

KUILEI PLACE
PURCHASE AGREEMENT
MARKET UNIT

ACKNOWLEDGMENT OF RECEIPT, OPPORTUNITY TO REVIEW, AND ACCEPTANCE OF PROJECT DOCUMENTS

THE FOLLOWING PROJECT DOCUMENTS, WHICH ARE REFERRED TO IN THIS PURCHASE AGREEMENT, FORM AN ESSENTIAL PART OF THIS PURCHASE AGREEMENT. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS RECEIVED COPIES OF EACH OF THE FOLLOWING PROJECT DOCUMENTS AND THAT PURCHASER HAS HAD A FULL AND COMPLETE OPPORTUNITY TO READ, REVIEW, AND EXAMINE, OR WILL DO SO DURING THE STATUTORY THIRTY (30)-DAY CANCELLATION PERIOD, EACH OF THE FOLLOWING PROJECT DOCUMENTS, WHICH MAY BE AMENDED AND SUPPLEMENTED FROM TIME TO TIME.

1. Developer's Public Report(s) and Amendment(s) ("**Public Report**")
2. Declaration of Condominium Property Regime of Kuilei Place ("**Declaration**")
3. Bylaws of the Association of Unit Owners of Kuilei Place ("**Bylaws**")
4. Condominium Map
5. Rules and Regulations of the Association of Unit Owners of Kuilei Place ("**House Rules**")
6. Form of Limited Warranty Unit Deed, Encumbrances and Reservation of Rights with Power of Attorney for Kuilei Place ("**Unit Deed**")
7. Escrow Agreement

This Purchase Agreement is made by and between 2599 Kapiolani Owner, L.P., a Delaware limited partnership, whose address is 2270 Kalakaua Avenue, Suite 1788, Honolulu, Hawaii 96815 ("**Seller**"), and "**Purchaser**" named in **Section B**, below. This Purchase Agreement shall be effective and binding in accordance with **Section D.6**, below. All capitalized terms used herein and not otherwise defined shall have the meaning set forth in **Exhibit A** attached hereto and made a part hereof, or in the Declaration. The purchase and sale transaction described in this Purchase Agreement is to be administered by Title Guaranty Escrow Services, Inc., a Hawaii corporation ("**Escrow**"), and is made with reference to the following facts:

DISPUTE NOTIFICATION & RESOLUTION PROCEDURES

All "**Disputes**" (as defined below) arising from this shall be subject to the dispute notification and resolution procedures set forth in **Section E.35** below. Purchaser acknowledges that Purchaser has received and has had a full and complete opportunity to read, review and examine the provisions of **Section E.35** below.

Purchaser's Initials _____

A. DESCRIPTION OF THE PROPERTY COVERED BY THIS PURCHASE AGREEMENT.

Unit No. _____ in the Kuilei Place condominium project, situate at Kuilei, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, identified as Tax Map Key No. (1) 2-7-022:051 ("**Project**"), as described in the Declaration and depicted on the Condominium Map, together with the following:

- 1. The undivided percentage interest in the Common Elements, as set forth in the Declaration; and
- 2. Parking Stall No(s): _____; and
- 3. Storage Room/Storage Locker No(s): _____.

TOGETHER WITH any other Limited Common Element(s) (as defined in the Declaration) appurtenant to the Unit, as described in the Declaration. The Unit's floor plans, number of bedrooms and baths, approximate net living area, area of the lanai (if any), total approximate net area, and appurtenant Common Interest are set forth in the Declaration.

TOGETHER WITH AND/OR SUBJECT TO certain other easements and/or any other encumbrances recorded against the Project described or reserved in the Declaration and Purchaser's Unit Deed.

The description provided under this **Section A** shall collectively be called the "**Unit**."

B. INFORMATION CONCERNING PURCHASER.

Purchaser certifies and affirms that the information provided below is correct and complete and agrees to inform Seller immediately if any details are changed. If, as a result of incorrect information provided by Purchaser or a change in the identity of Purchaser, the Unit Deed is prepared incorrectly and must be redrawn, Purchaser agrees to pay all costs involved in such redrafting by payment through Escrow. The name of Purchaser shall be noted as Purchaser's full legal name, no initials.

Complete if Purchaser is an individual person or persons:

Full Name: _____ Country: _____

Address: _____ Zip _____ Code: _____

City: _____ State: _____

Res. Phone: _____ Bus. Phone: _____ Cell _____ Phone: _____

Fax No.: _____ E-Mail: _____

Purchaser's Initials _____

() Single

() Married

If married, will vesting of title include spouse? () Yes () No

Full name of spouse: _____

Purchaser's Initials _____

Full Name: _____ **Country:** _____

Address: _____ Zip _____ Code: _____

City: _____ State: _____

Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____

Fax No.: _____ E-Mail: _____

() Single () Married If married, will vesting of title include spouse? () Yes () No

Full name of spouse: _____

Full Name: _____ **Country:** _____

Address: _____ Zip _____ Code: _____

City: _____ State: _____

Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____

Fax No.: _____ E-Mail: _____

() Single () Married If married, will vesting of title include spouse? () Yes () No

Full name of spouse: _____

Full Name: _____ **Country:** _____

Address: _____ Zip _____ Code: _____

City: _____ State: _____

Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____

Fax No.: _____ E-Mail: _____

() Single () Married If married, will vesting of title include spouse? () Yes () No

Full name of spouse: _____

Complete if Purchaser is a Trust:

Full Name of Trust: _____
Full Name of Trustee(s): _____
Address: _____ Zip Code: _____
City: _____ State: _____
Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____
Fax No.: _____ E-Mail: _____

Complete if Purchaser is a corporation, partnership, limited liability company or limited liability partnership:

Full name of corporation, partnership, limited liability company or limited liability partnership: _____
() corporation () general partnership () limited partnership () limited liability company
() limited liability partnership

State of incorporation/formation: _____
Business address: _____
City: _____ State: _____
Print full name(s) of authorized officer(s), partner(s), member(s), or manager(s) signing this Purchase Agreement:

Name: _____ Position/Title: _____
Mailing Address: _____ Zip Code: _____
City: _____ State: _____
Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____
Fax No.: _____ E-Mail: _____

Name: _____ Position/Title: _____
Mailing Address: _____ Zip Code: _____
City: _____ State: _____
Res. Phone: _____ Bus. Phone: _____ Cell Phone: _____
Fax No.: _____ E-Mail: _____

Reason for purchase (for mortgage's use in processing Purchaser's loan application):

() Owner-Occupant () Second Home () Investment

(NOTE: The following documents shall be delivered by Purchaser to Seller upon Purchaser's execution of this Purchase Agreement: (i) if Purchaser is a corporation, a resolution of the board of directors of such corporation authorizing the purchase hereunder and declaring which officer(s) is (are) authorized to execute this Purchase Agreement and all documents in connection herewith; (ii) if Purchaser is a foreign (non-Hawaii) corporation, a copy of its license to do business in the State of Hawaii or other evidence that it has registered to do business in the State of Hawaii or is not required to register to do business in Hawaii; (iii) if Purchaser is a partnership or limited partnership, a copy of the Partnership Agreement or Limited Partnership Agreement (as applicable) and a copy of the partnership or limited partnership registration statement filed with the Department of Commerce and Consumer Affairs of the State of Hawaii (the "DCCA"); (iv) if Purchaser is a limited liability company, a copy of the Operating Agreement and a copy of the Articles of Organization filed at the DCCA; (v) if Purchaser is a limited liability partnership, a copy of the Partnership Agreement and a copy of the Certificate of Limited Partnership filed at the DCCA; and (vi) if Purchaser is a trustee, a copy of the trust instrument or short form thereof, with an appropriate recitation as to the authority of the trustee.) PURCHASER ACKNOWLEDGES AND AGREES THAT IF PURCHASER IS A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER ENTITY THAT IS NOT A NATURAL PERSON, SELLER MAY REQUIRE, AS A CONDITION TO ACCEPTANCE OF THIS PURCHASE AGREEMENT, THAT PURCHASER'S OBLIGATIONS UNDER THIS

Purchaser's Initials _____

PURCHASE AGREEMENT BE GUARANTEED BY A FINANCIALLY RESPONSIBLE NATURAL PERSON WHO IS ACCEPTABLE TO SELLER, IN ITS SOLE DISCRETION.

C. NATURE OF TENANCY.

The manner of vesting of title ("**Tenancy**") shall be as follows and is at the discretion of Purchaser and can have significant legal and tax consequences. If Purchaser is unable to choose a manner of vesting at this time, Purchaser shall advise Seller and Escrow as soon as possible, but no later than twenty (20) calendar days prior to the Pre-Closing Date, as defined in **Exhibit A**. The information appearing in **Section B** above and any vesting information provided to Escrow by Purchaser will be used for preparing the Unit Deed. Purchaser affirms that the information is correct and complete and agrees to inform Seller immediately if any of those details are changed. If, as a result of incorrect information provided by Purchaser or a change in the identity of Purchaser, the Unit Deed is prepared incorrectly and must be redrawn, Purchaser agrees to pay all costs involved in such redrafting through Escrow.

Please check one:

- () Severalty (one purchaser; individual or entity)
- () Tenants in Common (two or more persons; no rights of survivorship)
- () Joint Tenants (two or more persons with rights of survivorship)
- () Tenants by the Entirety (husband and wife, or reciprocal beneficiaries with rights of survivorship)
- () In Trust (trustee(s) on behalf of trust entity)
- () To be determined

In the event that Purchaser fails to designate the nature of tenancy at least twenty (20) calendar days prior to the Pre-Closing Date, Purchaser, if a sole owner, will take title as a tenant in severalty; multiple purchasers other than married couples or partners in a civil union will take title as tenants in common; Purchaser, if a married couple or partners in a civil union, will take title as tenants by the entirety. If Purchaser consists of more than one married couple or civil union couple, the individuals in a married couple or civil union couple will take title as tenants by the entirety as to each other, and each married couple or civil union couple will be a tenant in common with every other couple, individual, corporation, limited liability company, partnership, or limited liability partnership. Whenever a couple, individual, corporation, limited liability company, partnership, or limited liability partnership takes title with another couple, individual, corporation, limited liability company, partnership, or limited liability partnership as tenants in common, each tenant in common will take an equal interest, unless otherwise specified.

D. TOTAL PURCHASE PRICE; METHOD AND SCHEDULE OF PAYMENT; ADDITIONAL SUMS TO BE PAID; ETC.

1. Total Purchase Price. The Total Purchase Price for the Unit is \$_____.

2. Method and Schedule of Payment. Payment shall be made by () all cash **OR** () cash down payment and the difference by way of a mortgage loan. The payment schedule shall be as follows:

(a) Initial Deposit	\$ _____	Initial Deposit of five percent (5%) of the Total Purchase Price due upon Purchaser's execution of this Purchase Agreement. If the Initial Deposit does not clear within seven (7) calendar days of Escrow's receipt thereof, Seller, in its sole discretion, shall have the right to immediately cancel this Purchase Agreement as null and void and any funds received from Purchaser shall be returned to Purchaser in full.
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Purchaser's Initials _____

(b) Second Deposit \$ _____ Second Deposit of fifteen percent (15%) of the Total Purchase Price, due no later than ninety (90) calendar days after the later of: (a) the date of Seller's delivery to and Purchaser's receipt of the Public Report; or (b) the date Purchaser executes this Purchase Agreement.

(c) Balance Due \$ _____ Being the remaining balance of the Total Purchase Price, payable by Purchaser on the earlier of: (a) the PreClosing Date, or (b) four (4) business days prior to the Closing Date; provided that if a portion of the balance of the Total Purchase Price is being paid from the proceeds of Purchaser's mortgage loan, the mortgage loan proceeds shall be paid no later than the date specified in the Seller's Pre-Closing Notice (if applicable), but in no event later than three (3) business days prior to the Closing Date.

IF PURCHASER DOES NOT MAKE PAYMENT ON TIME, MEANING ON THE DUE DATES SET FORTH IN **SECTION D.2** ABOVE, OR IF PURCHASER HAS INSUFFICIENT FUNDS TO COVER ANY CHECK PAYMENTS, SELLER, IN ITS SOLE DISCRETION, MAY CANCEL PURCHASER'S PURCHASE AGREEMENT AND EXERCISE ITS REMEDIES AS SET FORTH IN **SECTION E.33** OF THE "**GENERAL TERMS AND CONDITIONS**" BELOW, AND/OR MAY CHARGE PURCHASER A LATE CHARGE OF TWELVE PERCENT (12%) PER ANNUM, PRORATED DAILY, BASED ON THE AMOUNT OF SUCH PAYMENT.

3. Additional Sums to be Paid. In addition to the Total Purchase Price set forth above, (a) a Project start-up fee (being a non-refundable, non-transferable "**start-up**" fee for the Association) in an amount equivalent to two (2) months' estimated maintenance fees for the Unit; (b) two (2) month's estimated maintenance fees for the Unit as an advance payment for the initial two (2) months' maintenance fees payable by an Owner; (c) an amount equivalent to two (2) months' estimated maintenance fees to be applied to the Association's purchase of the Resident Manager's Apartment; and (d) all estimated Closing Costs and Prorations as set forth in **Section E.11** below, shall be payable by Purchaser to Escrow on the earlier of (i) the Pre-Closing Date as instructed in Seller's Pre-Closing Notice pursuant to **Section E.8** of the "**General Terms and Conditions**" below, or (ii) four (4) business days prior to the Closing Date. If Purchaser has pre-closed and Escrow determines, prior to the Closing Date, that additional amounts are due to fully pay all Closing Costs and Prorations, then, and in such event, Purchaser shall pay the additional amounts to Escrow within five (5) business days of Purchaser's receipt of such notice from Escrow. If any excess amounts are prepaid by Purchaser with respect to Closing Costs and Prorations, then such excess amounts shall be refunded to Purchaser by Escrow within a reasonable period of time after the Closing Date. For purposes of this Purchase Agreement, the Project start-up fee is not an advance payment of future maintenance fee assessments but rather is intended to and shall be used to fund and pay for all costs and expenses typically associated with the opening of a new residential building, including by way of example and not limitation, office furniture and equipment for Managing Agent (including computer(s) and software programs), initial maintenance supplies and equipment for the Project, artwork and appliances for the Common Elements, communications equipment for Association staff, secured entry fobs or cards, and the initial premiums for the Project insurance. Seller shall have the right to use the Project start-up fees to pay for these costs and expenses and/or to be reimbursed for the cost of the same if previously purchased and paid for by Seller. Any surplus funds shall be deposited with the Association.

4. Purchase Agreement. Seller agrees to sell and Purchaser agrees to purchase the Unit described in **Section A** above for the Total Purchase Price and in accordance with the "**Method and Schedule of Payment**" described above. THE PURCHASE AND SALE OF THE UNIT IS SUBJECT TO AND IN CONSIDERATION OF THE "**GENERAL TERMS AND CONDITIONS**" SET FORTH IN **SECTION E** OF THIS PURCHASE AGREEMENT, WHICH BY THIS REFERENCE ARE MADE A PART HEREOF AND INCORPORATED HEREIN FOR ALL PURPOSES. PURCHASER ACKNOWLEDGES HAVING READ THIS PURCHASE AGREEMENT IN FULL AND IS AWARE OF AND ACCEPTS THE TERMS, CONDITIONS, AND LIMITATIONS, AND DISCLAIMER OF WARRANTIES DESCRIBED HEREIN AND ACKNOWLEDGES THAT THIS PURCHASE AGREEMENT IS COMPRISED OF PAGES 1 THROUGH 32 OF THIS PURCHASE AGREEMENT, AND INCLUDES **SECTIONS A THROUGH E**, TOGETHER WITH **EXHIBIT A** ATTACHED HERETO AND MADE A PART HEREOF, AND ANY ADDENDUM(S) AND/OR AMENDMENT(S) TO THIS PURCHASE AGREEMENT.

5. Acceptance by Seller. The signature of the Project Broker on this Purchase Agreement only acknowledges receipt of the payment(s) paid with this Purchase Agreement and does not constitute acceptance by Seller. **Receipt and deposit of Purchaser's funds do not constitute Seller's acceptance of this offer to purchase. Seller or Project Broker may hold Purchaser's deposit check uncashed until Seller accepts this Purchase Agreement by executing the same. This Purchase Agreement shall not be deemed accepted and shall not be of any force and effect until the Contract Date, which is the date that this Purchase Agreement is accepted and executed by Seller, which acceptance and execution shall be at Seller's sole discretion. Seller's sales agents are not authorized to accept Purchaser's offer to purchase. Seller shall deliver a copy of the Purchase Agreement executed by both Purchaser and Seller to Purchaser and Escrow.** If Seller does not accept this Purchase Agreement within a reasonable time after Purchaser's execution, then this Purchase Agreement shall be automatically revoked, and all funds Purchaser has deposited with Seller shall be promptly refunded to Purchaser. When accepted by Seller, this Purchase Agreement constitutes the sole contract between Purchaser and Seller regarding the purchase and sale of the Unit. There are no collateral understandings, representations or agreements, oral or written, between Seller and Purchaser, other than those contained herein. No sales representative, employee, or other agent of Seller has the authority to modify the terms of this Purchase Agreement or to make any agreements, representations, or promises on behalf of Seller. Therefore, although Purchaser has had, and in the future may have, conversations with sales representatives or other agents of Seller, none of the information contained or provided in such conversations including representations, promises, or statements of any kind shall be binding upon Seller unless the same are added by written addenda attached hereto and executed by Purchaser and Seller.

6. Binding Agreement; Delivery of Hawaii Developer's Public Report. This Purchase Agreement shall become binding when (a) Seller delivers to Purchaser (i) a true copy of the Public Report with an effective date issued by the Commission and all amendments thereto, and (ii) the Notice of Right to Cancel; and (b) Purchaser either (i) affirmatively waives Purchaser's right to cancel this Purchase Agreement, or (ii) is deemed to have waived the right to cancel as described below.

Pursuant to Section 514B-86 of the Hawaii Revised Statutes, as amended, Purchaser has the right to cancel this Purchase Agreement at any time up to midnight of the thirtieth (30th) calendar day after (a) the date Purchaser signs this Purchase Agreement and (b) the Public Report and Notice of Right to Cancel are delivered to Purchaser. It is understood that Purchaser may, at any time after Purchaser's receipt of the Public Report and the Notice of Right to Cancel, waive Purchaser's right to cancel this Purchase Agreement by checking the waiver box on the Notice of Right to Cancel and delivering it to Seller. If Purchaser shall fail to take any action to cancel this Purchase Agreement within the thirty (30)-day cancellation period, Purchaser shall be deemed to have waived Purchaser's right to cancel this Purchase Agreement (by Purchaser's failure to give said written notice of cancellation within the thirty (30)-day period). The conveyance of the Unit to the Purchaser within the thirty (30)-day cancellation period referenced above shall also be treated as a waiver by Purchaser of Purchaser's right to cancel this Purchase Agreement.

Purchaser acknowledges that Purchaser has received and reviewed or will review during the 30day cancellation period, a copy of the Public Report, and any applicable amendments thereto, along with the Notice of Right to Cancel, for the Project prior to signing this Purchase Agreement. Purchaser agrees that Purchaser either has or will read the remaining Project Documents for the Project prior to the date that Purchaser's statutory rescission period expires. Purchaser further approves and accepts the terms of all of said Project Documents. Purchaser agrees to consult with Purchaser's advisor or counsel if Purchaser does not understand any provision in any of the Project Documents, and Purchaser acknowledges that Seller and/or Seller's designated agent will not and did not provide legal interpretation of the Project Documents or legal

advice. Purchaser further understands and accepts that upon Purchaser's waiver or deemed waiver of the statutory rescission period under Section 514B-86 of the Hawaii Revised Statutes, as amended, Purchaser shall be deemed to have approved and accepted the terms of all of said Project Documents. Purchaser acknowledges and accepts that nonmaterial amendments and amended public reports are not subject to Section 514B-86 of the Hawaii Revised Statutes, as amended, and instead are governed by Section 514B-56 of the Hawaii Revised Statutes, as amended.

7. **Completion Deadline.** Seller shall complete construction of the Unit so as to permit normal occupancy of the Unit within six (6) years from the date this Purchase Agreement becomes binding pursuant to **Section D.6**, above (the "**Completion Deadline**"). Notwithstanding the foregoing, such six (6) year period shall be extended for any period of time during which Seller is actually and necessarily delayed in beginning or completing construction by Force Majeure. In the event that Seller fails to complete construction of the Unit by the Completion Deadline, as the same may be extended by reason of Force Majeure, to the extent permitted by applicable law, Purchaser's sole remedy shall be to cancel this Purchase Agreement and receive a refund of all monies paid, plus any interest earned thereon, less any escrow Cancellation Fee and other costs associated with the purchase, up to a maximum of Two Hundred Fifty and No/100 Dollars (\$250.00). If Purchaser fails to cancel this Purchase Agreement within thirty (30) calendar days of the expiration of the Completion Deadline, Seller will thereafter have the right to cancel this Purchase Agreement; provided that should Seller elect to cancel this Purchase Agreement pursuant to this Section, Purchaser shall be entitled to a prompt and full refund of all moneys paid, plus any interest earned thereon.

8. **AGENCY DISCLOSURE.** . In connection with the sale of the Unit pursuant to the Public Report, Purchaser acknowledges that COMPASS HAWAII, LLC, dba Compass and all of its salespersons and brokers (collectively, "**Project Broker**"), represent Seller and not Purchaser, unless the Project Broker is acting as a designated agency (representing both Seller and Purchaser) and has so advised both Seller and Purchaser. By initialing below, Purchaser acknowledges that written disclosures relating to agency have been provided prior to signing this Purchase Agreement.

Purchaser's Initials _____

9. **Cooperating Broker Representing Purchaser.** Purchaser is (____)/is not (____) represented by a real estate broker. If Purchaser is represented by a real estate broker, such representation shall be evidenced by (i) insertion of such broker's name below, and (ii) a Cooperating Brokerage Agreement signed by Seller's Broker and Purchaser's Broker and referring specifically to this Purchase Agreement. Purchaser acknowledges and agrees that neither Purchaser's Broker nor any real estate licensees employed by or associated with Purchaser's Broker can make any promises or representations on behalf of or that are binding on Seller or Seller's Broker.

Name of Purchaser's Broker (write "none" if Purchaser is not represented)

License No. and State of License

Company Name of Purchaser's Broker

Phone Number of Purchaser's Broker

Address of Purchaser's Broker

Email Address of Purchaser's Broker

If Purchaser has designated that Purchaser is not represented by an outside real estate agent in the blank provided above in this Section, Purchaser understands that Purchaser is making a representation that Purchaser is not represented by a broker.

Purchaser's Initials _____

10. ADDITIONAL TERMS AND CONDITIONS FOR THIS PURCHASE AGREEMENT CONTINUE BEGINNING ON PAGE 10. THOSE TERMS AND CONDITIONS ARE PART OF THIS PURCHASE AGREEMENT. If checked, this Purchase Agreement also includes the attached addenda, which are incorporated into this Purchase Agreement by this reference:

Purchaser's Initials _____

- () Cooperating Broker Agreement
- () Personal Guaranty of Purchaser's Obligations (Required for all entity purchasers)

11. **Authorization for Electronic Communications.** Purchaser does ____/does not ____ authorize Seller to deliver communications, notices, and documents by email to Purchaser's email address(es) set forth above.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, Purchaser has executed this Purchase Agreement as of the date indicated below.

Purchaser's Signature

Purchaser's Signature

Purchaser's name (print)

Purchaser's name (print)

Purchaser's Signature

Purchaser's Signature

Purchaser's name (print)

Purchaser's name (print)

Date signed by Purchaser: _____

Receipt of Initial Deposit is acknowledged

Received By: _____

Project Agent Name: _____

This Purchase Agreement was reviewed by Project Broker.

Reviewed By: _____

Name: _____

Its: _____

This Purchase Agreement is accepted by Seller.

2599 KAPIOLANI OWNER, L.P., a Delaware limited partnership

By 2599 Kapiolani GP, LLC, a Delaware limited liability company,
Its General Partner

By: _____

Name: _____

Its: _____

Date signed by Seller: _____ ("**Contract Date**")

E. **GENERAL TERMS AND CONDITIONS OF THIS PURCHASE AGREEMENT.**

The general terms and conditions set forth herein shall be an integral part of the Purchase Agreement and together with the preceding pages 1 through 9 and **Sections A through D** and **Exhibit A** attached hereto shall constitute the entire Purchase Agreement entered into between Purchaser and Seller. In consideration of the respective covenants and agreements contained in this Purchase Agreement, Seller and Purchaser agree as follows:

INFORMATION CONCERNING THE PROJECT AND THE UNIT

1. Project Information. The Project is being developed and sold in cooperation with HHFDC pursuant to Hawaii Revised Statutes Chapter 201H and related sections of Hawaii Administrative Rules Title 15, Chapters 307 and 308 (collectively, the "**HHFDC Laws**"). The development and use of the Project are subject to the terms and provisions of the Development Agreement between Developer and HHFDC. The project is a proposed 1,005-unit high-rise residential condominium project that will include affordable and market priced for-sale housing units and a commercial retail space, located in the City and County of Honolulu ("**County**"), State of Hawaii. A total of six hundred three (603) units or 60% of the total units will be sold as affordable housing units (the "**Affordable Housing Units**"). The other four hundred one (401) residential units will be market priced units (the "**Market Units**").

The Project is situated on approximately 137,190 square feet of land, further described in the Declaration. Seller submitted the land and all buildings and improvements built or to be built thereon to a condominium property regime under Hawaii Revised Statutes Chapter 514B, as amended, pursuant to the Declaration.

2. Description of Unit. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller, in fee simple, the Unit in accordance with the terms of this Purchase Agreement. The Unit shall be sold in accordance with and subject to all of the applicable limited warranties, terms, covenants, provisions, easements, rights, reservations, agreements, encumbrances, and other provisions contained herein and in the Project Documents.

3. Appliances and Furnishings Included with the Unit. All units will include the following appliances and furnishings: kitchen cabinets and countertops; electric range and oven; dishwasher; garbage disposal; microwave oven/ventilation hood; refrigerator/freezer; washing machine; clothes dryer; air conditioner units; and bathroom vanities and countertops. Purchaser understands that materials used in construction such as wood, paint, tile, stone, and the like, are subject to shading, the gradation of which may vary from samples, models, or color charts, and from piece to piece, and Seller will not be liable for such variation. No other appliances, furnishings, fixtures, or wall or floor coverings, whether or not shown in any renderings, conceptual plans, advertising materials, or model units, are included in the Unit unless otherwise stated in this Purchase Agreement.

PAYMENT TERMS, INTEREST ON DEPOSITS, CLOSING AND OCCUPANCY

4. Payment of Total Purchase Price. For the Unit, Purchaser agrees to pay the Total Purchase Price and all other amounts due hereunder, in immediately available funds denominated in United States Dollars, in the amounts and by the dates set forth in **Section D.2** above. The Initial Deposit shall be made by payment to Escrow through the Project Broker. Subsequent payments required under this Purchase Agreement shall be made by Purchaser directly to Escrow or through the Project Broker. Purchaser hereby authorizes Purchaser's mortgagee(s) to disburse the proceeds of any mortgage loan(s) to Escrow.

5. Interest on Contract Deposit. Purchaser understands and agrees that Purchaser may elect to receive interest on Purchaser's Contract Deposit in the form of a credit to Purchaser's escrow account upon Closing; provided that should Closing not occur, Purchaser shall not receive any interest accrued on Purchaser's Contract Deposit held in Escrow or a credit, unless otherwise provided herein. The amount of interest calculated under this Section shall begin to accrue (i) as to the Initial Deposit, upon the expiration of any cancellation period or any deemed waiver thereof and Seller's execution of this Purchase Agreement, and Escrow's deposit of the same into an interest-bearing account; and (ii) as to the Second Deposit, on the date Escrow deposits the same into an interest-bearing account. No interest shall be paid on such deposits (a) prior to the Contract Date; (b) during any rescission period given pursuant to the Public Report, unless waived; (c) prior to Escrow's deposit of the same into an interest bearing account; (d) held by Escrow during the sixty (60) calendar days immediately

preceding the scheduled Closing Date to accommodate a bulk closing of units by Seller; or (e) **as may be used by Seller to pay for construction costs and other expenses as provided in Section 514B-92 of the Hawaii Revised Statutes, as amended, upon the disbursement of said funds by Escrow.** Escrow shall establish a separate account for Purchaser, and Purchaser shall provide Escrow with Purchaser's social security number or federal tax identification number. Purchaser shall pay Escrow a fee of Fifty and No/100 Dollars (\$50.00) for each separate account created.

6. Purchaser's Financial Status: No Financing Contingencies.

a. Application for Loan Pre-Qualification Letter Confirming Purchaser's Ability to Pay Total Purchase Price. Purchaser represents that Purchaser is able to make, when due, all of the payments required under **Section D** above. Within ten (10) calendar days after the Contract Date, Purchaser shall submit to one of the financial institutions designated by Seller or otherwise approved by Seller from time to time ("**Project Lender**") an application for a qualification letter, together with such additional information and documents as Project Lender shall require or deem necessary or appropriate to confirm (i) Purchaser's ability to pay the Total Purchase Price from Purchaser's own funds, or (ii) Purchaser's ability to obtain a mortgage loan in an amount at least equal to the portion of the Total Purchase Price to be paid by mortgage loan proceeds ("**Pre-Qualification Letter**"). It is understood and accepted that only a Pre-Qualification Letter issued by a Project Lender shall comply with the requirements of this Purchase Agreement. The information and documents required or deemed necessary by the Project Lender may include Purchaser's financial statement(s), tax returns, deposit and income verifications, and such other information and documents as Seller may reasonably require. Purchaser shall pay any and all processing and other fees or charges associated with the issuance of the Pre-Qualification Letter.

b. Pre-Qualification Letter. Within thirty (30) calendar days of the Contract Date, Purchaser must submit to Seller a Pre-Qualification Letter, in form and content acceptable to Seller (in Seller's sole discretion), issued by a Project Lender.

c. Purchaser's Failure to Obtain Pre-Qualification Letter; Purchaser's/Seller's Option to Terminate. If Purchaser shall have applied for a Pre-Qualification Letter and diligently pursued such application as herein provided, and Purchaser does not obtain a Pre-Qualification Letter in form and content acceptable to Seller (in Seller's sole discretion) within thirty (30) calendar days of the Contract Date, then and in such event, Purchaser shall have the right and option to terminate this Purchase Agreement at any time up to thirty (30) calendar days after the end of that period, and Seller shall have the right to terminate this Purchase Agreement at any time up to thirty (30) calendar days after the end of that period, and in either case, Escrow shall refund to Purchaser all monies previously paid by Purchaser, less any Cancellation Fee. Except as provided in this Section, Purchaser's obligations under this Purchase Agreement are not subject to or contingent on financing.

d. Mortgage Financing. If, as evidenced by the Pre-Qualification Letter, Purchaser will be utilizing mortgage financing to pay for a portion of the Total Purchase Price, then the following provisions shall apply:

i. Purchaser represents and understands that Purchaser is solely responsible for taking all necessary and appropriate steps as requested from time to time by (A) a Project Lender, (B) a lender arranged for, by, or through Project Lender, or (C) a lender selected by Purchaser (the applicable one of (A), (B), or (C) being the "**Purchaser's Permanent Lender**") to complete the process of applying for and obtaining the required mortgage loan proceeds ("**Purchaser's Permanent Loan**") as set forth in this Purchase Agreement from Purchaser's Permanent Lender. No guarantee has been given by Seller or its agents or sales representatives that Purchaser will either qualify for financing offered by or through Purchaser's Permanent Lender or be able to obtain any other loan or financing. All financing and the terms and conditions thereof, including impound payments and interest rate, are a matter of concern solely between Purchaser and Purchaser's Permanent Lender and shall not affect the rights or obligations of Seller or Purchaser under this Purchase Agreement. The sale and purchase of the Unit is not contingent upon Purchaser's ability to secure financing from a mortgage lender or on Purchaser's ability to sell Purchaser's current residence or any other property or asset. The sale and purchase of the Unit are not contingent upon Purchaser's ability to retain the interest rate quoted at the time of approval of the Pre-Qualification Letter or Purchaser's Permanent Loan, and Purchaser will be required to pay the interest charged by Purchaser's Permanent Lender at Closing. Purchaser is solely responsible for any loan fees or other charges payable to Purchaser's Permanent Lender in processing, issuing, or cancelling Purchaser's Permanent Loan. Purchaser further understands that Escrow may charge an additional escrow fee for the administration, handling, and processing of Purchaser's

Permanent Loan with a lender that does not have and/or process Purchaser's Permanent Loan through an office in Hawaii, and that Purchaser shall be fully responsible for any such additional escrow fee. Purchaser acknowledges and confirms that it is the sole responsibility of Purchaser to remain qualified for Purchaser's Permanent Loan, and Purchaser shall not take or fail to take any action for the purpose or intent of being subsequently denied. In order to facilitate Seller's awareness of Purchaser's progress in obtaining and maintaining Purchaser's Permanent Loan, Purchaser authorizes Purchaser's Permanent Lender to transmit to Seller upon Seller's request any and all information necessary for this purpose, including, but not limited to, copies of all correspondence between Purchaser and Purchaser's Permanent Lender.

ii. Purchaser agrees to promptly submit to Purchaser's Permanent Lender, as and when required, all verifications, authorizations, certifications, tax returns, and other documents necessary or appropriate for Purchaser's Permanent Lender to issue and/or reconfirm the written commitment for Purchaser's Permanent Loan. If the Pre-Qualification Letter is issued more than one hundred twenty (120) calendar days prior to the scheduled Closing Date, then Purchaser's Permanent Lender will likely require that Purchaser reconfirm and re-verify certain information approximately ninety (90) calendar days prior to the scheduled Closing Date.

iii. Purchaser covenants and agrees that Purchaser will not knowingly make or allow to be made any changes to Purchaser's financial creditworthiness following issuance of the Pre-Qualification Letter that may adversely affect Purchaser's ability to maintain its qualification for Purchaser's Permanent Loan required to close the purchase of the Unit under this Purchase Agreement. Purchaser acknowledges and confirms that it is the sole responsibility of Purchaser to remain qualified for Purchaser's Permanent Loan, and Purchaser shall not take or fail to take any action for the purpose or intent of subsequently obtaining a loan denial from Purchaser's Permanent Lender. If Purchaser does not act in good faith hereunder or otherwise comply with any of the requirements of this Section strictly within the time frames set forth herein, or if any contingency of any kind on Purchaser's Permanent Loan is not removed, satisfied, or waived by the required Closing Date, or if Purchaser fails for any reason to keep Purchaser's Permanent Loan in force and thereby fails to close as required herein, such failure to close shall constitute a default hereunder, and Seller shall be entitled, in Seller's sole and absolute discretion, to exercise any and all remedies available to Seller, which include termination of this Purchase Agreement in accordance with **Section E.33** below.

iv. If Purchaser fails for any reason to close Purchaser's Permanent Loan, Seller shall, without waiving its rights and remedies under **Section E.33**, have the option, but not the obligation, to require Purchaser to apply to a preferred project lender identified by Seller for a replacement mortgage loan in the amount necessary to close Purchaser's purchase of the Unit. Such replacement financing may be in the form of a first mortgage commitment from the lender identified by Seller and, if such lender does not provide financing in the full amount required to close, a second mortgage from such lender or another lender identified by Seller for the difference between the amount of the first mortgage commitment and the amount required to close the sale of the Unit. The terms of any replacement financing provided under this subsection shall be as follows: (A) any first mortgage financing provided by a lender identified by Seller shall be on terms substantially similar to those set forth in Purchaser's Permanent Loan, except that (i) the fee that such other lender may charge for making such loan may be up to one (1) point (one percent of the loan amount) higher than the corresponding fee set forth in Purchaser's Permanent Loan, and (ii) the interest rate that such other lender may charge may be up to one hundred fifty (150) basis points higher than the corresponding interest rate on Purchaser's Permanent Loan; and (B) any second mortgage loan financing shall be at the same rate charged by the lender on the first mortgage financing referred to in subpart (A) of this subsection and shall otherwise be on terms substantially similar to the terms permitted under subpart (A) above, except that (i) the loan shall be interest only payable monthly, (ii) the term of the loan shall be no more than three (3) years, and (iii) the loan shall be due upon sale or refinancing. In the event that Seller elects to require Purchaser to seek replacement financing as set forth in this subsection, Purchaser agrees to take all steps necessary to apply for such financing from the lender(s) identified by Seller and, if offered such financing by the lender(s), to accept such financing and close on the purchase of the Unit within thirty (30) calendar days after such financing is offered. Purchaser's failure to strictly comply with the foregoing shall constitute a material default of this Purchase Agreement, and Seller shall thereafter be entitled to terminate this Purchase Agreement in accordance with **Section E.33**. If Purchaser fails to qualify for replacement financing pursuant to this subsection, Seller may proceed with its remedies pursuant to **Section E.6.d.iii** above.

e. Reconfirmation of Cash Purchase; Seller's Option to Terminate. If Purchaser is paying the entire Total Purchase Price in cash, and Seller so requires, then no later than sixty (60) calendar days and no earlier than one

hundred twenty (120) calendar days prior to the scheduled Pre-Closing Date, Purchaser shall submit to Seller such written evidence as Seller may reasonably require from Purchaser's bankers or accountants or other persons to reconfirm that the cash funds necessary to pay the Total Purchase Price in cash on the Closing Date are available. Purchaser understands that it is Purchaser's obligation to assure that the cash funds that were available at the time of the issuance of the Pre-Qualification Letter remain available for purposes of consummating the purchase of the Unit on the Closing Date. If Seller, in its sole discretion, after reviewing the written evidence submitted by Purchaser, is not satisfied as to Purchaser's continued ability to make such cash payments and/or Seller determines that Purchaser has not acted in good faith hereunder or otherwise complied with the requirements of this section, Purchaser shall be in default under this Purchase Agreement, and Seller may cancel this Purchase Agreement in accordance with **Section E.33**.

7. **Unit Deed.** At Closing, after payment by Purchaser of the Total Purchase Price and performance by Purchaser of all of Purchaser's other obligations under this Purchase Agreement, Seller agrees to provide Purchaser a duly executed Unit Deed for the Unit, and Purchaser agrees to execute and accept such Unit Deed and thereby acquire fee simple title to the Unit.

8. **Pre-Closing.** Purchaser acknowledges that Seller intends to, and agrees that Seller may, prepare for Closing by requiring Purchaser to have all documents necessary for Closing executed and deposited with Escrow at any time prior to the Closing Date ("**Pre-Closing**"). Purchaser acknowledges that regardless of the status of construction of the Project and in order to accommodate a bulk closing of units by Seller, Seller may require Pre-Closing on a date selected by Seller, within Seller's sole discretion ("**Pre-Closing Date**"). The Pre-Closing Date may be set up to one hundred eighty (180) calendar days prior to the Closing Date. To accomplish this, any time after the Effective Date of this Purchase Agreement, and upon receiving not less than thirty (30) calendar days' written notice of Pre-Closing from Seller ("**Pre-Closing Notice**"), Purchaser's mortgagee(s), or Escrow, Purchaser agrees to take and complete any action that may be necessary to enable Closing, and Purchaser will execute at Pre-Closing all documents required for Closing including, without limitation, the Unit Deed and all promissory notes, mortgages, and other loan documents necessary for Purchaser's financing of the Unit, all receipts for notices and disclosures, the conveyance tax certificate, and a closing statement based on Seller's estimate of the date the Unit will be available for occupancy. The Pre-Closing Notice may establish a schedule with differing dates for certain requirements for the Pre-Closing to be met by Purchaser. The Pre-Closing Notice shall establish the date(s) on which all of Purchaser's funds required to close the sale of the Unit shall be due (the "**Funding Deadline**"), including the balance of the Total Purchase Price payable in cash, Purchaser's mortgage loan proceeds, Closing Costs and Prorations, start-up and maintenance fees, and other amounts payable by Purchaser hereunder. The Funding Deadline may be any date selected by Seller up to and including thirty (30) calendar days prior to the scheduled Closing Date. This Purchase Agreement shall constitute Seller's and Purchaser's written authorization to Escrow to date all documents, to add filing information, and to adjust the estimated prorations in accordance with the provisions of this Purchase Agreement. Purchaser may be permitted by Seller to execute documents on another island or outside of the State of Hawaii and return the same by registered or certified mail, return-receipt requested.

In the event that Purchaser requests changes to the Unit Deed and other documents required for Closing later than twenty (20) calendar days prior to the Pre-Closing Date, Purchaser may be assessed a document revision fee for such changes.

9. **Inspection of Unit by Purchaser; Orientation.** Prior to Closing, Seller shall, with notice to Purchaser, schedule a date for Purchaser or Purchaser's designated agent to attend a pre-closing orientation at the Project. Purchaser agrees that Purchaser or Purchaser's designated agent will attend such orientation at Purchaser's sole expense. At the pre-closing orientation, Purchaser or Purchaser's designated agent shall inspect the Unit with Seller or Seller's designated agent, at which time the parties will complete the checklist specifying any work required to complete the Unit ("**Punchlist**") in accordance with this Purchase Agreement. Purchaser agrees to accept possession of the Unit despite the existence of such defects or damage to the Unit, including, but not limited to, any defects in carpets, appliances, flooring, walls, and fixtures which may be listed on the Punchlist. Seller will cooperate with and assist Purchaser in having legitimately listed defects or damage corrected or repaired within a reasonable time thereafter by the responsible warrantor. This obligation shall survive Closing. Purchaser agrees to indemnify Seller for any damages or losses, including interest and attorneys' fees, resulting from any refusal to make such inspection, to sign the Punchlist, or to accept possession of the Unit upon request by Seller (unless the Unit is uninhabitable), and if Purchaser shall make any such refusal, Purchaser shall be deemed to be in default under this Purchase Agreement. Purchaser acknowledges that it is Purchaser's responsibility to cooperate with Seller or other

warrantors and to permit inspection, and that if Purchaser or Purchaser's designated agent fails to inspect (or permit inspection of) Purchaser's Unit on the date and time specified by Seller or other warrantors, then Purchaser acknowledges that such conduct will constitute a waiver of Purchaser's inspection rights hereunder. Purchaser acknowledges that legitimately-listed defects or damage to the Unit may be corrected after Closing and that the fact that Seller may still need to complete or cause the completion of the same shall not delay or postpone Purchaser's obligation to close this sale and to pay the balance of the Total Purchase Price, nor shall the foregoing grant Purchaser the right to have any portion of the Total Purchase Price placed in Escrow pending completion of those items legitimately set forth on the Punchlist. Purchaser accepts that certain corrective work may be delayed for a substantial period of time following Closing due to the need for Seller or its contractors to obtain materials or other items from outside the State of Hawaii in order to complete such corrective work. Purchaser shall acknowledge in writing the completion of the work required under the Punchlist.

10. Closing Date; Title Insurance; Remedies for Default in Payment; Prorations; Refunds. The "**Closing Date**" shall be that date selected by Seller, in Seller's sole and absolute discretion, for the transfer of the Unit from Seller to Purchaser by way of the recordation of the Unit Deed upon payment by Purchaser to Seller of the Total Purchase Price ("**Closing**"); provided, however, that the Closing Date shall not be prior to the completion of construction of Purchaser's Unit as certified by DESIGN PARTNERS, INCORPORATED, or such other architect for the Project as Seller may designate from time to time ("**Project Architect**"). On the Closing Date, Seller and Purchaser shall be required to perform their respective obligations to sell and purchase the Unit under this Purchase Agreement. The parties agree that Seller may extend the Closing Date in its sole discretion. Seller or Escrow shall notify Purchaser of the Closing Date within a reasonable time, no less than ten (10) business days prior to the scheduled Closing Date. Purchaser expressly acknowledges that on the Closing Date, the construction of other units and portions of the Common Elements may not be fully completed, and that the appliances and furnishings for the Unit contained in any fixtures and/or appliance package may not yet be available, and that such circumstances shall not in any way affect Purchaser's obligations to make the required payments (including maintenance fees) and to close the purchase and sale of the Unit.

Prorations and adjustments shall be made between Purchaser and Seller through Escrow on the basis of a thirty (30)-day month as of the Closing Date for nondelinquent real property taxes and assessments. If the amount of real property taxes is unavailable for the current year, Seller shall estimate such taxes and assessments taking into consideration the existing tax rate, the Total Purchase Price, the County's tax and assessment formula, and such other information and factors as shall be deemed reasonable under the circumstances by Seller. Risk of loss shall transfer from Seller to Purchaser on the Closing Date.

The Total Purchase Price, any Closing Costs and Prorations that are Purchaser's responsibility, and any other amounts that are Purchaser's responsibility under this Purchase Agreement shall be due and payable in full as provided in **Sections D.2 and D.3**. If such amounts are not paid on said dates due to: (i) Purchaser's failure to complete (in a timely and diligent manner) all things of every description required of Purchaser to be undertaken in order for said payment to be made to Escrow on said date; or (ii) the failure of Purchaser's Permanent Lender to make such payment to Escrow on the Closing Date, then such nonpayment shall result in a default by Purchaser under this Purchase Agreement. In the event of any default with respect to any payment hereunder, in addition to any other remedies permitted under this Purchase Agreement, a late charge of one percent (1%) per month (or the maximum lesser rate, if any, permitted by law), prorated on a thirty (30)-day month basis, shall accrue from the due date of such payment until such payment, together with such late charges, is paid. Seller's acceptance of any of such late charges, late payments, or both, or failure to exercise any other right or remedy, shall not constitute a waiver of any of such defaults or of any of such rights, including, without limitation, the right to cancel this Purchase Agreement, and will not constitute a modification of this Purchase Agreement.

If, at Purchaser's request, Seller agrees, in its sole and absolute discretion, to extend the Closing Date, Purchaser agrees to pay an "**Agreement Extension Fee**" equal to one percent (1%) (or the maximum lesser rate, if any, permitted by law) of the Total Purchase Price per month in advance, directly to Seller (unless otherwise directed by Seller). The Agreement Extension Fee is non-refundable, separately enforceable, and shall not be applied to any other amounts due from Purchaser; provided however, that the Agreement Extension Fee shall be earned by Seller on a *per diem* basis and any unearned portion of the Agreement Extension Fee shall be returned to Purchaser at Closing or applied, in Seller's sole discretion, to the Total Purchase Price. If Purchaser fails to pay the Agreement Extension Fee on time or to close this sale on the Closing Date chosen by Seller, Seller shall have the right to terminate this Purchase Agreement and keep all previously

paid Agreement Extension Fees, and Escrow shall distribute the Contract Deposit and any interest accrued thereunder to Seller in accordance with **Section E.33** below.

If, on the Closing Date, Purchaser fails to make the payments required by this Section or otherwise fails to consummate this sale, then, without limiting any other remedies that Seller may have as a result of Purchaser's failure to make such payments or consummate this sale on a timely basis, all common expenses, real property taxes, and other prorated expenses for the Unit shall be prorated as though Closing had occurred on the Closing Date, regardless of when the Closing of the sale of the Unit actually occurs.

Except as otherwise provided by law, if Purchaser is entitled to a return of funds, Escrow shall deliver to Purchaser notice thereof by certified or registered mail, addressed to Purchaser at the address shown in **Section B** above or any address later made known in writing to Escrow by Purchaser. IF PURCHASER SHALL NOT HAVE CLAIMED SUCH REFUND WITHIN SIXTY (60) CALENDAR DAYS FROM THE DATE SAID NOTICE IS MAILED, ESCROW SHALL THEREAFTER DEPOSIT SUCH FUNDS INTO A SPECIAL ACCOUNT IN A BANK OR OTHER DEPOSITORY SELECTED BY ESCROW, IN THE NAME OF SELLER, AS TRUSTEE FOR THE BENEFIT OF SUCH PURCHASER. After having sent Seller written notice of the foregoing acts, Escrow shall thereupon be released from further liability with respect to such funds and Purchaser.

11. Closing Costs and Prorations. Purchaser will pay all closing costs associated with this purchase and sale, including, without limitation: the escrow fee, cost of a preliminary title report, cost of preparation of the Unit Deed, cost of establishing a separate escrow account(s), real property tax prorations and other customary prorations, all acknowledgment fees, conveyance and transfer taxes of all types, title insurance, if requested by Purchaser, cost of any lender's title insurance, appraisal fees, costs for the drafting of any notes and mortgages, all recording costs or fees, the cost of drafting any revisions or addenda to this Purchase Agreement, loan fees, credit report costs, and all other applicable mortgage costs (collectively, the "**Closing Costs and Prorations**"), provided that it is understood that this sale is not subject to or conditioned upon Purchaser obtaining a loan. On the date set forth in **Section D.3**, Purchaser shall pay (a) a Project start-up fee (being a non-refundable, non-transferable "start-up" fee for the Association) in an amount equivalent to two (2) months' estimated maintenance fees for the Unit, (b) two (2) month's estimated maintenance fees as an advance payment for the initial two (2) months' maintenance fees payable by an Owner, (c) an amount equivalent to two (2) months' estimated maintenance fees to be applied to the Association's purchase of the Resident Manager's Apartment, and (d) the Closing Costs and Prorations provided for herein. The start-up fee is a one-time assessment at Closing and is not an advance payment of common expenses or assessments and shall be in addition to the normal monthly assessments. The start-up fee shall be held, accounted for, and expended as funds of the Association for the benefit of all of its members by Seller and the initial Managing Agent.

12. Occupancy. Delivery of possession of the Unit to Purchaser shall be deemed to have occurred when Seller makes the Unit keys available for pick up by Purchaser, which shall take place after the Closing Date, but not before the date of issuance of a temporary certificate of occupancy by the City and County of Honolulu Department of Planning and Permitting covering the Unit. Purchaser agrees that keys for the Unit will not be issued to Purchaser, and Purchaser shall not be entitled to occupy the Unit, until after such Closing Date and the issuance of the temporary certificate of occupancy covering the Unit. Due to the number of units and elevators in the Project, Seller and Managing Agent shall have the authority to designate a permitted date and time for Purchaser to move Purchaser's furniture and belongings into the Unit, which may be after the date of possession.

13. Escrow Agreement; Use of Funds Prior to Closing. Seller has entered into the Escrow Agreement with Escrow, which by this reference is incorporated herein and made a part hereof, covering the deposit with Escrow of all funds paid by Purchaser under this Purchase Agreement and the disbursement of such funds by Escrow, among other things. All payments to be made hereunder, other than the Initial Deposit made through the Project Broker, shall be paid by Purchaser to Escrow pursuant to the Escrow Agreement. Purchaser hereby acknowledges that Purchaser has examined and approves the terms of the Escrow Agreement, and hereby assumes the benefits and obligations set forth therein. Purchaser understands and agrees that Escrow may charge Purchaser a Cancellation Fee in the event this Purchase Agreement is canceled, provided that such cancellation fee shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00), as provided in the Escrow Agreement ("**Cancellation Fee**"). Such Cancellation Fee will apply if Purchaser cancels within the thirty (30)day cancellation period described in **Section D.6**. **Purchaser acknowledges and agrees that, upon issuance of an effective date for the Public**

Report by the Commission, and Seller's submission to the Commission of the information required under Section 514B-92 of the Hawaii Revised Statutes, as amended, and the requirements under the Escrow Agreement, Seller is authorized to use Purchaser's deposits in Escrow for the construction costs of the Project and for other expenses of the Project, as set forth in the Escrow Agreement and in accordance with Hawaii statutory requirements pertaining to the use of purchasers' funds prior to Closing. Purchaser agrees to the use of Purchaser's deposits for such purposes in accordance with the Escrow Agreement and directs Escrow to disburse such funds upon direction from Seller, Seller's lender, or an otherwise qualified financially disinterested person. Seller has no obligation to pay interest to Purchaser on any funds used by Seller to pay construction costs or for those purposes permitted by law.

14. Purchaser's Approval and Acceptance of Project Documents. Purchaser acknowledges receiving copies of and having had a full opportunity to read and review, and hereby approves and accepts, the following documents pertaining to the Project: the Public Report, including the Declaration, Bylaws, Condominium Map, and House Rules, the specimen Unit Deed, and the Escrow Agreement. Purchaser acknowledges that Purchaser shall make Purchaser's own due diligence inspection of all other documents of record and reflected in the specimen Unit Deed and/or updated title report. It is understood and agreed that this sale is in all respects subject to said documents and the encumbrances noted therein.

15. Seller Has the Right to Make Certain Changes to the Project Documents and to the Project.

a. Changes. Purchaser authorizes Seller to make, and Purchaser hereby specifically approves, the following changes to the Project Documents and the Project after the Effective Date:

i. Any change as may be required by law, any title insurance company, Purchaser's Permanent Lender, or governmental agency; provided, however, that such change shall not (1) constitute a change in the Project which (a) directly, substantially and adversely affects the use or value of the Unit or the Limited Common Elements appurtenant thereto or the amenities of the Project available for Purchaser's use, and (b) is not made pursuant to a right reserved to Seller under the Declaration ("**Material Change**"), or (2) increase the Total Purchase Price.

ii. Any non-Material Change that Seller and/or Project Architect, in their sole and absolute discretion, deem appropriate, to the Common Elements, including, without limitation, the roadways, parking areas, and landscaping, or any change for reasons related to financial feasibility, efficiency, or aesthetics; furthermore, Project Architect may increase or decrease the thickness of any foundation, wall, column, or floor slab, or make other changes to Seller's Plans and Specifications (as defined and discussed further in **Section E.36.f**, which could result in the dimensions of Purchaser's Unit or any appurtenant Limited Common Element thus affected becoming smaller or larger, or resulting in a building height or elevation different from that shown on the Condominium Map or stated in the Declaration or the Public Report; provided that the variance in the net living area of the Unit shall not exceed two percent (2%) of the net living area represented in the Project Documents. Further, Project Architect may make changes necessary to correct any design errors or shortcomings.

iii. Any Material Change made while Purchaser is under a binding Purchase Agreement; provided that applicable rescission rights shall be given to Purchaser in accordance with Section 514B-87 of the Hawaii Revised Statutes, as amended, as further described in **Section E.28**.

iv. Any changes made pursuant to the rights reserved by Seller as Developer under the Declaration, as more fully explained in **Section E.15.c**, below.

b. Eminent Domain. No taking by eminent domain (or transfer by Seller under threat of eminent domain) of an easement right or of a portion of the Common Elements which does not in any such case substantially interfere with or diminish the practical enjoyment and use by Purchaser of the Common Elements shall be deemed grounds for cancellation of this Purchase Agreement.

c. Seller has Certain Reserved Rights. Purchaser specifically acknowledges and agrees that Seller has the right to exercise reservations of certain rights in favor of Seller contained in the Declaration and agrees that Seller has the right to exercise such rights as provided in said Declaration. The reserved rights are also summarized in Exhibit "G" to the Public Report and in the Unit Deed. In addition to the right to modify the Project as set forth above, Seller has various

additional reserved rights set forth in the Declaration, including, without limitation, the right to: grant and receive easements; alter, subdivide, and consolidate units; construct improvements within units and/or their Limited Common Elements; install and maintain telecommunications equipment and receive revenue therefrom; not develop and/or construct all of the Recreational Amenities and modify, relocate, reconfigure, and remove the same; install signage; modify the Project and amend the Condominium Documents; convert Limited Common Elements to units; recharacterize and redesignate Limited Common Elements; convey property to the Association; conduct sales activities; consolidate, subdivide, and withdraw land; lease or transfer Commercial Units and their Limited Common Elements; increase or decrease the number of floors and/or units in the Project; enter into agreements with a bicycle sharing entity; and assign all or a portion of the reserved rights in the Declaration. Through the exercise of these reserved rights, Seller may alter the configuration of, decrease or increase the number of rooms in, and alter the size of the Unit and make other minor changes to the Unit or any of the other units or the Common Elements of the Project. **The list and description of Seller's reserved rights in this Section is not exhaustive and Purchaser should carefully review Seller's reserved rights summarized in the Public Report and set forth in the Declaration.**

16. Construction of Unit and Project. Purchaser is purchasing a completed unit to be constructed by Seller. Seller is not acting as a contractor for Purchaser in the construction of the Unit. Issuance of a temporary certificate of occupancy or other alternative approval of occupancy of the Unit by the relevant local governmental authority is conclusive evidence of Seller's completion of the Unit. Seller is not constructing the Unit specifically for Purchaser, nor to the precise specifications or design of a model or appurtenances, if any, displayed to or visited by Purchaser. Seller is constructing the Unit as part of the Project. Any model shown to Purchaser is displayed only for illustration and Seller shall not thereby be required to deliver the Unit in exact accordance therewith. None of the appurtenances and furnishings shown in any model is included in this Purchase Agreement, unless Seller agrees in writing to deliver the same for part of the Total Purchase Price. The usable or living area, location, and configuration of the Unit and all improvements of the Project may vary from that shown or displayed to Purchaser in any drawings, plans, or models when the final improvements are installed, in Seller's sole and absolute discretion. The location, size, height, and composition of all improvements to be constructed as a part of the Project or adjacent thereto shall be determined by Seller in its sole and absolute discretion. Despite models or drawings displayed to Purchaser, Seller has made no representations, warranties, or assurances to Purchaser regarding the size, height, location, or composition of any improvement to be constructed on or adjacent to the Project. Seller may substitute the materials, appliances, and other items in the Unit and the Project with materials, appliances, and other items of substantially equal quality and utility. Such substitutions may include kitchen appliances, household fixtures, electrical outlets and switches, hardware, wall surfaces, painting, and other similar items. Seller may make such substitutions without adjustment to the Total Purchase Price. Purchaser's consultation by Seller or Seller's agents shall not waive Seller's rights to make any change contemplated or provided herein. If Seller is unable to complete or install in the Unit any optional item, decorator item, fixture, furnishing, or other improvement, and such failure is caused by circumstances beyond Seller's reasonable control, Closing shall not be delayed so long as occupancy of the Unit is approved by the applicable governmental authority. The incomplete items shall be completed by Seller as soon as reasonably possible after Closing.

WARRANTIES AND DISCLAIMERS

17. Insulation. The location, type, thickness, and R-value (according to the manufacturer(s) thereof) of the insulation in the building are as follows:

All exterior walls of the building shall have 3.5" thick Batt Insulation with a minimum R-value of R-13.

The R-value of insulation is a measurement of the insulation's resistance to heat flow that is determined using tests designed by the American Society of Testing and Materials. The R-values provided to purchasers will indicate minimums. Purchaser acknowledges that the R-Value information provided to Purchaser is based solely upon information supplied by the manufacturer or installer, and Seller does not represent or warrant the accuracy of this information. Purchaser further acknowledges that the R-value may vary based upon normal construction variance and constitutes only one element of the total energy package. Seller reserves the right to use different types of insulation with different thicknesses and R-values in accordance with the provisions of **Section E.16** above.

18. Limited Warranty. To the extent obtained by Seller from the general contractor for the Project, and to the extent the same is assignable to Purchaser, at Closing, Purchaser shall receive a limited warranty from the general contractor

for the Project warranting the materials and workmanship relating to the Purchaser's Unit to be free from defects for a period of **one (1) year** from the date of substantial completion of Purchaser's Unit. The one (1)-year warranty period for such warranty shall begin from the date of substantial completion of Purchaser's Unit, and, therefore, should Closing occur after such one-year period has expired as to the Unit, no such warranty shall be extended to Purchaser. In no event shall all or any portion of such limited warranty be deemed to come from Seller, and Seller shall have no obligation or liability related to such limited warranty.

The execution, delivery, and recordation of Purchaser's Unit Deed shall constitute an assignment without recourse by Seller to Purchaser of such warranty and the assignment without recourse by Seller to Purchaser of any other warranties relating to the Unit. Seller may assign such warranties described herein to future purchasers if such warranties are still in effect at the time the Unit is conveyed. Seller, however, makes no representation or warranty whatsoever as to whether such warranties can be further transferred. Any rights to inspection of the Unit described in **Section E.9** herein conferred on Purchaser by Seller pursuant to this Purchase Agreement shall not extend to any future purchasers of the Unit. In addition, Seller shall assign to Purchaser, without recourse, any manufacturer's or dealer's warranties covering the furnishings and appliances in the Unit. In no event shall all or any portion of such warranties be deemed to come from Seller, and Seller shall have no obligations or liabilities related to such warranties.

19. Improvements. Seller shall be responsible for extending roads, sewer, electrical lines, and water lines to the Project at Seller's expense. Purchaser shall be responsible for any cable television and internet fees charged by governmental entities and/or utility companies, but shall not be responsible for impact fees, benefits assessments, or similar development expenses related to the installation of infrastructure by Seller.

20. The Condominium Map, Artist's Renderings and Building Plans and Specifications Are Not Warranties. The Condominium Map, as the same may be amended from time to time, is intended only to show the (a) unit numbers, (b) approximate layout, location, and dimensions of units, (c) approximate elevation of the Project, and (d) parking plan and any other detail that is specifically required to be shown under Section 514B-33 of the Hawaii Revised Statutes, as amended. The Condominium Map is not intended to create, and shall not be interpreted as creating, any obligation to construct or install any other improvements, amenities, or facilities as may be depicted thereon, and no person may rely in any way on any other detail or other matter depicted thereon. In no event, whether before or after the Effective Date, shall the building plans and specifications or any artist's renderings or models constitute a representation or warranty in any way.

21. Estimate of Maintenance Fees. Seller's estimate of monthly maintenance fees, as shown in the Public Report, was prepared based upon information believed to be accurate and correct. Seller makes no warranty or promise regarding the accuracy of these amounts, however. PURCHASER AGREES THAT SUCH ESTIMATES ARE NOT INTENDED TO BE, AND DO NOT CONSTITUTE, ANY REPRESENTATION OR WARRANTY BY SELLER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF SUCH ESTIMATES. Purchaser also acknowledges and agrees that such maintenance fees may increase due to increases in insurance premiums, utility costs, maintenance services, management fees, and other costs.

22. Affordable Units. The development, sale and use of the Project are subject to the terms and provisions of the Development Agreement between Seller and HHFDC, which requires that Seller reserve at least sixty percent (60%) of the residential units in the Project for purchase by persons who meet certain eligibility and income requirements as determined by HHFDC. Seller has designated a total of six hundred three (603) residential units in the Project as Affordable Housing Units and four hundred one (401) residential units as Market Units. The eligibility requirements for the purchase of an Affordable Housing Unit include, without limitation, residency requirements and income limits. In addition, the Affordable Units are subject to certain restrictions on occupancy, use, sale, and transfer, and HHFDC buy-back rights and shared equity requirements.

THIS PURCHASE AGREEMENT IS FOR THE PURCHASE AND SALE OF A MARKET UNIT. A PURCHASER WHO WISHES TO PURCHASE AN AFFORDABLE HOUSING UNIT SHOULD CONSULT WITH SELLER TO DETERMINE IF AFFORDABLE HOUSING UNITS HAVE BEEN DESIGNATED BY SELLER AND ARE CURRENTLY BEING OFFERED FOR SALE, AND TO FURTHER DETERMINE APPLICABLE ELIGIBILITY REQUIREMENTS AND OWNERSHIP RESTRICTIONS.

23. Securities Laws and Regulations. Purchaser understands and agrees that:

a. Seller, its officers, employees, agents, and/or any other real estate brokers or real estate salespersons representing Seller, if any, and any of their respective affiliated, agents, employees, or representatives (collectively for purposes of this **Section E.23, "Seller and/or its Agents"**) have made no representations: (i) regarding the possibility or probability of economic benefit from the purchase and ownership of the Unit; (ii) to the effect that Seller or Managing Agent of the Project will provide services relating to the rental or sale of the Unit; or (iii) as to the possible advantages of the ownership or the rental of the Unit under federal and state tax laws. Seller and/or its Agents have not made any representations regarding any economic benefit to be derived from the ownership, rental, or tax treatment of the Unit. The tax treatment may vary with individual circumstances, and Seller and/or its Agents recommend that Purchaser consult Purchaser's own attorney, accountant, or other tax counsel for advice regarding tax treatment. Purchaser further agrees and acknowledges that Purchaser has not been induced or solicited by Seller and/or its Agents to purchase the Unit in the Project as a "**security**" as defined under federal or state securities laws and regulations.

b. Purchaser agrees that Seller may, as a condition to Closing, require Purchaser and any licensed real estate salesperson participating in the sale to sign additional documents to satisfy Seller that no representations contrary to the provisions of this **Section E.23** have been made up to and including the Closing Date.

c. This agreement of Purchaser under this **Section E.23** shall survive the Closing, and shall bind Purchaser and Purchaser's heirs, personal representatives, successors and assigns. In the event of Purchaser's breach of the agreement contained in this **Section E.23**, the parties understand and agree that the injury to Seller will be uncertain as to nature and amount and difficult and expensive to ascertain. Therefore, in the event of a breach of said agreement by Purchaser, the parties agree that Seller may obtain an injunction from any court of competent jurisdiction enjoining Purchaser from breaching said agreement. Seller may, in addition to obtaining injunctive relief, pursue any other remedies, including seeking damages caused by such breach, as are permitted in law or equity. All costs and expenses, including reasonable attorneys' fees, incurred by Seller in connection with a breach of said agreement by Purchaser, shall be borne by Purchaser.

Purchaser's Initials _____

24. Ongoing Sales Activities after Purchaser has Occupied Purchaser's Unit; Model Units. Purchaser specifically acknowledges and agrees that: (a) Seller's sales activities, which may include the use of model unit(s), signs, extensive sales displays, and activities, and hosting functions at and utilizing the Recreational Amenities, may continue in the Project until the sale of the last Residential Unit in the Project; (b) Seller reserves the right to utilize unassigned or guest parking spaces described in the Declaration for parking for prospective purchasers until the sale of the last Residential Unit; (c) Seller also reserves the right for itself, its sales representatives, and prospective purchasers to utilize the Common Elements for ingress and egress to such parking spaces and model unit(s) in order to show the Common Elements to prospective purchasers; and (d) Purchaser shall take possession and close the sale of the Unit upon completion of the Unit, regardless of whether the Common Elements of the Project have been completed, so long as Purchaser is given vehicular access to the Project. Purchaser hereby accepts the foregoing conditions set forth in this Section, as well as any inconvenience or annoyance including, without limitation, construction work, dust, noise, and related debris, which Purchaser may experience as a result of such conditions, and hereby expressly waives any rights, claims, or actions that Purchaser may otherwise have against Seller as a result of such circumstances. Seller reserves the right, in its sole discretion, to designate one or more units as model units for sales and display purposes.

Prior to delivery of possession of the Unit, Purchaser shall not trespass upon the Project site while the Project is under construction. Purchaser hereby acknowledges that Purchaser's execution of this Purchase Agreement constitutes Purchaser's agreement to remain outside of any fenced or posted construction areas, and any other areas in which ongoing work is being performed pending completion, and Purchaser agrees to exert diligent efforts to prohibit entry into such areas by members of Purchaser's household and by Purchaser's tenants and invitees, and to indemnify, defend, and save harmless Seller, the Association, other Owners of units and the contractors and agents of any of them from and against any and all loss or liability on account of any such entry. Violation of this provision shall constitute a default under this Purchase Agreement and, in addition to Seller's other remedies, Purchaser agrees that Seller shall have the right to remove Purchaser from the premises by any lawful means.

25. Seller is Authorized to Act on Behalf of the Association. Purchaser acknowledges that Seller is authorized to exercise all powers of the Association until the first meeting of the Association. After the first meeting of the Association, Seller shall continue to have the right to appoint and remove the Officers and members of the Board of the Association, provided that this period of "developer control" shall terminate no later than the earlier of: (a) sixty (60) calendar days after the conveyance of units to which are appurtenant seventy-five percent (75%) of the Common Interest to Owners other than Seller or an affiliate of Seller; (b) two (2) years after Seller has ceased to offer units for sale in the ordinary course of business; (c) two (2) years after any right to add new units was last exercised; or (d) the day Seller, after giving written notice to Owners, records an instrument in the Bureau voluntarily surrendering all rights to control the activities of the Association (the period prior to termination of such developer control being herein referred to as the "**Developer Control Period**"). Purchaser further authorizes Seller to exercise all the rights and incidents of membership in the Association attributable to the Unit contracted for herein until the recordation of Purchaser's Unit Deed.

26. Additional Disclosures; Disclaimers and Releases. Without limiting any other provision in the Project Documents, the following is a summary of some items that should be carefully considered by a purchaser before owning a unit in the Project. Purchaser should carefully review the Project Documents and consider each of the following items before the expiration of the 30-day cancellation period. Purchaser shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following, and such acknowledgment and agreement shall survive Closing:

a. Security Disclaimer. The Association and/or Managing Agent may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it might otherwise be.

The Association, Managing Agent, and Seller shall not in any way be considered insurers or guarantors of security within the Project, and neither the Association, nor Managing Agent, nor Seller, nor any successor, shall be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of security measures undertaken. Purchaser acknowledges that the Association, the Board, Managing Agent, Seller and any successor, do not represent or warrant that any fire protection system or other security system designed or installed according to the guidelines established by Seller or the Association may not be compromised or circumvented, that any fire protection or burglar alarm systems or other security systems will prevent loss by fire, smoke, burglary, theft, hold-up, terrorism, or otherwise, nor that fire protection or burglar alarm systems or other security systems will in all cases provide the detection or protection for which the system was designed or intended. Purchaser acknowledges and understands that Managing Agent, the Association, its Board and committees, Seller and any successor, are not insurers, and that each Owner, his or her family, agents, guests, or other Occupants of a unit assume all risks for loss or damage to persons, units and the contents of units, and further acknowledges that Managing Agent, the Association, its Board and committees, Seller and any successor, have made no representations or warranties, nor will Purchaser rely upon any representation or warranty, expressed or implied, including any warranty of merchantability, as to the fitness of any alarm systems or other security systems recommended or installed, or any security measure undertaken within the Project.

b. Nonliability for Square Footage Calculation. By signing and accepting the Unit Deed, Purchaser shall be deemed to have conclusively agreed to accept the size and dimensions of the Unit, regardless of any variances in the square footage from that which may have been disclosed at any time prior to Closing, whether included as part of Seller's promotional materials or otherwise. Without limiting the generality of the foregoing, Seller does not make any representation or warranty as to the actual size, dimensions (including ceiling heights), or square footage of any unit, and each unit purchaser shall be deemed to have fully waived and released any such warranty and claims for losses or damages resulting from any variances between any represented or otherwise disclosed square footage and the actual square footage of units.

c. Nonliability for Mold Development. Mold and mold spores are present throughout the environment, and residential condominium construction cannot practicably be designed to exclude the introduction of mold spores. All molds are not necessarily harmful, but certain strains of mold have been found to have adverse health effects on susceptible persons. Moisture is the primary mold growth factor that must be addressed. Affirmative steps taken by Purchaser to minimize or control moisture can minimize or eliminate mold growth in the Project. Owners and the Association should take steps to reduce or eliminate the occurrence of mold growth and thereby minimize any possible adverse health effects that may be caused by mold. Seller cannot ensure that mold and mold spores will not be present in the Project. The

failure of Owners or the Association to take steps to minimize mold growth may increase the risk of mold growth and mold spores being present in the Project. Seller shall not be liable for any actual, special, incidental, or consequential damages based on any legal theory whatsoever, including, but not limited to, strict liability, breach of express or implied warranty, negligence, or any other legal theory, with respect to the presence and/or existence of mold, mildew and/or microscopic spores at the Project, unless caused solely by the gross negligence or willful misconduct of Seller.

d. Flood Zones (X) and (AE); Tsunami Evacuation Zone. Portions of the Project are located in Flood Zone X and Flood Zone AE. However, Seller is in the process of raising the elevations of the Project and will apply for a Letter for Map Amendment to the effective National Flood Insurance Program map. Notwithstanding such application, Seller cannot guaranty that the Project will be removed from Flood Zone AE. The Project is also located within the tsunami evacuation zone. Purchasers should consult with their insurance professionals regarding the requirements for additional insurance.

e. Additional Disclosures. Without limiting any provision in the Declaration, the Association and, by acquiring title to the Unit, or by possession or occupancy of the Unit, Purchaser, for Purchaser and for Purchaser's tenants, employees, family members, guests, and other invitees, shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following, which acknowledgment and agreement shall survive Closing:

i. Condominium Living; Residential-Commercial Mixed-Use Retail Area. Living in a multistory, mixed-use, high-rise condominium building entails living in very close proximity to other persons, businesses, restaurants, and shopping areas, with attendant limitations on solitude and privacy. Walls, floors, and ceilings have been designed to meet applicable building codes. However, Owners will hear noise from adjacent Units within the Project, including, but not limited to, noise from showers, bathtubs, sinks, toilets, washing machines, or other sources of running water and/or plumbing fixtures, and will smell odors from adjacent Units within the Project, including, but not limited to, cooking odors and cigarette smoke. Also, Owners may hear noise from such items as the swimming pool, vacuum cleaners, stereos or televisions, or from people running, walking, exercising, socializing, or enjoying the Recreational Amenities. Finally, Owners can expect to hear substantial levels of sound, music, noise, odors, vibrations, and other nuisances from retail and commercial establishments in the Project, and/or in the vicinity of the Project. Owners may also experience light entering the Units from commercial lighting in the vicinity and from streetlights located in close proximity to the windows and doors of the Units.

ii. Noise; Traffic. Being located in an urban district, noise, dust, vibration, and/or pedestrian and vehicular traffic are higher than average in the vicinity of the Project. Each Owner and every other Person who has any interest in the Project or who has the right to use the Project or any part of it waives, releases, and discharges any rights, claims, or actions that such Person may have, now or in the future, against Seller, and its Representatives, licensees, successors, and assigns, and arising directly or indirectly out of or from such noise, dust, vibrations, and/or additional traffic. Traffic, noises, and uses that are typically encountered in a high-rise condominium commercial-residential mixed-use setting, include, but are not limited to (a) transient noise and guest or pedestrian traffic from the street or the Commercial Units and the Limited Common Elements appurtenant thereto or neighboring properties; (b) opening and closing of doors; (c) loud music from restaurants or other outlets, concert events, or performances; (d) vehicular traffic from the street or Parking Structure; (e) voices of people talking outside retail and/or food and beverage establishments; and (f) noise from special events taking place near the Project. Such noise shall not be deemed a "nuisance," as such noise and/or uses are deemed to be common and accepted occurrences in a centrally located high-rise condominium mixed-use setting. Furthermore, normal construction activities shall not be deemed a "nuisance." The Commercial Units in the Project may be used for retail, restaurant, or other commercial business purposes, which may cause noise typically associated with the operation and management of those types of establishments (e.g. high vehicular and pedestrian traffic caused by patrons, delivery trucks, and unloading and loading activities and noise and traffic caused by heavy machinery for stocking and operation of the Commercial Units and their surrounding areas). By accepting a Unit Deed, Purchaser acknowledges that the Project is adjacent to high-traffic roads, businesses, and retail/entertainment facilities, and that noise, lights, and odors common to such activities and related commercial activities as well as construction activities, may exist on or near the Project, at any time and from time to time. Purchaser, by accepting a Unit Deed or other conveyance of the Unit, acknowledges and agrees that sound transmission in a high-rise building such as the Tower is very difficult to control. Seller does not make any representation or warranty as to the level of sound transmission at the Project, and Purchaser waives and expressly releases any claim for loss or damage resulting from such sound transmission.

iii. Views. Purchaser acknowledges that there are no protected views in the Project, and the Unit is not assured the existence or unobstructed continuation of any particular view. Any view from the Unit is not intended as part of the value of the Unit, and is not guaranteed, and Seller makes no representation or warranty regarding the effect of the view on the value of the Unit. The views from the Unit or Project may change as a result of, be affected by, or be obstructed by (a) construction or installation of buildings, improvements, structures, walls and/or landscaping by Seller or owners of property outside the Project; and/or (b) the growth of trees, landscaping, and/or vegetation within or outside the Project. By signing and accepting a Unit Deed, Purchaser waives, releases, and discharges any rights, claims, or actions that Purchaser may have, now or in the future, against Seller and its representatives, licensees, successors and assigns, and arising directly or indirectly out of or from any such change or obstruction of views by reason of such further development or growth.

iv. Neighboring Developments. Certain portions of land outside, abutting, and/or near the Project ("**Neighboring Developments**") may be subject to redevelopment, and, in the future, may or will be developed by third parties over whom Seller has no control. The Association and Seller have no jurisdiction over Neighboring Developments, and, accordingly, there is no representation as to the nature, use, or architecture of any future development or improvements on Neighboring Developments. Any use, development, and/or construction on Neighboring Developments may result in noise, dust, and/or other "nuisance" to the Project or Owners, and Purchaser acknowledges the same.

v. Continuing Activities. Purchaser understands and agrees that Seller is engaged in a sales and development program, and that certain elements of the Project may not be completed, and that completion of such items may be deferred by Seller in its sole and absolute discretion; provided normal access and parking facilities will be provided for units conveyed to third parties. As an integrated structure consisting of a variety of uses that may be changed from time to time, alterations, construction, remodeling, repair, and changes of uses of portions of the Project may occur from time to time.

vi. Tax and Insurance Estimates. Any sum estimated for taxes or insurance affecting the Unit or Project may increase or decrease depending upon fluctuation of real property taxes or insurance rates.

vii. Use Changes. Except as expressly set forth in the Project Documents, Seller makes no representations or warranties with respect to the (a) nature of any improvements to be initially or subsequently contained in the Project, (b) initial or subsequent uses of any portion of the Project, or (c) services and amenities (and the costs of such services or amenities) which may be provided to Owners.

viii. Marketing Materials. Any marketing materials used by Seller in the promotion and sales of the units and of the Project are not a representation or warranty by Seller of any unit layout, décor, coloring, furnishings, or fixtures provided with any unit or the types of amenities provided in the Project. The marketing materials are intended to give a purchaser a general idea of the standard and quality of the Project, and are not intended to represent the precise décor, coloring, furnishing, fixtures, or amenities that will be included in the Project. Seller may register a trade name to market the Project and may include the same in all marketing materials.

ix. Condominium Map. Nothing in the Condominium Map is intended to be or is a representation or warranty by Seller.

x. Mortgage. Seller may enter into a construction loan and subject the Land to a mortgage, which will provide for the partial release of units from the mortgage prior to unit closings. If there is a default by Seller, the lender will likely have the option to foreclose the mortgage. If this happens prior to conveyance of Purchaser's Unit to Purchaser, Purchaser may lose the right to buy the Unit. In the event of a foreclosure, Purchaser's Contract Deposit, less the Cancellation Fee, may be refunded unless said deposit(s) has been approved for use by Seller to pay for construction costs in accordance with Section 5.6.2 of the Public Report.

xi. Acknowledgment and Acceptance of Certain Conditions; Waiver. By signing and accepting a Unit Deed, Purchaser accepts and waives any claims or rights of action or suits against Seller or Seller's successors and assigns arising from any impairment of Purchaser's use and enjoyment of the Unit or the Project, or from any inconvenience, property damage, or personal injury arising directly or indirectly from the following:

(i) Elevators. The designs of the Tower and Liner Building provide for multiple passenger elevators to provide access to the residential floors in the Project. The units located in the immediate vicinity of the elevator lobby on each level of the Tower and each level of the Liner Building may be prone to greater noise and other nuisances associated with the normal operation of the elevators than units located farther away from the elevator lobby. Also, during certain hours of the day, there may be delays in the elevator servicing each residential floor as a result of high traffic loads and/or in the event of servicing and/or repairs to one or more of the elevators in the Project.

(ii) Location of Certain Units Near the Residential Amenities. The Units in close proximity to the Residential Amenities, which are located on the first (1st) and forty-third (43rd) levels of the Tower may be exposed to greater noise and other nuisances than the Units located on other levels of the Tower or in the Liner Building.

(iii) Countertops. Engineered quartz countertops ("**Countertops**") may be installed in the units, including in the bathrooms and kitchens. Due to the mineral composition and crystalline structure of the Countertops, small pits may be visible on the polished surface. The pitting as well as natural fissures shall not be considered flaws, as they do not impair the function or durability of the material. The Countertops have special maintenance, care, and upkeep requirements with which each Owner must comply in order to maximize the enjoyment and useful life of the originally installed Countertops. The failure to comply with these special maintenance, care, and upkeep requirements may result in additional costs to an Owner and detract from an Owner's enjoyment of a unit.

MISCELLANEOUS PROVISIONS

27. New Laws and Other Events Beyond Seller's Control; Increase in Total Purchase Price. If, after the Effective Date and because of the adoption or enactment of any law, ordinance, rule, or regulation, including but not limited to, a zoning change, required by referendum or otherwise, which would prevent the construction of the Project, the effective date of which law, ordinance, rule, or regulation falls after the Effective Date, but before the Closing Date of the Purchaser's Unit ("**New Law**"), or due to any fire, earthquake, act of God, the elements, war, acts of terrorism, civil disturbances, strike or other labor disturbance, or economic controls making it impossible to obtain the necessary labor or materials, or market conditions which increase the cost of necessary labor or materials, or any other event, matters, or conditions beyond the control of Seller, including any litigation or threat of litigation concerning the Project, Seller determines that such conditions have resulted in or will result in increases in development and construction costs by more than ten percent (10%), then Seller may increase the Total Purchase Price by an amount not in excess of the Unit's proportionate share (based, approximately, on Seller's price list for all units in effect at the time of both Purchaser's and Seller's execution of this Purchase Agreement) of the total amount of such increases in development costs, and Purchaser hereby acknowledges that this Purchase Agreement will be deemed to be amended to incorporate the increased Total Purchase Price upon Seller's giving notice to Purchaser of the amount of the increased Total Purchase Price, and Purchaser shall be deemed to have approved and accepted this Purchase Agreement, as amended, without memorializing such amendment in any written instrument signed by any of Purchaser or Seller, and Purchaser hereby agrees to pay such increased Total Purchase Price; provided, however, upon receipt of the notice from Seller of the amount of the increased Total Purchase Price, Purchaser shall have thirty (30) calendar days from the date of the notice to cancel this Purchase Agreement by written notice to Seller and upon such notice to receive a refund of the Contract Deposit paid hereunder by Purchaser, with accrued interest. If notice of cancellation is not received from Purchaser within said thirty (30)-day period, Purchaser shall be bound to fulfill all of Purchaser's obligations pursuant to the terms of this Purchase Agreement, as amended, with the increased Total Purchase Price, and shall execute any documents as may be required by Escrow, including, but not limited to, an affirmation of such increased Total Purchase Price to facilitate Closing. This Purchase Agreement will also be deemed to have been amended so as to increase the payments set forth in **Sections D.1** and **D.2** above by the respective new amount for such payments to be set forth in the notice from Seller.

The Hawaii real estate market continually fluctuates due to changes in economic, social, and political conditions that directly affect the supply of and demand for housing. Such supply and demand may be further impacted by fluctuating prices and availability of materials and labor necessary to construct the Project. As a result, unit prices as well as the terms and conditions of sale are also subject to change. Therefore, (a) although the price of Purchaser's Unit may not change, except as set forth in the preceding paragraph, Purchaser should be aware that Seller reserves the right at any time prior to or after Closing for the sale of Purchaser's Unit and without notice to Purchaser, to increase or decrease the total purchase price, adjust incentives, adjust the terms and conditions of sale and/or change the number, size, location, and design

of other units in the Project; (b) Seller is not obligated to offer Purchaser the same price, incentives, and/or other terms and conditions of sale that Seller has previously offered or may subsequently offer to another purchaser; (c) Seller has neither offered nor agreed to any price protection or other similar commitment to Purchaser regarding the value or resale value of Purchaser's Unit (or any other property), and Seller shall not have any obligation or liability whatsoever to Purchaser in the event that any price changes directly or indirectly affect the value of Purchaser's Unit; and (d) when Purchaser entered into the Purchase Agreement, Seller may have owned other properties which may have been off the market and may not have been shown to or otherwise made available for purchase by Purchaser. Seller does not have any obligation to notify Purchaser if any of such properties come on the market or are otherwise available for purchase, nor shall Seller have any obligation to notify Purchaser of any future properties Seller may develop and make available for purchase.

28. Material Changes in the Project. Where, after this Purchase Agreement has become binding in accordance with **Section D.6**, there is a Material Change in the Project, Purchaser may rescind this Purchase Agreement within thirty (30) calendar days of Purchaser's receipt of a copy of a Disclosure Document providing a description of the Material Change and a Notice of Right to Rescind Sales Contract and Purchaser's Receipt, prescribed by the Commission, regarding Purchaser's thirty (30)-day rescission right. As provided in Section 514B-87 of the Hawaii Revised Statutes, as amended, Purchaser may waive Purchaser's right to rescind this Purchase Agreement by: (a) checking the waiver box on the Option to Rescind Sales Contract – Rescission or Waiver Form, prescribed by the Commission, signing it, and returning it to Seller; (b) allowing the thirty (30)day rescission period to expire without taking any action to rescind; or (c) closing the purchase of the Unit before the thirty (30)-day rescission period expires. In the event Purchaser rescinds this Purchase Agreement pursuant to this Section, Purchaser shall be entitled to a prompt and full refund of all monies paid, plus any interest earned thereon.

29. PRESALE CONTINGENCY. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER MAY CANCEL THIS PURCHASE AGREEMENT IF SELLER HAS NOT OBTAINED BINDING PURCHASE AGREEMENTS TO SELL AT LEAST SEVENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS IN THE PROJECT ON OR BEFORE ONE HUNDRED EIGHTY (180) DAYS AFTER THE DATE OF THE FIRST EXECUTED PURCHASE AGREEMENT FOR PURCHASE AND SALE OF A RESIDENTIAL UNIT IN THE PROJECT (THE "**PRESALE CONTINGENCY**"). THE PRESALE CONTINGENCY IS SET BY SELLER IN ITS SOLE AND ABSOLUTE DISCRETION. IF THE PRESALE CONTINGENCY FOR THE PROJECT IS NOT SATISFIED FOR ANY REASON, SELLER SHALL HAVE NO OBLIGATION TO CONSTRUCT ANY PORTION OF THE PROJECT OR TO SELL THE UNIT TO PURCHASER. IN THE EVENT SELLER ELECTS TO CANCEL THIS PURCHASE AGREEMENT PURSUANT TO THIS SECTION, PURCHASER SHALL BE ENTITLED TO A FULL REFUND OF ALL MONIES PAID BY PURCHASER TO SELLER HEREUNDER, WITH ACCRUED INTEREST. THIS PRESALE CONTINGENCY IS FOR THE BENEFIT OF SELLER ONLY, AND NOT FOR THE BENEFIT OF PURCHASER, AND MAY BE WAIVED BY SELLER IN SELLER'S SOLE AND ABSOLUTE DISCRETION. PURCHASER ACKNOWLEDGES AND AGREES THAT THIS PROVISION SHALL NOT BE CONSTRUED AS A REPRESENTATION OR GUARANTEE THAT SEVENTY-FIVE PERCENT (75%) OF THE RESIDENTIAL UNITS IN THE PROJECT, OR ANY SPECIFIC NUMBER OF UNITS, HAS BEEN SOLD.

30. Purchaser's Interest under this Purchase Agreement; Subordination. This Purchase Agreement shall not be construed as a present transfer of any rights or of any interest in the Unit, but rather this Purchase Agreement is an agreement to transfer an interest in the future. Purchaser agrees not to record or cause to be recorded in the Office and/or Bureau any form of this Purchase Agreement. Purchaser acknowledges that Seller has entered into or may enter into an agreement with one or more lenders (the "**Lender**") pursuant to which the Lender may loan an aggregate of up to Five Hundred Fifty Million and No/100 Dollars (\$550,000,000.00) at an annual interest rate of up to eight percentage points over the Lender's chosen rate (which may be the Lender's "**prime rate**," "**base rate**," or other rate, or may be the London Inter-Bank Offering Rate "**LIBOR**," or any other rate the Lender may select). The repayment provisions of the loan may call for repayment of the loan over a period of time likely not to exceed five (5) years. To secure the loan, Seller may grant to the Lender security interests covering the Seller's interest in the Project, including the Unit covered by this Purchase Agreement. Purchaser acknowledges and agrees that all security interests obtained by the Lender in connection with such loan as well as any extensions, renewals, and modifications thereof shall be and remain at all times, until the recording of the Unit Deed, a lien or charge on the Project, including the Unit covered by this Purchase Agreement, prior to and superior to any and all liens or charges on the Project arising from this Purchase Agreement or any prior agreement. PURCHASER HEREBY INTENTIONALLY WAIVES, RELINQUISHES, AND SUBORDINATES THE PRIORITY OR SUPERIORITY OF ANY LIEN OR OTHER LEGAL OR EQUITABLE INTEREST ARISING UNDER THIS PURCHASE AGREEMENT IN FAVOR OF THE LIEN OR CHARGE ON THE PROJECT 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 AND OTHER COSTS DURING

SUCH CONSTRUCTION AND ANY AND ALL ADVANCES THEREFOR, WHETHER CONTRACTUAL OR VOLUNTARY, UNTIL THE RECORDING OF THE UNIT DEED. Purchaser further undertakes and agrees to execute and deliver any further documentation or subordination agreement required by the Lender to evidence this subordination and hereby irrevocably appoints Seller as Purchaser's attorney-in-fact to execute any such instrument on behalf of Purchaser, should Purchaser fail or refuse to do so within ten (10) business days after a request is made or mailed. Said power of attorney is coupled with an interest, shall be irrevocable, and shall not be affected by the disability of Purchaser. Purchaser also consents to Seller's assignment by way of security of Seller's interests in this Purchase Agreement and in Purchaser's Contract Deposit to the Lender and agrees that in the event of passage of Seller's interest therein pursuant to said assignment, Purchaser will, at the Lender's option, perform to, attorn to, and recognize the Lender (and its successors in interest, if any) as Seller hereunder, with all of the rights of Seller hereunder, all as if the Lender were the original Seller hereunder. Purchaser further understands and agrees that the Lender has the right under certain circumstances set forth or to be set forth in the mortgage instrument, the security agreement, and any other loan documents pertaining to said agreement between Seller and the Lender to foreclose its mortgage and/or enforce its other remedies thereunder or under such other loan documents or possessed at law, and Purchaser hereby agrees in such case that: (a) Managing Agent of the Project is hereby irrevocably appointed by Purchaser as Purchaser's agent for acceptance of service of process during the term of this Purchase Agreement (which power is coupled with an interest and shall not be affected by the disability of Purchaser), and any service of process upon Managing Agent shall be deemed to be effective service of process upon Purchaser as though Purchaser has been personally served therewith; and (b) the rights of Purchaser hereunder are purely contractual in nature, enforceable only against Seller and its legal successors and assigns and not against the real property, improvements, and/or appurtenances thereto which are the subject of said mortgage instrument, security agreement, or other loan documents, and Purchaser expressly acknowledges and agrees that Purchaser need not be named a party defendant or plaintiff in any cause of action or suit by the Lender to foreclose and/or otherwise enforce its rights under said mortgage instrument or security agreement or other loan documents, nor does Purchaser have any right to be served with process in connection therewith or to be notified of the pendency thereof.

31. Administration and Management of Project. Purchaser acknowledges that Seller has retained Hawaiian Properties, Ltd. as Managing Agent for the Project. For the duration of the Developer Control Period, as discussed in **Section E.25**, Seller shall have the right to replace the Managing Agent at any time in Seller's sole discretion. Managing Agent shall have the authority, subject to the provisions of the Declaration and Bylaws, to assume control and responsibility for the fiscal and administrative management of the Project, at the expense of the Association, and as the physical manager for the residential units and their limited common elements. The Commercial Director may retain a manager (or self-manage) to perform physical management of the Commercial Unit and its appurtenant Limited Common Elements.

32. Assignment of Purchase Agreement. This Purchase Agreement may not be assigned by Purchaser without the written consent of Seller. Any assignment of this Purchase Agreement by Purchaser without such consent is void and of no legal effect. For purposes of this Section, an assignment shall include, but not be limited to: (i) the transfer of Purchaser's interest in this Purchase Agreement to one or more other Persons; (ii) the inclusion of additional Persons as purchasers under this Purchase Agreement; and (iii) where Purchaser is a corporation, partnership, limited liability company or other legal entity, the transfer of a controlling interest in Purchaser. As used herein, "**controlling interest**" shall mean (a) the sale of more than fifty percent (50%) of the ownership or other beneficial interest in such entity, or (b) the transfer of interests in such entity sufficient to allow the recipient thereof to control the day-to-day operations of such entity or otherwise control or influence the management of, or otherwise manage, set policies, or direct the actions of such entity. Notwithstanding the foregoing, Purchaser may assign Purchaser's rights under this Purchase Agreement to affiliated entities for estate planning purposes without the consent of Seller; provided that any such assignment shall not release Purchaser from Purchaser's obligations under this Purchase Agreement. In the event that Purchaser decides to make such an assignment for estate planning purposes, Purchaser shall provide written notice thereof to Seller at least twenty (20) calendar days prior to the Pre-Closing Date and shall provide to Seller and/or Escrow copies of such documents as Seller and/or Escrow, in their sole and absolute discretion, deem necessary to complete Closing.

33. SELLER'S REMEDIES UPON DEFAULT BY PURCHASER. IN THE EVENT PURCHASER SHALL HAVE DELIVERED THE INITIAL DEPOSIT, OR THE INITIAL DEPOSIT AND ANY OTHER DEPOSIT REQUIRED TO BE DELIVERED THEREAFTER, PURSUANT TO THIS PURCHASE AGREEMENT, AND SHALL FAIL TO COMPLY WITH OR PERFORM ANY OF THE COVENANTS, AGREEMENTS, OR OTHER OBLIGATIONS TO BE PERFORMED BY PURCHASER UNDER THE TERMS AND PROVISIONS OF THIS PURCHASE AGREEMENT, INCLUDING, WITHOUT LIMITATION, DELIVERY TO ESCROW OF ANY DEPOSIT REQUIRED AFTER THE INITIAL

DEPOSIT ON OR PRIOR TO THE DEPOSIT DELIVERY DUE DATE, SELLER SHALL PROVIDE PURCHASER WITH WRITTEN NOTICE OF SUCH DEFAULT OR BREACH AND THE OPPORTUNITY FOR PURCHASER TO REMEDY SUCH DEFAULT OR BREACH WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE OF RECEIPT OF SUCH NOTICE. IF PURCHASER HAS NOT REMEDIED SUCH DEFAULT OR BREACH WITHIN SUCH TEN (10) DAY PERIOD, SELLER SHALL BE ENTITLED TO ANY REMEDY AVAILABLE IN LAW OR IN EQUITY INCLUDING, WITHOUT LIMITATION, (A) SPECIFIC PERFORMANCE OF THIS PURCHASE AGREEMENT AND THE TERMS AND CONDITIONS SET FORTH HEREIN, OR (B) TERMINATION OF THIS PURCHASE AGREEMENT UPON WRITTEN NOTICE TO PURCHASER, WHEREUPON SELLER SHALL BE PAID THE ENTIRE CONTRACT DEPOSIT, AND ALL ACCRUED INTEREST, AS FIXED AND FULL LIQUIDATED DAMAGES. PURCHASER ACKNOWLEDGES THAT IT IS IMPOSSIBLE TO MORE PRECISELY ESTIMATE THE SPECIFIC DAMAGES TO BE SUFFERED BY SELLER FOR WHICH LIQUIDATED DAMAGES ARE PAYABLE PURSUANT TO THIS PURCHASE AGREEMENT, BUT THAT THE APPLICABLE SUM STIPULATED AS THE AMOUNT OF THE LIQUIDATED DAMAGES IS A REASONABLE AMOUNT.

34. PURCHASER'S REMEDIES UPON DEFAULT BY SELLER. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS PURCHASE AGREEMENT, IF SELLER SHALL BE IN DEFAULT UNDER THE TERMS AND PROVISIONS OF THIS PURCHASE AGREEMENT, PURCHASER SHALL PROVIDE WRITTEN NOTICE TO SELLER OF ANY SUCH DEFAULT BY SELLER. IF SELLER DOES NOT THEREAFTER CURE SUCH DEFAULT WITHIN THIRTY (30) CALENDAR DAYS OF SELLER'S RECEIPT OF PURCHASER'S WRITTEN NOTICE, PURCHASER MAY, PROVIDED THAT PURCHASER IS NOT THEN IN MATERIAL DEFAULT UNDER THIS PURCHASE AGREEMENT, ELECT TO TERMINATE THIS PURCHASE AGREEMENT BY WRITTEN NOTICE TO SELLER, IN WHICH EVENT PURCHASER'S CONTRACT DEPOSIT AND ANY OTHER AMOUNTS PAID BY PURCHASER TO SELLER UNDER THIS PURCHASE AGREEMENT SHALL BE RETURNED TO PURCHASER UPON DEMAND WITH ACCRUED INTEREST DESCRIBED IN **SECTION E.5** ABOVE.

35. DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES.

NOTICE TO PURCHASER:

The following provisions apply to the resolution of Disputes (as defined below):

a. PURPOSE AND EXCLUSIVITY. THE PURPOSE OF THESE DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES (THE "**PROCEDURES**") IS TO PROVIDE SELLER AND ITS MANAGERS, MEMBERS, OFFICERS, AGENTS, EMPLOYEES, BROKERS, AND OTHER REPRESENTATIVES, AND PURCHASER OR OTHER OWNER OF AN INTEREST IN THE UNIT, AND ANY PERSONS CLAIMING THEREUNDER (COLLECTIVELY, FOR PURPOSES OF THIS SECTION, THE "**PARTIES**"), WITH A MECHANISM TO RESOLVE DISPUTES THAT ARISE IN CONNECTION WITH THIS PURCHASE AGREEMENT. THE PARTIES AGREE THAT THESE PROCEDURES SHALL BE THE METHOD EMPLOYED TO RESOLVE ALL DISPUTES.

i. DEFINITION. A "**DISPUTE**" MEANS AND INCLUDES ANY AND ALL ACTIONS, CLAIMS, OR DISPUTES BETWEEN OR AMONG THE PARTIES WITH RESPECT TO, ARISING OUT OF, OR RELATING TO THIS PURCHASE AGREEMENT, WHERE THE TOTAL AMOUNT IN CONTROVERSY (INCLUDING ALL CLAIMS AND COUNTERCLAIMS) IS GREATER THAN THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$3,500.00). A DISPUTE SHALL NOT INCLUDE CONSTRUCTION DEFECTS COVERED UNDER THE CONTRACTOR REPAIR ACT.

ii. PRE-CLOSING DISPUTE. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY AND SUBJECT TO **SECTIONS E.33** AND **E.34** HEREIN, ANY DISPUTE SOLELY BETWEEN SELLER AND PURCHASER ARISING OUT OF OR INCIDENT TO THIS PURCHASE AGREEMENT MAY BE PURSUED IN A COURT OF COMPETENT JURISDICTION IN HONOLULU, HAWAII, WITHOUT THE OBLIGATION OF DISCUSSION OR MEDIATION, PROVIDED THAT SUCH CLAIM IS FILED PRIOR TO THE SCHEDULED CLOSING DATE HEREIN.

iii. DISCUSSION. ANY PERSON WITH A DISPUTE SHALL NOTIFY THE PARTY TO WHOM THE DISPUTE IS DIRECTED IN WRITING OF THE DISPUTE, WHICH WRITING SHALL DESCRIBE THE NATURE OF THE DISPUTE AND ANY PROPOSED REMEDY (THE "**DISPUTE NOTICE**"). WITHIN A REASONABLE PERIOD AFTER RECEIPT OF THE DISPUTE NOTICE, WHICH PERIOD SHALL NOT EXCEED TWENTY-ONE CALENDAR (21) DAYS, THE PARTIES TO THE DISPUTE, REPRESENTED BY INDIVIDUALS WITH DECISION MAKING AUTHORITY, SHALL MEET AT A MUTUALLY ACCEPTABLE LOCATION WITHIN OR NEAR THE PROJECT TO DISCUSS THE DISPUTE. THE PARTIES TO THE DISPUTE SHALL NEGOTIATE IN GOOD FAITH IN AN EFFORT TO RESOLVE THE DISPUTE.

iv. MEDIATION. IF THE PARTIES CANNOT RESOLVE SUCH DISPUTE PURSUANT TO THE PROCEDURES DESCRIBED IN **SECTION E.35.a.iii** ABOVE WITHIN THIRTY (30) CALENDAR DAYS AFTER THE COMMENCEMENT OF DISCUSSIONS, THE MATTER SHALL BE SUBMITTED TO MEDIATION BY AND PURSUANT TO THE PROCEDURES ADOPTED BY DISPUTE PREVENTION AND RESOLUTION, INC. ("DPR") IN HONOLULU, HAWAII, OR ANY SUCCESSOR ENTITY THERETO, OR TO ANY OTHER ENTITY OFFERING MEDIATION SERVICES THAT IS ACCEPTABLE TO THE PARTIES.

(a) PARTIES PERMITTED AT SESSIONS. PERSONS OTHER THAN THE PARTIES, THEIR AUTHORIZED REPRESENTATIVES, AND THE MEDIATOR MAY ATTEND THE MEDIATION SESSIONS ONLY WITH THE CONSENT OF THE MEDIATOR; PROVIDED, HOWEVER, SUCH PERMISSION AND CONSENT SHALL NOT BE REQUIRED TO ALLOW PARTICIPATION OF SUCH PARTIES' LIABILITY INSURERS IN THE MEDIATION TO THE EXTENT REQUIRED UNDER SUCH PARTIES' LIABILITY INSURANCE POLICY.

(b) RECORD. THERE SHALL BE NO STENOGRAPHIC RECORD OF THE MEDIATION PROCESS.

(c) EXPENSES. THE EXPENSES OF WITNESSES SHALL BE PAID BY THE PARTY PRODUCING SUCH WITNESSES. ALL OTHER EXPENSES OF THE MEDIATION INCLUDING, BUT NOT LIMITED TO, THE FEES AND COSTS CHARGED BY THE MEDIATOR AND THE EXPENSES OF ANY WITNESSES OR THE COST OF ANY PROOF OR EXPERT ADVICE PRODUCED AT THE DIRECT REQUEST OF THE MEDIATOR, SHALL BE BORNE EQUALLY BY THE PARTIES TO THE MEDIATION UNLESS THEY AGREE OTHERWISE. EACH PARTY TO THE MEDIATION SHALL BEAR ITS OWN ATTORNEYS' FEES AND COSTS IN CONNECTION WITH SUCH MEDIATION.

(d) NO JUDICIAL INTERVENTION. IF A PARTY INSTITUTES LITIGATION PRIOR TO OBSERVING THE PROCEDURES SET FORTH IN **SECTIONS E.35.a.iii** AND **E.35.a.iv** ("**PROHIBITED LITIGATION**"), SUCH PARTY SHALL BE RESPONSIBLE FOR ALL REASONABLE EXPENSES AND FEES (INCLUDING ATTORNEYS' FEES) INCURRED BY THE OTHER PARTY IN OBTAINING A STAY OR DISMISSAL OF THE PROHIBITED LITIGATION.

(e) CONFIDENTIALITY. ALL NEGOTIATIONS, MEDIATION PROCEEDINGS, AND ANY DISCOVERY CONDUCTED PURSUANT TO THESE PROCEDURES ARE CONFIDENTIAL. ALL PROCEEDINGS CONDUCTED PURSUANT TO THESE PROCEDURES SHALL BE TREATED FOR ALL PURPOSES AS COMPROMISE AND SETTLEMENT NEGOTIATIONS WITHIN THE MEANING OF RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND RULE 408 OF THE HAWAII RULES OF EVIDENCE.

v. FURTHER RESOLUTION. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE PURSUANT TO THE PROCEDURES DESCRIBED IN **SECTIONS E.35.a.iii** AND **E.35.a.iv** ABOVE, EACH PARTY SHALL HAVE THE RIGHT TO PURSUE THE RIGHTS AND REMEDIES AVAILABLE TO SUCH PARTY AT LAW OR IN EQUITY, EXCEPT AS OTHERWISE STATED HEREIN. IF A DISPUTE PROCEEDS IN COURT, SUCH ACTION SHALL BE BROUGHT EXCLUSIVELY IN THE FEDERAL OR STATE COURTS LOCATED IN HONOLULU, HAWAII. THE PARTIES HEREBY AGREE THAT THE COURT SHALL APPLY HAWAII SUBSTANTIVE LAW AND APPLICABLE STATUTES OF LIMITATIONS AND WILL HONOR CLAIMS OF PRIVILEGE RECOGNIZED BY LAW.

vi. WAIVER OF JURY TRIAL. THE PARTIES ACKNOWLEDGE THAT THE PROCEDURES SET FORTH HEREIN HAVE BEEN A MATERIAL INDUCEMENT FOR THEM TO ENTER INTO THIS PURCHASE AGREEMENT. ACCORDINGLY, WITH RESPECT TO ANY DISPUTE, THE PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL ON ANY CLAIM OR CAUSE OF ACTION THAT IS BASED UPON OR ARISES OUT OF SUCH DISPUTE.

vii. WAIVER OF CLASS-WIDE CLAIMS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE ADJUDICATION OF ANY DISPUTE SHALL BE BY AND BETWEEN THE PARTIES ONLY. THE PARTIES EXPRESSLY WAIVE ANY AND ALL RIGHTS TO PURSUE CLASS-WIDE CLAIMS RELATING TO ANY DISPUTE. THE PARTIES ACKNOWLEDGE AND AGREE THAT ANY DISPUTE SHALL NOT BE CONSOLIDATED WITH THE CLAIMS OF ANY OTHER PERSON.

viii. STATUTES OF LIMITATION. THE APPLICABLE STATUTE OF LIMITATIONS SHALL NOT BE TOLLED BY ANYTHING CONTAINED IN THESE PROCEDURES. NOTWITHSTANDING THE PROHIBITION ON LITIGATION, A PARTY MAY COMMENCE AN ACTION SOLELY FOR THE PURPOSE OF TOLLING THE STATUTES OF LIMITATION, PROVIDED SUCH PARTY IMMEDIATELY STAYS THE ACTION TO RESOLVE THE DISPUTE PURSUANT TO THE PROCEDURES DESCRIBED IN **SECTIONS E.35.a.iii** AND **E.35.a.iv** ABOVE.

ix. SURVIVAL; SUCCESSORS AND ASSIGNS. THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS SECTION SHALL SURVIVE THE CONVEYANCE OF THE UNIT PURSUANT TO THIS PURCHASE AGREEMENT AND THE TERMINATION OR EXPIRATION OF THIS PURCHASE AGREEMENT. THESE PROCEDURES, AND THE RIGHTS, DUTIES, AND OBLIGATIONS OF THE PARTIES, SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS.

x. THIRD-PARTY BENEFICIARY. IT IS THE INTENT OF SELLER AND PURCHASER THAT THE CONTRACTORS, SUBCONTRACTORS, DESIGN PROFESSIONALS, ENGINEERS AND SUPPLIERS WHO PROVIDED LABOR, SERVICES, OR MATERIALS TO THE PROJECT, AND SELLER'S AGENTS AND ATTORNEYS, SHALL BE THIRD-PARTY BENEFICIARIES UNDER THIS SECTION, AND SHALL BE ENTITLED TO ENFORCE THE PROVISIONS OF THIS SECTION.

END OF NOTICE TO PURCHASER

36. Purchaser's Acknowledgments.

a. Dispute Notification and Resolution Procedures Arising from Purchase Agreement. After Closing, all disputes arising from this Purchase Agreement, where the total amount in controversy (including all claims and counterclaims) is greater than Three Thousand Five Hundred and No/100 Dollars (\$3,500.00), shall be subject to the notification and resolution procedures set forth in **Section E.35**, above.

Purchaser's Initials _____

b. Dispute Resolution Procedures and Requirements in the Declaration. Purchaser acknowledges that Section XXXIX of the Declaration contains detailed terms, conditions, and agreements regarding the resolution of disputes with respect to, arising out of, or relating to the Declaration. Purchaser freely accepts and agrees to observe and be bound by all such provisions.

Purchaser's Initials _____

c. Use of Purchaser Deposits. Seller intends to subsequently amend the Public Report, pursuant to Section 514B-92 of the Hawaii Revised Statutes, as amended, for the use of Purchaser's funds to pay for certain construction and Project costs permitted by statute. If Seller submits an amendment to the Public Report with all the information and documents required by law and the Commission for the use of Purchaser's deposits to pay such costs, then Purchaser will not have the right to rescind or cancel the Purchase Agreement by reason of such submission and amendment. At such time, deposits may be disbursed before Closing to pay for Project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the Project. While seller at such time may have submitted satisfactory evidence that the Project will be completed, it is possible that the Project may not be completed. If the deposits are disbursed to pay Project costs and the Project is not completed, there is a risk that Purchaser's deposits will not be refunded. Purchaser should carefully consider this risk in deciding whether to Purchase the Unit.

Purchaser agrees to the use of Purchaser's deposit for such purposes in accordance with Chapter 514B of the Hawaii Revised Statutes and the Escrow Agreement and directs Escrow to disburse such funds upon direction from Seller, Seller's lender, or an otherwise qualified financially disinterested person. Seller has no obligation to pay interest to Purchaser on any funds used by Seller for those purposes permitted by law. Purchaser further acknowledges that any attempt by Purchaser to prevent Seller from using Purchaser's funds or to prevent Escrow from disbursing Purchaser's funds as permitted under the Chapter 514B of the Hawaii Revised Statutes and the Escrow Agreement may result in additional costs, delays, and other damages to Seller. Accordingly, any such actions by Purchaser shall constitute a breach of this Purchase Agreement. Seller may pursue legal action for any actual and consequential damages caused by reason of Purchaser's actions in violation hereof. Seller and purchaser hereby irrevocably instruct Escrow to make disbursements from Purchaser's deposits as may be permitted by the Escrow Agreement. Seller and purchaser hereby agree that Escrow is relieved from all liability for acting in accordance with the terms of this Section, notwithstanding a notice to the contrary by Seller, Purchaser, or any other party or third person; provided, however, that Escrow shall not be relieved from any liability arising out of or in connection with its own intentional gross negligence, or reckless acts or omissions.

Purchaser's Initials _____

d. Contractor Repair Act. HAWAII REVISED STATUTES, CHAPTER 672E ("CHAPTER 672E" OR "THE CONTRACTOR REPAIR ACT"), AS AMENDED, CONTAINS IMPORTANT REQUIREMENTS PURCHASER MUST FOLLOW BEFORE PURCHASER MAY FILE A LAWSUIT OR COMMENCE OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED PURCHASER'S UNIT. NINETY (90) DAYS BEFORE PURCHASER FILES PURCHASER'S LAWSUIT OR COMMENCES ANY ACTION, PURCHASER MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS PURCHASER ALLEGES ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. PURCHASER IS NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT PURCHASER'S ABILITY TO FILE A LAWSUIT OR COMMENCE ANY OTHER ACTION AGAINST THE CONTRACTOR. CHAPTER 672E APPLIES TO ANY CIVIL ACTION, INCLUDING THE INITIATION OF AN ARBITRATION PROCEEDING. REFERENCE TO CHAPTER 672E OR THE CONTRACTOR REPAIR ACT DOES NOT MEAN THAT PURCHASER HAS A RIGHT TO FILE A LAWSUIT WHENEVER CHAPTER 672E MAY APPLY. This **Section E.36.d** shall survive Closing and shall not be merged with the Unit Deed.

Purchaser's Initials _____

e. Seller Makes No Warranties or Promises Except as Expressly Stated in this Purchase Agreement. Except as otherwise expressly stated in this Purchase Agreement, Purchaser acknowledges that Seller has made no warranties, express or implied, with respect to (a) the Unit, its quality or grade, (b) any Common Element or anything installed therein, its quality or grade, or (c) any other portion of the Project, its quality or grade, or any other aspect thereof. Seller is developing the Project but is not the general contractor or an affiliate of the general contractor who is building the Project. Further, Seller, not being the manufacturer of any of the furnishings and appliances in the Project, disclaims any express or implied warranty of any kind whatsoever with respect to such furnishings or appliances, including the merchantability of such furnishings and appliances or their fitness for a particular purpose. Seller disclaims any express or implied warranty of any kind whatsoever with respect to the materials, workmanship, or any other matters relating to Purchaser's Unit or any other portion of the Project, including, without limitation, fitness for a particular use, to the fullest extent allowed under applicable law. As to any implied warranty that cannot be disclaimed entirely, all secondary, incidental, and consequential damages are specifically excluded, disclaimed, and made unavailable.

Purchaser's Initials _____

f. Seller's Plans and Specifications. Seller agrees to construct the Unit in substantial conformance with the plans and specifications on file at Seller's sales office ("**Seller's Plans and Specifications**"), which Purchaser may inspect upon reasonable notice. Purchaser understands that the Unit may be the reverse or mirror image of the floor plan shown on Seller's Plans and Specifications, sales materials, or other materials, and that units of the same unit type may not be identical.

Statements of the approximate square footages of the units, as well as of the Common Elements located within the Project, may be made in Seller's Plans and Specifications, the Condominium Map, and the Declaration. Purchaser acknowledges that there are various methods for calculating the square footage of a unit and that, depending on the method of calculation, the quoted square footage may vary by more than a nominal amount. For example, architects often measure square footage from the outside edge of the exterior walls to the mid-point of the interior walls. Another method, typically used in condominium maps, measures square footage from the inside edge of exterior walls to the inside edge of interior walls and is referred to as the "net living area" of a unit. So long as the Unit is constructed substantially in accordance with Seller's Plans and Specifications, Purchaser will have no right to rescind this Purchase Agreement, nor will Purchaser be entitled to any claim for breach of this Purchase Agreement or adjustment of the Total Purchase Price on account of alleged discrepancies in square footage calculations.

Purchaser further acknowledges and agrees that it is common for pre-construction plans and specifications for any unit or building to be changed and adjusted from time to time to accommodate ongoing "in the field" construction needs. These changes and adjustments are necessary in order to permit all components of the units and the

Purchaser's Initials _____

building to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Because of the foregoing, Purchaser understands and agrees that changes in the approximate net living area the Unit, the location of telephone, electric, cable television, and other utility outlets, windows, doors, walls, partitions, lighting fixtures, electric panel boxes, and the general layout of the Unit are subject to changes made by Seller in its sole reasonable discretion. Purchaser acknowledges and agrees that it is to Purchaser's benefit to allow Seller to make such changes to the Unit and the Project, and that such changes may result in an increase or decrease in the net living area of the Unit, as well as a corresponding adjustment to the common interest appurtenant to the Unit, as represented in the Declaration. ACCORDINGLY, PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES THAT VARIATIONS IN THE NET LIVING AREA OF THE UNIT OF UP TO TWO PERCENT (2%) OF THE TOTAL NET LIVING AREA OF THE UNIT, AND THE CORRESPONDING ADJUSTMENT TO THE COMMON INTEREST APPURTENANT TO THE UNIT, AS SUCH VALUES ARE REPRESENTED IN THE PROJECT DOCUMENTS, SHALL NOT CONSTITUTE A MATERIAL CHANGE THAT WOULD GIVE RISE TO RESCISSION RIGHTS AS SET FORTH IN **SECTION E.28**.

Purchaser's Initials _____

37. Time; Non-Waiver. Time is of the essence of this Purchase Agreement. No action or failure to act on the part of Seller shall constitute a waiver of any of Seller's rights or of any term or condition of this Purchase Agreement, nor shall such action or failure to act constitute approval of or acquiescence in any breach hereunder, except as the parties hereto shall agree in writing.

38. Notices. Any notice required or permitted hereunder shall be in writing and shall be addressed to such party at its address set forth above (or such more recent address of which the mailing party may have notice) and sent by United States mail, postage prepaid, registered or certified mail, return receipt requested. Any follow-up correspondence may be in writing and addressed to such party at its address set forth above (or such more recent address of which the mailing party may have notice) and: (a) sent by United States mail, postage prepaid, registered or certified mail, return receipt requested; (b) delivered personally; (c) sent by facsimile; or (d) sent by overnight courier (i.e. FedEx). Notice shall be deemed given: (i) three (3) business days after deposited in the United States mail (whether or not the intended recipient signs the return receipt for such mail); (ii) when personally delivered; (iii) when delivered by facsimile; or (iv) two (2) business days after being sent by overnight courier. Purchaser agrees to notify Seller in writing of any change in Purchaser's address set forth hereinabove within five (5) business days after the change thereof. If more than one Person is listed as Purchaser, mailing, delivery, or facsimile may be made to any one of them. Mailing, delivery, or facsimile may also be made to any officer of a corporate party. If more than one Purchaser is listed in Section B, then Purchasers shall designate a primary contact for purposes of notices to Purchaser.

39. This Purchase Agreement is Binding on the Successors of the Parties and Purchaser is Responsible Individually and Together. Subject to the terms of **Section E.32** and **Section E.40** hereof, the terms "**Purchaser**" and "**Seller**" include the Persons named and their respective heirs, successors, personal representatives, administrators or permitted assigns. The singular includes the plural and vice versa and the use of any gender includes the other as common sense shall require. If this Purchase Agreement is signed by more than one Person as Purchaser, the contract obligations shall be joint and several.

40. Cancellation of Purchase Agreement in Event of Purchaser's Death. If Purchaser, or any one or more of the purchasers hereunder if there is more than one Purchaser listed in **Section B** above, should die prior to the Closing Date, Seller reserves the right to return the Contract Deposit paid hereunder by Purchaser (including payments to all parties if there is more than one Purchaser listed in **Section B** above), without interest, and this Purchase Agreement shall then be deemed to have been cancelled, and both Seller and Purchaser shall be released from all obligations and liability hereunder.

41. Hawaii Law Governs this Purchase Agreement. The laws of the State of Hawaii shall govern all matters with respect to this Purchase Agreement, including all matters related to the formation, construction, and performance of this Purchase Agreement.

42. Captions. The captions of the sections of this Purchase Agreement are for convenience only and do not amplify or limit in any way the provisions hereof.

43. Effect of Partial Invalidity on this Purchase Agreement. In the event that any provision of this Purchase Agreement is illegal, void, or unenforceable for any reason, the remaining terms of this Purchase Agreement shall remain in full force and effect.

44. Brokers. Purchaser acknowledges that Project Broker has disclosed that it is a licensed real estate broker and represents only Seller in this transaction and does not represent Purchaser. Purchaser was represented in his or her purchase of the Unit by Purchaser's broker, if any, who is identified in **Section D.9** above and the Cooperating Brokerage Agreement, if any. Purchaser agrees that Seller is not responsible for any representations or statements of Purchaser's broker that are inconsistent with those set forth in this Purchase Agreement, the Public Report, and other Project Documents. If Purchaser has indicated in **Section D.9** above, that Purchaser is not represented by a broker, Purchaser represents and warrants that no real estate broker or other person represented Purchaser or was engaged by Purchaser in connection with Purchaser's purchase of the Unit and Purchaser agrees to indemnify, defend, and hold Seller harmless against any and all claims to the contrary.

45. Marketing Materials Proprietary. All sales and marketing materials provided to Purchaser in connection with the sale of the Unit or otherwise are the property of Seller and may not be used by Purchaser or Purchaser's agents in any fashion whatsoever. Any use of such material in any way by Purchaser will entitle Seller to enjoin such use and to pursue other remedies against Purchaser, independently of the obligations set forth in this Purchase Agreement. Seller, in its sole and absolute discretion, may pursue such remedies in the state courts of Hawaii or federal courts sitting in Hawaii, and shall not be bound to pursue such remedies in accordance with the mediation and arbitration provisions set forth in the Dispute Notification and Resolution Procedures section. Purchaser hereby agrees to submit to the jurisdiction and venue of such courts for the purpose of any lawsuit brought by Seller under this Section. Purchaser will be responsible to pay for all costs incurred by Seller in enforcing its proprietary rights in and to such material, including any and all attorneys' fees and costs incurred by Seller. This right will survive Closing of the sale of the Unit to Purchaser.

46. Mandatory Seller Disclosure. Seller is exempt from the provisions of Chapter 508D of the Hawaii Revised Statutes, as amended, regarding mandatory Seller disclosures regarding sales of residential real property. Information pertaining to the Project is contained in the Public Report for the Project.

47. This is the Entire Agreement; Certain Obligations to Continue. This Purchase Agreement and any addenda attached hereto constitute the entire agreement between the parties and supersede and cancel all prior negotiations, representations, understandings, and agreements, both written and oral, of the parties hereto. No fact sheets, informational material, advertising material, or other documents which purport to describe the Unit or the Project in any manner beyond or different from the description set forth in the Declaration, the Bylaws, and the Public Report shall be valid or enforceable against Seller unless signed by Seller, and no variations of this Purchase Agreement shall be valid or enforceable unless approved by the parties in writing and attached hereto as an addendum. Unless performed at or before Closing, provisions of this Purchase Agreement shall survive the execution and filing of the Unit Deed.

48. Counterpart and Electronic Signatures. This Purchase Agreement may be executed in any number of counterparts, each of which shall for all purposes, be deemed to be an original and all of which shall constitute but one and the same Purchase Agreement. Further, the parties agree that when this Purchase Agreement is executed by any party, a facsimile copy or electronic copy of that signature shall be deemed to be an original signature for any and all purposes.

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EXHIBIT A

DEFINITIONS

When used in this Purchase Agreement with initial capital letters, the terms listed below will have the following meanings:

"AFFORDABLE HOUSING UNITS" means the six hundred three (603) units, or 60% of the total units in the Project, to be sold as affordable housing units pursuant to HHFDC Laws.

"AGREEMENT EXTENSION FEE" means that certain fee, equal to one percent (1%) of the Total Purchase Price per month in advance, to be paid by Purchaser pursuant to **Section E.10** of this Purchase Agreement in the event that Seller agrees, in its sole and absolute discretion, to extend the Closing Date.

"ASSOCIATION" means the Association of Unit Owners of Kuilei Place as established pursuant to the Declaration and Bylaws.

"BUREAU" means the Bureau of Conveyances of the State of Hawaii.

"BOARD" means the Board of Directors of the Association.

"BYLAWS" means the Bylaws of the Association of Unit Owners of Kuilei Place dated February 9, 2023, filed at the Office as Document No. T-12245193, as the same may be amended from time to time.

"CANCELLATION FEE" means the fee charged by Escrow to Purchaser in the event the Purchase Agreement is canceled; provided that the Cancellation Fee shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00).

"CLOSING" shall mean the transfer of the Unit from Seller to Purchaser by way of the filing of the Unit Deed at the Office and/or Bureau upon payment by Purchaser to Seller of the Total Purchase Price.

"CLOSING COSTS AND PRORATIONS" means all closing costs associated with this purchase and sale and all customary prorations as further discussed in **Section E.11**.

"CLOSING DATE" or "RECORDING DATE" shall mean that date selected by Seller, as described in **Section E.10** of this Purchase Agreement, upon which Purchaser and Seller shall perform their respective obligations to purchase and sell the Unit.

"COMMISSION" means the Real Estate Commission of the State of Hawaii.

"COMMON ELEMENTS" means those portions of the Project designated as Common Elements in the Declaration.

"COMPLETION DEADLINE" means the date upon which Seller shall complete construction of Purchaser's Unit set forth in **Section D.7** of the Purchase Agreement, as the same may be extended by reason of Force Majeure.

"CONDOMINIUM MAP" means Condominium Map No. 2566 for the Project filed at the Office, as the same may be amended from time to time.

"CONTRACT DATE" means the date that this Purchase Agreement is accepted and executed by Seller.

"CONTRACT DEPOSIT" means the Initial Deposit and, if delivered, the Second Deposit, as set forth in **Section D.2** above.

"CONTRACTOR REPAIR ACT" means Chapter 672E of the Hawaii Revised Statutes, as amended.

"COUNTERTOPS" means the natural stone countertops that may be installed by Seller in the Unit.

"COUNTY" means the City and County of Honolulu.

"DECLARATION" means the Declaration of Condominium Property Regime of Kuilei Place, dated February 9, 2023, filed in the Office as Document No. T-12245192, as the same may be amended from time to time.

"DEVELOPER CONTROL PERIOD" means the period described in **Section E.25** and as set forth in the Declaration, during which Seller shall continue to have the right to appoint and remove Officers and members of the Board.

"DEVELOPMENT AGREEMENT" means that certain Development Agreement between HHFDC and 2599 Kapiolani, LLC, effective as of March 15, 2023, and subsequently assigned to Seller, as the same may be amended from time to time.

"DISCLOSURE DOCUMENT" means an amended Public Report or other document, which discloses a Material Change in the Project to Purchaser pursuant to Section 514B-87 of the Hawaii Revised Statutes, as amended.

"DISPUTE" means and includes any and all actions, claims, or disputes between or among the Parties with respect to, arising out of, or relating to this Purchase Agreement, where the total amount in controversy (including all claims and counterclaims) is greater than Three Thousand Five Hundred and No/100 Dollars (\$3,500.00). A Dispute shall not include construction defects covered under the Contractor Repair Act.

"DISPUTE NOTICE" means a notification to the Party to whom the Dispute is directed in writing of the Dispute, which writing shall describe the nature of the Dispute and any proposed remedy

"EFFECTIVE DATE" means that date this Purchase Agreement becomes binding pursuant to the provisions of **Section D.6** of this Purchase Agreement.

"ESCROW" means Title Guaranty Escrow Services, Inc., a Hawaii corporation. Unless otherwise agreed, references to Escrow shall be to Escrow at its Honolulu office at 235 Queen Street, Honolulu, Hawaii 96813, phone: (808) 5210211.

"ESCROW AGREEMENT" means the Escrow Agreement by and between Escrow and 2599 Kapiolani, LLC, made effective as of March 1, 2023, and subsequently assigned to Seller, as the same may be amended and/or supplemented.

"FORCE MAJEURE" means fire, flooding, hurricane, tsunami, the elements, war, civil disturbances, strikes or other labor disturbances, or economic controls making it impossible to obtain the necessary labor or materials, or any other events, matters, or conditions beyond the control of Seller that are legally supportable in Hawaii as rendering completion of the Project impossible.

"FUNDING DEADLINE" means the date(s) on which all of Purchaser's funds required to close the sale of the Unit shall be due.

"HHFDC" means the Hawaii Housing Finance and Development Corporation.

"HHFDC LAWS" means Chapter 201H, Hawaii Revised Statutes and relevant sections of Title 15, Chapters 307 and 308, Hawaii Administrative Rules, as amended.

"HOUSE RULES" means the Rules and Regulations of the Association, as may be amended from time to time.

"LAND" means the final land area underlying the Project.

"LENDER" means the lender or lenders with whom Seller has or will enter into one or more agreements in order to finance the construction of the Project.

"LIMITED COMMON ELEMENTS" means those portions of the Common Elements designated in the Declaration as being appurtenant to one or more (but less than all) units in the Project.

"LINER BUILDING" means the twelve (12) story building depicted on the Condominium Map.

"MARKET UNITS" means the four hundred one (401) market priced residential units in the Project.

"MATERIAL CHANGE" means a change in the Project which (1) directly, substantially, and adversely affects the use or value of the Unit or the Limited Common Elements appurtenant thereto or the amenities of the Project available for Purchaser's use, and (2) is not made pursuant to a right reserved to Seller under the Declaration.

"NEIGHBORING DEVELOPMENT" means land outside, abutting, and/or near the Project subject to redevelopment, and, in the future, may or will be developed by third parties over whom Seller has no control.

"NEW LAW" means any law, ordinance, rule, or regulation, including, but not limited to, a zoning change, required by referendum or otherwise, which would prevent the construction of the Project, the effective date of which law, ordinance, rule, or regulation falls after the Effective Date but before the Closing Date of Purchaser's Unit.

"NOTICE OF RIGHT TO CANCEL" means notice of the prospective purchaser's thirty-day cancellation right on a form prescribed by the Commission, upon which the prospective purchaser may indicate that the prospective purchaser has had an opportunity to read the Public Report, understands the Public Report, and exercises the right to cancel or waives the right to cancel.

"OFFICE" means the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

"PARKING STRUCTURE" means levels one (1) through thirteen (13) of the Tower, as depicted on the Condominium Map, which includes, without limitation, the parking stalls that serve the Project.

"PARTIES" means Seller, its officers, agents, employees, brokers, other representatives, or any contractor or subcontractor, design professional, engineer, or supplier who provided labor, service, or materials to the Project or any purchaser or other Owner of an interest in a unit and any Persons claiming thereunder.

"PRE-CLOSING" means the execution and delivery of documents in Escrow prior to the actual Closing Date as set forth in **Section E.8** of this Purchase Agreement.

"PRE-CLOSING DATE" means the date selected by Seller, in Seller's sole discretion, requiring Pre-Closing.

"PRE-CLOSING NOTICE" means the thirty (30)-calendar day advance written notice of Pre-Closing given by Seller to Purchaser any time after the Effective Date of the Purchase Agreement.

"PRE-QUALIFICATION LETTER" means the qualification letter from Project Lender confirming Purchaser's ability to obtain a mortgage loan in an amount at least equal to the portion of the Total Purchase Price to be paid by mortgage loan proceeds.

"PRESALE CONTINGENCY" means Seller's right to cancel the Purchase Agreement if Seller has not obtained binding purchase agreements to sell that certain percentage of units in the Project on or before one hundred eighty (180) calendar days after the date of the first executed purchase agreement for a unit in the Project.

"PROCEDURES" means the Dispute notification and resolution procedures set forth in the Purchase Agreement.

"PROHIBITED LITIGATION" means the institution of litigation prior to observing the Procedures.

"PROJECT" means the "Kuilei Place" condominium project located in the City and County of Honolulu, State of Hawaii.

"PROJECT ARCHITECT" means DESIGN PARTNERS, INCORPORATED, a Hawaii corporation, or such other architect for the Project as Seller may designate from time to time.

"PROJECT BROKER" means COMPASS HAWAII, LLC, dba Compass, a Delaware limited liability company, whose principal place of business and post office address is 4211 Waialae Avenue, Suite 100, Honolulu, Hawaii 96816, or such other broker for the Project as Seller may designate from time to time.

"PROJECT DOCUMENTS" means the Public Report, Condominium Map, Declaration, Bylaws, House Rules, Unit Deed, Purchase Agreement, Escrow Agreement, and all other documents required to be filed with the Commission in conjunction with the development and sale of the Project, as the same may be amended and/or supplemented from time to time.

"PROJECT LENDER or AGENT" means one of the financial institutions designated by Seller or otherwise approved by Seller from time to time to qualify Purchaser's ability to make payments when due.

"PUBLIC REPORT" means the Developer's Public Report for the Project for which the Commission has issued an effective date, as may be amended from time to time. The Public Report shall be deemed to include those items specified in Section 514B-86(a)(1)(A) of the Hawaii Revised Statutes, provided that if the Condominium Map is not provided, it shall be sufficient that Purchaser is provided with notice of an opportunity to examine the map.

"PUNCHLIST" means that certain checklist completed by Purchaser during an inspection of the Unit prior to Closing, specifying any work required to complete the Unit in accordance with this Purchase Agreement.

"PURCHASE AGREEMENT" means this Purchase Agreement, together with (where applicable) any addenda attached hereto or subsequent amendment.

"PURCHASER" means the persons set forth in **Section B** of this Purchase Agreement.

"PURCHASER'S PERMANENT LENDER" means (a) a Project Lender, (b) a lender arranged for, by, or through Project Lender, or (c) a lender selected by Purchaser, who will provide the mortgage loan proceeds for Purchaser to purchase the Unit.

"PURCHASER'S PERMANENT LOAN" means the required mortgage loan proceeds from Purchaser's Permanent Lender.

"RESIDENTIAL AMENITIES" means those recreational amenities located on levels 1 and 43 of the Tower and in the Liner Building, which amenities are available for the use and enjoyment of the Residential Unit Owners.

"SELLER" or "DEVELOPER" means 2599 KAPIOLANI OWNER, L.P., a Delaware limited partnership, and its successors and assigns.

"SELLER AND/OR ITS AGENTS" means Seller, its officers, employees, agents, and/or any other real estate brokers or real estate salespersons representing Seller, if any, and any of their respective affiliated agents, employees, or representatives.

"SELLER'S PLANS AND SPECIFICATIONS" means the plans and specifications on file at Seller's sales office, which Purchaser may inspect upon reasonable notice.

"TENANCY" means the manner of vesting of title.

"TOTAL PURCHASE PRICE" means the amount set forth in **Section D.1** above.

"TOWER" means the forty-three (43) story building depicted on the Condominium Map.

"UNIT" means the Unit described in **Sections A** and **E.2** of this Purchase Agreement.

"UNIT DEED" means the Limited Warranty Unit Deed, Encumbrances and Reservation of Rights with Power of Attorney for Kuilei Place. The Unit Deed is the legal document that Purchaser and Seller will sign to transfer fee simple ownership of the Unit at Closing to Purchaser. A specimen copy of the Unit Deed has been supplied to Purchaser; copies are also available from the Project Broker.