

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL () PICK UP ()

Tax Map Key No. (1) 2-7-022: 011, 015 (portion), 031-049
Unit No. _____; CPR No. _____

Total Pages: _____

**LIMITED WARRANTY UNIT DEED, ENCUMBRANCES AND RESERVATION OF RIGHTS WITH
POWER OF ATTORNEY WITH USE, SALES AND TRANSFER RESTRICTIONS AND SHARED
APPRECIATION EQUITY AGREEMENT
KUILEI PLACE**

THIS INDENTURE, made this _____ day of _____, 20____, by and between **2599 KAPIOLANI, LLC**, a Delaware limited liability company, whose address is 2270 Kalakaua Avenue, Suite 1788, Honolulu, Hawaii 96815, hereinafter called "Grantor," and _____, whose address is _____, hereinafter called "Grantee."

WITNESSETH:

That Grantor, in consideration of the sum of TEN AND NO/100 UNITED STATES DOLLARS (U.S. \$10.00) and other good and valuable consideration to Grantor paid by Grantee, receipt whereof is hereby acknowledged, and of the promises and covenants hereinafter set forth and on the part of Grantee to be faithfully observed and performed, does hereby grant, bargain, sell and convey unto Grantee, as _____, the following described real property, which is also described in Exhibit "A" hereto (the "Property"), and the reversions, remainders, rents, issues and profits thereof and all of the estate, title and interest of Grantor, both at law and in equity, therein and thereto;

The Property hereby conveyed comprises a portion of the KUILEI PLACE condominium project (the "Project"), as established by that certain Declaration of Condominium Property Regime dated February 9, 2023, recorded at the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T-12245192, as may be amended from time to time (the "Declaration"). The Project consists of that certain land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, and more particularly described in the Declaration, which description is incorporated herein by this reference, together with the improvements located

thereon, as more particularly described in the Declaration. The portion of the Project consisting of the Property hereby conveyed is more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference. Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Declaration.

TO HAVE AND TO HOLD the same unto Grantee, according to the tenancy and estate hereinabove set forth, in fee simple, absolutely and forever, subject as aforesaid, and subject also to the Declaration and to the Bylaws of the Association of Unit Owners of Kuilei Place as described in said Exhibit "A" (the "Bylaws"), and the House Rules for the Project (the "House Rules"), and the covenants, conditions and restrictions in the Declaration, Bylaws and House Rules contained, as the same may have been or may hereafter be amended, all of which are incorporated herein by reference and made a part hereof.

The Property shall at all times be used only for the purposes described in the Declaration.

Grantor hereby covenants and agrees with Grantee that Grantor is lawfully seized in fee simple of the Property and the rights granted, bargained, sold and conveyed as herein mentioned; and Grantor has good right to grant, bargain, sell and convey the same in the manner set forth herein; and that the same are free and clear of and from all encumbrances created or suffered by Grantor, except for the encumbrances set forth in said Exhibit "A", and except for the lien of real property taxes not yet by law required to be paid; and Grantor shall WARRANT AND DEFEND the same unto Grantee, forever, against the lawful claims and demands of all persons claiming through Grantor, except as herein set forth.

Grantee hereby covenants and agrees, for the benefit of the Owners from time to time of all other units in the Project, to at all times observe, perform, comply with and abide by all of the terms, covenants, conditions, agreements, obligations and restrictions set forth in the Declaration, the Bylaws and the House Rules, as any of the same exist or may hereafter be amended in accordance with law and does hereby accept and approve the Declaration, the Bylaws, and the House Rules, and Grantee will indemnify and save harmless Grantor for any failure to observe and perform any such terms, covenants, conditions, agreements, obligations and restrictions for so long as the Declaration, Bylaws and House Rules exist and are in effect.

Grantee further acknowledges and agrees that Grantee has examined (or waived such examination), and has approved the following Project documents (and any and all supplements, addenda and amendments to said documents): the Declaration, the Bylaws, the Condominium Map for the Project, the House Rules, the Project escrow agreement and the Public Report issued for the Project. In addition, Grantee hereby agrees and acknowledges that each of the acknowledgments and agreements made by Grantee in the Kuilei Place Purchase Agreement covering the Property, including all supplements, addenda and amendments thereto, shall survive the recordation of this Deed.

Grantee does hereby consent to all of the rights reserved unto Grantor as set forth in the Declaration, the permitted actions taken by Grantor pursuant thereto, and to the filing of any and all documents necessary to effect the same in said Office; agrees to execute, deliver, and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints Grantor and their assigns his or her attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his or her behalf, and to receive or send any legal notices, and to receive service of process (legal papers), which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assign of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any unit or any interest therein, whether by deed, mortgage, or any other instrument of conveyance. Without limitation to the generality of the rights reserved unto Grantor as set forth in the Declaration and as permitted by law, Grantor will have the right to execute, deliver and record any amendment to the Condominium Documents, any easement instrument, any deed, any amendment to a Unit Deed, and/or assignment of rights or interest, or such other document or instrument that may be necessary or appropriate to permit Grantor to exercise its rights pursuant to the provisions of the Declaration.

Grantee hereby understands, accepts and agrees that the Property conveyed by this Deed is designated as an "Affordable Housing Unit" in accordance with the terms, conditions and requirements of the Hawaii Revised

Statutes ("HRS") Chapter 201H. Grantee hereby covenants and agrees that the Property is subject to HRS Chapter 201H, related Hawaii Administrative Rules ("HAR") Chapter 15-307, and Hawaii Housing Finance and Development Corporation ("HHFDC") policies, as administered by the HHFDC. Without limiting the generality of the foregoing, Grantee hereby covenants and agrees that:

- (a) The Property is subject to HHFDC's Use, Sale and Transfer Restriction ("Buyback Program") more particularly described in Exhibit "B" attached hereto and incorporated herein by reference. The Buyback Program restrictions include, without limitation, (i) the requirement that Grantee occupy the Property as Grantee's primary residence and shall otherwise occupy the Property in accordance with HHFDC's requirements for so long as Grantee holds title thereto during the ten (10) year period beginning on the date that title to the Property is conveyed to Grantee (i.e. the date that this Deed is recorded), (ii) HHFDC's first option to purchase the Property should Grantee desire to transfer title thereto during said ten (10) year period, or if Grantee wishes to transfer title to the Property during that time and HHFDC does not exercise its option to purchase, Grantee must transfer title to a "qualified resident" as defined in HRS § 201H-32, and (iii) the requirement that Grantee obtain HHFDC's prior written consent whenever Grantee engages in activities that encumber the Property or otherwise affect title to the Property. The "original cost to purchaser" referred to in Exhibit "B" is \$_____ (which is the Total Purchase Price set forth in the Purchase Agreement & Deposit Receipt between Grantor and Grantee).
- (b) The Property is subject to HHFDC's Shared Appreciation Equity Program more particularly described in Exhibit "C" attached hereto and incorporated herein by reference, under which HHFDC has the right to a share of the "Net Appreciation" (defined in Exhibit "C") realized or deemed to have been realized when Grantee sells, rents any part of the Property, or transfers the Property, unless the transfer is a "Permitted Transfer" (defined in Exhibit "C") and HHFDC prior written consent is given.
- (c) The Property is subject to Use, Occupancy and Transfer Requirements more particularly described in Exhibits "B" and "C" attached hereto and incorporated herein by reference.

By accepting this Deed, Grantee expressly covenants and agrees that Grantee shall observe, perform and comply with all of the covenants, conditions and restrictions pertaining to the ownership, use, sale and transfer of the Property set forth in HRS Chapter 201H, related HAR Chapter 15-307, and current HHFDC policies, more particularly described in Exhibits "B" and "C" attached hereto, as may be amended from time to time in accordance with applicable state and federal laws.

The rights and obligations of Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. All obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention shall be clearly expressed elsewhere herein. Without limiting the generality of the foregoing, each and every acknowledgment, acceptance, appointment, agreement and covenant of Grantee herein shall run with the land and constitute an equitable servitude and lien, and is made by Grantee for Grantee and on behalf of Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. Each and every person hereafter acquiring from Grantee or Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust or assigns, an interest in the property hereby conveyed, by such acquisition, makes said acknowledgments, acceptances, appointments, agreements and covenants for such person and for such person's estate, heirs, devisees, personal representatives, successors, successors-in-trust and assigns.

In the event that any provision of this instrument is illegal, void or unenforceable for any reason, the remaining terms of this instrument shall remain in full force and effect.

The conveyance herein set forth and the warranties of Grantor concerning the same are expressly declared to be in favor of Grantee, Grantee's heirs, devisees, personal representatives, successors, successors in trust, and assigns.

The terms "Grantor" and "Grantee" as and when used herein or any pronouns used in place thereof, shall mean and include the masculine, feminine and neuter, the singular and plural number, individuals, trustees, and their and each of their respective heirs, devisees, personal representatives, successors, successors-in-trust and assigns, according to the context thereof.

Grantor and Grantee agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatories to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, Grantor and Grantee have executed these presents on the day and year first above written.

2599 KAPIOLANI, LLC,
a Delaware limited liability company

By _____
Name: _____
Title: _____

"Grantor"

[GRANTEE

[GRANTEE

"Grantee"

STATE OF _____

SS:

COUNTY OF _____

On this _____ day of _____, 20____, before me 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 capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

(signature)

(print name)

Notary Public of and for said State

My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: LIMITED WARRANTY UNIT DEED,
ENCUMBRANCES AND RESERVATION OF RIGHTS WITH POWER OF ATTORNEY
WITH USE, SALES AND TRANSFER RESTRICTIONS AND SHARED
APPRECIATION EQUITY AGREEMENT KUILEI PLACE

Unit No. _____

Document Date: _____ or Undated at time of notarization

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)

My commission expires _____.

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS:

On this _____ day of _____, 20____, before me appeared _____ and _____, 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 capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

(signature)

(print name)

Notary Public of and for said State

My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: LIMITED WARRANTY UNIT DEED, ENCUMBRANCES AND RESERVATION OF RIGHTS WITH POWER OF ATTORNEY WITH USE, SALES AND TRANSFER RESTRICTIONS AND SHARED APPRECIATION EQUITY AGREEMENT KUILEI PLACE
Unit No. _____

Document Date: _____ or Undated at time of notarization

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)

My commission expires _____.

EXHIBIT "A"

-FIRST:-

Unit No. _____ (the "Unit") located in that certain condominium project known as "KUILEI PLACE" (the "Project"), as shown on Condominium Map No. 2566, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as the same may be amended from time to time (the "Condominium Map"), and described in that certain Declaration of Condominium Property Regime of Kuilei Place dated February 9, 2023, recorded in said Office as Document No. T-12245192, as the same may be amended from time to time (the "Declaration").

TOGETHER WITH easements appurtenant to the Unit established by and described in the Declaration, including the following:

(A) The exclusive right to use those certain limited common elements of the Project which are described in the Declaration as being appurtenant to the Unit, including the parking stall(s), storage room(s) and/or storage locker(s) and one (1) assigned mailbox, as set forth in the Declaration.

(B) Nonexclusive easements in the common elements, including the limited common elements, and in the Project, designed for such purposes as ingress to, egress from, utility services for, support of, and, as necessary, for the maintenance and repair of the Unit and the limited common elements appurtenant thereto; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements as provided in the Declaration, and in the other units in the building in which the Unit is located for support; subject to the provisions of Section 514B-38 of the Hawaii Revised Statutes, as amended.

-SECOND:-

An undivided _____% interest appurtenant to the Unit, in all common elements of the Project, as established for the Unit by the Declaration, or such other fractional or percentage interest as hereafter established for the Unit by any amendment of the Declaration, as tenant in common with all other owners and tenants thereof.

TOGETHER WITH AND SUBJECT TO, as to FIRST and SECOND above, the covenants, agreements, easements, obligations, conditions, exceptions, reservations and other matters and provisions of the Declaration, the Bylaws of the Association of Unit Owners of Kuilei Place, and the House Rules, each as may be amended from time to time, all of which are incorporated herein by this reference and which constitute and shall constitute covenants running with the land, equitable servitudes and liens to the extent set forth therein and provided by law, and which are hereby accepted by the Grantee as binding and to be binding on the Grantee, and Grantee's successors and assigns.

EXCEPTING AND RESERVING AND SUBJECT TO all easements as provided in the Declaration, including, but not limited to, (i) easements for encroachments appurtenant to other units or the common elements, now or hereafter existing thereon; (ii) easements for access to the Unit and/or limited common element appurtenant thereto from time to time during reasonable hours as may be appropriate for the operation or maintenance of the Project or for any other purpose reasonably related to the exercise of the rights and obligations under the Declaration, or, without notice, at any time for (a) making emergency repairs therein necessary to prevent damage to any unit or limited common element, (b) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity, (c) protecting the property rights of any Owner, or (d) preventing death or serious bodily injury to any Owner or other Occupant therein; and (iii) easements necessary to complete improvements to the Project, for noise and dust, to conduct sales activities upon the Project, and to install and operate central telecommunication receiving and distribution systems and services, all as provided in the Declaration.

THE LANDS UPON WHICH THE PROJECT IS LOCATED ARE DESCRIBED AS FOLLOWS:

-PARCEL FIRST:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 19,030 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL SECOND:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 12, area 5,858 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL THIRD:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 13, area 5,779 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL FOURTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 14, area 5,471 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL FIFTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 15, area 5,200 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL SIXTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 16, area 5,314 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL SEVENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 17, area 5,200 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL EIGHTH :-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 18, area 5,225 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL NINTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 19, area 5,200 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL TENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 20, area 5,201 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL ELEVENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 21, area 5,200 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL TWELFTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 51, area 5,200 square feet, more or less, as shown on Map 21, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap.

-PARCEL THIRTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 23, area 5,200 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL FOURTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 53, area 5,141 square feet, more or less, as shown on Map 21, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL FIFTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 27, area 4,421 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL SIXTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 28, area 5,278 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL SEVENTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 29, area 5,467 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL EIGHTEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 30, area 5,660 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL NINETEENTH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 31, area 4,920 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-PARCEL TWENTIETH:-

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 32, area 3,010 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way for pedestrian and vehicular access, in common with others entitled thereto, over and across Lots 33 and 34, as shown on Map 8, Land Court Application No. 768, until such time as title thereto shall be vested in the government.

-AS TO PARCELS FIRST THROUGH TWENTIETH:-

Being land(s) described in Transfer Certificate of Title No. 1,176,536 issued to KAIPUU INVESTORS, LLC, a Delaware limited liability company.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR: LYK KAPIOLANI, LLC, a Hawaii limited liability company

GRANTEE: KAIPUU INVESTORS, LLC, a Delaware limited liability company, as Tenant in Severalty

DATED : May 29, 2019

FILED : Land Court Document No. T-10740111

-PARCEL TWENTY-FIRST:-

All of those certain parcels of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 2-A-3-A, area 4,998 square feet, and 2-A-3-B, area 5,000 square feet, as shown on Map 13; 50, area 5,217 square feet, and 52, area 5,000 square feet, as shown on Map 21; filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 768 of Lum Yip Kee and Yee Yap;

Together with a right of way in favor of Lot 50 for access to a public highway over Lots 2-A-3-A and 2-A-3-B only, as set forth by Land Court Order 17088, filed April 20, 1959;

Being land(s) described in Transfer Certificate of Title No. 1,176,535 issued to KAIPUU INVESTORS, LLC, a Delaware limited liability company.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR : LUM YIP KEE, LIMITED, a Hawaii corporation

GRANTEE : KAIPUU INVESTORS, LLC, a Delaware limited liability company, as Tenant in Severalty

DATED : May 29, 2019

FILED : Land Court Document No. T-10740110

SUBJECT, HOWEVER, to the following:

[TBD]

END OF EXHIBIT "A"

Project Name:
Unit No.:

EXHIBIT "B"

HHFDC'S USE, SALE AND TRANSFER RESTRICTIONS

Section 201H-47, Hawaii Revised Statutes - Real Property; restrictions on transfer; waiver of restrictions.

(a) The following restrictions shall apply to the transfer of real property developed and sold under this chapter, whether in fee simple or leasehold:

(1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, the Hawaii Housing Finance and Development Corporation ("corporation") shall have the first option to purchase the real property at a price that shall not exceed the sum of:

- (A) The original cost to the purchaser, as defined in rules adopted by the corporation;
- (B) The cost of any improvements added by the purchaser, as defined in rules adopted by the corporation;
- (C) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent per year; and
- (D) The amount, if any, previously paid by the purchaser to the corporation as the corporation's share of net appreciation in the real property;

(2) The corporation may purchase the real property either:

- (A) By conveyance free and clear of all mortgages and liens; or
- (B) By conveyance subject to existing mortgages and liens.

If the real property is conveyed in the manner provided in subparagraph (A), it shall be conveyed to the corporation only after all mortgages and liens are released. If the real property is conveyed in the manner provided in subparagraph (B), the corporation shall acquire the real property subject to any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; and any mortgage or lien created for any other purpose; provided that the corporation has previously consented to it in writing.

The corporation's interest created by this section shall constitute a statutory lien on the real property and shall be superior to any other mortgage or lien; except for any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; any mortgage insured or held by a federal housing agency; and any mortgage or lien created for any other purpose; provided that the corporation has previously consented to it in writing.

The amount paid by the corporation to the seller shall be the difference, if any, between the purchase price determined by paragraph (1)(A) to (D), and the total of the outstanding principal balances of the mortgages and liens assumed by the corporation;

(3) A purchaser may refinance real property developed and sold under this chapter; provided that the purchaser shall not refinance the real property, within ten years from the date of purchase, for an amount in excess of the purchase price as determined by paragraph (1)(A)

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Exh "B" - 1

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to (C); provided further that the purchaser shall obtain the corporation's written consent if any restriction on the transfer of the real property remains applicable;

(4) After the end of the tenth year from the date of initial purchase, or execution of an agreement of sale, the purchaser may sell the real property and sell or assign the property free from any price restrictions; provided that the purchaser shall be required to pay to the corporation the sum of:

- (A) The balance of any mortgage note, agreement of sale, or other amount owing to the corporation;
- (B) Any subsidy or deferred sales price made by the corporation in the acquisition, development, construction, and sale of the real property, and any other amount expended by the corporation not counted as costs under section 201H-45 but charged to the real property by good accounting practice as determined by the corporation whose books shall be prima facie evidence of the correctness of the costs;
- (C) Interest on the subsidy or deferred sales price, if applicable, and any other amount expended at the rate of seven per cent per year computed as to the subsidy or deferred sales price, if applicable, from the date of purchase, or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that the computed interest shall not extend beyond thirty years from the date of purchase, or execution of the agreement of sale, of the real property. If any proposed sale or transfer will not generate an amount sufficient to pay the corporation the sum as computed under this paragraph, the corporation shall have the first option to purchase the real property at a price that shall not exceed the sum as computed under paragraphs (1) and (2); and
- (D) The corporation's share of appreciation in the real property as determined under rules adopted pursuant to chapter 91, when applicable;

(5) Notwithstanding any provision in this section to the contrary, pursuant to rules adopted by the corporation, the subsidy or deferred sales price described in paragraph (4)(B) and any interest accrued pursuant to paragraph (4)(C) may be paid, in part or in full, at any time; and

(6) Notwithstanding any provision in this section to the contrary, the corporation's share of appreciation in the real property described in paragraph (4)(D):

- (A) Shall apply when the sales price of the real property that is developed and sold under this chapter is less than the then-current, unencumbered, fair market value of the real property, as determined by a real property appraisal obtained prior to the closing of the sale;
- (B) Shall be a restriction that runs with the land until it is paid in full and released by the corporation, or extinguished pursuant to subsection (f); and
- (C) May be paid, in part or in full, at any time after recordation of the sale.

(b) If the corporation waives its first option to repurchase the real property provided in subsection (a), a qualified nonprofit housing trust shall have the option to purchase the real property at a price that shall not exceed the sum of:

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HHFDC Rev 12.07.18 (DAG-SC 2-2019)
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Exh "B" - 2

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- (1) The original cost to the purchaser, as defined in rules adopted by the corporation;
- (2) The cost of any improvements added by the purchaser, as defined in rules adopted by the corporation;
- (3) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent per year; and
- (4) The corporation's share of net appreciation in the real property to be paid as determined under rules adopted pursuant to chapter 91, when applicable.

(c) For a period of ten years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, and if the corporation or the qualified nonprofit housing trust selected by the corporation does not exercise the option to purchase the real property as provided in subsection (a) or (b), then the corporation shall require the purchaser to sell the real property to a "qualified resident" as defined in section 201H-32, and upon the terms that preserve the intent of this section and sections 201H-49 and 201H-50, and in accordance with rules adopted by the corporation.

(d) The corporation may waive the restrictions prescribed in subsections (a) through (c) if:

(1) The purchaser wishes to transfer title to the real property by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the corporation;

(2) The sale or transfer of the real property would be at a price and upon terms that preserve the intent of this section without the necessity of the State repurchasing the real property; provided that, in this case, the purchaser shall sell the real property and sell or assign the real property to a person who is a "qualified resident" as defined in section 201H-32; and provided further that the purchaser shall pay to the corporation its share of appreciation in the real property as determined in rules adopted pursuant to chapter 91, when applicable; or

(3) The sale or transfer is of real property subject to a sustainable affordable lease as defined in section 516-1.

(e) The corporation may release the restrictions prescribed in subsections (a) through (c) if the real property is financed under a federally subsidized mortgage program and the restrictions would jeopardize the federal government's ability to recapture any interest credit subsidies provided to the homeowner.

(f) The restrictions prescribed in this section and sections 201H-49 to 201H-51 shall be automatically extinguished and shall not attach in subsequent transfers of title when a qualified nonprofit housing trust becomes the owner of the real property pursuant to subsection (b); or a mortgage holder or other party becomes the owner of the real property pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced; provided that the mortgage is the initial purchase money mortgage, or that the corporation consented to and agreed to subordinate the restrictions to the mortgage when originated, if the mortgage is not the initial purchase money mortgage; or when a mortgage is assigned to a federal housing agency. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering real property or leasehold interest encumbered by the first option to purchase in favor of the corporation, prior to commencing mortgage foreclosure proceedings, shall notify the corporation in writing of:

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 HUD 2.19.99/VA 10.20.98
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Exh "B" - 3

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(1) Any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and

(2) Any intention of the mortgagee to foreclose the mortgage under chapter 667 forty-five days prior to commencing mortgage foreclosure proceedings;

provided that the mortgagee's failure to provide written notice to the corporation shall not affect the mortgage holder's rights under the mortgage. The corporation shall be a party to any foreclosure action, and shall be entitled to its share of appreciation in the real property as determined under this chapter in lien priority when the payment is applicable, and if foreclosure occurs within the ten-year period after the purchase, the corporation shall also be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount that shall not exceed the sum of amounts determined pursuant to subsection (a)(1)(B) and (C).

(g) The provisions of this section shall be incorporated in any deed, lease, agreement of sale, or any other instrument of conveyance issued by the corporation. In any sale by the corporation of real property for which a subsidy or deferred sales price was made by the corporation, the amount of the subsidy or deferred sales price described in subsection (a)(4)(B), a description of the cost items that constitute the subsidy or deferred sales price, and the conditions of the subsidy or deferred sales price shall be clearly stated at the beginning of the contract document issued by the corporation. In any sale in which the corporation's share of appreciation in real property is a restriction, the terms of the shared appreciation equity program shall be clearly stated and included as an exhibit in any deed, lease, agreement of sale, or any other instrument of conveyance.

(h) This section need not apply to market-priced units in an economically integrated housing project, except as otherwise determined by the developer of the units; provided that preference shall be given to qualified residents in the initial sale of market-priced units.

(i) The corporation is authorized to waive any of the restrictions set forth in this section in order to comply with or conform to requirements set forth in federal law or regulations governing mortgage insurance or guarantee programs or requirements set forth by federally chartered secondary mortgage market participants.

(j) Notwithstanding any law to the contrary, if real property is purchased by a qualified nonprofit housing trust pursuant to subsection (b), the housing trust shall establish new buyback restrictions for the purpose of maintaining the unit as affordable for as long as practicable, or as otherwise required by the corporation.

(k) A qualified nonprofit housing trust shall report the status and use of its housing units to the corporation by November 30 of each calendar year.

Section 201H-48, Hawaii Revised Statutes - Exception of current owners in corporation projects.

The corporation may allow a person who is a current owner of a dwelling unit in a multifamily housing project sponsored by the corporation to apply for the purchase of a larger dwelling unit in a project sponsored by the corporation if the applicant's current family size exceeds the permissible family size for the applicant's current dwelling unit, as determined by prevailing county building or housing codes. The applicant shall be required to sell the applicant's current dwelling unit back to the corporation. Notwithstanding any law to the

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Exh "B" - 4

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contrary, any applicant, as it pertains to for-sale housing, shall be a "qualified resident" who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased under this section;
- (4) In the case of purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; and
- (5) Except for the applicant's current residence, meets the following qualifications:
 - (A) Is a person who either oneself or together with the person's spouse or a household member, does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land; and
 - (B) Is a person whose spouse or a household member does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71.

Section 201H-49, Hawaii Revised Statutes - Real Property; restrictions on use. (a) Real property purchased under this chapter shall be occupied by the purchaser at all times during the ten-year restriction period set forth in section 201H-47, except in hardship circumstances where the inability to reside on the property arises out of unforeseeable job or military transfer, a temporary educational sabbatical, serious illness of the person, or in other hardship circumstances as determined by the corporation on a case-by-case basis.

The corporation may waive the owner-occupancy requirement for a total of not more than ten years after the purchase of the dwelling, during which time the dwelling unit may be rented or leased. Waivers may be granted only to qualified residents who have paid resident state income taxes during all years in which they occupied the dwelling, who continue to pay resident state income taxes during the waiver period, and whose inability to reside on the property does not stem from a natural disaster. The ten-year owner-occupancy requirement shall be extended by one month for every month or fraction thereof that the owner-occupancy requirement is waived.

The corporation shall adopt rules under chapter 91 to implement the letter and spirit of this subsection and to prescribe necessary terms and conditions. The rules shall include:

- (1) Application and approval procedures for the waivers;
- (2) Exceptions authorized by this subsection;
- (3) The amounts of rents that may be charged by persons allowed to rent or lease a dwelling unit; and

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Exh "B" - 5

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- (4) Schedules of fees needed to cover administrative expenses and attorneys' fees.

No qualified resident who fails to reoccupy a dwelling unit after any waiver period shall receive more than the maximum to which the person would be entitled under section 201H-47. Any person who disagrees with the corporation's determination under this section shall be entitled to a contested case proceeding under chapter 91.

- (b) From time to time the corporation may submit a verification of owner-occupancy form to the purchaser. Failure to respond to the verification in a timely manner or violation of subsection (a) shall be sufficient reason for the corporation, at its option, to purchase the unit as provided in section 201H-47(a)(1), (2), or (4), as applicable.
- (c) Any deed, lease, agreement of sale, or other instrument of conveyance issued by the corporation shall expressly contain the restrictions on use prescribed in this section.
- (d) The restrictions prescribed in subsection (a) shall terminate and shall not attach in subsequent transfers of title if the corporation releases the restrictions when the real property is financed under a federally subsidized mortgage program.
- (e) Subsections (a) to (c) need not apply to market-priced units in an economically integrated housing project, except as otherwise determined by the developer of the units; provided that preference shall be given to qualified residents in the initial sale of market-priced units.
- (f) The corporation shall be authorized to waive any of the restrictions set forth in this section in order to comply with or conform to requirements set forth in federal law or regulations governing mortgage insurance or guarantee programs or requirements set forth by federally chartered secondary mortgage market participants.

Section 201H-50, Hawaii Revised Statutes - Restrictions on use, sale, and transfer of real property: effect of amendment or repeal.

(a) Restrictions on the use, sale, and transfer of real property shall be made as uniform as possible in application to purchasers of all real property, and restrictions shall be conformed with agreement of the purchaser to reflect change or repeal made by any subsequent legislative act, ordinance, rule, or regulation. Purchasers shall be permitted at their election to sell or transfer real property subject to restrictions in effect at the time of their sale or transfer; provided that the corporation is paid its share of appreciation in the real property as determined by rules adopted pursuant to chapter 91, as applicable.

(b) The corporation, any department of the State, or any county housing agency maintaining restrictions, through contract, deed, other instrument, or by rule, shall notify purchasers of any substantial change in restrictions made by law, ordinance, rule, or regulation not more than one hundred eighty days after a change in restrictions. The notice shall clearly state the enacted or proposed new provisions, the date or dates upon which they are to be effective, and offer to each purchaser of real property constructed and sold prior to the effective date an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions. Public notice shall also be given at least three times in the State for state agencies and at least three times in a county for county agencies.

(c) For all purchasers of real property prior to June 25, 1990, where the restrictions on use and transfer of property apply for a period of time, the period of time shall not be increased beyond the date calculated from the date of original purchase.

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Exh "B" - 6

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(d) No purchaser shall be entitled to modify the restrictions on use, transfer, or sale of the real property, without the written permission of the holder of a duly-recorded first mortgage on the dwelling unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first mortgage or the owner is an agency of the State or its political subdivisions.

(e) This section shall apply to all real property developed, constructed, and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale, or transfer of interest in the real property purchased.

(f) The provisions of this section shall be incorporated in any deed, lease, instrument, rule, or regulation relating to restrictions on use, sale, or transfer of dwelling units, entered into after June 20, 1977.

(g) The restrictions of this section shall terminate as to a particular real property and shall not attach in subsequent transfers of title of that real property if the corporation releases the restrictions when the real property is financed under a federally subsidized mortgage program.

Section 201H-51, Hawaii Revised Statutes - Corporation's right to repurchase or rent real property; authority to seek recovery. (a) Notwithstanding any provisions to the contrary, during the period in which the restrictions in section 201H-47 are in effect, the following provisions shall apply when dwelling units developed, constructed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended, are found to have a substantial construction defect, or when vacant lands developed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended, are found to have a substantial soil defect:

(1) The corporation shall have the right, but not the obligation, to repurchase a dwelling unit or land that has a defect, regardless of whether or not the owner wishes to sell; provided that those repurchases shall be in accordance with the following provisions:

- (A) The corporation may repurchase a dwelling unit or land if:
 - (i) The dwelling unit or land is deemed unsafe by the county building department;
 - (ii) The defects are irreparable; or
 - (iii) In the opinion of the corporation, the defect is of such magnitude that it will take longer than one year to repair;
- (B) The corporation's purchase price shall be based on the formula set forth in section 201H-47(a)(1);
- (C) After repairs to the unit or land are completed, the former owner shall have the first right of refusal to repurchase the real property;
- (D) The corporation shall give preference in all other projects of the corporation to all owners whose real property is repurchased by the corporation under this subsection, and the corporation may waive certain eligibility requirements for these owners; and
- (E) If the corporation exercises its right to repurchase defective real property against an owner's wishes pursuant to this paragraph, the corporation shall provide relocation assistance to that owner as provided in chapter 111;

(2) If the corporation does not opt to repurchase defective real property, the

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Exh "B" - 7

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corporation shall also have the right, but not the obligation, to enter into a contract to repair a dwelling unit which has a construction defect or land which has a soil defect. During the period that the real property is being repaired, the corporation shall rent that real property from the owner for an amount not to exceed the owner's present mortgage payments; and

(3) If the corporation does not execute either a contract to repurchase the real property or an agreement to repair and rent the real property within ninety days after written notice is given to the corporation of a construction defect, the owner may pursue any other available legal remedies.

For the purposes of this section:

"Substantial construction defect" includes but is not limited to:

- (1) Structural defects such as shifting foundations and bearing walls;
- (2) Structural deficiencies due to the use of defective or undersized materials; and
- (3) Defects affecting the health and safety of occupants.

"Substantial soil defect" means shifting, sliding, or sinking ground of such degree as to affect the dwelling unit on the land or the health and safety of the occupants of the land.

(b) If moneys are expended by the corporation pursuant to subsection (a)(1) and (2), the corporation shall have the authority to take necessary legal action against the developer, co-developer, general contractor, and their subcontractors, consultants, and other parties notwithstanding chapter 657.

(c) If real property developed, constructed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended, is found to have a substantial construction or soil defect, the corporation shall have the right, but not the obligation, to file or cause to be filed a legal action on behalf of or by, the owner or lessee of the real property for the recovery of damages or for injunctive relief against the developer, co-developer, general contractor, and their subcontractors, consultants, and other parties notwithstanding chapter 657. Additionally, notwithstanding any provision of rule 23 of the Hawaii rules of civil procedure, the corporation may file or cause to be filed a legal action brought under this subsection as a class action on behalf of or by at least two owners or lessees of real property that have similar substantial construction or soil defects.

(d) Nothing in this chapter shall be construed to diminish the rights or remedies of the corporation otherwise provided under common law, by law, or by contract.

(e) The corporation shall adopt rules pursuant to chapter 91 necessary for the purposes of this section.

(f) This section shall not apply to a particular real property and shall not apply after subsequent transfers of title of that real property if the corporation releases the restrictions when the real property is financed under a federally subsidized mortgage program.

(g) If any subsection, sentence, clause, or phrase of this section, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining subsections, sentences, clauses, and phrases of this section, or the application of this section to other persons or transactions or circumstances, shall not be affected. The legislature hereby declares that it would have passed this section and each subsection, clause, or phrase thereof, irrespective of the fact that any one or more subsections,

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HUD 2.19.99/VA 10.20.98
FNMA 7.16.99/RHS 12.3.98

Exh "B" - 8

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sentences, clauses, or phrases of this section, or its application to any person or transaction or other circumstance, may be declared unconstitutional or invalid.

By signing below, Grantee acknowledges, accepts, understands and agrees to the foregoing program requirements of the Hawaii Housing Finance and Development Corporation's (HHFDC), its successor or assigns, including but not limited to obtaining the HHFDC's prior written consent and approval when engaging in any activity pertaining to Grantee's occupancy as the principal residence; transfer; mortgage finance, refinance and/or modification; and sale of the property while this exhibit is in effect; and until such time that the program is satisfied by the Grantee and released by the HHFDC, its successor or assigns.

GRANTEE:

End of Exhibit "B"

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Exh "B" - 9

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EXHIBIT C

HHFDC'S SAE PROGRAM AGREEMENT

For Grantor's Use Only

Project: _____ Unit No. _____

Unit Type/Model No. _____ (Bed/Bath/Parking)

**GRANTEE'S AGREEMENT TO PAY
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
A SHARE OF THE NET APPRECIATED VALUE OF THE PROPERTY**

The real property described in Exhibit A together with the improvements thereon ("**Property**") was developed by the Grantor with assistance from the Hawaii Housing Finance and Development Corporation of the State of Hawaii ("**HHFDC**"). HHFDC provided such assistance in furtherance of the interest of the State of Hawaii of addressing the need for safe, sanitary and reasonably priced housing.

For the opportunity which HHFDC has created to enable the Grantee to purchase the Property for the "**Grantee's Original Purchase Price**" rather than for the "**Original Fair Market Value**", the Grantee named below ("**Grantee**"), jointly and severally if more than one Grantee, agrees to the "Shared Appreciation or Equity Program" ("**Program**") of HHFDC. Under the Program, which is described in this Exhibit C, the Grantee agrees to pay to HHFDC a share of the "**Net Appreciation**" which the Grantee realizes or is deemed to have realized upon the sale or transfer of the Property (as such terms are defined below).

The Grantee understands and agrees that title to the Property is being conveyed to the Grantee subject to the following terms and conditions.

1. MEANING OF WORDS USED IN THIS EXHIBIT

- A. "**Original Fair Market Value**" means the sum of \$ _____ which represents the fair market value of the Property (as built but without any additional or upgraded improvements that Grantee may have ordered) as determined by a current:

- () Federal Housing Administration ("FHA") appraisal
(X) Appraisal obtained by HHFDC.

- B. "Grantee's Original Purchase Price" means the sum of \$ _____ for which the Grantee is purchasing the Property from Grantor but which does not

include the cost or value of any additional or upgraded improvements that Grantee may have ordered.

C. “**HHFDC’s Percentage Share**” means _____% which was calculated as follows:

$$\frac{\text{Original Fair Market Value} \quad \text{minus} \quad \text{Grantee's Original Purchase Price}}{\text{Original Fair Market Value}}$$

rounded to the nearest one percent.

D. “**Grantee’s Original Percentage Share**” means _____% which represents the difference between 100% minus HHFDC’s Percentage Share.

FOR FHA GRADUATED MORTGAGE ONLY: If the home was financed with a FHA graduated payment mortgage, any recovery of any accrued negative amortization shall be first collected from the sale of the home, including the Grantee’s share of the net appreciation, and if not fully paid from the Grantee’s proceeds, then any balance due for the negative amortization may be collected from the State’s share of the net appreciation.

E. “**Fair Market Value**” means the fair market value of the Property as defined in applicable Hawaii Administrative Rules of the HHFDC, its successors or assigns, as may be amended from time to time, and as determined by an appraisal obtained and performed in the manner described below in paragraph 3, if and when the Grantee subsequently sells or transfers the Property.

F. “**Net Appreciation**” means:

$$\text{Fair Market Value of the Property} \\ \text{minus Grantee's Original Purchase Price}$$

2. HHFDC’S SHARE OF THE NET APPRECIATION DUE ON SALE OR TRANSFER OF THE PROPERTY

Except for a “Permitted Transfer”, as that term is defined below, the Grantee promises and agrees that if and when all or any part of or interest in the Property is sold or transferred or if the Grantee shall be divested of title or any interest in the Property, in any manner, voluntarily or involuntarily, including a judicial or nonjudicial foreclosure sale, HHFDC will immediately be entitled to a share of the Net Appreciation equal to:

$$\text{HHFDC’s Percentage Share X Net Appreciation}$$

The Grantee agrees to give HHFDC written notice as soon as the Grantee has reached an agreement or understanding for the sale or transfer of the Property together with the specific terms of such sale or transfer. The Grantee shall pay HHFDC's Percentage Share of the Net Appreciation on the effective date of such sale or transfer. If HHFDC's share of the Net Appreciation is not paid when due, interest on HHFDC's share of the Net Appreciation will accrue at the simple annual rate of 12% until paid. In addition, HHFDC will be entitled to be paid reasonable attorneys' fees and costs to enforce its rights hereunder. Subject to the provisions in paragraph 7, below, the obligation to pay HHFDC's share of the Net Appreciation will survive any Permitted Transfer with respect to the Grantee and any person or entity who acquires an interest in the Property as a result of a Permitted Transfer.

A sale or transfer of the Property will be deemed to have taken place upon the occurrence of any of the following events:

- A. When the Grantee sells or transfers the Property or any legal or beneficial right, title or ownership interest in the Property, including by way of an agreement of sale or a lease with an option to purchase the Property;
- B. When the Grantee no longer uses the Property as Grantee's principal residence but continues to retain legal and/or equitable title to the Property; or
- C. When the Grantee rents the Property or any part of the Property to someone else but continues to retain legal and/or equitable title to the Property.

HHFDC may, but is not required to, extend the time by when HHFDC's Share of the Net Appreciation will become due and payable for a period not exceeding one year if the Property is covered by a First Mortgage (as that term is defined below in paragraph 7) which is insured or held by FHA.

HHFDC may extend the time when HHFDC's share of Net Appreciation will become due and payable for a period not exceeding a total of ten years if the transfer is temporary and occurs:

- (i) When the Grantee no longer uses the Property as Grantee's principal residence but continues to retain legal and/or equitable title to the Property; or
- (ii) When the Grantee rents the Property or any part of the Property to someone else but continues to retain legal and/or equitable title to the Property; and

HHFDC determines, in HHFDC's sole discretion, that the temporary transfer is necessary because of adverse circumstances involving the Grantee, such as an unforeseen job or military transfer, a temporary educational sabbatical, a serious illness or other hardship circumstances as determined by the HHFDC. The extension may be provided if Grantee is a qualified resident who pays resident state income taxes during the period Grantee owns the Property and will continue to pay resident state income taxes during the temporary transfer extension period. If Grantee fails to reoccupy the Property as Grantee's principal

residence at the end of the extension period, HHFDC's share of Net Appreciation will be immediately due and payable.

The following transfers ("**Permitted Transfers**") will not result in HHFDC's share of the Net Appreciation becoming due and payable. However, the Grantee must still notify HHFDC and obtain HHFDC's consent prior to a Permitted Transfer.

- A. The creation of a lien or other encumbrance which does not relate to a transfer of rights of occupancy in the Property provided that the total amount of all liens and other encumbrances which are secured by the Property must not exceed 80% of the sum of the Grantee's Original Purchase Price plus the Grantee's Original Percentage Share of the Net Appreciation as determined by an appraisal obtained by HHFDC at the Grantee's cost and expense. For example, if the Grantee's Original Purchase Price is \$300,000 and if the Grantee's Original Percentage Share of the Net Appreciation is \$25,000, the total amount of all liens and other encumbrances, including the first mortgage loan cannot exceed \$260,000 (which is 80% of the sum of \$300,000 + \$25,000.);
- B. a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
- C. a transfer to a relative resulting from Grantee's death;
- D. a transfer where Grantee's spouse or children become an owner of the Property;
- E. a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which Grantee's spouse becomes an owner of the Property; and
- F. a transfer into an inter vivos trust in which Grantee is and remains the primary beneficiary and which does not relate to a transfer of rights of occupancy in the Property (i.e., Grantee must continue to use the Property as Grantee's principal residence after the transfer).

However, if the first mortgage is guaranteed or held by the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC"), (i) the foregoing Permitted Transfers may result in the Grantee being required to make immediate payment in full of all sums secured by such a first mortgage unless prohibited by federal laws; and (ii) with respect to a transfer described above in (c), (d) and (e), the mortgage may require the transferee to occupy the Property as the transferee's principal residence as a condition for not exercising any right to require the Grantee to make immediate payment in full of all sums secured by such a first mortgage.

3. DETERMINATION OF FAIR MARKET VALUE BY APPRAISAL

Whenever it shall become necessary to determine the Net Appreciation (as defined by applicable Hawaii Administrative Rules of the HHFDC, its successors or assigns, as may be amended from time to time), HHFDC will select an independent appraiser who has any of the qualifications set forth below and who shall prepare a written appraisal of the Fair Market Value of the Property within 45 calendar days after the Grantee has given HHFDC written notice that the Grantee will be selling or transferring the Property together with the terms of such sale or transfer. The appraisal shall be based on the floor plan and improvements and lot size as shown in Exhibit C-1. The appraisal shall not include the value of any improvements which the Grantee may have added to the Property after the date of the Deed. Items of repair and maintenance shall not be considered to be improvements. The Grantee will pay the cost of HHFDC's appraisal.

HHFDC will send to the Grantee by first class mail a copy of the written appraisal no later than ten (10) business days after the appraisal has been completed together with a notice informing the Grantee that the Grantee may procure an independent appraisal within 45 calendar days if the Grantee disputes HHFDC's appraisal.

If the Grantee does not dispute HHFDC's appraisal, that appraisal will constitute a final and conclusive determination of the Fair Market Value of the Property. If the Grantee disputes HHFDC's appraisal, the Grantee may, at the Grantee's own expense, procure an appraisal by an independent appraiser who has any of the qualifications set forth below. The Grantee will send a copy of the Grantee's appraisal to HHFDC within 10 business days after it has been completed. If the Grantee's appraisal is lower than HHFDC's appraisal, the Fair Market Value of the Property will be taken to be one-half the sum of the two appraisals. If the Grantee's appraisal is not lower, HHFDC's appraisal will govern.

All appraisals will be made only by an appraiser having one or more of the following current qualifications: (i) State of Hawaii licensed appraiser; or (ii) State of Hawaii certified appraiser.

4. RELEASE OF THIS EXHIBIT

Subject to the provisions of paragraph 7, below, HHFDC's right to be paid a share of the Net Appreciation will continue in full force and effect and will constitute a lien on the Property until one or both of the following events have occurred:

- A. The Grantee has sold or transferred the Property; and
- B. HHFDC has been fully paid HHFDC's share of the Net Appreciation and any other amounts which the Grantee is obligated to pay to HHFDC.

Thereafter, HHFDC will sign and cause to be recorded a release document which need only be signed by HHFDC and which acknowledges that the Grantee's obligation to pay HHFDC a share of the Net Appreciation has been fully satisfied and that this Exhibit C is then being released.

5. SALE OR TRANSFER OF THE PROPERTY TO HHFDC PURSUANT TO HRS. SEC 201H-47

The provisions in this Exhibit C will not apply in the case where HHFDC exercises, pursuant to Hawaii Revised Statutes Section 201H-47 as more fully set forth in the foregoing Exhibit B, HHFDC's first option to purchase the Property during the restriction period after the Grantee has purchased the Property.

If Grantee elects to pay all or any part of HHFDC's share of Net Appreciation in advance without having to sell or transfer the Property and HHFDC exercises its first option to purchase the Property, all funds received by HHFDC will be reimbursed to Grantee with no interest.

6. PAYMENT OF HHFDC'S PERCENTAGE SHARE OF NET APPRECIATION IN ADVANCE

The Grantee may elect to pay all or any part of HHFDC's share of the Net Appreciation at any time and in advance without having to sell or transfer the Property. If the Grantee pays only a part of HHFDC's share of the Net Appreciation in advance, the Grantee's Original Purchase Price will be increased after the payment is made for the purpose of making any later calculation to determine the balance of HHFDC's share of the Net Appreciation. The Grantee's Original Purchase Price, as increased, will be referred to as the "Grantee's Adjusted Purchase Price" which will be equal to the sum of:

Grantee's Original Purchase Price
plus Partial Payment Amount divided by HHFDC's Percentage Share
plus Any prior increase(s) to the Grantee's Original Purchase Price

The Grantee's Adjusted Purchase Price will be substituted for the "Grantee's Original Purchase Price" for any subsequent calculation of the Net Appreciation under Section 1.F.

7. FIRST MORTGAGEE PROTECTION

The foregoing provisions shall not apply with respect to:

- (a) The first purchase money mortgage ("**First Mortgage**"), if any, which is being placed on the Property.
- (b) The first purchase money mortgagee ("**First Mortgagee**") named in the First Mortgage, including the first purchase money mortgagee's successors and assigns.
- (c) The rights of the First Mortgagee to foreclose or take title pursuant to the remedies in the First Mortgage, to accept a deed in lieu of foreclosure in the event of default by the Grantee, as mortgagor under the First Mortgage, or to sell or lease the Property acquired by the First Mortgagee.
- (d) Any person or persons acquiring the Property as a result of foreclosure or by a deed in lieu of foreclosure of the First Mortgage or any successor, transferee, or assignee of such person or persons.

Provided, however, that the Grantee promises and agrees to provide notice to HHFDC of the First Mortgage and to cause the holder of the First Mortgage to provide written notice to HHFDC of any default under the First Mortgage. Provided, further, however, if the First Mortgage is (i) insured or held by FHA or (ii) guaranteed or held by FNMA or FHLMC, the Grantee's failure to cause the holder of the First Mortgage to provide written notice to HHFDC of any default under the First Mortgage or any failure of the holder of the First Mortgage to provide such written notice shall not affect such holder's rights under this paragraph 7.

HHFDC specifically subordinates any lien or contingent lien rights that HHFDC may have under this Exhibit C to the lien of the First Mortgage. Any holder of the First Mortgage or any person who acquires legal title to the Property as a result of a foreclosure or a deed in lieu of foreclosure of the First Mortgage shall acquire legal title free of such lien or contingent lien rights that HHFDC may have under this Exhibit C. This Exhibit C shall be null and void upon a conveyance of the Property through a foreclosure sale or a deed in lieu of foreclosure.

8. NOTICE TO THE GRANTEE:

THIS EXHIBIT C PROVIDES THAT IF THE GRANTEE SELLS OR TRANSFERS THE PROPERTY, HHFDC WILL BE ENTITLED TO BE PAID IMMEDIATELY A SHARE OF THE NET APPRECIATION OR EQUITY IN THE PROPERTY. THIS EXHIBIT C ALSO EXPLAINS WHEN A SALE OR TRANSFER OF THE PROPERTY HAS OR WILL BE DEEMED TO HAVE TAKEN PLACE. IF THE PROPERTY IS SOLD OR TRANSFERRED AND THE GRANTEE DOES NOT PAY HHFDC'S SHARE OF THE NET APPRECIATION OR EQUITY IN THE PROPERTY AS SET FORTH ABOVE, HHFDC MAY TAKE LEGAL ACTION WHICH MAY RESULT IN THE FORECLOSURE SALE OF THE PROPERTY. IF THERE IS A FIRST MORTGAGE COVERING THE PROPERTY WHICH IS INSURED OR HELD BY FHA, FHA MAY NOT BE ABLE TO HELP THE GRANTEE.

By signing below, Grantee acknowledges, accepts and agrees to the foregoing program requirements of the Hawaii Housing Finance and Development Corporation (HHFDC), its successors or assigns, including but not limited to obtaining the HHFDC's prior written consent and approval when engaging in any activity pertaining to Grantee's occupancy as the principal residence; transfer; mortgage finance, refinance and/or modification; and sale of the property while this exhibit is in effect; and until such time that the program is satisfied by the Grantee and released by the HHFDC, its successors or assigns.

GRANTEE:

Exhibit C-1

UNIT'S FLOOR PLAN

(Replace this page with the Unit's floor plan)

END OF EXHIBIT "C-1"