25	305	26	316
5660	Insurance - Workers Comp	205	2,460	205	2,460
<b>Total Payroll &amp; Related Exp.</b>		<b>7,440</b>	<b>89,277</b>	<b>7,634</b>	<b>91,613</b>
<b>Contract Services</b>					
5733	Gate Maintenance	150	1,800	150	1,800
5735	Grounds Maint. Service	19,750	237,000	19,750	237,000
5736	Irrigation Maintenance	1,300	15,600	1,300	15,600
5737	Janitorial	2,000	24,000	2,000	24,000
5745	Pest Control	2,600	31,200	2,600	31,200
5760	Tree Trimming	1,082	12,984	1,082	12,984
5845	Pool Maintenance	1,575	18,900	1,650	19,800
<b>Total Contract Services</b>		<b>28,457</b>	<b>341,484</b>	<b>28,532</b>	<b>342,384</b>
<b>Supplies</b>					
5821	Fitness Equipment	100	1,200	100	1,200
5835	Grounds Tools/Supplies	525	6,300	525	6,300
5842	Landscape Material		-	-	-
<b>Total Supplies</b>		<b>625</b>	<b>7,500</b>	<b>625</b>	<b>7,500</b>
<b>SUB-TOTAL OPERATING EXPENSES</b>		<b>131,908</b>	<b>1,582,898</b>	<b>137,132</b>	<b>1,645,579</b>
<b>LIMITED COMMON ELEMENT</b>					
5203	Electricity - House Lights	1,400	16,800	1,400	16,800
5734	Grounds Maint. Limited - SF	5,110	61,320	5,110	61,320
	Grounds Maint. Limited - D	6,688	80,256	6,688	80,256
	Grounds Maint. Limited - MF	5,152	61,824	5,152	61,824
5846	Pool Maint - Limited	11,960	143,520	11,960	143,520
<b>Total Limited Common Expenses</b>		<b>30,310</b>	<b>363,720</b>	<b>30,310</b>	<b>363,720</b>
<b>TOTAL OPERATING EXPENSES</b>		<b>162,218</b>	<b>1,946,618</b>	<b>167,442</b>	<b>2,009,299</b>

Wa'ula'ula at Mauna Kea Resort AOA  
FY2014 Budget

RESERVES					
		APPROVED 2013		APPROVED 2014	
		Monthly	Annual	Monthly	Annual
		<b>APPROVED</b>			
<b>GL Codes</b>	<b>INCOME</b>				
6100	Reserve Fees	19,076	228,912	20,030	240,360
6120	Start Up Fees Reserves	-	-	-	-
6200	Interest Income	-	-	-	-
<b>TOTAL INCOME:</b>		<b>19,076</b>	<b>228,912</b>	<b>20,030</b>	<b>240,360</b>
<b>EXPENSE</b>					
7352	Resv - Spa Heater		1,770		
<b>TOTAL EXPENSES</b>		<b>-</b>	<b>1,770</b>	<b>-</b>	<b>-</b>
<b>NET CONTRIBUTION TO RESERVES</b>			<b>227,142</b>		<b>240,360</b>
OPERATING RESERVES					
		APPROVED 2013		APPROVED 2014	
		Monthly	Annual	Monthly	Annual
		<b>APPROVED</b>			
<b>GL Codes</b>	<b>INCOME</b>				
<b>TOTAL INCOME:</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>EXPENSE</b>					
<b>TOTAL EXPENSES</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>



Analysis File V3.6, 3/10

**Starting Information:**

Client #:	12852-1	
Name:	Waiulalo at Mauna Kea	
Location:	Kamuela, HI 96743	
# Units:	102	
Base Yr:	2014	
Period Start:	1/1/2014	
Period End:	12/31/2014	
Site Inspection Date:	5/12/2010	
Total Assessmts.	\$185,442.00	Per Unit: \$1,827.86
Res Contribs.	\$20,080.00	Per Unit: \$196.37
Starting Reserve Bal:	\$1,139,603	
Interest:	0.50%	
Inflation:	3.00%	

**Status:**

Proportional FFB:	\$1,723,836
Percent Funded:	66.1%
Swain Factor:	2.337%

**Recommendation:**

Res Contrib.	\$20,080	Per Unit: \$196.37
Annual Increase:	5.00%	
# of Years:	30	
Secondary Increase:	0.00%	
# of Years:	30	
1st Yr S.A.:	\$0	Per Unit: \$0.00
2nd Yr S.A.:	\$0	Per Unit: \$0.00
3rd Yr S.A.:	\$0	Per Unit: \$0.00
4th Yr S.A.:	\$0	Per Unit: \$0.00
5th Yr S.A.:	\$0	Per Unit: \$0.00

Minimum Balance:	\$1,139,603.00
Min Margin:	100.0%

**Component**

# Component	Useful Life (yrs)	Rem. Useful Life (yrs)	Current Average Cost	Future Average Cost
201 Asphalt - Replace	30	23	\$1,353,950	\$2,672,137
202 Asphalt - Seal/Repair	6	4	\$130,683	\$147,084
403 Mailboxes - Replace	15	8	\$5,750	\$7,284
503 Metal Gates - Repair	8	1	\$6,000	\$6,180
703 Enter Key pad - Replace	7	1	\$2,250	\$2,318
704 Entry Transponder Sys -Partial Repl	10	3	\$5,750	\$6,283
705 Gate Operator - Replace	8	3	\$11,800	\$12,894
1001 Backflow Devices - Repair	5	2	\$3,500	\$3,713
1002 Meter & Auto Flush - Replace	15	8	\$3,500	\$4,434
1003 Irrigation Controllers - Replace	10	10	\$17,000	\$22,847

**Component**

303 HVAC Units - Replace	8	5	\$13,500	\$15,650
305 Security TV - Replace	12	8	\$4,550	\$5,764
324 Wall Lights - Replace	10	3	\$4,510	\$4,928
325 Interior Lights - Replace	20	13	\$4,050	\$5,948
404 Pool Furniture - Replace	10	3	\$16,000	\$17,484
407 Gas BBQ - Replace	8	1	\$7,000	\$7,210
503 Metal Gate - Repair	20	13	\$2,500	\$3,671
504 Pool Fence - Repair	25	18	\$11,450	\$19,493
515 Wood Trellis - Replace	20	13	\$13,500	\$19,825
606 Rubber Floor - Replace	10	3	\$11,100	\$12,129
702 Wood Doors - Replace	20	13	\$40,000	\$58,741
706 Bldg Entry System - Replace	8	1	\$3,000	\$3,090
707 Sliding Glass Doors - Refurbish	20	13	\$11,500	\$16,888
803 Water Heater - Replace	10	4	\$2,750	\$3,095
901 Kitchen Appliances - Replace	15	8	\$17,500	\$22,168
902 Exercise Eqp - Partial Replace/Repr	10	3	\$32,000	\$34,967
903 Furniture - Replace	10	3	\$19,000	\$20,762
904 Lobby Area Rug - Replace	7	3	\$6,000	\$6,556
909 Bathroom - Refurbish	12	5	\$13,000	\$15,071
910 Kitchen - Refinish	15	8	\$16,000	\$20,268
915 Soft Goods - Replace	10	3	\$9,000	\$9,835
1101 Wood Doors - Refinish	4	3	\$14,400	\$15,735
1110 Interior Surfaces - Repaint	10	3	\$5,198	\$5,679
1116 Exterior Wood - Repair/Seal	6	3	\$4,550	\$4,972
1126 EIFS Exterior - Seal	20	13	\$13,500	\$19,825
1202 Pool - Resurface	8	1	\$38,000	\$39,140
1202 Pool (Keiki) - Resurface	8	4	\$4,200	\$4,727
1203 Spa - Resurface	6	2	\$5,800	\$6,153
1207 Pool/Spa Filters - Replace	12	3	\$2,500	\$2,732
1208 Keiki Heater - Replace	8	6	\$2,950	\$3,522
1208 Pool Heater - Replace	8	3	\$3,150	\$3,442
1208 Spa Heater - Replace	8	8	\$3,800	\$4,814
1209 Pool/Spa/Keiki Ph/Cl Contrl - Repl	7	7	\$7,200	\$8,855
1210 Pool/Spa Pump - Replace	7	1	\$3,000	\$3,090
1304 Tile Roof - Underlayment Replace	40	33	\$69,840	\$185,239
1310 Gutters/Downspouts - Replace	15	8	\$3,960	\$5,016
1805 Music System - Replace	12	5	\$4,500	\$5,217
1810 Utility Vehicles - Replace	8	1	\$5,500	\$5,665

**Component**

324 Wall Lights - Replace	10	3	\$32,800	\$35,841
1116 Wood Surfaces - Repaint	6	2	\$52,325	\$55,512
1126 EIFS Exterior - Seal	20	13	\$819,000	\$1,202,729
1304 Tile Roof - Underlayment Replace	40	33	\$1,752,000	\$4,646,891

**1310 Gutters/Downspouts - Replace**

# Component	Useful Life (yrs)	Rem. Useful Life (yrs)	Current Average Cost	Future Average Cost
1310 Gutters/Downspouts - Replace	15	8	\$63,900	\$80,947

**1116 Wood Surfaces - Repaint**

324 Wall Lights - Replace	10	3	\$22,550	\$24,641
505 Vinyl Fence - Replace	13	6	\$115,200	\$137,555
1116 Wood Surfaces - Repaint	6	2	\$36,000	\$38,192
1126 EIFS Exterior - Seal	20	13	\$204,750	\$300,682
1304 Tile Roof - Underlayment Replace	40	33	\$814,800	\$2,161,123
1310 Gutters/Downspouts - Repr/Repl	15	8	\$50,490	\$63,959

**1126 EIFS Exterior - Seal**

324 Wall Lights - Replace	10	3	\$8,200	\$8,960
505 Vinyl Fence - Replace	13	6	\$28,800	\$34,389
1116 Wood Surfaces - Repaint	6	2	\$5,200	\$5,517
1126 EIFS Exterior - Seal	20	13	\$54,500	\$80,035
1304 Tile Roof - Underlayment Replace	40	33	\$303,600	\$805,249
1310 Gutters/Downspouts - Replace	15	8	\$8,100	\$10,261

65 Total Funded Components

Fiscal Year Beginning: 01/01/14

Interest:	0.5%	Inflation:	3.0%
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Year	Starting Reserve Balance	Fully Funded Balance	Percent Funded	Rating	Annual Reserve Contribs.	Loans or Special Assmts	Interest Income	Projected Reserve Expenses
2014	\$1,139,603	\$1,723,836	66.1%	Fair	\$240,360	\$0	\$6,313	\$0
2015	\$1,386,276	\$2,062,550	67.2%	Fair	\$252,378	\$0	\$7,413	\$66,693
2016	\$1,579,374	\$2,351,343	67.2%	Fair	\$264,997	\$0	\$8,306	\$109,087
2017	\$1,743,590	\$2,614,001	66.7%	Fair	\$278,247	\$0	\$8,864	\$227,842
2018	\$1,802,859	\$2,771,357	65.1%	Fair	\$292,169	\$0	\$9,379	\$154,907
2019	\$1,949,491	\$3,017,964	64.6%	Fair	\$306,767	\$0	\$10,448	\$35,937
2020	\$2,230,769	\$3,404,198	65.5%	Fair	\$322,105	\$0	\$11,547	\$175,466
2021	\$2,388,955	\$3,668,287	65.1%	Fair	\$338,211	\$0	\$12,742	\$30,870
2022	\$2,709,038	\$4,099,513	66.1%	Fair	\$355,121	\$0	\$13,571	\$357,388
2023	\$2,720,342	\$4,217,951	64.5%	Fair	\$372,877	\$0	\$14,358	\$83,571
2024	\$3,024,007	\$4,632,881	65.3%	Fair	\$391,521	\$0	\$15,618	\$208,536
2025	\$3,224,610	\$4,944,839	65.2%	Fair	\$411,097	\$0	\$17,088	\$40,627
2026	\$3,612,168	\$5,448,612	66.3%	Fair	\$431,652	\$0	\$19,156	\$10,978
2027	\$4,051,998	\$6,009,955	67.4%	Fair	\$453,235	\$0	\$16,501	\$1,972,105
2028	\$2,549,628	\$4,580,454	55.7%	Fair	\$475,896	\$0	\$13,545	\$169,750
2029	\$2,869,319	\$4,977,138	57.6%	Fair	\$499,691	\$0	\$15,527	\$41,598
2030	\$3,342,939	\$5,530,742	60.4%	Fair	\$524,676	\$0	\$17,527	\$215,805
2031	\$3,669,337	\$5,934,935	61.8%	Fair	\$550,910	\$0	\$19,411	\$142,971
2032	\$4,096,686	\$6,440,089	63.6%	Fair	\$578,455	\$0	\$21,931	\$19,493
2033	\$4,677,580	\$7,101,812	65.9%	Fair	\$607,378	\$0	\$24,202	\$303,970
2034	\$5,005,189	\$7,505,032	66.7%	Fair	\$637,747	\$0	\$26,115	\$225,899
2035	\$5,443,152	\$8,015,860	67.9%	Fair	\$669,634	\$0	\$28,838	\$46,972
2036	\$6,094,652	\$8,741,858	69.7%	Fair	\$703,116	\$0	\$31,621	\$272,820
2037	\$6,556,569	\$9,273,030	70.7%	Strong	\$738,271	\$0	\$26,283	\$3,362,315
2038	\$3,958,808	\$6,654,454	59.5%	Fair	\$775,185	\$0	\$21,718	\$25,512
2039	\$4,730,199	\$7,411,222	63.8%	Fair	\$813,944	\$0	\$25,433	\$124,580
2040	\$5,444,996	\$8,106,155	67.2%	Fair	\$854,641	\$0	\$28,892	\$214,203
2041	\$6,114,327	\$8,747,650	69.9%	Fair	\$897,374	\$0	\$32,668	\$88,629
2042	\$6,955,739	\$9,556,300	72.8%	Strong	\$942,242	\$0	\$36,405	\$325,074
2043	\$7,609,312	\$10,164,797	74.9%	Strong	\$989,354	\$0	\$40,399	\$85,425



**2014 - 2018 Reserve Study**

Fiscal Year	2014	2015	2016	2017	2018
Starting Reserve Balance	\$1,150,608	\$1,386,276	\$1,570,374	\$1,743,590	\$1,902,859
Annual Reserve Contribution	\$240,650	\$252,378	\$260,997	\$278,247	\$292,159
Planned Special Assessments	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$8,318	\$7,413	\$8,308	\$8,864	\$9,079
Total Income	\$1,399,576	\$1,646,067	\$1,839,679	\$2,030,701	\$2,194,197

**# Component**

201 Asphalt - Replace	\$0	\$0	\$0	\$0	\$0
202 Asphalt - Seal/Repair	\$0	\$0	\$0	\$0	\$147,084
403 Mailboxes - Replace	\$0	\$0	\$0	\$0	\$0
503 Metal Gates - Repair	\$0	\$6,180	\$0	\$0	\$0
703 Enter Key pad - Replace	\$0	\$2,318	\$0	\$0	\$0
704 Entry Transponder Sys - Partial Repl	\$0	\$0	\$0	\$6,283	\$0
705 Gate Operator - Replace	\$0	\$0	\$0	\$12,894	\$0
1001 Backflow Devices - Repair	\$0	\$0	\$37,141	\$0	\$0
1002 Meter & Auto Flush - Replace	\$0	\$0	\$0	\$0	\$0
1003 Irrigation Controllers - Replace	\$0	\$0	\$0	\$0	\$0

**Component**

303 HVAC Units - Replace	\$0	\$0	\$0	\$0	\$0
305 Security TV - Replace	\$0	\$0	\$0	\$0	\$0
324 Wall Lights - Replace	\$0	\$0	\$0	\$4,928	\$0
325 Interior Lights - Replace	\$0	\$0	\$0	\$0	\$0
404 Pool Furniture - Replace	\$0	\$0	\$0	\$17,484	\$0
407 Gas BBQ - Replace	\$0	\$7,210	\$0	\$0	\$0
503 Metal Gate - Repair	\$0	\$0	\$0	\$0	\$0
504 Pool Fence - Repair	\$0	\$0	\$0	\$0	\$0
515 Wood Trellis - Replace	\$0	\$0	\$0	\$0	\$0
606 Rubber Floor - Replace	\$0	\$0	\$0	\$12,129	\$0
702 Wood Doors - Replace	\$0	\$0	\$0	\$0	\$0
706 Bldg Entry System - Replace	\$0	\$3,000	\$0	\$0	\$0
707 Sliding Glass Doors - Refurbish	\$0	\$0	\$0	\$0	\$0
803 Water Heater - Replace	\$0	\$0	\$0	\$0	\$3,055
901 Kitchen Appliances - Replace	\$0	\$0	\$0	\$0	\$0
902 Exercise Eqp - Partial Replace/Repr	\$0	\$0	\$0	\$34,967	\$0
903 Furniture - Replace	\$0	\$0	\$0	\$20,762	\$0
904 Lobby Area Rug - Replace	\$0	\$0	\$0	\$6,556	\$0
909 Bathroom - Refurbish	\$0	\$0	\$0	\$0	\$0
910 Kitchen - Refinish	\$0	\$0	\$0	\$0	\$0
915 Soft Goods - Replace	\$0	\$0	\$0	\$9,835	\$0
1101 Wood Doors - Refinish	\$0	\$0	\$0	\$15,735	\$0
1110 Interior Surfaces - Repaint	\$0	\$0	\$0	\$5,679	\$0
1116 Exterior Wood - Repair/Seal	\$0	\$0	\$0	\$4,972	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1202 Pool - Resurface	\$0	\$39,140	\$0	\$0	\$0
1202 Pool (Kelki) - Resurface	\$0	\$0	\$0	\$0	\$47,277
1203 Spa - Resurface	\$0	\$0	\$8,153	\$0	\$0
1207 Pool/Spa Filters - Replace	\$0	\$0	\$0	\$2,732	\$0
1208 Kelki Heater - Replace	\$0	\$0	\$0	\$0	\$0
1208 Pool Heater - Replace	\$0	\$0	\$0	\$3,442	\$0
1208 Spa Heater - Replace	\$0	\$0	\$0	\$0	\$0
1209 Pool/Spa/Kelki Ph/Cl Contrl - Repl	\$0	\$0	\$0	\$0	\$0
1210 Pool/Spa Pump - Replace	\$0	\$3,090	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$0	\$0
1805 Music System - Replace	\$0	\$0	\$0	\$0	\$0
1810 Utility Vehicles - Replace	\$0	\$5,665	\$0	\$0	\$0

Planned Special Assessments	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$3,859	\$7,413	\$9,938	\$8,884	\$9,370
Total Income	\$1,889,270	\$1,646,087	\$1,852,677	\$2,030,701	\$2,104,397

# Component

<b>Component 1</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$35,841	\$0
1118 Wood Surfaces - Repaint	\$0	\$0	\$35,672	\$0	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment/Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$0	\$0

<b>Component 2</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$24,841	\$0
505 Vinyl Fence - Replace	\$0	\$0	\$0	\$0	\$0
1118 Wood Surfaces - Repaint	\$0	\$0	\$39,412	\$0	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Repr/Repl	\$0	\$0	\$0	\$0	\$0

<b>Component 3</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$8,980	\$0
505 Vinyl Fence - Replace	\$0	\$0	\$0	\$0	\$0
1118 Wood Surfaces - Repaint	\$0	\$0	\$35,117	\$0	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$0	\$0

Total Expenses	\$0	\$66,693	\$109,087	\$227,842	\$164,907
Ending Reserve Balance:	\$1,886,270	\$1,579,374	\$1,743,590	\$1,802,859	\$1,949,491

Fiscal Year	2018	2020	2021	2022	2023
Starting Reserve Balance	\$1,848,491	\$2,230,769	\$2,388,955	\$2,709,038	\$2,720,342
Annual Reserve Contribution	\$306,767	\$322,105	\$338,211	\$355,121	\$372,877
Planned Special Assessments	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$10,448	\$11,507	\$12,742	\$16,571	\$14,358
Total Income	\$2,266,706	\$2,564,421	\$2,739,808	\$3,077,730	\$3,107,577

# Component	2018	2020	2021	2022	2023
201 Asphalt - Replace	\$0	\$0	\$0	\$0	\$0
202 Asphalt - Seal/Repair	\$0	\$0	\$0	\$0	\$0
403 Mailboxes - Replace	\$0	\$0	\$0	\$7,284	\$0
503 Metal Gates - Repair	\$0	\$0	\$0	\$0	\$7,829
703 Enter Key pad - Replace	\$0	\$0	\$0	\$2,850	\$0
704 Entry Transponder Sys -Partial Repl	\$0	\$0	\$0	\$0	\$0
705 Gate Operator - Replace	\$0	\$0	\$0	\$0	\$0
1001 Backflow Devices - Repair	\$0	\$0	\$4,305	\$0	\$0
1002 Meter & Auto Flush - Replace	\$0	\$0	\$0	\$4,484	\$0
1003 Irigation Controlfers - Replace	\$0	\$0	\$0	\$0	\$0

ARBITRARY	2018	2020	2021	2022	2023
303 HVAC Units - Replace	\$15,650	\$0	\$0	\$0	\$0
305 Security TV - Replace	\$0	\$0	\$0	\$6,764	\$0
324 Wall Lights - Replace	\$0	\$0	\$0	\$0	\$0
325 Interior Lights - Replace	\$0	\$0	\$0	\$0	\$0
404 Pool Furniture - Replace	\$0	\$0	\$0	\$0	\$0
407 Gas BBQ - Replace	\$0	\$0	\$0	\$0	\$9,133
503 Metal Gate - Repair	\$0	\$0	\$0	\$0	\$0
504 Pool Fence - Repair	\$0	\$0	\$0	\$0	\$0
515 Wood Trellis - Replace	\$0	\$0	\$0	\$0	\$0
606 Rubber Floor - Replace	\$0	\$0	\$0	\$0	\$0
702 Wood Doors - Replace	\$0	\$0	\$0	\$0	\$0
706 Bldg Entry System - Replace	\$0	\$0	\$0	\$0	\$3,914
707 Sliding Glass Doors - Refurbish	\$0	\$0	\$0	\$0	\$0
803 Water Heater - Replace	\$0	\$0	\$0	\$0	\$0
901 Kitchen Appliances - Replace	\$0	\$0	\$0	\$22,188	\$0
902 Exercise Eqp - Partial Replace/Repr	\$0	\$0	\$0	\$0	\$0
903 Furniture - Replace	\$0	\$0	\$0	\$0	\$0
904 Lobby Area Rug - Replace	\$0	\$0	\$0	\$0	\$0
909 Bathroom - Refurbish	\$15,071	\$0	\$0	\$0	\$0
910 Kitchen - Refinish	\$0	\$0	\$0	\$20,288	\$0
916 Soft Goods - Replace	\$0	\$0	\$0	\$0	\$0
1101 Wood Doors - Refinish	\$0	\$0	\$17,710	\$0	\$0
1110 Interior Surfaces - Repaint	\$0	\$0	\$0	\$0	\$0
1118 Exterior Wood - Repair/Seal	\$0	\$0	\$0	\$0	\$5,937
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1202 Pool - Resurface	\$0	\$0	\$0	\$0	\$49,591
1202 Pool (Kalki) - Resurface	\$0	\$0	\$0	\$0	\$0
1203 Spa - Resurface	\$0	\$0	\$0	\$7,347	\$0
1207 Pool/Spa Filters - Replace	\$0	\$0	\$0	\$0	\$0
1208 Kalki Heater - Replace	\$0	\$3,622	\$0	\$0	\$0
1208 Pool Heater - Replace	\$0	\$0	\$0	\$0	\$0
1208 Spa Heater - Replace	\$0	\$0	\$0	\$4,614	\$0
1209 Pool/Spa/Kalki P/W/C Contrl - Repl	\$0	\$0	\$8,855	\$0	\$0
1210 Pool/Spa Pump - Replace	\$0	\$0	\$0	\$3,800	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$5,016	\$0
1805 Music System - Replace	\$5,217	\$0	\$0	\$0	\$0
1810 Utility Vehicles - Replace	\$0	\$0	\$0	\$0	\$7,176

Planned Special Assessments	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$10,448	\$11,547	\$12,742	\$13,571	\$14,358
Total Income	\$2,266,706	\$2,564,424	\$2,738,908	\$3,077,760	\$3,107,577
<b># Component</b>					
<b>2013</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$0	\$0
1116 Wood Surfaces - Repaint	\$0	\$0	\$0	\$53,284	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$30,947	\$0
<b>2014</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$0	\$0
505 Vinyl Fence - Replace	\$0	\$147,555	\$0	\$0	\$0
1116 Wood Surfaces - Repaint	\$0	\$0	\$0	\$45,604	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Repr/Repl	\$0	\$0	\$0	\$58,959	\$0
<b>2015</b>					
324 Wall Lights - Replace	\$0	\$0	\$0	\$0	\$0
505 Vinyl Fence - Replace	\$0	\$34,389	\$0	\$0	\$0
1116 Wood Surfaces - Repaint	\$0	\$0	\$0	\$6,587	\$0
1126 EIFS Exterior - Seal	\$0	\$0	\$0	\$0	\$0
1304 Tile Roof - Underlayment Replace	\$0	\$0	\$0	\$0	\$0
1310 Gutters/Downspouts - Replace	\$0	\$0	\$0	\$10,281	\$0
Total Expenses	\$35,937	\$175,465	\$30,870	\$357,388	\$83,571
Ending Reserve Balance:	\$2,230,769	\$2,388,956	\$2,709,038	\$2,720,342	\$3,024,007

**2010 - 2011**

# Component	Useful Life	Rem. Useful Life	Current (Avg) Cost	Fully Funded Balance	Current Fund Balance	Reserve Contributions
201 Asphalt - Replace	30	23	\$1,353,050	\$315,022	\$315,921.67	\$3,282.01
202 Asphalt - Seal/Repair	6	4	\$130,683	\$43,561	\$43,560.83	\$1,583.89
403 Mailboxes - Replace	16	8	\$5,750	\$2,683	\$2,683.33	\$27.88
503 Metal Gates - Repair	8	1	\$6,000	\$5,250	\$5,250.00	\$54.54
703 Enter Key pad - Replace	7	1	\$2,250	\$1,929	\$1,928.57	\$23.37
704 Entry Transponder Sys -Partial Repl	10	3	\$5,750	\$4,025	\$4,025.00	\$41.81
705 Gate Operator - Replace	8	3	\$11,800	\$7,375	\$7,375.00	\$107.26
1001 Backflow Devices - Repair	5	2	\$3,500	\$2,100	\$2,100.00	\$50.90
1002 Meter & Auto Flush - Replace	15	8	\$3,500	\$1,833	\$1,833.33	\$18.97
1003 Irrigation Controllers - Replace	10	10	\$17,000	\$0	\$0.00	\$0.00

303 HVAC Units - Replace	8	5	\$13,500	\$6,063	\$5,062.50	\$122.72
305 Security TV - Replace	12	8	\$4,550	\$1,517	\$1,516.67	\$27.57
324 Wall Lights - Replace	10	3	\$4,510	\$3,157	\$3,157.00	\$32.80
325 Interior Lights - Replace	20	13	\$4,050	\$1,418	\$1,417.60	\$14.73
404 Pool Furniture - Replace	10	3	\$18,000	\$11,200	\$11,200.00	\$116.35
407 Gas BBQ - Replace	8	1	\$7,000	\$6,125	\$6,125.00	\$63.63
503 Metal Gate - Repair	20	13	\$2,500	\$875	\$875.00	\$9.09
504 Pool Fence - Repair	25	18	\$11,450	\$3,208	\$3,206.00	\$33.31
515 Wood Trellis - Replace	20	13	\$13,500	\$4,725	\$4,725.00	\$49.09
606 Rubber Floor - Replace	10	3	\$11,100	\$7,770	\$7,770.00	\$80.72
702 Wood Doors - Replace	20	13	\$40,000	\$14,000	\$14,000.00	\$145.44
708 Bldg Entry System - Replace	8	1	\$3,000	\$2,625	\$2,625.00	\$27.27
707 Sliding Glass Doors - Refurbish	20	13	\$11,500	\$4,025	\$4,025.00	\$41.81
803 Water Heater - Replace	10	4	\$2,750	\$1,650	\$1,650.00	\$20.00
901 Kitchen Appliances - Replace	15	8	\$17,500	\$8,167	\$8,166.67	\$84.84
902 Exercise Eqp - Partial Replace/Repr	10	3	\$32,000	\$22,400	\$22,400.00	\$232.71
903 Furniture - Replace	10	3	\$19,000	\$13,300	\$13,300.00	\$138.17
904 Lobby Area Rug - Replace	7	3	\$6,000	\$3,429	\$3,428.57	\$62.33
909 Bathroom - Refurbish	12	5	\$13,000	\$7,583	\$7,583.33	\$78.78
910 Kitchen - Refinish	15	8	\$18,000	\$7,467	\$7,466.67	\$77.57
915 Soft Goods - Replace	10	3	\$9,000	\$6,300	\$6,300.00	\$65.45
1101 Wood Doors - Refinish	4	3	\$14,400	\$3,600	\$3,600.00	\$261.80
1110 Interior Surfaces - Repaint	10	3	\$6,198	\$3,638	\$3,638.25	\$37.80
1116 Exterior Wood - Repair/Seal	6	3	\$4,550	\$2,275	\$2,275.00	\$55.15
1126 EIFS Exterior - Seal	20	13	\$13,500	\$4,725	\$4,725.00	\$49.09
1202 Pool - Resurface	8	1	\$38,000	\$33,250	\$33,250.00	\$345.42
1202 Pool (Keiki) - Resurface	8	4	\$4,200	\$2,100	\$2,100.00	\$38.18
1203 Spa - Resurface	6	2	\$5,800	\$3,867	\$3,866.67	\$70.30
1207 Pool/Spa Filters - Replace	12	3	\$2,500	\$1,875	\$1,875.00	\$15.15
1208 Keiki Heater - Replace	8	6	\$2,950	\$738	\$737.50	\$28.82
1208 Pool Heater - Replace	8	3	\$3,150	\$1,969	\$1,968.75	\$28.63
1208 Spa Heater - Replace	8	8	\$3,800	\$0	\$0.00	\$0.00
1209 Pool/Spa/Keiki Ph/Cl Contrl - Repl	7	7	\$7,200	\$0	\$0.00	\$0.00
1210 Pool/Spa Pump - Replace	7	1	\$3,000	\$2,571	\$2,571.43	\$31.17
1304 Tile Roof - Underlayment Replace	40	33	\$69,840	\$12,222	\$12,222.00	\$126.97
1310 Gutters/Downspouts - Replace	15	8	\$3,960	\$1,848	\$1,848.00	\$19.20
1805 Music System - Replace	12	5	\$4,500	\$2,625	\$2,625.00	\$27.27
1810 Utility Vehicles - Replace	8	1	\$5,500	\$4,813	\$4,812.50	\$50.00

324 Wall Lights - Replace	10	3	\$32,800	\$22,960	\$22,960.00	\$238.52
1116 Wood Surfaces - Repaint	6	2	\$52,325	\$34,883	\$34,883.33	\$634.19
1126 EIFS Exterior - Seal	20	13	\$819,000	\$286,650	\$286,650.00	\$2,977.92
1304 Tile Roof - Underlayment Replace	40	33	\$1,752,000	\$308,800	\$192,516.83	\$3,185.17

**Table 1 - Reserve Study - 2013**

# Component	Useful Life	Rem. Useful Life	Current (Avg) Cost	Fully Funded Balance	Current Fund Balance	Reserve Contributions
1310 Gutters/Downspouts - Replace	15	8	\$63,900	\$29,820	\$0.00	\$309.79

324 Wall Lights - Replace	10	3	\$22,550	\$15,785	\$0.00	\$153.99
505 Vinyl Fence - Replace	13	6	\$115,200	\$82,031	\$0.00	\$644.42
1116 Wood Surfaces - Repaint	6	2	\$36,000	\$24,000	\$0.00	\$436.33
1126 EIFS Exterior - Seal	20	13	\$204,750	\$71,663	\$0.00	\$744.48
1304 Tile Roof - Underlayment Replace	40	33	\$814,800	\$142,590	\$0.00	\$1,481.32
1310 Gutters/Downspouts - Repr/Repl	15	8	\$50,490	\$23,562	\$0.00	\$244.78

324 Wall Lights - Replace	10	3	\$8,200	\$5,740	\$0.00	\$59.63
605 Vinyl Fence - Replace	13	6	\$28,800	\$15,508	\$0.00	\$161.10
1116 Wood Surfaces - Repaint	6	2	\$5,200	\$3,467	\$0.00	\$63.02
1126 EIFS Exterior - Seal	20	13	\$54,500	\$19,075	\$0.00	\$198.16
1304 Tile Roof - Underlayment Replace	40	33	\$303,600	\$53,130	\$0.00	\$551.95
1310 Gutters/Downspouts - Replace	15	8	\$8,100	\$3,780	\$0.00	\$39.27
<b>65 Total Funded Components</b>				<b>\$1,723,836</b>	<b>\$1,139,603</b>	<b>\$20,030</b>

**EXHIBIT I**

**SUMMARY OF SALES CONTRACT**

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

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

deposits toward the purchase price shall be the property of the Developer.

- (o) If the purchaser defaults, Developer may retain purchaser's deposits and bring on action against purchaser. If the Developer defaults, purchasers may bring an action against Developer. All actions are subject to the rules of the Dispute Prevention & Resolution, Inc., as provided in the Sales Contract.
- (p) Any assignment of the Sales Contract is void and of no legal effect.
- (q) The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Community, the sale of the Unit or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Community which is raised or otherwise asserted before or after Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract.

The Sales Contract contains various other important provisions relating to the purchase of a Unit in the Project. Purchasers and prospective purchasers should carefully read the specimen Sales Contract on file with the Real Estate Commission. A copy is available at the Developer's sales office. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings given them under the Purchase Agreement.

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

**END OF EXHIBIT I**



## EXHIBIT J

### SUMMARY OF ESCROW AGREEMENT

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

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) Except under certain circumstances as set forth in the Sales Contract, all deposits toward the purchase price shall be the property of the Developer.
- (d) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

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

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

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

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

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

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

4. The Sales Contract states when refunds of deposits may be made to Buyer. Escrow agrees to make any refunds as soon as possible after the buyer and Seller notify Escrow in writing that a refund should be made. No refund will be made to any buyer who asks for it unless Escrow receives written approval from the Seller or from a court of competent jurisdiction. The words "cancellation fees" mean Escrow's cancellation fees which are described in the Sales Contract and are described in the Escrow Agreement. Fees for cancellation may also be charged by the lender who has agreed to lend Buyer money to buy the Unit. The Sales Contract states the instances when Escrow is to subtract cancellation fees from the amount to be refunded unless Seller tells Escrow not to charge the cancellation fees. Escrow shall give each Buyer who is to get a refund written notice of the refund. Escrow will send this notice by registered or certified mail to Buyer at the address shown on Buyer's Sales Contract or to the last address which Buyer may have given to Escrow.

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

6. Escrow will set the time (in accordance with Sales Contract and Seller's interest to pre-close) for taking in all money from each Buyer and for the signing of all of the documents that each Buyer must sign to complete the purchase, except for the mortgage documents, which may be signed at the lender's place of business. The conveyance tax certificates, preliminary closing statements, escrow instructions and final closing statements will be prepared by Escrow, and Escrow will do all of the escrow acts required under this Agreement or any other written agreements between Seller, Buyer and Escrow. Escrow will coordinate with Buyer's lender, the title companies and all others who are a part of the purchase so that closing will occur at a suitable time. Escrow agrees to close all of the sales at the same time or individually from time to time, as directed by Seller. "Closing" is complete when all necessary conveyance and financing documents to complete a purchase are recorded in the appropriate Hawaii recording office. After all documents have been signed, Escrow will close on the closing date as agreed to in the Sales Contract only if:

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

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT, ONE MUST

REFER TO THE ACTUAL ESCROW AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT, THE ESCROW AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

**END OF EXHIBIT J**

**EXHIBIT K**

**DECLARATION OF MERGER OF CONDOMINIUM PHASES**

See attached.

MS  
E-7



R-883 STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
MAR 07, 2005 10:30 AM  
Doc No(s) 2005-044640



/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

22 1/3 22

Return by Mail ( ) Pickup (X) To:         

Brooks Tom Porter & Quitiquit, LLP  
841 Bishop Street, Suite 2125  
Honolulu, Hawaii 96813

Tax Map Key No. (3) 6-2-13-13, -14, -15, -16, -17 & por. -7  
Total No. of Pages: 22

**DECLARATION OF MERGER OF CONDOMINIUM PHASES**

**WHEREAS**, MOANA IKENA, LLC, a Delaware limited liability company (hereinafter called the "Declarant"), is the owner in fee simple of the land described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

**WHEREAS**, the Declarant currently intends to develop the Property as a single condominium property regime with a total of 102 residential units, to be constructed in multiple increments, and to be known as "Wai'ula'ula at Mauna Kea Resort"; and

**WHEREAS**, the Declarant also intends to reserve the right to withdraw portions of the Property from the condominium property regime initially established, to further subdivide the Property if necessary, to develop one or more of the withdrawn portions of the Property as separate condominium property regimes, or to sell withdrawn portions of the Property to persons who may elect to develop such land as separate condominium property regimes; and

**WHEREAS**, in the event that multiple condominium property regimes are established on the Property (each such condominium property regime being hereinafter called a "phase"), the Declarant wishes to reserve the right to merge the phases subsequently, either for management and administrative purposes only, or for ownership purposes as provided herein; and

**WHEREAS**, to effectuate the foregoing purpose the Declarant desires to establish covenants, restrictions and easements as part of a general and incremental plan of development of the Property so that, in the event that the phases are established as separate condominium property regimes, upon completion of the development of the separate phases and the decision of

the Declarant to merge such phases, the phases so merged shall be treated for administrative purposes (and possibly for ownership purposes) as integral parts of a single merged condominium project (the "Merged Project");

**NOW, THEREFORE**, the Declarant hereby declares that the Property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, easements, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property and for the merger of phases in accordance with Section 514A-19 of the Hawaii Revised Statutes, as amended, and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of the limitations, covenants, easements, restrictions and conditions set forth herein shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of and be binding upon each owner and such owner's heirs, devisees, personal representatives, successors, successors in trust and assigns.

1. **Definition of Merger.** Except as provided in paragraph 7 below where the definition of "merger" is expanded to include the merger of ownership interests, for the purposes hereof, "merger" shall mean and refer to the unification of the management and use of any phase with the management and use of any other phase or phases in accordance with the provisions hereof. Merger may occur with respect to any two or more phases at the same or at different times, and merger with respect to any two of such phases shall not affect the right of the Declarant to merge separately or together the other phases at a later date, subject to all of the terms, covenants and conditions herein contained.

2. **Merger.** The Declarant shall have the absolute right, notwithstanding the lease, sale or conveyance of any or all of the units in any of the phases being merged, and without being required to obtain the consent or joinder of any unit owner, lien holder or other persons, to effect any merger in accordance with the provisions hereof, and to execute and file the below-described certificate and any and all other instruments necessary or appropriate for the purpose of effecting the merger of phases as contemplated hereby. Except with respect to merger in accordance with the provisions of paragraph 7 below, where additional amendments must be recorded, merger shall take effect upon completion of all of the following:

(a) **Declaration and Condominium Map.** The Declarant shall have recorded with respect to each phase to be merged a Declaration of Condominium Property Regime and Condominium Map. Each such Declaration of Condominium Property Regime, other than the Declaration of Condominium Property Regime being recorded concurrently herewith, shall be in form substantially similar to the Declaration of Condominium Property Regime being recorded concurrently herewith (with modifications for the physical description of the phase, the units and common elements, and the percentage of common interest appurtenant to units therein).

(b) **Development.** The units and common elements described in the respective Declarations of Condominium Property Regime for the phases to be merged shall have been constructed and a Certificate of Substantial Completion issued therefor.

(c) **Certificate of Compliance.** The Declarant shall have recorded in the Bureau of Conveyances a certificate stating that the requirements of subparagraphs 2(a) and 2(b) hereof have been satisfied, that merger of the phases has become effective, and that the merger has not resulted in a breach of any of the conditions set out in paragraph 3 hereof.

3. **Limitations on Merger.** All mergers shall take place prior to the twentieth (20th) anniversary date hereof (the "Expiration Date"), and no merger shall take place after the Expiration Date unless and until approved by the vote or written consent of unit owners owning not less than sixty-five percent (65%) of the total common interest of the phases to be merged.

4. **Effect of Merger.** From and after the effective date of a merger in accordance with the provisions of paragraph 2 hereof, the following consequences shall ensue:

(a) **Use of Common Elements.** Each unit in the Merged Project shall have appurtenant thereto nonexclusive easements and rights to use the common elements in each of the merged phases to the same extent as, and subject to the same limitations as are imposed upon, units in each of such phases as though the merged phases had been developed as a single project.

(b) **Common Expenses.** The merged phases will each bear a share of the total common expenses of the Merged Project, as the term "common expenses" is defined in the respective Declarations of Condominium Property Regime for the merged phases, treating all merged phases as one project for this purpose. The share for each phase shall be a fraction, the numerator of which shall be the aggregate net living area (exclusive of garages and lanais, if any, and whether or not the same are considered to be part of the units) in such phase, and the denominator of which shall be the aggregate net living area (exclusive of garages and lanais, if any, and whether or not the same are considered to be part of the units) of all of the units in the Merged Project. Each unit's share of the common expenses of the Merged Project shall be the product of the common interest appurtenant to the unit multiplied by the share of the common expenses allocated to the phase in which said unit is located.

(c) **Accumulated Funds.** Any long-term funds accumulated for the purpose of major repairs and replacements in any pre-existing phase or phases prior to the merger of phases shall remain intact in a separate account for such pre-existing phase or phases, or shall be isolated and identified as pertaining only to the pre-existing phase or phases, and shall be expended solely for the contemplated purposes before funds from any other source are so expended, and the interest in such funds of each unit owner in that phase or in those phases shall be equal to his share of the vote prior to merger, and such interest shall not be separated from the unit to which it appertains, and shall be deemed to be conveyed with such unit even though not expressly mentioned or described in the instrument of conveyance. Other reserve funds shall be consolidated and maintained as a single fund for the Merged Project; and if necessary so that the interest in such other reserve funds attributable to each unit in the Merged Project shall be equal to that unit's share of the vote in the Merged Project, the Board shall make adjustments to the account of each unit owner by (i) refund in whole or in part; and/or (ii) credit in whole or in part against future assessments; and/or (iii) special assessments or series of assessments; and/or (iv)

any other means consistent with generally accepted accounting principles; provided, however, that the Board shall make such adjustments without charging any unit owner a special assessment for reserves in any one month which exceeds more than twenty percent (20%) of the monthly assessment for other common expenses, after excluding any assessment for reserves. Except as provided above, there shall be only one common fund for the Merged Project.

(d) **Association of Unit Owners/Managing Agent.** The Association of Unit Owners provided for in each phase shall be merged into a single Association governing the entire Merged Project. There shall be only one Managing Agent.

(e) **Voting.** Each of the merged phases shall have the same share of the total votes of the Merged Project as the share set forth above for the sharing of common expenses. Thus, each unit owner's total vote will be the product of the common interest appurtenant to his unit multiplied by the fractional share of the common expenses allocated to the phase in which said unit is located.

(f) **Election of Board.** Within sixty (60) days following any merger of phases a special meeting of the Association of Unit Owners of the Merged Project shall be called to elect a new Board of Directors to replace any existing Board of Directors and to govern the Merged Project. The procedure for calling and holding such meeting and all other meetings of such Association shall be the procedure for calling and holding special meetings of the Association of Unit Owners set forth in the applicable Bylaws of the Association of Unit Owners.

Notwithstanding anything provided to the contrary in the Bylaws of any of the phases, the Board of Directors of the Association of Unit Owners of the Merged Project shall consist of at least nine members unless unit owners having not less than sixty-five percent (65%) of the total vote in the Merged Project vote by mail ballot, or at an annual or special meeting of the Association, to reduce the minimum number of directors. In the event that nine directors are required, the term of office of the three (3) members of the Board receiving the greatest number of votes shall be fixed at three (3) years, the term of office of the three (3) members of the Board receiving the next greatest numbers of votes shall be fixed at two (2) years, and the term of office of the three (3) members of the Board receiving the next greatest numbers of votes shall be fixed at one (1) year. After the expiration of the term of office of each of the initial members, each successor member of the Board shall be elected to serve for a term of three (3) years. Each member of the Board shall continue to exercise the powers and duties of the office until his successor shall have been elected by the unit owners.

(g) **Interpretation.** For the purpose of administration and use of the Merged Project, the phases after merger shall be treated as part of a single project developed as a whole from the beginning; and for such purpose the applicable Declarations of Condominium Property Regime and Bylaws thereafter shall be construed as one document applicable to the entire Merged Project, provided that in the event of any conflict between such instruments, the Declaration and Bylaws recorded simultaneously herewith shall control. From and after the date of any merger, all of the phases so merged shall be treated for purposes of administration, use and sharing of common expenses as though they had been developed as a single project.



(h) **Ownership.** Except as otherwise provided herein, the merger shall affect the administration and use of the phases and the sharing of common expenses only, and shall not affect the ownership of units and common elements in the respective phases. Except as otherwise provided herein, each unit owner owning a unit in a particular phase shall not own any part of another phase unless said unit owner shall also own a unit in that other phase.

5. **Amendment.** Any amendment to this Declaration of Merger shall require the consent of the Declarant and the approval of unit owners (other than the Declarant) in each phase that is subject to this Declaration of Merger who own at least 65% of the common interest not owned by Declarant in that phase.

6. **Declarant's Right to Deal with Phases Prior to Merger.** Nothing in this Declaration of Merger shall be construed to require the Declarant (or any subsequent owner of any part of the Property) to develop any phase or merge any phase, once developed, with any other phase or to prohibit the Declarant (or any subsequent owner of any part of the Property) from dealing freely with any phase not merged into the Merged Project, including, without limitation, developing the whole or any part of such phase for a purpose inconsistent with a merger of such phase into the Merged Project.

7. **Merger of Ownership Interests.** The provisions of this paragraph shall only apply in the event that Declarant shall elect to merge ownership of the phases in addition to effecting the administrative merger of phases. The filing of the below-described amendments to effect the merger of ownership interests shall be conclusive evidence that Declarant has elected to merge ownership of the phases. In the event that Declarant shall elect to merge ownership of the phases, the provisions of this paragraph shall control in the event of any conflict with the other provisions hereof. Notwithstanding anything herein provided to the contrary, "merger" for purposes of this paragraph shall mean and refer to, in addition to any other definition provided herein, the allocation of ownership interests in one phase to unit owners in another phase and vice versa. Each such merger shall take effect upon the filing in the Bureau of Conveyances of the State of Hawaii of the certificate of compliance referred to above plus an amendment to the respective Declarations of Condominium Property Regime of the phases being merged merging the projects and setting forth at least the undivided percentage interest appurtenant to each unit in the merged projects, and such other matters as the Declarant deems necessary or appropriate.

Each unit in the Merged Project shall have appurtenant thereto an undivided percentage interest in the common elements of all of the merged phases in the same proportion that such unit's net living area (exclusive of garages and lanais, if any, and whether or not the same are considered to be part of the units) bears to the total aggregate net living area (exclusive of garages and lanais, if any, and whether or not the same are considered to be part of the units) of all of the units in the Merged Project, as shown on the Condominium Map or Maps and/or as set forth in the respective Declarations of Condominium Property Regime for the phases. The percentage interest appurtenant to each unit shall be calculated and rounded off in such a manner that each percentage interest will be reflected as a number having no more than five digits following the decimal point. Adjustments to the common interest for each unit may be made in Declarant's discretion in order that the total common interest equals 100%.

Notwithstanding anything herein provided to the contrary, each unit's undivided percentage interest, upon merger and when calculated in accordance with the provisions of this paragraph, shall constitute such unit's proportionate share in the common elements, profits and common expenses of the Merged Project, and such unit's proportionate representation for all other purposes, including voting in the Merged Project; provided, however, that the unit in any new phase being merged into an existing and completed phase shall not be assessed nor shall it have any obligation with respect to debts or obligations for such completed phase incurred prior to the issuance of a temporary or permanent certificate of occupancy for that unit in the new phase. Upon the filing of any such certificate and amendment, the deeds for the units of the Merged Project which have been recorded in the Bureau of Conveyances shall be deemed automatically amended to reflect the newly assigned undivided percentage interest appurtenant to the respective units.

8. **Declarant's Right to Effect Merger; Power of Attorney.** At any time prior to the Expiration Date, Declarant shall have the absolute right, notwithstanding the lease, sale or conveyance of any or all of the units in any of the phases being merged, and without being required to obtain the consent or joinder of any unit owner, lien holder or other persons, to effect a merger in accordance with the provisions hereof, and to execute and record the above-described amendments and any and all other instruments necessary or appropriate for the purpose of effecting the merger of phases as contemplated hereby. Any such action shall be deemed taken by Declarant as the true and lawful attorney-in-fact of the respective unit owners. Each and every party acquiring an interest in the property, by such acquisition, consents to all such mergers of phases and to the filing or recording of such documents as may be necessary to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same, and appoints the Declarant and its assigns as his, her or its attorney-in-fact with full power of substitution to execute such documents and to do such things on his, her or its 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.

9. **Declarant's Successors and Assigns.** The rights of the Declarant hereunder shall extend to the Declarant, its successors and assigns. The Declarant may transfer its rights under this Declaration of Merger, in whole or in part, to any person who subsequently acquires all or a portion of the Property. Such rights shall be transferred by express reference and assignment in the instrument conveying title to all or a portion of the Property to such person. No deed or lease of a unit or units in any phase shall transfer any of the Declarant's rights under this Declaration of Merger unless the deed or lease expressly refers to and assigns said rights. Absent an express assignment of such rights, each deed or lease or other transfer of a unit or units in any phase shall only transfer title to such unit or units, the common interest in the common elements appurtenant to such unit or units, and the rights (and obligations) of a unit owner as set forth in such phase's Declaration of Condominium Property Regime, Bylaws and in Chapter 514A of the Hawaii Revised Statutes, as amended. Once all or a portion of the Declarant's rights are transferred to a successor in interest of the Declarant, the transferee shall have and exercise all of the rights of the Declarant under this Declaration of Merger to the extent transferred, but only to such extent.

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IN WITNESS WHEREOF, the Declarant has executed this instrument this 2<sup>nd</sup> day of March, 2005

MOANA IKENA, LLC

By

  
Name: Gary Iki

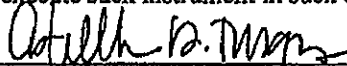
Its Authorized Signatory

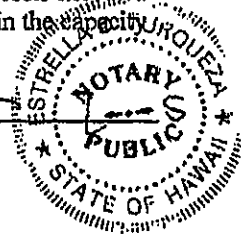
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)  
) SS:  
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On this 2<sup>nd</sup> day of March, 2005, before me personally appeared GARY IKI, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

  
ESTRELLA D. TURQUEZA  
Notary Public, State of Hawaii



My commission expires: 05-15-05

EXHIBIT "A"

All of those certain parcel(s) of land(s) (being portion(s) of the land(s) described in and covered by Royal Patent Number 2237, Land Commission Award Number 8518-B, Apana 1 to Kanehoa, Certificate of Boundaries No. 63) situate, lying and being at Ouli, Waimea, District of South Kohala, Island and County of Hawaii, State of Hawaii, being Lots 1, 2, 3, 4, 5 and 7, as shown on survey map prepared by Robert W. Cunningham, Land Surveyor, with Belt Collins Hawaii, Ltd., dated December 29, 2004 and filed in the Planning Department, County of Hawaii, under Final Subdivision Approval No. 7898-REVISED on February 8, 2005, recorded as Document No 2005-042284, as follows:

- (A) LOT 1 of the "WAIULAULA" Subdivision, (comprising a portion of former Lot 5 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 1.145 acres, more or less;
- (B) LOT 2 of the "WAIULAULA" Subdivision, (comprising a portion of former Lot D of the "South Kohala Resort", File Plan No. 2094 and portions of former Lots 2, 4, 5 and 6 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 5.333 acres, more or less;
- (C) LOT 3 of the "WAIULAULA" Subdivision, (comprising portions of former Lots 2 and 6 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 17.033 acres, more or less;
- (D) LOT 4 of the "WAIULAULA" Subdivision, (comprising a portion of former Lot D of the "South Kohala Resort", File Plan No. 2094 and portions of former Lots 2, 3 and 4 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 11.471 acres, more or less;
- (E) LOT 5 of the "WAIULAULA" Subdivision, (comprising portions of former Lots 3, 4 and 5 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 11.676 acres, more or less; and
- (F) LOT 7 ("AMAUI PLACE") of the "WAIULAULA" Subdivision (comprising a portion of former Lot D of the "South Kohala Resort", File Plan No. 2094 and portions of former Lots 2, 4 and 5 of "The Uplands at Mauna Kea", File Plan No. 2234), containing an area of 1.477 acres, more or less.

Said LOTS 1, 2, 3, 4, 5 and 7 being more particularly described in Schedule "1" attached to this Exhibit "A".

Together with the right in the nature of a perpetual non-exclusive easement with others thereunto entitled for roadway, utility and other reasonably related purposes over, under, through and across "The Uplands Entry Road" (being a portion of Road Lot A as shown on File Plan No. 2094, from the north intersection of Queen Kaahumanu Highway to the most northerly

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intersection of 'Amaui Drive), as more particularly described in Declaration of Protective Covenants, Conditions and Restrictions for The Uplands at Mauna Kea dated August 10, 1999, recorded as Documents Nos. 99-131337 and 99-131338, as the same has been or may hereafter be amended or supplemented from time to time; provided, however, that said easement shall be automatically canceled and terminated with respect to any portion of The Uplands Entry Road, upon the recordation of a dedication deed covering such portion of The Uplands Entry Road in favor of the County of Hawaii, the State of Hawaii, or any other appropriate governmental entity.

Together also with the right in the nature of a perpetual non-exclusive easement with others thereunto entitled for roadway, utility and other reasonably related purposes over, under, through and across Road Lot B as shown on File Plan No. 2094; provided, however, that said easement shall be automatically canceled and terminated with respect to any portion of any of such Road Lot, upon the recordation of a dedication deed covering such portion of such Road Lot in favor of the County of Hawaii, the State of Hawaii, or any other appropriate governmental entity.

Said above described parcel(s) of land having been acquired by MOANA IKENA, LLC, a Delaware limited liability company, as follows:

1. By LIMITED WARRANTY DEED AND GRANT OF EASEMENTS dated as of May 11, 2004, recorded as Document No. 2004-095012, of MAUNA KEA DEVELOPMENT CORP., a Hawaii corporation, acting by and through Mauna Kea Properties, Inc., its agent and attorney in fact; and
2. By QUITCLAIM EXCHANGE DEED dated February 17, 2005, recorded as Document No. 2005-032811, by HAUPUNA BEACH PRINCE HOTEL CORP., a Hawaii corporation, and MOANA IKENA, LLC, a Delaware limited liability company.

SCHEDULE "1"

LOT 1

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa  
(Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the Southeast corner of this parcel of land, on the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,425.72 feet North and 7,987.25 feet East, thence running by azimuths measured clockwise from True South:

1.     67°     52'             55.95 feet along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094);
2.     Thence along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), on a curve to the right with a radius of 620.00 feet, the chord azimuth and distance being: 72° 31' 22" 100.66 feet;
3.     162°     57'             198.23 feet along Lot 2 of "Waiulaula" Subdivision;
4.     125°     35'             46.51 feet along Lot 2 of "Waiulaula" Subdivision;
5.     162°     30'             44.07 feet along Lot 2 of "Waiulaula" Subdivision;
6.     242°     36'             167.54 feet along Lot 2 of "Waiulaula" Subdivision;
7.     252°     30'             25.12 feet along Lot 2 of "Waiulaula" Subdivision;
8.     342°     30'             213.62 feet along the westerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
9.     Thence along the westerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 35.00 feet, the chord azimuth and distance being: 340° 11' 2.83 feet;

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|-----|------|-----|-------|--|
| 10. | 337° | 52' | 33.23 | feet along the westerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;   |
| 11. | 67°  | 52' | 14.50 | feet along the westerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;   |
| 12. | 337° | 52' | 53.24 | feet along the westerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision to the point of beginning and containing an area of 1.145 acres. |

LOT 2

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa  
(Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the Southeast corner of this parcel of land, on the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,374.41 feet North and 7,839.41 feet East, thence running by azimuths measured clockwise from True South:

1. Along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), on a curve to the right with a radius of 620.00 feet, the chord azimuth and distance being: 86° 40' 52" 204.71 feet;
2. 96° 11' 325.39 feet along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094);
3. Thence along Lot 6 of "Waiulaula" Subdivision, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being: 231° 11' 28.28 feet;
4. 186° 11' 46.89 feet along Lot 6 of "Waiulaula" Subdivision;
5. Thence along Lot 6 of "Waiulaula" Subdivision, on a curve to the right with a radius of 325.00 feet, the chord azimuth and distance being: 199° 14' 146.77 feet;
6. 194° 24' 52.68 feet along Lot 6 of "Waiulaula" Subdivision;

Schedule "1"

Page 2



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7. 169° 46' 47.22 feet along Lot 6 of "Waiulaula" Subdivision;
  8. 145° 04' 56.08 feet along Lot 6 of "Waiulaula" Subdivision;
  9. 117° 25' 49.86 feet along Lot 6 of "Waiulaula" Subdivision;
  10. 89° 52' 45.35 feet along Lot 6 of "Waiulaula" Subdivision;
  11. 256° 46' 2.40 feet along Lot 3 of "Waiulaula" Subdivision;
  12. Thence along Lot 3 of "Waiulaula" Subdivision, on a curve to the left with a radius of 225.00 feet, the chord azimuth and distance being: 239° 00' 08" 137.30 feet;
  13. 318° 00' 6.00 feet along Lot 3 of "Waiulaula" Subdivision;
  14. 228° 00' 79.74 feet along Lot 3 of "Waiulaula" Subdivision;
  15. Thence along Lot 3 of "Waiulaula" Subdivision, on a curve to the right with a radius of 55.00 feet, the chord azimuth and distance being: 248° 47' 56" 39.06 feet;
  16. Thence along the southerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 60.00 feet, the chord azimuth and distance being: 257° 59' 19" 24.15 feet;
  17. Thence along the southerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the right with a radius of 55.00 feet, the chord azimuth and distance being: 269° 20' 23" 42.91 feet;
  18. 292° 18' 1.85 feet along the southerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
  19. Thence along the southerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 375.00 feet, the chord azimuth and distance being: 283° 59' 108.48 feet;
  20. 275° 40' 80.20 feet along the southerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
  21. Thence along the southwesterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the right with a radius

Schedule "1"

				of 175.00 feet, the chord azimuth and distance being: 309° 05' 192.75 feet;
22.	342°	30'	34.20	feet along the southwesterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
23.	72°	30'	25.12	feet along Lot 1 of "Waiulaula" Subdivision;
24.	62°	36'	167.54	feet along Lot 1 of "Waiulaula" Subdivision;
25.	342°	30'	44.07	feet along Lot 1 of "Waiulaula" Subdivision;
26.	305°	35'	46.51	feet along Lot 1 of "Waiulaula" Subdivision;
27.	342°	57'	198.23	feet along Lot 1 of "Waiulaula" Subdivision to the point of beginning and containing an area of 5.333 acres.

LOT 3

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoā (Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the Southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,901.13 feet North and 7,489.69 feet East, thence running by azimuths measured clockwise from True South:

1. Along Lot 2 of "Waiulaula" Subdivision, on a curve to the left with a radius of 55.00 feet, the chord azimuth and distance being: 68° 47' 56" 39.06 feet;
2. 48° 00' 79.74 feet along Lot 2 of "Waiulaula" Subdivision;
3. 138° 00' 6.00 feet along Lot 2 of "Waiulaula" Subdivision;
4. Thence along Lot 2 of "Waiulaula" Subdivision, on a curve to the right with a radius of 225.00 feet, the chord azimuth and distance being: 59° 00' 08" 137.30 feet;
5. 76° 46' 286.62 feet along Lots 2 and 6 of "Waiulaula" Subdivision;

Schedule "1"

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6.	72°	25'	69.00	feet along Lot 6 of "Waiulaula" Subdivision;
7.	62°	00'	60.00	feet along Lot 6 of "Waiulaula" Subdivision;
8.	58°	20'	315.00	feet along Lot 6 of "Waiulaula" Subdivision;
9.	63°	19'	70.00	feet along Lot 6 of "Waiulaula" Subdivision;
10.	68°	20'	261.00	feet along Lot 6 of "Waiulaula" Subdivision;
11.	168°	19'	231.00	feet along Lot 6 of "Waiulaula" Subdivision;
12.	119°	23'	165.00	feet along Lot 6 of "Waiulaula" Subdivision;
13.	93°	19'	153.00	feet along Lot 6 of "Waiulaula" Subdivision;
14.	80°	29'	218.96	feet along Lot 6 of "Waiulaula" Subdivision;
15.	191°	57'	418.28	feet along Lot 6 of "Waiulaula" Subdivision;
16.	270°	34'	242.75	feet along Lot 6 of "Waiulaula" Subdivision;
17.	253°	16'	383.00	feet along Lot 6 of "Waiulaula" Subdivision;
18.	259°	36'	85.00	feet along Lot 6 of "Waiulaula" Subdivision;
19.	265°	40'	147.00	feet along Lot 6 of "Waiulaula" Subdivision;
20.	275°	14'	79.90	feet along Lot 6 of "Waiulaula" Subdivision;
21.	301°	45'	378.01	feet along Lot 6 of "Waiulaula" Subdivision;
22.	310°	00'	23.34	feet along Lot 6 of "Waiulaula" Subdivision;
23.	280°	08'	48.85	feet along Lot 6 of "Waiulaula" Subdivision;
24.	274°	59'	35.12	feet along Lot 6 of "Waiulaula" Subdivision;
25.	246°	20'	93.96	feet along Lot 6 of "Waiulaula" Subdivision;
26.	208°	00'	34.30	feet along Lot 6 of "Waiulaula" Subdivision;
27.	298°	00'	121.39	feet along Lot 4 of "Waiulaula" Subdivision;
28.	270°	00'	49.55	feet along Lot 4 of "Waiulaula" Subdivision;

29. Thence along the cul-de-sac being the westerly end of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 60.00 feet, the chord azimuth and distance being: 314° 47' 56" 85.15 feet to the point of beginning and containing an area of 17.033 acres.

LOT 4

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa  
(Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the Southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,961.13 feet North and 7,429.27 feet East, thence running by azimuths measured clockwise from True South:

1.	90°	00'	49.55	feet along Lot 3 of "Waiulaula" Subdivision;
2.	118°	00'	121.39	feet along Lot 3 of "Waiulaula" Subdivision;
3.	208°	00'	58.70	feet along Lot 6 of "Waiulaula" Subdivision;
4.	177°	40'	60.00	feet along Lot 6 of "Waiulaula" Subdivision;
5.	161°	05'	48.00	feet along Lot 6 of "Waiulaula" Subdivision;
6.	159°	04'	310.00	feet along Lot 6 of "Waiulaula" Subdivision;
7.	163°	20'	45.00	feet along Lot 6 of "Waiulaula" Subdivision;
8.	122°	07'	98.00	feet along Lot 6 of "Waiulaula" Subdivision;
9.	90°	44'	55.86	feet along Lot 6 of "Waiulaula" Subdivision;
10.	85°	39'	563.98	feet along Lot 6 of "Waiulaula" Subdivision;
11.	79°	28'	85.00	feet along Lot 6 of "Waiulaula" Subdivision;
12.	73°	24'	340.76	feet along Lot 6 of "Waiulaula" Subdivision;

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13. 178° 27' 363.81 feet along Lot 6 of "Waiulaula" Subdivision;
  14. 221° 18' 159.00 feet along Lot 6 of "Waiulaula" Subdivision;
  15. 284° 22' 384.00 feet along Lot 6 of "Waiulaula" Subdivision;
  16. 279° 43' 133.00 feet along Lot 6 of "Waiulaula" Subdivision;
  17. 275° 20' 668.00 feet along Lot 6 of "Waiulaula" Subdivision;
  18. 270° 34' 145.01 feet along Lot 6 of "Waiulaula" Subdivision;
  19. 13° 54' 65.82 feet along Lot 6 of "Waiulaula" Subdivision;
  20. 337° 45' 89.00 feet along Lot 6 of "Waiulaula" Subdivision;
  21. 66° 10' 69.00 feet along Lot 5 of "Waiulaula" Subdivision;
  22. 336° 10' 28.37 feet along Lot 5 of "Waiulaula" Subdivision;
  23. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the left with a radius of 100.00 feet, the chord azimuth and distance being: 327° 03' 39" 31.65 feet;
  24. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the right with a radius of 185.00 feet, the chord azimuth and distance being: 340° 06' 54" 139.56 feet;
  25. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the left with a radius of 100.00 feet, the chord azimuth and distance being: 353° 52' 24.5" 29.22 feet;
  26. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the right with a radius of 1,025.00 feet, the chord azimuth and distance being: 347° 24' 09.5" 69.07 feet;
  27. 349° 20' 46.64 feet along Lot 5 of "Waiulaula" Subdivision;
  28. 354° 31' 189.55 feet along Lot 5 of "Waiulaula" Subdivision;
  29. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the left with a radius of 55.00 feet, the chord azimuth and distance being: 340° 52' 35" 25.94 feet;
  30. Thence along the cul-de-sac being the westerly end of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left

Schedule "1"

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with a radius of 60.00 feet, the chord azimuth and distance being: 73° 37' 05" 115.13 feet to the point of beginning and containing an area of 11.471 acres.

LOT 5

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa  
(Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the South corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,727.69 feet North and 7,975.74 feet East, thence running by azimuths measured clockwise from True South:

1. 146° 28' 22" 113.07 feet along the northeasterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
2. Thence along the northeasterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 225.00 feet, the chord azimuth and distance being: 121° 04' 11" 193.04 feet;
3. 95° 40' 80.20 feet along the northerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
4. Thence along the northerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the right with a radius of 325.00 feet, the chord azimuth and distance being: 103° 59' 94.02 feet;
5. 112° 18' 1.85 feet along the northerly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision;
6. Thence along the northeasterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the right with a radius of 55.00 feet, the chord azimuth and distance being: 135° 15' 37" 42.91 feet;
7. Thence along the northeasterly side of Lot 7 ('Amaui Place) of "Waiulaula" Subdivision, on a curve to the left with a radius of 60.00 feet,

---

the chord azimuth and distance being: 152° 43' 42" 11.49 feet;

8. Thence along Lot 4 of "Waiulaula" Subdivision, on a curve to the right with a radius of 55.00 feet, the chord azimuth and distance being: 160° 52' 35" 25.94 feet;
9. 174° 31' 189.55 feet along Lot 4 of "Waiulaula" Subdivision;
10. 169° 20' 46.64 feet along Lot 4 of "Waiulaula" Subdivision
11. Thence along Lot 4 of "Waiulaula" Subdivision, on a curve to the left with a radius of 1,025.00 feet, the chord azimuth and distance being: 167° 24' 09.5" 69.07 feet;
12. Thence along Lot 4 of "Waiulaula" Subdivision, on a curve to the right with a radius of 100.00 feet, the chord azimuth and distance being: 173° 52' 24.5" 29.22 feet;
13. Thence along Lot 4 of "Waiulaula" Subdivision, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being: 160° 06' 54" 139.56 feet;
14. Thence along Lot 4 of "Waiulaula" Subdivision, on a curve to the right with a radius of 100.00 feet, the chord azimuth and distance being: 147° 03' 39" 31.65 feet;
15. 156° 10' 28.37 feet along Lot 4 of "Waiulaula" Subdivision;
16. 246° 10' 69.00 feet along Lot 4 of "Waiulaula" Subdivision;
17. 305° 25' 58.00 feet along Lot 6 of "Waiulaula" Subdivision;
18. 300° 33' 312.70 feet along Lot 6 of "Waiulaula" Subdivision;
19. 267° 10' 617.09 feet along Lot 6 of "Waiulaula" Subdivision;
20. 263° 42' 48.00 feet along Lot 6 of "Waiulaula" Subdivision;
21. 264° 28' 142.00 feet along Lot 6 of "Waiulaula" Subdivision;
22. 315° 49' 67.00 feet along Lot 6 of "Waiulaula" Subdivision;
23. 4° 56' 22.00 feet along Lot 6 of "Waiulaula" Subdivision;
24. 1° 29' 106.98 feet along Lot 6 of "Waiulaula" Subdivision;

Schedule "1"

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- |     |     |     |        |   |
|-----|-----|-----|--------|---|
| 25. | 11° | 51' | 63.00  | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 26. | 33° | 15' | 67.00  | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 27. | 50° | 06' | 46.00  | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 28. | 55° | 09' | 40.00  | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 29. | 98° | 57' | 107.35 | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 30. | 59° | 36' | 457.78 | feet along Lot 6 of "Waiulaula" Subdivision;  |
| 31. | 18° | 30' | 135.00 | feet along Lot 6 of "Waiulaula" Subdivision to the point of beginning and containing an area of 11.676 acres. |

LOT 7 ('Amaui Place)

of "Waiulaula" Subdivision

Being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa  
(Certificate of Boundaries No. 63)

Situated at Ouli, Waimea, South Kohala, Island of Hawaii, State of Hawaii

Beginning at the South corner of this parcel of land, on the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 10,425.72 feet North and 7,987.25 feet East, thence running by azimuths measured clockwise from True South:

- |    |   |     |        |   |
|----|---|-----|--------|---|
| 1. | 157°  | 52' | 53.24  | feet along Lot 1 of "Waiulaula" Subdivision;        |
| 2. | 247°  | 52' | 14.50  | feet along Lot 1 of "Waiulaula" Subdivision;        |
| 3. | 157°  | 52' | 33.23  | feet along Lot 1 of "Waiulaula" Subdivision;        |
| 4. | Thence along Lot 1 of "Waiulaula" Subdivision, on a curve to the right with a radius of 35.00 feet, the chord azimuth and distance being: 160° 11' 2.83 feet; |     |        |   |
| 5. | 162°  | 30' | 247.82 | feet along Lots 1 and 2 of "Waiulaula" Subdivision; |



6. Thence along Lot 2 of "Waiulaula" Subdivision, on a curve to the left with a radius of 175.00 feet, the chord azimuth and distance being: 129° 05' 192.75 feet;
7. 95° 40' 80.20 feet along Lot 2 of "Waiulaula" Subdivision;
8. Thence along Lot 2 of "Waiulaula" Subdivision, on a curve to the right with a radius of 375.00 feet, the chord azimuth and distance being: 103° 59' 108.48 feet;
9. 112° 18' 1.85 feet along Lot 2 of "Waiulaula" Subdivision;
10. Thence along Lot 2 of "Waiulaula" Subdivision, on a curve to the left with a radius of 55.00 feet, the chord azimuth and distance being: 89° 20' 23" 42.91 feet;
11. Thence along Lots 2, 3, 4 and 5 of "Waiulaula" Subdivision, on a curve to the right with a radius of 60.00 feet, the chord azimuth and distance being: 202° 18' 83.48 feet;
12. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the left with a radius of 55.00 feet, the chord azimuth and distance being: 315° 15' 37" 42.91 feet;
13. 292° 18' 1.85 feet along Lot 5 of "Waiulaula" Subdivision;
14. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the left with a radius of 325.00 feet, the chord azimuth and distance being: 283° 59' 94.02 feet;
15. 275° 40' 80.20 feet along Lot 5 of "Waiulaula" Subdivision;
16. Thence along Lot 5 of "Waiulaula" Subdivision, on a curve to the right with a radius of 225.00 feet, the chord azimuth and distance being: 301° 04' 11" 193.04 feet;
17. 326° 28' 22" 113.07 feet along Lot 5 of "Waiulaula" Subdivision;
18. 337° 58' 109.37 feet along Lot 6 of "Waiulaula" Subdivision;
19. 331° 36' 22.00 feet along Lot 6 of "Waiulaula" Subdivision;
20. 325° 13' 67.00 feet along Lot 6 of "Waiulaula" Subdivision;
21. 328° 03' 94.67 feet along Lot 6 of "Waiulaula" Subdivision;

- 
22. Thence along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094), on a curve to the left with a radius of 580.00 feet, the chord azimuth and distance being: 71° 56' 14" 82.34 feet;
23. 67° 52' 54.00 feet along the northerly side of Road Lot B ('Amaui Drive) of South Kohala Resort (File Plan 2094) to the point of beginning and containing an area of 1.477 acres.

EXHIBIT L  
ORDNANCE LETTER

See attached.



**DONALDSON ENTERPRISES, INC.**  
Bomb Disposal Services

February 22, 2005

Moana Ikena, LLC  
c/o Maryl Group, Inc.  
737 Bishop Street, Suite 1560  
Honolulu, HI 96813

Re: Wai'ula'ula at Mauna Kea Resort  
Sub: Unexploded Ordnance

1. Donaldson Enterprises, Inc. (DEI) was tasked by the U.S. Army Corps of Engineers with the safe and efficient location of conventional unexploded ordnance (UXO) in support of construction activities in the former Waikoloa Maneuver Area/Nansay Combat Range. The work was conducted under contract DACA83-03-D-0021, Task Order #0004.
2. DEI conducted a surface search for UXO on Parcels G & H of The Uplands at Mauna Kea, also know as "Wai'ula'ula at Mauna Kea Resort" on the Big Island of Hawai'i. The area searched encompassed a total of approximately 47 acres of mixed terrain from level areas to steep slopes covered with grasses, kiawe and other vegetation.
3. The UXO search operations commenced on 15 NOV 04 and were completed on 10 JAN 05. UXO sweeps were accomplished by forming a line separated by approximately a double arm's length interval. The sweep line began along one edge of the area and progressed toward the opposite end. Upon reaching the opposite end of the area the direction of the sweep line was then reversed and the line shifted to cover a new un-swept path. The sweep line composed of a total of 4 UXO support personnel and 1 UXO Specialist using the Whites XLT. Behind the sweep line was 1 UXO Supervisor. The UXO Supervisor controlled the direction and speed of the sweep line and performed in-process quality control checks. The UXO Specialist and Supervisor controlled the sweep line, verified the presence of UXO and examined all metal objects prior to sweep line collecting scrap metal.

4. A total of 100 pounds of metal scrap was collected. Four 75mm HE UXO was discovered in areas 9 & 10, reported and disposed of by demolition. COR Representative, Michael Mullen, was present on 17 DEC 04 for disposal of all the 75mm HE discovered. All UXO were disposed of according to the work plan procedures.
5. With the exception of a small sector of the parcel, adjacent to Amaui Drive on the southern boundary of the site, DEI was able to conduct a surface search of the entire site. While DEI believes their techniques were effective, the nature of the site is such that no guarantee can be made that the project site is completely free of undetected UXO. Most of the project site will be mass graded and it is possible that undetected UXO could be buried or surfaced in the grading work. These conditions notwithstanding, it is DEI's opinion that it is unlikely that hazardous UXO are present on the project site.

Sincerely,



Michelle Donaldson  
Treasurer

EXHIBIT M  
CONSTRUCTION WARRANTY

See attached.



**RESIDENTIAL WARRANTY COMPANY, LLC**

PRESENTS

## **THE LIMITED WARRANTY**

**10 YEAR WRITTEN WARRANTY FOR NEW HOMES**

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

Place validation sticker here.  
Warranty is invalid without sticker.

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

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

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

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

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

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

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

WPK #319 Rev. 9/11  
©1996 Harrisburg, PA



# RESIDENTIAL WARRANTY COMPANY, LLC

5300 Derry Street, Harrisburg, PA 17111 (717) 361-4480

Dear Home Buyer,

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

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

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

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

Again, congratulations and enjoy your new Home!

Very truly yours,  
RESIDENTIAL  
WARRANTY  
COMPANY, LLC

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**Section  
I  
Definitions**

**A. Introduction**

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

**B. Definitions\***

**1. Administrator**

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

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

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

**3. Application For Warranty**

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

**4. Arbitrator**

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

**5. Builder**

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

**6. Consequential Damages**

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

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

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

**8. Defect**

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

**9. Effective Date Of Warranty**

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

**10. Electrical Systems**

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

**11. Home**

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

**12. Insurer**

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

**13. Limited Warranty**

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

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

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

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

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

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

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

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

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

**Section  
I  
Definitions  
(continued)**

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

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**Section II**  
**The Limited Warranty**

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

**A. Introduction to the Limited Warranty**

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

**B. The Limited Warranty**

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

**C. Warranty Coverage\***

1. **ONE YEAR COVERAGE:** Your Builder warrants that for a period of one (1) year after the Effective Date Of Warranty, warranted items will function and operate as presented in the Warranty Standards of Year 1, Section III.A. Coverage is ONLY available where specific Standards and Actions are represented in this Limited Warranty.\*
2. **TWO YEAR COVERAGE:** Your Builder warrants that for a period of two (2) years from the Effective Date Of Warranty, specified portions of the Heating, Cooling, Ventilating, Electrical and Plumbing Systems, as defined in this Limited Warranty, will function and operate as presented in the Warranty Standards of Years 1 and 2 only, Section III.B.†
3. **TEN YEAR COVERAGE:** Major Structural Defects (MSD) are warranted for ten (10) years from the Effective Date Of Warranty.  
Your Builder is the Warrantor during Years 1 and 2 of this Limited Warranty and the Insurer is the Warrantor in Years 3 through 10.
4. **CONDOMINIUM COVERAGE:** This Limited Warranty shall only apply to warranted common elements. Warranted common elements are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems which serve two (2) or more residential units, and are contained wholly within a residential structure. Warranty coverage for common elements shall be for the same periods and to the same extent as similar or comparable items in individual residential units. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms and other spaces wholly within the residential structure designated for the use of two (2) or more units. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, exterior structures,

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

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

**Section  
II  
The  
Limited  
Warranty  
(Continued)**

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

exterior walkways, decks, balconies, arches or any other non-residential structure which is part of the condominium.\*

**D. Conditions\***

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

12. Under this Limited Warranty, the Warrantor is not responsible for exact color, texture or finish matches in situations where materials are replaced or repaired, or for areas repainted or when original materials are discontinued.
13. Your Builder must assign to you all manufacturers' warranties on products included in the Final Sales Price of your Home. Neither the Insurer nor the Administrator shall be liable for your Builder's failure to do so.
14. You are responsible for establishing a written, final walk-through inspection list of items in need of service prior to occupancy or closing, whichever is first. This list must be signed and dated by you and your Builder. Keep a copy for your records.

**E. Exclusions**

The following are NOT covered under this Limited Warranty:

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

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

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

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

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

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

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

- by your failure to maintain proper ventilation.\*
3. Failure of your Builder to complete construction of the Home or any part of the Home on or before the Effective Date Of Warranty or damages arising from such failure. An incomplete item is not considered a Defect, although your Builder may be obligated to complete such items under separate agreements between you and your Builder.
  4. Any deficiency which does not result in actual physical damage or loss to the Home.
  5. Any Consequential Damages.\*
  6. Personal property damage or bodily injury.
  7. Violation of applicable Building Codes or ordinances unless such violation results in a Defect which is otherwise covered under this Limited Warranty. Under such circumstances, the obligation of the Warrantor under this Limited Warranty shall only be to repair the defective warranted portion of the Home, but not to restore or bring the Home to conform to code.
  8. Any request for warranty performance submitted to the Administrator after an unreasonable delay or later than 30 days after the expiration of the applicable warranty period.
  9. Warranted Defects that you repair without prior written authorization of the Administrator.\*
  10. Any damages to, or resulting from a swimming pool whether located within or outside the Home, as a result of its construction, placement, use, equipment, maintenance, etc.
  11. The removal and/or replacement of items specifically excluded from coverage under this Limited

Warranty, such as landscaping or personal property, items not originally installed by your Builder, such as wallpaper, where removal and replacement are required to execute a repair.

12. Any Defect consisting of, caused by, contributed to, or aggravated by moisture, wet or dry rot, mold, mildew, fungus or rust.
13. Sound transmission and sound proofing between rooms or floor levels.
14. Appliances and Equipment included in the Home are not warranted under this Limited Warranty, but may be covered by separate warranties provided by the manufacturer or supplier. These warranties are passed on to you by your Builder at closing and are separate from this Limited Warranty. Damage caused by improper maintenance or operation, negligence, or improper service of these items by you or your agent will not be covered under this Limited Warranty. †

**F. Limitation of Liability**

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

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

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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>1. FOUNDATIONS</b>			
<b>BASEMENT</b>	<b>1.1</b> Cracks appear in control joints.	No action required.	The expansion/contraction joint is placed to control cracking. This is not a deficiency.
	<b>1.2</b> Uneven concrete floors in finished areas of a basement.	Builder will correct those areas in which Defect exceeds 3/8 in. within a 32 in. measurement.	In rooms not initially finished as living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 3/8 in. within a 32 in. measurement is not a deficiency.
	<b>1.3</b> Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/4 in. in width.	Shrinkage cracks are common and should be expected. Surface patching and epoxy injections are examples of acceptable repair methods.
	<b>1.4</b> Cracks in block or veneer wall.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.
	<b>1.5</b> Leaks resulting in actual flow or trickling of water through wall or floor, causing an accumulation.	Builder will correct.	A one-time occurrence may not indicate a Defect. Owner must maintain proper grading around the Home and maintain any surface water control systems installed by Builder. Dampness and condensation are normal conditions and are not covered by this Limited Warranty.
	<b>1.6</b> Disintegration of the concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
	<b>1.7</b> Cracks in concrete floor which rupture or significantly impair performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
	<b>1.8</b> Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	<b>1.9</b> Condensation on walls, joists, support columns and other components of basement area.	No action required.	Maintaining adequate ventilation and moisture control is considered Owner maintenance.
<b>CRAWL SPACE</b>	<b>1.10</b> Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/4 in. or less are common and should be expected.
	<b>1.11</b> Cracks in block or veneer wall.	Builder will correct cracks greater than 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/4 in. or less are common and should be expected.
	<b>1.12</b> Inadequate ventilation.	Builder will install properly sized louvers or vents.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.

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

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

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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>1. FOUNDATIONS (CONTINUED)</b>			
<b>CRAWL SPACE (CONTINUED)</b>	<b>1.13</b> Condensation on walls, joists, support columns and other components of the crawl space area.	No action required.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.
<b>SLAB ON GRADE</b>	<b>1.14</b> Cracks appear at control joints.	No action required.	Expansion/contraction joint is placed to control cracking. This is not a deficiency.
	<b>1.15</b> Uneven concrete floors in finished areas.	Builder will correct areas in which Defect exceeds 3/8 in. within a 32 in. measurement.	In rooms not initially finished as living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 3/8 in. within a 32 in. measurement is acceptable.
	<b>1.16</b> Disintegration of concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
	<b>1.17</b> Crack in concrete floor which ruptures or significantly impairs performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
	<b>1.18</b> Cracks in attached garage slab.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	<b>1.19</b> Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	<b>1.20</b> Cracks in visible face of foundation.	Builder will correct cracks in excess of 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
<b>2. FRAMING</b>			
<b>CEILING</b>	<b>2.1</b> Uneven ceiling.	Builder will correct if unevenness exceeds 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
<b>FLOOR</b>	<b>2.2</b> High and low areas.	Builder will correct if high or low areas exceed 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
	<b>2.3</b> Floor squeaks.	Builder will correct if caused by a defective joist or improperly installed subfloor. The Builder will take corrective action to reduce squeaking to the extent possible within reasonable repair capability without removing floor or ceiling finishes.	A large area of floor squeaks which is noticeable, loud and objectionable is a Defect. A squeak-proof floor cannot be guaranteed. Lumber shrinkage as well as temperature and humidity changes may cause squeaks.
<b>ROOF</b>	<b>2.4</b> Split or warped rafters or trusses.	No action required.	Some splitting and warping is normal and is caused by high temperature effects on lumber.
<b>WALL</b>	<b>2.5</b> Bow or bulge.	Builder will correct if bow or bulge exceeds 1/2 in. within 32 in. horizontal or vertical measurement.	Minor framing imperfections should be expected.



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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>2. FRAMING (CONTINUED)</b>			
<b>WALL (CONTINUED)</b>	2.6 Out-of-plumb.	Builder will correct where out-of-plumb condition exceeds 3/4 in. within 8 ft. vertical measurement.	Minor framing imperfections should be expected.
	2.7 Wall is out-of-square.	No action required.	A wall out-of-square is not a Defect.
<b>3. EXTERIOR</b>			
<b>STRUCTURALLY ATTACHED WOOD OR COMPOSITE DECKS</b>	3.1 Wood twisting, warping or splitting.	Builder will correct only if due to improper installation.	Twisting, warping or splitting of wood deck material is normal due to exposure to the elements. Owner maintenance is required.
	3.2 Settlement.	Builder will correct slope of deck which exceeds a ratio of 2 in. in a 10 ft. measurement.	Some slope is often provided to allow for water drainage.
	3.3 Loose railing or post.	Builder will correct if due to improper installation.	Owner maintenance is required.
<b>DOORS</b>	3.4 Binds, sticks or does not latch.	Builder will correct if caused by faulty workmanship or materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	3.5 Wood door panel shrinks.	No action required.	Panels will shrink and expand and may expose unfinished surfaces.
	3.6 Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	3.7 Split in panel.	Builder will correct if split allows the entrance of elements.	Splits which do not allow the entrance of elements are considered normal. Owner maintenance is required.
	3.8 Separation between door and weather-stripping.	Builder will correct if daylight is visible or if entrance of elements occurs under normal conditions.	Even with properly installed weather stripping, some movement of the door, when closed, may be expected. Owner maintenance is required for minor alterations to adjustable thresholds and other parts of the door.
	3.9 Screen mesh is torn or damaged.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	3.10 Overhead garage door fails to operate or allows rain or snow to leak through.	Builder will correct garage doors which do not fit or operate properly.	Some entrance of elements can be expected and is not considered a deficiency. If Owner installs a garage door opener, Builder is not responsible for operation of door.
<b>ROOFING</b>	3.11 Roof and roof flashing leaks.	Builder will correct active and current leaks that occur under normal conditions.	No action is required if leak is due to snow or ice buildup, high winds or driving rains. Prevention of snow or ice buildup is the Owner's responsibility. Substantiation of an active and current leak is the Owner's responsibility.
	3.12 Lifted, torn, curled, or cupped shingles.	No action required.	Owner maintenance is required. Cupping in excess of 1/2 in. should be reported to the manufacturer.

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

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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>3. EXTERIOR (CONTINUED)</b>			
<b>ROOFING (CONTINUED)</b>	3.13 Shingles that have blown off.	Builder will correct affected area if due to poor installation.	Shingles shall not blow off in winds less than the manufacturer's specifications.
	3.14 Inadequate ventilation.	Builder will provide adequate ventilation.	Moisture accumulation in attics which are not adequately vented is a deficiency. Owner is responsible to keep vents clear of obstructions to promote air flow.
	3.15 Water stays in gutters.	Builder will correct to limit standing water depth at 1 in.	Owner is responsible for keeping gutters and downspouts clean.
	3.16 Gutter or downspout leaks.	Builder will correct leaks at connections.	Owner is responsible for keeping gutters and downspouts clean. Gutters may overflow during heavy rains.
<b>SITE WORK</b>	3.17 Standing water within 10 ft. of the foundation.	Builder will correct water which stands for more than 24 hours, or more than 48 hours in swales.	Standing water beyond the 10 ft. perimeter of the foundation is not covered by this Limited Warranty. Owner is responsible for establishing and maintaining adequate ground cover.
	3.18 Settling of ground around foundation walls, utility trenches or other filled areas on property where there has been excavation and backfill which affected foundation drainage.	If final grading was performed by Builder, he will replace fill in excessively settled areas only once.*	If settlement does not exceed 6 in., it is Owner's responsibility to fill affected areas. The party responsible for establishing the final grade shall provide for positive drainage away from foundation. Owner is responsible for establishing and maintaining adequate ground cover.
<b>STRUCTURALLY ATTACHED STOOP, PORCH &amp; PATIO</b>	3.19 Settlement, heaving or movement.	Builder will correct if movement exceeds 1 in. from the Home for stoops, porches and patios which are structurally attached.	Stoops, porches and patios which are poured separately and simply abut the house are not covered by this Limited Warranty.
	3.20 Concrete splatters on adjacent surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
<b>WALL COVERING</b>	3.21 Entrance of elements through separations of wood, hardboard or fiber cement siding or trim joints, or separation between trim and surfaces of masonry or siding.	Builder will correct entrance of elements or separations exceeding 3/8 in. by caulking or other methods.	Any separations 3/8 in. or less are considered routine Owner maintenance.
	3.22 Cracks in stucco or similar synthetic based finishes.	Builder will correct cracks which exceed 1/8 in. in width.	Caulking and touch-up painting are examples of acceptable repair methods. Builder is not responsible for exact color, texture or finish matches. Hairline cracks are common.
	3.23 Siding materials become detached from the Home.	Builder will correct affected area if due to improper workmanship or materials.	Separated, loose or delaminated siding can be due to improper maintenance and is not considered a Defect.
	3.24 Aluminum or vinyl siding is bowed or wavy.	Builder is responsible only if installed improperly and waves or bowing exceed 1/2 in. within a 32 in. measurement.	Check your manufacturer's warranty on this product for coverage regarding dents, holes, wind specifications, etc.

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

**CATEGORY      OBSERVATION      ACTION REQUIRED      COMMENTS**

**3. EXTERIOR (CONTINUED)**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>WALL COVERING (CONTINUED)</b>	<b>3.25</b> Paint or stain peels or deteriorates.	Builder will correct. If 75% of a particular wall is affected, entire wall will be corrected.	Some fading is normal due to weathering. Mildew and fungus on exterior surfaces are caused by climatic conditions and is considered routine maintenance. Varnish or lacquer deteriorates quickly and is not covered by this Limited Warranty.
	<b>3.26</b> Paint splatters and smears on other surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>3.27</b> Faulty application of paint on wall and trim surfaces.	Builder will correct affected area. If greater than 75% of wall or trim piece is affected, entire surface will be corrected.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.
	<b>3.28</b> Knot holes bleed through paint or stain.	Builder will correct affected areas where excessive bleeding of knots appear.	Knot holes will be apparent depending on the quality of material used.
	<b>3.29</b> Vent or louver leaks.	Builder will correct if caused by improper installation.	Properly installed louvers or vents may at times allow rain or snow to enter under strong wind conditions and is not a deficiency.
	<b>3.30</b> Cracks in masonry, veneer, stone, etc.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.

<b>Windows</b>			
	<b>3.31</b> Condensation or frost on interior window surface.	No action required.	Condensation is relative to the quality and type of windows. Temperature differences in high levels of humidity along with individual living habits will cause condensation.
	<b>3.32</b> Clouding or condensation between panes of glass.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>3.33</b> Glass breakage.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>3.34</b> Excessive drafts and leaks.	Builder will correct poorly fitted windows.	Relative to the quality and type of windows, drafts are sometimes noticeable around windows, especially during high winds. It may be necessary for the Owner to have storm windows installed to provide a satisfactory solution in high wind areas. All caulking materials expand and contract due to temperature variation and dissimilar materials. Maintenance of weather-stripping is Owner's responsibility.
	<b>3.35</b> Difficult to open, close or lock.	Builder will correct.	Windows should open, close and lock with reasonable pressure.

**4. INTERIOR**

<b>Doors</b>			
	<b>4.1</b> Latch is loose or rattles.	No action required.	Some minor movement should be expected.
	<b>4.2</b> Binds, sticks or does not latch.	Builder will correct if due to faulty workmanship and materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.

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

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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>4. INTERIOR (CONTINUED)</b>			
<b>DOORS (CONTINUED)</b>	4.3 Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	4.4 Excessive opening at bottom.	Builder will correct gaps in excess of 1-1/2 in. between bottom of passage door and finished floor or 2 in. between bottom of closet door and finished floor.	Gaps under doors are intended for air flow.
	4.5 Rubs on carpet.	Builder will correct.	Builder is not responsible if Owner installs carpet.
<b>WALLS, CEILINGS, SURFACES, FINISHES &amp; TRIM</b>	4.6 Cracks and separations in drywall, lath or plaster; nail pops.	Builder will correct cracks in excess of 1/8 in. in width. Builder will correct nail pops which have broken finished surface. Repair cracks and/or nail pops and touch up paint to match as close as possible, one time only. Such conditions should be reported near the end of Year 1 of the warranty period to allow for normal movement of the Home.	Minor seam separations and cracks, and other slight imperfections, are common and should be expected. Minor depressions and slight mounds at nail heads are not Defects.
	4.7 Peeling of wallpaper.	Builder will correct if not due to Owner neglect or abuses.	Builder is not responsible for wallpaper installed by Purchaser. Owner is responsible for maintaining adequate ventilation in areas of high humidity, such as kitchens and bathrooms.
	4.8 Separated seams in wallpaper.	Builder will correct if wall surface is readily visible.	Minor imperfections can be expected.
	4.9 Lumps, ridges and nail pops in wallboard which appear after Owner has wall covering installed by himself or others.	No action required.	Owner should insure that surface to be covered is suitable for installation of wall covering.
	4.10 Surface deficiencies in finished woodwork.	Builder will correct readily apparent splits, cracks, hammer marks and exposed nail heads, only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.11 Gaps between trim and adjacent surfaces, and gaps at trim joints.	Builder will correct gaps in excess of 1/8 in. at trim joints and 1/4 in. between trim and adjacent surfaces.	Some separation due to lumber shrinkage is normal and should be expected.
	4.12 Cracks in ceramic grout joints.	Builder will correct cracks in excess of 1/8 in. one time only.	Cracking of grout joints is common and is considered routine Owner maintenance unless excessive.
	4.13 Ceramic tile cracks or becomes loose.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.14 Cracking or deterioration of caulking.	No action required.	All interior caulking shrinks and deteriorates. Owner maintenance is required.

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

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

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>4. INTERIOR (CONTINUED)</b>			
<b>WALLS, CEILINGS, SURFACES, FINISHES &amp; TRIM (CONTINUED)</b>	4.15 Wall or trim surfaces visible through paint.	Builder will correct affected area. If greater than 75% of wall, trim piece, or ceiling is affected, entire surface will be corrected. The surface being painted shall not show through new paint when viewed from a distance of 6 feet under normal lighting conditions.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.
<b>FLOOR COVERING*</b>	4.16 Resilient flooring comes loose at edge.	Builder will correct.	Owner maintenance is required.
	4.17 Gaps at seams of resilient flooring.	Builder will correct gaps of similar materials in excess of 1/8 in., and 3/16 in. where dissimilar materials abut.	Minor gaps should be expected.
	4.18 Fastener pops through resilient flooring.	Builder will correct affected area where fastener has broken through floor covering.	Sharp objects such as high heels, table and chair legs, can cause similar problems, and are not covered by this Limited Warranty.
	4.19 Depressions or ridges in resilient flooring at seams of sub-flooring.	Builder will correct depressions or ridges which exceed 1/8 in. in height or depth.	This is determined by placing a 6 in. straight edge over ridge or depression, with 3 in. on either side, and measuring height or depth at sub-flooring seam.
	4.20 Cuts and gouges in any floor covering.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.21 Hollow sounding marble or tile.	No action required.	Hollow sounding marble or tile is not a deficiency of construction and is not covered under this warranty.
	4.22 Fades, stains or discolors.	Builder will correct stains or spots only if documented prior to occupancy.	Fading is not a deficiency. Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.23 Premature wearing of carpet.	No action required.	Excessive wear in high-traffic areas such as entryways and hallways is normal. Wearability is directly related to quality of carpet.
	4.24 Visible gaps at carpet seams.	Builder will correct gaps.	Seams will be apparent. Owner maintenance is required.
	4.25 Carpet becomes loose or buckles.	Builder will correct one time only.	Some stretching is normal. Owner should exercise care in moving furniture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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**Section  
IV  
Requesting  
Warranty  
Performance**

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

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

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

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

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

### C. Purchaser's Obligations

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

tained from any inspector or engineer.

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

### D. Mediation and Inspection

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

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

### E. Arbitration\*

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

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

**Section IV**  
**Requesting Warranty Performance**  
**(Continued)**

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

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

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

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

**F. Conditions of Warranty Performance**

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

its security interest in the Home prior to such payment. Any mortgages shall be completely bound by any mediation or arbitration relating to a request for warranty performance between you and the Warrantor.\*

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

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

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

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

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

**Section V Addenda**

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**A. Newark, Delaware, Addendum**

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

**B. State of New York Addendum**

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

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

**C. State of Indiana Addendum**

The warranties and rights listed above are in addition to, and are not exclusive of, any warranties listed in this book. Notwithstanding anything contained in the attached printed form of the RWC Limited Warranty, this Limited Warranty shall include the following protection per Section II.C., and is amended to read as follows:

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

written warranty, whichever is less. For Year Two Coverage for Indiana Homes with VA/FHA Financing, the following provisions of the HUD Addendum Section V.D. are not applicable in Year 2: Section V.D.5, Section V.D.13, Section V.D.16, and Section V.D.19.

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

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

1. **Section I.B.** — The following definition is added: Emergency Condition is an event or situation that presents an imminent threat of damage to the Home or common elements and results in an unsafe living condition due to Defects or Major Structural Defect failures that manifest themselves outside of the Warrantor's normal business hours and precludes you from obtaining prior written approval to initiate repairs to stabilize the condition and prevent further damage.
2. **Section I.B.9. Effective Date Of Warranty** — The following language is substituted: The Effective Date Of Warranty will be the date on which closing or settlement occurs in connection with the initial sale of the Home. In no event will the Effective Date Of Warranty be later than the date of FHA endorsement of your Mortgage on the Home.
3. **Section I.B.14. Major Structural Defects** — The following language is substituted for a-c.: A Major Structural Defect is actual physical damage to the designated load-bearing portions of a Home caused by failure of such load-bearing functions to the extent that the Home becomes unsafe, unsanitary, or otherwise unlivable. The following language is added: Delamination or rupture of roof sheathing shall be deemed a Major Structural Defect in need of warranty performance.
4. **Sections II.A.5 and II.A.6** — Foreclosure does not void the Limited Warranty for VA/FHA Financed Homes only.
5. **Section II.C.1. One Year Coverage** — The following language is added: Notwithstanding anything to the contrary contained in this Limited Warranty, during the first year of coverage, your Builder will repair or restore the reliable function of Appliances and Equipment damaged during installation or improperly installed by your Builder. In addition, your Builder will correct Construction Deficiencies in workmanship and materials resulting from the failure of the Home to comply with standards of quality as measured by acceptable trade practices. Construction Deficiencies are Defects (not of a structural nature) in the Home that are attributable

**Section  
V  
Addenda  
(continued)**

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- to poor workmanship or to the use of inferior materials which result in the impaired functioning of the Home or some part of the Home. Defects resulting from your abuse or from normal wear and tear are not considered Construction Deficiencies.
6. **Section II.C.4. Condominium Coverage**—The following language is substituted: The Limited Warranty shall only apply to warranted common elements which are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems which serve two (2) or more residential units; and are contained wholly within a residential structure that, if defective, would constitute a health or safety condition for the occupants. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms, stairwells and other spaces wholly within the residential structure serving two (2) or more units; and structurally attached balconies, arches and decks. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, walkways, exterior structures, or any other non-residential structure which is part of the condominium.
  7. **Section II.C.** — The following coverage is added for the State of Colorado ONLY: The Builder's warranty for basement slabs in the State of Colorado is extended from the first through the fourth year.
  8. **Section II.D.** — The following statement is added: This agreement is non-cancelable by the Warrantor.
  9. **Section II.D.9.** is deleted.
  10. **Section II.D.10.** — The following language is added: Repairs to the Home may be made without the prior written authorization of the Warrantor only in the event an Emergency Condition arises that necessitates repairs be made for the sole purpose of protecting the Home from further damage. You must notify the Warrantor as soon as possible, but in no event, later than five (5) days after the repairs have been made in order to qualify for reimbursement. An accurate, written record of the repair cost must accompany your notification.
  11. **Section II.E.1.d.** — The following language is substituted: Loss or damage which is covered by any other insurance or for which compensation is granted by state legislation.
  12. **Section II.E.1.e.** — The following language is substituted: resulting directly or indirectly from flood, waves, tidal water, overflow of a body of water, or spray from any of these (whether or not driven by wind), water which backs up from sewers or drains, changes in the water table which were not reasonably foreseeable, wetlands, springs or aquifers. Surface water and underground water which cause an unforeseeable hydrostatic condition with resultant damage to the structure are covered.
  13. **Section II.E.2.d.** is deleted.
  14. **Section II.E.2.m.** — The following language is substituted: any portion of a public Water Supply System, including volume and pressure of water flow.
  15. **Section II.E.2.o.** — The following language is substituted: any portion of a public Sewage Disposal System, including design.
  16. **Section II.E.2.p.** — exclusion is deleted.
  17. **Section II.E.5.** — The following language is substituted: Consequential Damages to personal property are excluded. Consequential Damages to real property as a result of a Defect or repair of a Defect are covered.
  18. **Section II.E.9.** — The following language is added: Warranted Defects repaired as a result of emergency property protection measures as described and defined in this addendum are covered.
  19. **Section III.A.**
    - a. **Site Work** — The following language is substituted:
      - (1) **3.18 (Action Required)** If final grading was performed by the Builder, he will replace fill in excessively settled areas.
    - b. **FLOOR COVERING** — The following language is added:
      - (1) **4.26 (Observation)** Gaps or cracks between finished floor boards. (Action Required) Builder will correct gaps or cracks which exceed 1/8 in. in width. (Comments) Finished wood floors expand and contract due to humidity changes in your Home. Cracks and gaps which shrink and disappear in non-heating seasons are considered normal.
      - (2) **4.27 (Observation)** Cupping, crowning or loose finished floor boards. (Action Required) Builder will correct only if caused by a Defect in installation. (Comments) Finished wood flooring cups from gaining or losing moisture on one side faster than the other. Some cupping and crowning should be considered normal due to growth rings in the tree and the part of the tree used. The Builder is not responsible for natural properties of the product, or for climatic conditions and personal living habits which can affect moisture content of floor boards. Cupping or crowning action may have loosened nails or adhesive. Owner is responsible if condition is caused by conditions beyond Builder's control.
      - (3) **4.28 (Observation)** Ceramic tile cracks or loosens. (Action Required) Builder will correct only if documented prior to occupancy. (Comments) Owner is responsible for establishing a pre-closing walk-through inspection list.
  20. **Section III.B.6.** — The following language is added: (Observation) Septic system fails. (Action Required) Builder will correct if damage is due to poor workmanship or materials, which are not in

**Section  
V  
Addenda  
(continued)**

conformance with Sewage Enforcement Officer's instructions as per design and installation only. (Comments) Builder is required to abide by state or local requirements for the installation of on-site sewage disposal system. Any deficiency or failure which occurs or is caused by a condition other than faulty workmanship or materials, such as design, is not covered by this Limited Warranty. Owner is responsible for routine maintenance of system, which may include, but not be limited to: pumping the septic tank; adding chlorine to a chlorinator; and refraining from driving of parking vehicles or equipment on the system. Damages caused by freezing, soil saturation, underground springs, water run-off, excessive use and an increase in level of water table are among causes not covered by this Limited Warranty.

21. **Section IV.E. Arbitration** — The following language is added: The judicial resolution of disputes is not precluded by this warranty and may be pursued by the homeowner at any time during the dispute resolution process.
22. **Section IV.E. Arbitration** — Because HUD does not require mandatory arbitration, the following is deleted: Since this Limited Warranty provides for mandatory binding arbitration of disputes, if any party commences litigation in violation of this Limited Warranty, such party shall reimburse the other parties to the litigation for their costs and expenses, including attorney fees, incurred in seeking dismissal of such litigation.
23. **Section IV.F.2., F.3. and F.10.a.** — The following language is substituted: In the first two (2) years, if your Builder does not fulfill its obligations under this Limited Warranty, the Insurer will be responsible for your Builder's obligations, subject to a one-time warranty service fee of \$250. The

Insurer's liability in Years 3 through 10 under this Limited Warranty is subject to a warranty service fee of \$250 per request for warranty performance. In each instance, you must pay the fee prior to the Insurer's repair or replacement. In the event of payment, the fee will be subtracted from the cash payment. In the case of the common elements of a condominium, the warranty service fee shall be \$250 per Home affected by each common element in need of service, limited to a maximum of \$5,000 per free standing structure.

24. **Section IV.F.5.** — The following language is added: Where a warranted Defect is determined to exist and where the Warrantor elects to pay the reasonable cost of repair or replacement in lieu of performing such repair or replacement, the cash offer must be in writing. You will be given two (2) weeks to respond. Cash offers over \$5,000 are subject to an on-site review by a HUD approved fee inspector (inspection costs will be paid by the Warrantor) unless:
  - a. the cash offer is made pursuant to a binding bid by an independent third party contractor, which will accept an award of a contract from you pursuant to such bid;
  - b. payment is being made in settlement of legal action;
  - c. you are represented by legal counsel.

#### **E. Maryland Addendum**

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

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

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

**EXHIBIT N**

**SALES TO OWNER-OCCUPANTS**

See attached.

**WAI'ULA'ULA AT MAUNA KEA RESORT  
AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT  
DESIGNATED CONDOMINIUM UNIT**

We, the undersigned "owner-occupants", on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, do hereby declare that it is our intention to purchase and reside in a designated fee simple condominium unit designated for an "owner-occupant" in WAI'ULA'ULA AT MAUNA KEA RESORT condominium project ("Community"), a portion of which Community is proposed by D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division ("Developer").

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

1. It is our intent to reserve and purchase an owner-occupant designated residential unit ("designated residence") pursuant to section 514A-103 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated residence as our principal residence for 365 consecutive days.

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

"any individual in whose name sole or joint legal title is held in a residential residence which, simultaneous to such ownership, serves as the individual's principal residence, as defined by the state department of taxation, for a period of not less than three hundred and sixty-five consecutive days, provided that the individual retains complete possessory control of the premises of the residential apartment during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases or assigns the premises for any period of time to any other person in whose name legal title is not held[ ] . . . ." (Emphases added).

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

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

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

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



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

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

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

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

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

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

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

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STATE OF HAWAII  
COUNTY OF HAWAII

)  
) SS.  
)

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

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

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



STATE OF HAWAII  
COUNTY OF HAWAII

)  
) SS.  
)

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

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

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

