MAHANA WARD VILLAGE

PURCHASE AGREEMENT & DEPOSIT RECEIPT

CALIFORNIA STATUTORY DISCLAIMER

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT QUALIFIED, INSPECTED OR EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS SUBDIVISION IS SITUATED.

Purchaser's Initials _____________

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

THE FOLLOWING DOCUMENTS ARE REFERRED TO IN THIS PURCHASE AGREEMENT & DEPOSIT RECEIPT ("**PURCHASE AGREEMENT**") AND FORM AN ESSENTIAL PART OF THIS PURCHASE AGREEMENT. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS RECEIVED COP3IES OF EACH OF THE FOLLOWING DOCUMENTS AND THAT PURCHASER HAS HAD A FULL AND COMPLETE OPPORTUNITY TO READ, REVIEW AND EXAMINE, OR WILL READ, REVIEW AND EXAMINE DURING THE STATUTORY THIRTY (30) DAY CANCELLATION PERIOD, EACH OF THE FOLLOWING DOCUMENTS, WHICH MAY BE AMENDED AND SUPPLEMENTED FROM TIME TO TIME (TOGETHER WITH THE PURCHASE AGREEMENT, "**PROJECT DOCUMENTS**").

1. State of Hawaii Developer's Public Report and any amendment(s) ("**Public Report**")
2. Declaration of Condominium Property Regime of Mahana Ward Village, as the same may be amended ("**Declaration**")
3. Bylaws of the Association of Unit Owners of Mahana Ward Village, as the same may be amended ("**Bylaws**")
4. Condominium Map, as the same may be amended ("**Condominium Map**")
5. Rules and Regulations of the Association of Unit Owners of Mahana Ward Village, as the same may be amended ("**House Rules**")
6. Form of Mahana Ward Village Limited Warranty Unit Deed, Encumbrances and Reservation of Rights with Power of Attorney and Power of Sale ("**Unit Deed**")
7. Escrow Agreement, as may be amended ("**Escrow Agreement**")
8. Community Covenant for Ward Village, as the same may be amended ("**Master Declaration**")
9. By-Laws of Ward Village Owners Association, as the same may be amended ("**Master By-Laws**")

DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES

AFTER CLOSING, ALL DISPUTES BETWEEN THE PARTIES, AS THOSE TERMS ARE DEFINED IN SECTION E.38 HEREIN, 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 DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES SET FORTH IN SECTION E.38. PURCHASERS SHOULD CAREFULLY READ SECTION E.38 AS IT SETS FORTH CERTAIN REQUIREMENTS, PROCEDURES, RELEASES, AND WAIVERS THAT AFFECT THE PROSECUTION AND RESOLUTION OF DISPUTES THAT MAY ARISE BETWEEN THE PARTIES.

Purchaser's Initials _____________

This Purchase Agreement is made by and between MAHANA WARD VILLAGE, LLC, a Delaware limited liability company, whose address is 1240 Ala Moana Boulevard, Suite 200, Honolulu, Hawaii 96814 ("**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 in this Purchase Agreement will have a definition set forth in the text, 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 licensed escrow corporation ("**Escrow**"), and is made with reference to the following facts:

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

Unit No. _________ within the Mahana Ward Village condominium project ("**Project**") located in the City and County of Honolulu, State of Hawaii, as described in the Declaration and depicted on the Condominium Map;

TOGETHER WITH the undivided percentage interest in the Common Elements, as set forth in the Declaration, and the Limited Common Element(s) (as defined in the Declaration) appurtenant to the Unit, including, without limitation, Limited Common Element parking stall(s), as set forth in Exhibit "B" to the Declaration. The number of bedrooms and bathrooms, and approximate net living area, of the Unit, as well as the Unit's appurtenant Common Interest, are set forth in Exhibit "B" to the Declaration;

TOGETHER WITH any appliances and furnishings that may be included with the Unit, as more particularly described in **Section E.3**, below; and

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/or 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 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. The name of Purchaser shall be noted as Purchaser's full legal name, with no initials. In the case of multiple purchasers, any individual person named in the first information section below may be contacted for purposes of this Purchase Agreement, and the delivery of the Public Report and Receipt for Public Report to any one of such persons, or a signed receipt from any one of such persons shall constitute full and proper delivery of the Public Report and sufficient evidence of receipt by all Purchasers.

Complete if Purchaser is an individual person or persons:

Full Name: ____ Country: ____________________________
Address: ____ Zip Code: ____________________________
City: ____ State: ____________________________
Res. Phone: __________________ Bus. Phone: __________________ Cell Phone: __________________________
Email: ____
Marital Status **(check one)**:
( ) Single ( ) Married If married, will vesting of title include spouse? ( ) Yes ( ) No
If yes, enter full name of spouse: ____

Purchaser's Initials _____________

Full Name: ____ Country: __________________________
Address: ____ Zip Code: _________________________
City: ____ State: ____________________________
Res. Phone: __________________ Bus. Phone: __________________________ Cell Phone: _________________
Email:
Marital Status (**check one)**:
( ) Single ( ) Married If married, will vesting of title include spouse? ( ) Yes ( ) No
If yes, enter 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: _________________________
Email: ____

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: ____
Federal Employer Identification No. (FEIN): ____
Business Address: ____
City: ____ State: ____________________________

Print full name(s) of authorized officer(s), partner(s), member(s), or manager(s) signing this Purchase Agreement:

Full Name: ____
Position/Title: ____
Mailing Address: ____ Zip Code: _________________________
City: ____ State: ____________________________
Res. Phone: __________________ Bus. Phone: __________________ Cell Phone: _________________________
Email: ____

Full Name: ____
Position/Title: ____
Mailing Address: ____ Zip Code: _________________________
City: ____ State: ____________________________
Res. Phone: __________________ Bus. Phone: __________________ Cell Phone: _________________________
Email: ____

Reason for purchase (for mortgagee's use in processing Purchaser's loan application, if any)**:**

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

Purchaser's Initials _____________

(**NOTE:** The following documents shall be delivered by Purchaser to Seller or Escrow upon Purchaser's execution of this Purchase Agreement; provided, however, that if Purchaser is unable to deliver the documents by such date, Purchaser shall deliver the documents to Seller or Escrow no later than thirty (30) calendar days after Purchaser's execution of this Purchase Agreement, or on such other date determined by Seller: (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 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 DCCA or, for partnerships formed outside the State, a copy of the partnership or limited partnership registration statement filed with the government official or entity in the jurisdiction in which the partnership was formed; (iii) if Purchaser is a limited liability company, a copy of the operating agreement and a copy of the articles of organization filed with the DCCA or, for limited liability companies formed outside the State, a copy of the articles of organization filed with the government official or entity in the jurisdiction in which the limited liability company was formed; (iv) if Purchaser is a limited liability partnership, a copy of the partnership agreement and a copy of the certificate of limited partnership filed with the DCCA, or, for limited liability partnerships formed outside the State, a copy of the certificate of limited partnership filed with the government official or entity in the jurisdiction in which the limited liability partnership was formed; and (v) 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 shall further deliver current copies of documentation and additional information as Escrow may require. 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 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 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 sixty (60) calendar days prior to the Pre-Closing Date, of how Purchaser will take title to the Unit. The information appearing in **Section B** hereof and any vesting information provided to Escrow by Purchaser will be used to prepare 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.

<u>Please check one</u>:

( ) 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 (married couple or reciprocal beneficiaries with rights of survivorship)
( ) In Trust (trustee(s) on behalf of trust)
( ) To be determined no later than sixty (60) calendar days prior to the Pre-Closing Date

In the event that Purchaser fails to designate the nature of tenancy for the vesting of title at least sixty (60) calendar days prior to the Pre-Closing Date, tenancy will default to the following: (i) Purchaser, if a sole owner, will take title as a tenant in severalty; (ii) Purchaser, if multiple purchasers other than married couples or reciprocal beneficiaries with rights of survivorship, will take title as tenants in common; or (iii) Purchaser, if a married couple or reciprocal beneficiaries with rights of survivorship, will take title as tenants by the entirety. If Purchaser consists of more than one married couple or reciprocal beneficiaries with rights of survivorship, the individuals in a married couple or reciprocal beneficiaries with rights of survivorship will take title as tenants by the entirety as to each other, and each married couple or reciprocal beneficiaries with rights of survivorship will be a tenant in common with every other couple, individual, corporation, limited liability company, partnership, or limited liability partnership. Whenever a

Purchaser's Initials ______________

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; SCHEDULE AND METHOD OF PAYMENT; USE OF PURCHASER'S DEPOSITS; ADDITIONAL SUMS TO BE PAID; OFFER AND ACCEPTANCE; BINDING AGREEMENT; DELIVERY OF DEVELOPER'S PUBLIC REPORT; COMPLETION DEADLINE; AGENCY DISCLOSURE; PURCHASER'S BROKER; **ADDITIONAL TERMS AND CONDITIONS**.

Purchaser agrees to pay the Total Purchase Price set forth under **Section D.1** below according to the Schedule and Method of Payment set forth in this **Section D.2** below.

1. Total Purchase Price. The Total Purchase Price for the Unit is $______________________

2. Schedule and Method 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.
(b) Second Deposit	$ ________________	Second Deposit of five percent (5%) of the Total Purchase Price due no later than thirty (30) calendar days after Purchaser's execution of this Purchase Agreement.
(c) Third Deposit	$ ________________	Third Deposit of ten percent (10%) of the Total Purchase Price is due one hundred twenty (120) calendar days after Purchaser's execution of this Purchase Agreement.

Purchaser's Initials _____________

(d) Balance Due	$ ________________	Being the remaining balance of the Total Purchase Price, payable by Purchaser on the earlier of: (i) the Pre-Closing Date, or (ii) 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 Seller's Pre-Closing Notice (if applicable), but in no event later than two (2) business days prior to the Closing Date.

NOTWITHSTANDING ANY TERM IN THIS PURCHASE AGREEMENT TO THE CONTRARY, IF PURCHASER DOES NOT MAKE PAYMENT BY THE DUE DATES SET FORTH IN THIS **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.36** OF THE "**GENERAL TERMS AND CONDITIONS**" SET FORTH BELOW, AND/OR MAY CHARGE PURCHASER A LATE CHARGE OF TWELVE PERCENT (12%) PER ANNUM, PRORATED DAILY, BASED ON THE AMOUNT OF SUCH PAYMENT.

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 THIS 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 SHOULD 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 TO PURCHASER. PURCHASER SHOULD CAREFULLY CONSIDER THIS RISK IN DECIDING WHETHER TO PROCEED WITH THE PURCHASE OF THE UNIT.

3. Additional Sums to be Paid. In addition to the Total Purchase Price set forth above, Purchaser shall be required to pay (a) a reserve contribution fee (being a non-refundable, non-transferable, one-time fee to the Association) in an amount equivalent to two (2) months' estimated maintenance fees for the Unit; (b) one (1) month's estimated maintenance fees for the Unit as an advance payment for the initial month's maintenance fees payable by a unit owner; and (c) all estimated closing costs and prorations as set forth in **Section E.11** below, payable by Purchaser, as estimated by Escrow, 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. The reserve contribution fee is not an advance payment of future maintenance fee assessments, but rather is intended and shall be used to fund the Association's working capital fund or the Association's reserve fund for maintenance of or improvements to the capital items in the Residential Limited Common Elements.

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 "**Schedule and Method of Payment**" described

in **Section D.2** 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, LIMITATIONS, AND DISCLAIMER OF WARRANTIES DESCRIBED HEREIN AND ACKNOWLEDGES THAT THIS PURCHASE AGREEMENT IS COMPRISED OF **SECTIONS A** THROUGH **E**, TOGETHER WITH **EXHIBIT A** ATTACHED HERETO AND MADE A PART HEREOF, AND ANY ADDENDA AND/OR AMENDMENTS TO THIS PURCHASE AGREEMENT.

5. Acceptance by Seller. The signature of Project Broker on this Purchase Agreement only acknowledges receipt of the payment(s) paid with this Purchase Agreement and does not constitute acceptance of this Purchase Agreement by Seller. **In other words, receipt of Purchaser's funds does 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, on behalf of Seller, 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, by means authorized by Sections 514B-86 and -88 of the Act, including, but not limited to, by electronic mail, (i) a true copy of the Public Report with an effective date issued by the Commission, which shall include the Public Report itself and the Project's recorded Declaration, Bylaws, and Condominium Map, and House Rules, and all amendments to said documents, if any, and (ii) the Notice of Right to Cancel; and (b) Purchaser (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 Act, Purchaser has the right to cancel this Purchase Agreement at any time up to midnight Hawaii Standard Time 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. Seller shall have a similar right to cancel this Purchase Agreement during said thirty (30)-day cancellation period. 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 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 received a copy of the Public Report, along with the receipt for the Public Report and Notice of Right to Cancel, prior to signing this Purchase Agreement. Purchaser agrees that Purchaser will review the Project Documents prior to the date that Purchaser's statutory thirty (30) day cancellation period expires. Purchaser acknowledges and agrees that all of the Project Documents are incorporated in and are made a part of this Purchase Agreement. Purchaser further acknowledges and agrees that by executing this Purchase

Agreement, Purchaser approves and accepts the terms of all of the 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 cancellation period under Section 514B-86 of the Act, Purchaser shall be deemed to have reviewed, approved, and accepted the terms of all of the Project Documents. Purchaser acknowledges and accepts that nonmaterial amendments to and amended public reports are not subject to Section 514B-87 of the Act, and instead are governed by Section 514B-56 of the Act.

7. Completion Deadline. Seller shall complete construction of the Unit so as to permit normal occupancy of the Unit within eight (8) years from the date this Purchase Agreement becomes binding pursuant to **Section D.6** above (the "**Completion Deadline**"). Notwithstanding the foregoing, such eight (8) year period shall be extended for any period during which Seller is actually and necessarily delayed in beginning or completing construction by Force Majeure. If construction of the Unit is not completed on or before 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 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 D.7**, Purchaser shall be entitled to a prompt and full refund of all monies paid, plus any interest earned thereon.

8. Agency Disclosure. Purchaser acknowledges that Ward Village Properties, LLC, and all of its real estate salespersons and brokers (collectively, "**Project Broker**") represent Seller and not Purchaser in this transaction. By initialing below, Purchaser acknowledges that written disclosures relating to such agency have been provided to Purchaser prior to signing this Purchase Agreement.

Purchaser's Initials _____________

9. Purchaser's Broker. 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 Project Broker, Purchaser, and Purchaser's real estate broker ("**Purchaser's Broker**") and referring specifically to this Purchase Agreement. Purchaser's Broker (and all real estate licensees employed by or associated with Purchaser's Broker) shall represent only Purchaser and does not represent Seller in this transaction. Purchaser acknowledges and agrees that neither Purchaser's Broker nor any real estate licensees employed by or associated with Purchaser's Broker can make promises or representations on behalf of, or that are binding on, Seller or Project Broker.

Name of Purchaser's Agent (write "none" if Purchaser is not represented)	License No. and State of License
Company Name of Purchaser's Broker	Address of Purchaser's Broker
Telephone No. of Purchaser's Broker	Email Address of Purchaser's Broker

Purchaser's Initials _____________

Purchaser acknowledges that, pursuant to the March 15, 2024 National Association of REALTORS® Settlement Agreement ("**NAR Settlement**"), Purchaser's Broker is required to enter into a written agreement with Purchaser before Purchaser tours any unit in the Project, which written agreement must specify and conspicuously disclose the amount or rate of compensation to be paid to Purchaser's Broker by Purchaser, or how such compensation will be determined ("**Compensation Agreement**"). By indicating that Purchaser is represented by Purchaser's Broker above, and by signing this Purchase Agreement, Purchaser hereby confirms that Purchaser entered into a Compensation Agreement with Purchaser's Broker, and that if Purchaser was represented by Purchaser's Broker at the time that Purchaser toured the Unit, either in person or virtually, said Compensation Agreement was entered into by Purchaser and Purchaser's Broker prior to Purchaser touring the Unit.

Purchaser further acknowledges that Ward Village Properties, LLC, Victoria Ward, Limited, Howard Hughes Holdings, Inc., and their affiliates (collectively "**HH**") are not responsible for enforcing the terms and requirements of the NAR Settlement, and HH shall not be responsible for any claims for damages or any liabilities arising from or related to the actions of Purchaser's Broker, including, but not limited to, the failure of Purchaser's Broker to comply with all applicable requirements of the NAR Settlement. The information provided in this paragraph is for general informational purposes only. HH makes no representation or warranty, express or implied, regarding the accuracy, adequacy, validity, reliability, availability, or completeness of the statements related to the NAR Settlement or Purchaser's relationship with Purchaser's Broker.

If no names are written in the spaces above, 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.

Purchaser agrees that should any claim be made for brokerage commissions or finder's fees by any broker or other party claiming through or under Purchaser, other than Purchaser's Broker identified above (if any), Purchaser will indemnify and hold harmless Seller and Project Broker against any and all claims, demands, and liabilities, including, without limitation, reasonable attorneys' fees and costs, in connection therewith.

10. Additional Terms and Conditions. ADDITIONAL TERMS AND CONDITIONS FOR THIS PURCHASE AGREEMENT CONTINUE BEGINNING ON PAGE 11. THOSE TERMS AND CONDITIONS ARE PART OF THIS PURCHASE AGREEMENT. If attached hereto, this Purchase Agreement also includes the following addenda, which are incorporated into this Purchase Agreement by this reference:

a. Cooperating Broker Agreement
b. Agreement to Receive Documents by Electronic Means

(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)
Date signed by Purchaser: ________________________	Date signed by Purchaser: _____________________
________________________________	________________________________
Purchaser's Signature	Purchaser's Signature
________________________________	________________________________
Purchaser's name (print)	Purchaser's name (print)
Date signed by Purchaser: ________________________	Date signed by Purchaser: ______________________

This Purchase Agreement was reviewed, and the Initial Deposit was received, by Project Broker.

WARD VILLAGE PROPERTIES, LLC,
a Delaware limited liability company

Reviewed By: ____
Name:___________________________________
Its:______________________________________

Date reviewed by Project Broker: ________________________

This Purchase Agreement is accepted by Seller.

MAHANA WARD VILLAGE, LLC,
a Delaware limited liability company

By: ____
Name: ____
Its: ____

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

Purchaser's Initials _____________

E. GENERAL TERMS AND CONDITIONS OF THIS PURCHASE AGREEMENT.

The general terms and conditions set forth in this **Section E** are an integral part of this Purchase Agreement and, together with the preceding pages 1 through 10, including **Sections A** through **D**, and **Exhibit A** and/or any addenda 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 located in Kaka'ako in the City and County of Honolulu ("**County**"), State of Hawaii. The Project is currently expected to consist of three (3) Commercial Units and four hundred fifty-one (451) Residential Units, inclusive of one (1) Resident Manager Unit, and is intended to be located in a single thirty-nine (39) story building (levels 1 through 39) as set forth in the Declaration and shown on the Condominium Map. The Project will be situated on approximately 80,256 square feet of land, further described in the Declaration ("**Land**"). Seller, with the consent and joinder of Victoria Ward, Limited, a Delaware corporation ("**Landowner**"), 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.

LANDOWNER IS THE CURRENT FEE SIMPLE OWNER OF THE LAND. SELLER HAS ENTERED INTO THAT CERTAIN OPTION AGREEMENT BETWEEN LANDOWNER AND SELLER DATED APRIL 23, 2026 ("**OPTION AGREEMENT**"), PURSUANT TO WHICH SELLER HAS THE RIGHT TO ACQUIRE THE FEE SIMPLE INTEREST IN THE LAND FROM LANDOWNER FOR OWNERSHIP AND DEVELOPMENT OF THE PROJECT. LANDOWNER SHALL NOT BE SUBJECT TO THE OBLIGATIONS AND LIABILITIES OF SELLER UNDER THIS PURCHASE AGREEMENT. SELLER RESERVES THE RIGHT TO ACQUIRE THE FEE SIMPLE INTEREST IN THE LAND AND TO ENTER INTO AGREEMENTS WITH LANDOWNER WITH RESPECT TO SAID ACQUISITION AND THE DEVELOPMENT OF THE PROJECT. THE CONVEYANCE OR TRANSFERENCE OF THE FEE SIMPLE INTEREST IN THE LAND TO SELLER, THE RECORDATION OF ANY DEED CONVEYING TITLE TO THE LAND AS AFORESAID, AND THE ENTERING INTO AGREEMENTS BY OR BETWEEN LANDOWNER AND SELLER SHALL NOT CONSTITUTE A MATERIAL CHANGE IN THE PROJECT.

LANDOWNER IS NOT THE DEVELOPER OR SELLER OF THE PROJECT AND LANDOWNER'S JOINDER IN, OR CONSENT TO, ANY CONDOMINIUM DOCUMENTS SHALL NOT, IN ANY WAY OR FOR ANY PURPOSE, BE CONSTRUED TO MEAN THAT LANDOWNER IS THE DEVELOPER OR SELLER OF THE PROJECT OR A PARTNER WITH SELLER IN THE CONDUCT OF ITS BUSINESS, OR OTHERWISE, OR A JOINT VENTURER OR A MEMBER OF A JOINT ENTERPRISE WITH SELLER. LANDOWNER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ASPECT OF THE PROJECT. THE STATEMENTS SET FORTH IN THIS PURCHASE AGREEMENT AND ANY CONDOMINIUM DOCUMENTS ARE SOLELY THOSE OF SELLER AND ARE NOT AND SHOULD NOT BE CONSTRUED AS STATEMENTS MADE BY OR REPRESENTATIONS OF LANDOWNER. SELLER, AND NOT LANDOWNER, SHALL BE SOLELY RESPONSIBLE FOR ALL ASPECTS OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, THE MARKETING, SALE, DEVELOPMENT, AND CONSTRUCTION OF THE PROJECT.

IN THE EVENT THAT LANDOWNER DOES NOT CONVEY OR OTHERWISE TRANSFER ITS FEE SIMPLE INTEREST IN THE LAND TO SELLER ("LAND CLOSING"), THEN THIS PURCHASE AGREEMENT SHALL BE TERMINATED AND SELLER SHALL PROMPTLY REFUND TO PURCHASER ALL MONIES PAID BY PURCHASER, PLUS ANY INTEREST EARNED THEREON. SELLER SHALL NOT BE CONSIDERED IN DEFAULT UNDER THIS PURCHASE AGREEMENT FOR TERMINATION OF THIS PURCHASE AGREEMENT PURSUANT TO THIS SECTION.

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NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS PURCHASE AGREEMENT, SELLER SHALL NOT BE PERMITTED TO USE PURCHASER'S DEPOSITS TO PAY CONSTRUCTION COSTS AND OTHER EXPENSES, AS PROVIDED IN SECTION 514B-92 OF THE HAWAII REVISED STATUTES, PRIOR TO THE LAND CLOSING. SELLER SHALL NOT CLOSE ON ANY UNIT(S) UNDER THIS PURCHASE AGREEMENT UNTIL AFTER THE LAND CLOSING AND SELLER HOLDS FEE SIMPLE TITLE TO THE LAND.

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, cooktop, oven and/or microwave, dishwasher, refrigerator and freezer, bathroom vanities and countertops, washing machine, and clothes dryer. Purchaser understands that materials used in the construction of the Unit, which may include wood, paint, quartzite, 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. Purchaser further understands that all included appliances and furnishings are final and absolute, and no additions, deletions, substitutions, or changes may be made, except as provided herein. Additionally, Purchaser understands that at Closing, certain appliances and/or furnishings may not yet be available and may be installed in the Unit as soon as reasonably possible but after Closing. Such delivery and installation after Closing shall not in any way affect Purchaser's obligation to timely close the sale as set forth in this Purchase Agreement.

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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 Project Broker. Subsequent payments required under this Purchase Agreement shall be made by Purchaser directly to Escrow. Purchaser hereby authorizes Purchaser's mortgagee(s) to disburse the proceeds of any mortgage loan(s) to Escrow.

5. Interest on Contract Deposit. Purchaser may elect to have the Initial Deposit, Second Deposit, and/or Third Deposit (collectively, "**Contract Deposit**") held in an interest-bearing bank account ("**IBA**") in accordance with the terms herein. Purchaser understands and agrees that in order for Purchaser to receive interest on any portion of the Contract Deposit, (a) Escrow must receive written instruction from Purchaser to establish an IBA, (b) Purchaser must complete certain documents sent from Escrow to Purchaser, including federal tax form(s), (c) Purchaser must provide Escrow with certain other requested information, such as Purchasers' social security number or federal employer identification number, and (d) Purchaser must pay an administrative fee of One Hundred and No/100 Dollars ($100.00) to Escrow for each separate IBA created. Any interest earned will be credited 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 E.5** shall begin to accrue (i) as to the Initial Deposit, upon the expiration of any cancellation period or deemed waiver thereof, Seller's execution of this Purchase Agreement, and Escrow's deposit of the same into an IBA; and (ii) as to the Second Deposit and the Third Deposit, on the date Escrow deposits the same into an IBA. Seller may determine and instruct Escrow where to establish the IBA. In the event the bank holding the IBA is compromised, Seller will provide information necessary to facilitate Federal Deposit Insurance Corporation's provision of deposit insurance, but any loss of the Contract Deposit shall be borne solely by Purchaser, and Seller shall not be responsible or liable for any loss of the Contract Deposit. 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,

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unless waived; (c) prior to Escrow's deposit of the same into an IBA; (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 Act, upon the disbursement of said funds by Escrow**.

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

a. Purchaser's Ability to Make Payments. Purchaser represents that Purchaser is able to make, when due, all of the payments required under **Section D** of this Purchase Agreement. Purchaser shall, within thirty (30) calendar days after execution of this Purchase Agreement, give Seller such personal information and financial data (hereinafter, the "**Financial Data**") from Purchaser's bankers, accountants, or others, as Seller may require, to demonstrate Purchaser's ability to make the payments due on the dates and in the amounts described in **Section D.2** above. The Financial Data shall include, but not be limited to: (i) if Purchaser intends to purchase the Unit with cash, Purchaser shall provide Seller with proof of liquid assets in the form of a letter from a certified public accountant or banker, or provide Seller with a current bank or brokerage statement; or (ii) if Purchaser intends to finance the purchase of the Unit, Purchaser shall provide Seller with an acceptable letter from a qualified lender stating that the lender has reviewed Purchaser's financial information and performed underwriting, together with a current financial statement, income verification, and written authorization to Seller to access Purchaser's credit report. Purchaser authorizes Seller to make credit inquiries about Purchaser. In the event that Seller, in its sole discretion, rejects Purchaser's Financial Data as unacceptable, Seller shall notify Purchaser of such rejection in writing within sixty (60) calendar days after Seller has received such Financial Data, in which event Seller may cancel this Purchase Agreement and Purchaser shall receive a refund of all sums paid hereunder, with accrued interest, and less any Cancellation Fee.

Purchaser represents that the Financial Data to be submitted in connection with this Purchase Agreement to Seller shall be true and accurate and that Purchaser is financially capable of making all required payments at the required times set forth herein. Purchaser agrees to notify Seller immediately of any adverse change to Purchaser's creditworthiness that affects Purchaser's ability to obtain the cash or a mortgage 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 any loan, and Purchaser shall not take or fail to take any action with the purpose or intent of subsequently obtaining a loan denial from a lender. In addition, if requested to do so by Seller, Purchaser will confirm in writing that Purchaser's financial condition has not changed, or, if it has changed, Purchaser shall provide information reasonably requested by Seller to confirm Purchaser's then-current financial status. In the event that Seller shall determine, after review of any financial information submitted by Purchaser, in its reasonable discretion, that Purchaser is unable to pay such sums as may be due at the time required or as a result of any change in Purchaser's financial condition, Seller may declare Purchaser in default of this Purchase Agreement, whereupon Seller will be entitled to exercise its remedies as set forth in **Section E.36** of this Purchase Agreement.

b. No Financing Contingencies; Additional Escrow Fees. If Purchaser plans to pay any portion of the Total Purchase Price by way of a mortgage loan from a bank, insurance company, savings and loan association, credit union, or other established lending institution authorized to make mortgage loans in the State and selected by Purchaser to finance the purchase of the Unit ("**Mortgage Lender**"), Purchaser shall be solely responsible for securing such financing. PURCHASER'S OBLIGATIONS UNDER THIS PURCHASE AGREEMENT ARE NOT CONTINGENT OR CONDITIONED ON 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 ASSETS. The sale and purchase of the Unit are not contingent upon Purchaser's ability to retain any interest rate quoted at the time of approval of the Financial Data or the mortgage loan, and Purchaser will be required to pay the interest charged by Mortgage Lender at Closing. No financing by Seller of any portion of the Total Purchase Price is available. Escrow may charge an additional escrow fee for the administration, handling, and processing of any loan Purchaser may obtain from a lender located outside of the State, and Purchaser shall be fully responsible for any such additional escrow fee.

c. 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 the deadline set forth in the Pre-Closing Notice (as defined in **Section E.8** below), 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 ensure that the cash funds available at the time Purchaser submits the Financial Data to Seller 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.36** below.

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 the 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 Contract Date of this Purchase Agreement, and upon receiving not less than thirty (30) calendar days' prior written notice of Pre-Closing from Seller, Purchaser's mortgagee(s), or Escrow ("**Pre-Closing Notice**"), 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. 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 within the State or outside of the State 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 within sixty (60) calendar days prior to the Pre-Closing Date, Purchaser may be assessed a document revision fee for such changes.

If Purchaser is a trust, partnership, corporation, limited liability company, or other business entity, Purchaser will be required to furnish appropriate resolutions and other evidence of authority to purchase the Unit and execute documents as Seller or Escrow may reasonably request, including, but not limited to, the documents set forth in the Note to **Section B** above.

9. Inspection of Unit by Purchaser. Prior to Closing, Seller shall, with notice to Purchaser, schedule a date and time for Purchaser or Purchaser's designated agent to attend an inspection appointment at the Project ("**Inspection**"). Purchaser agrees that Purchaser or Purchaser's designated agent will attend the Inspection at Purchaser's sole expense. At the Inspection, Purchaser or Purchaser's designated agent shall inspect the Unit with Seller or Seller's designated agent, at which time the parties will complete a checklist specifying any work required to complete the Unit ("**Unit Punchlist**") in accordance with this Purchase Agreement.

Purchaser agrees to accept possession of the Unit despite the existence of defects or damage to the Unit, including, but not limited to, any defects in carpets, appliances, flooring, walls, furniture, and fixtures that may be listed on the Unit 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 attend the Inspection, make such inspection, sign the Unit Punchlist, or 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 of the Unit and that if Purchaser or Purchaser's designated agent fails to attend the Inspection or to otherwise inspect (or permit inspection of) the Unit on the date(s) and time(s) specified by Seller or other warrantors, such conduct will constitute a waiver of Purchaser's inspection rights hereunder. Seller shall use its best efforts to have the responsible warrantor complete all work required under the Unit Punchlist within ninety (90) calendar days from the date of the Inspection; provided, however, that Seller shall have a reasonable amount of time beyond said ninety (90) day period to correct those items on the Unit Punchlist that are beyond Seller's reasonable control. Purchaser acknowledges that legitimately-listed defects or damage to the Unit set forth on the Unit Punchlist 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 Unit Punchlist. Purchaser accepts that certain corrective work may be delayed for a substantial period of time following Closing if Seller or its contractors need to obtain materials or other items from outside the State in order to complete the same. Purchaser shall acknowledge in writing the completion of the work required under the Unit Punchlist.

10. <u>Closing Date; Remedies for Default in Payment; Prorations; Refunds</u>. The "**Closing Date**" shall be that date selected by Seller, in Seller's sole and absolute discretion, for the transfer of title to 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 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 the appliances and furnishings for the Unit contained in any fixtures and/or appliance package may not yet be available, and such circumstances shall not in any way affect Purchaser's obligations to make the required payments (including maintenance fees and reserve contribution 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 non-delinquent 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 at Closing.

The Total Purchase Price, any closing costs 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 Mortgage 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

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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.36** 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. Purchaser will pay all closing costs associated with this purchase and sale, including, without limitation: the escrow fee, the cost of a preliminary title report, the cost of preparation of the Unit Deed, the 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, Impact Fees (described in **Section E.29.h(xxii)** herein), title insurance, if requested by Purchaser, the cost of any lender's title insurance, appraisal fees, the cost 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, 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.2(d**) above, Purchaser shall pay one (1) month's maintenance fee assessment to the Association, plus a non-refundable, non-transferable, one-time reserve contribution fee to the Association in an amount equal to two (2) months' maintenance fee assessments, the closing costs provided for herein and any prorations. The reserve contribution 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 reserve contribution fee shall be held, accounted for, and expended as part of the Association's reserve fund for the benefit of all of its members. The reserve contribution fee is further described in **Section D.3** above.

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 Closing but not before the date of issuance of a temporary certificate of occupancy or certificate of occupancy, as applicable, 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 Closing and the issuance of the temporary certificate of occupancy or 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.

PROJECT AND SALES DOCUMENTS; SELLER'S RIGHT TO MAKE CHANGES

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 approved 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 this Purchase Agreement within the thirty (30) day statutory cancellation period described in **Section D.6** above. **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 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. 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 ACT 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.**

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, the Declaration, the Bylaws, the Condominium Map, the House Rules, the specimen Unit Deed, the Escrow Agreement, the Master Declaration, and the Master By-Laws. Purchaser acknowledges and agrees 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 title report, as updated. It is understood and agreed that this sale is in all respects subject to said documents and the encumbrances noted therein. Pursuant to Section 16-119.1-8 of the Hawaii Administrative Rules, Seller will keep and maintain at Seller's office or online, the Public Report and any amendments thereto, for a period of at least two (2) years following the completion of the initial sale of all units in the Project.

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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 Contract Date:

(i) Any change as may be required by law, any title insurance company, any mortgage lender, or any governmental agency; provided, however, that such change (1) shall not be a Material Change (unless a Permissible Material Change), or (2) shall not 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, increase or decrease the ceiling height, or make other changes to Seller's Plans and Specifications (as defined and discussed further in **Section E.28** below), which could result in the configuration or dimensions of Purchaser's Unit or any appurtenant Limited Common Element thus affected becoming different, smaller or larger, or result 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 that is not a Permissible Material Change; provided that if there is a Material Change that is not a Permissible Material Change, applicable rescission rights shall be given to Purchaser in accordance with Section 514B-87 of the Act, as further described in **Section E.31** below.

(iv) Any Permissible Material Change, 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 make Permissible Material Changes through the exercise of 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 and create "Conversion Upgrade Units" (as defined in the Declaration); construct improvements within units and/or their Limited Common Elements; install and maintain telecommunications equipment, receive revenue therefrom, and enter into agreements to market telecommunications equipment within the Project; not develop and/or construct all of the Recreational Amenities and modify, relocate, reconfigure and remove Recreational Amenities; install signage; modify the Project and amend the Declaration, the Condominium Map, the Bylaws, the House Rules, and/or the Articles of Incorporation, including, without limitation, to satisfy County and/or HCDA permits or agreements; convert Limited Common Elements to units; recharacterize and redesignate Limited Common Elements; receive all proceeds payable for or on the account of the condemnation of any portion of the Project by HART before the end of the Development Period; convey property to the Association; conduct sales activities; lease or convey Commercial Units and/or their appurtenant Limited Common Elements; alter the number of floors and/or units in the Project; grant easements and dedicate Limited Common Elements to the Master Association; alter any unit area for minor design and construction adjustments; consolidate, subdivide, and withdraw land from the Project; and assign all or a portion of Seller's reserved rights in the Declaration. Through the exercise of these reserved rights, Seller may, as examples, alter the configuration of, decrease or increase the number of rooms in, and alter the size of a unit and make other minor changes in the Unit or any of the other units or the Common Elements of the Project. Seller may also increase or decrease the number and/or location of parking stalls that may be assigned to the Unit, provided that in no event shall the Unit be assigned less than one (1) parking stall. **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 at the direction of 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 or constructed, 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, ceiling 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 and floor 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:

a. All exterior walls of the building(s) shall have a minimum R-value of R-13.

b. The roof assemblies of the building(s) shall have a minimum R-value of R-20.

c. The glazing of the building(s) shall have a minimum R-value of R-2.86 and a minimum U-value of U-0.35.

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 Purchaser's Unit to be

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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 (1) 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 obligation or liability related to such warranties.

HAWAII REVISED STATUTES, CHAPTER 672E, AS AMENDED ("**CHAPTER 672E**" OR "**THE CONTRACTOR REPAIR ACT**"), 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. NO LATER THAN 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.18** shall survive Closing and shall not be merged with the Unit Deed.

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19. Seller Makes No Warranties or Promises Except as Expressly Stated in this Purchase Agreement. Purchaser acknowledges that, except as otherwise expressly stated in this Purchase Agreement, Seller has made no warranties, express or implied, with respect to (i) the Unit, its quality, or grade, (ii) any Common Element or anything installed therein, its quality, or grade, or (iii) 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.

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20. Improvements. Seller shall be responsible for extending roads and sewer, electrical, and water lines to the Project at Seller's expense. Purchaser shall be responsible for any connection fees, utility deposits, and use 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.

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21. 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 Act. 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 Contract Date, shall the building plans and specifications or any artist's renderings or models constitute a representation or warranty in any way.

22. Estimate of Initial Maintenance Fees. Seller's estimate of initial monthly maintenance fees, as shown in the Public Report, was prepared based on information believed to be accurate and correct at the time it was prepared. 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.

23. Owner-Occupant Requirements. If Purchaser is purchasing the Unit pursuant to Part V, Subpart B of the Act, Hawaii Revised Statutes §§ 514B-95 through 514B-99.5 (the "**Owner-Occupant Law**"), which governs the sale of condominium units to prospective owner-occupants, the following additional terms and conditions shall apply:

a. Owner-Occupant Affidavit. Purchaser shall complete an owner-occupant affidavit pursuant to Section 514B-97 of the Act and comply with the terms and provisions thereof.

b. Restriction on Transfer; Burden. Purchaser may not sell, or offer to sell, lease, or offer to lease, rent, or offer to rent, assign, or offer to assign, convey, or otherwise transfer any interest in the Unit until at least three hundred sixty-five (365) consecutive calendar days have elapsed since the recordation of the Unit Deed. In the event of any dispute, Purchaser shall have the burden of proving compliance with this condition.

c. Seller Must Report Violations. Purchaser understands that it is the affirmative duty of Seller, any employee or agent of Seller, and any real estate licensee to immediately report to the Commission any person who violates or attempts to violate the Owner-Occupant Law. Seller, any agent or employee of Seller, or any real estate licensee shall not violate, or aid any person in violating, the Owner-Occupant Law.

d. Verification of Owner-Occupant Status; Fine. Purchaser understands that the Commission may require verification of Purchaser's owner-occupant status. If Purchaser fails to submit such verification, Purchaser may be fined an amount equal to the profit made from any sale, assignment, or transfer of the Unit.

24. 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 affiliates, agents, employees, or representatives (collectively for purposes of this **Section E.24**, "**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 the 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

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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.24** have been made up to and including the Closing Date.

c. This agreement of Purchaser under this **Section E.24** shall survive 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.24**, 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.

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25. 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 and the Amenity Deck 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 unsold unit described in the Declaration; (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 and units 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 E.25**, 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.

26. Trespassing. Prior to delivery of possession of the Unit, Purchaser shall not trespass upon the Project site. 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 unit owners, the contractors, and agents of any of them from and against any and all loss or liability on account of 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.

27. 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 unit 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 unit owners, records an instrument at the Bureau

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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 of the rights and incidents of membership in the Association attributable to the Unit contracted for herein until the recordation of Purchaser's Unit Deed.

28. Seller's Plans and Specifications. Seller agrees to cause the Unit to be constructed 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, Seller's sales materials, or other materials, and that units of the same unit type may not be identical.

Statements of the approximate square footage or net living area 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 that is 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 building to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Purchaser understands and agrees that, because of the foregoing, the approximate net living area of the Unit, the location of telephone, electric, cable television, and other utility outlets, windows, doors, walls, partitions, lighting fixtures, and electric panel boxes, and the general layout of the Unit are subject to changes made by Seller in its sole 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.31 BELOW**.

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29. 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 thirty (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. By signing and accepting a Unit Deed, Purchaser, and every other Person claiming an interest in, or a right to use, the Project or any part of it by or through Purchaser, waives, releases, and discharges any rights, claims, or actions that Purchaser and/or such Person may have, now or in the future, against Seller, and its shareholders, directors, officers, members (in the case of a limited liability company), agents, employees, independent contractors, licensees, successors, and assigns, and arising directly or indirectly out of or from the disclosures below:

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a. Security Disclaimer. The Association, Resident Manager, and/or Site Manager, if any, 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, Resident Manager, Site Manager, if any, and Seller shall not in any way be considered insurers or guarantors of security within the Project, and neither the Association, Resident Manager, Site Manager, nor Seller, nor any successor of Seller, 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, Resident Manager, Site Manager, Seller, and any successor of Seller do not represent or warrant that any fire protection system, burglar alarm 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, burglar alarm, or other security system, if any, 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 Resident Manager, Site Manager, the Association, its Board and committees, Seller, and any successor of Seller are not insurers or guarantors and that each owner of a unit in the Project, such owner's family, agents, guests, or other occupants of the unit assume all risks for loss or damage to persons, units and the contents of units, and further acknowledges that Resident Manager, Site Manager, the Association, its Board and committees, Seller, and any successor of Seller 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 fire protection, burglar alarm, or other security system recommended or installed, or any security measure undertaken within the Project.

b. Nonliability for Net Living Area 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 reasonable variances in the net living area 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, configuration, dimensions (including ceiling heights, as applicable), or net living area of any unit, and each purchaser of a unit in the Project shall be deemed to have fully waived and released any warranty and claim for loss or damage resulting from any reasonable variances between any represented or otherwise disclosed net living area and the actual net living area 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 the presence of mold spores 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. Nonliability for Corrosion Development. Being located in the State, generally, and in close proximity to the Pacific Ocean along Oahu's south shore, the Project is exposed to corrosive elements, including, but not limited to, wind, rain, salt air, and volcanic smog (also known as vog) (collectively, "**Corrosive Elements**"). Affirmative steps taken by unit owners and the Association to maintain the portions of the Project susceptible to corrosion can reduce the effects of this corrosive atmosphere on the Project.

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The Board shall develop and implement a reasonable maintenance plan to reduce the impact of the Corrosive Elements on the Project, the cost of which shall be a Common Expense. The plan shall include the regular inspection, preventative maintenance, and repair of the components of the Project that can reasonably be accessed for such inspection, maintenance, and repair. The Board shall keep a record of all corrosion maintenance efforts. 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, arising from the occurrence of corrosion at the Project, unless caused solely by the gross negligence or willful misconduct of Seller.

e. Flood Zone; Tsunami Evacuation Zone. Portions of the Land are located in a Flood Zone (Zone AE) as indicated on the Federal Emergency Management Agency's ("**FEMA**") Digital Flood Insurance Rate Maps, and as such, federal flood insurance may be required for the Project and/or the individual units in the Project. Location in a flood zone exposes the Project to a greater risk of flood damage. Seller may obtain a special rate consideration from FEMA as a result of all occupied spaces on the ground level of the Tower exceeding the minimum flood elevation applicable to the Land, but Seller cannot assure that it will be able to obtain such special rate consideration. If Seller does not obtain the special rate consideration, then federal flood insurance, without any reduced rate, may be required.

The Project is located in the Tsunami Evacuation Zone. In the event of a tsunami warning, owners and other occupants will be asked to evacuate the Project.

Owners should consult with appropriate insurance professionals regarding the effect of these designations. Additionally, the Land may later be identified as located in higher risk flood zones because of events related to, among other climate-related changes, sea level rise. By signing and accepting a Unit Deed or other conveyance of the Unit, Purchaser waives, releases, and discharges any rights, claims, or action that Purchaser may have, now or in the future, against Seller and its shareholders, directors, officers, members, agents, employees, independent contractors, licensees, successors, and assigns arising directly or indirectly from any such increase in flooding, including flooding resulting from sea level rise.

f. Sea Level Rise. Sea levels are rising globally and locally. Sea level rise causes gradual changes to the environment and may have certain significant impacts on real property, including the Land. Sea level rise may cause rising groundwater tables below the Land's surface, drainage issues, increased flooding, saturated and weakened soil beneath the Land's surface, accelerated erosion of the Land, and/or other inconveniences or nuisances resulting from sea level rise ("**Sea Level Rise Effects**"). Portions of the Land are currently identified as within a 3.2 foot "Sea Level Rise Exposure Area" as that term is defined by the Hawaii Climate Change Mitigation and Adaptation Commission. Seller cannot ensure that other portions of the Land will not later be identified as located in a Sea Level Rise Exposure Area, nor that the Project will not be impacted by Sea Level Rise Effects. By signing and accepting a Unit Deed or other conveyance of the Unit, Purchaser accepts the Sea Level Rise Effects and waives any claims or rights of action or suits against Seller and its shareholders, directors, officers, members, agents, employees, independent contractors, licensees, successors, and assigns arising from any impairment of Purchaser's use and enjoyment of the Unit or the Project, or any inconvenience, property damage, or personal injury arising directly or indirectly from the Sea Level Rise Effects.

g. Resident Manager's Unit. Seller is the Owner of Unit No. 903, which is initially intended to be used as the Resident Manager's unit, or such other unit as may be designated for the use of the Resident Manager. Seller may sell, pledge, lease, assign, convey, mortgage, and/or transfer the Resident Manager's Unit to a third party or the Association, in its sole discretion. This means that the Association may not have first preference to purchase the Resident Manager's unit, and Seller may relocate the Resident Manager to another unit in the Project. Seller does not guaranty, warrant, or represent that Unit No. 903 or any other unit will continue to be used as a Resident Manager unit or be utilized to serve the Project or its owners.

h. 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, on behalf of Purchaser and 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) No Representation Regarding Rentals. Purchaser acknowledges and agrees that neither Seller nor any of Seller's agents or representatives have made any representations, warranties, guarantees, or other claims of any kind regarding any rental activity or rental programs that may be available from time to time to owners of Residential Units. Seller expressly disclaims any representations, warranties, guarantees, or other claims of any kind regarding rental programs for such units.

(ii) Condominium Living; Residential-Commercial Mixed–Use Retail Area. Living in a multi-story, mixed-use, high-rise condominium building entails living in very close proximity to other persons, businesses, restaurants, parks, open areas, and shopping areas, with attendant limitations on solitude and privacy. Walls, floors, and ceilings have been designed to meet applicable building codes. Purchasers, however, 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 odor from adjacent units within the Project, including, but not limited to, cooking odors. Additionally, purchasers will hear noise from vacuum cleaners, stereos and televisions, and from people running, walking, exercising, socializing, and enjoying the Recreational Amenities. Finally, Purchasers should expect to experience substantial levels of sound, music, and other noise, odor, vibration, and other nuisances from retail and commercial establishments in the Project, in Ward Village, and/or otherwise located in close proximity to the Project, including, without limitation, the ground floor Commercial Units, Ward Entertainment Center, and the nearby Victoria Ward Park, which may experience heavy pedestrian traffic. Purchasers should also expect to experience noise and heavy pedestrian traffic from nearby markets and community gatherings, light entering the units from commercial lighting in the vicinity, the nearby Victoria Ward Park, and from streetlights located in close proximity to the windows and doors of the units. Purchasers of units on lower floors within the Project, located closer to the commercial establishments and streets, will likely experience higher levels of sound, music, noise, odors, and vibrations from commercial and recreational activities. Each owner of a unit and every other Person with an 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, and actions that such Person may have, now or in the future, against Seller and each owner of a Commercial Unit, and their respective representatives, tenants, licensees, successors, and assigns, arising directly or indirectly out of or from such noise, odors, vibrations, and light. By accepting a Unit Deed or other conveyance of the Unit, Purchaser acknowledges and agrees that sound, odor, vibration, and light transmission in a residential-commercial mixed-use condominium project are common and difficult to control. Seller does not make any representation or warranty as to the level of such transmission at the Project, and Purchaser hereby waives and expressly releases any claim for loss or damage resulting from such transmission.

(iii) Ward Village and Victoria Ward Park. The Project is located near Victoria Ward Park in Ward Village. Purchaser should expect to experience (a) loud music from restaurants or other outlets in Ward Village; (b) noise from concert events or performances at restaurants, markets, and/or retail outlets; or within Victoria Ward Park (c) voices of people picnicking or relaxing in Victoria Ward Park and talking outside of retail and/or food and beverage establishments in Ward Village; and (d) noise and lighting from special events taking place near the Project on the street, in Ward Village, and at neighboring markets and nearby properties. Such noise and lighting shall not be deemed a "nuisance," as such noise and/or uses are common and accepted occurrences in a centrally located high-rise condominium mixed-use setting like Ward Village.

(iv) Public Dog Park. A portion of the open area located on level 1 of the Project is intended to be dedicated and used as a public dog park. Pursuant to reserved rights in the Declaration, Seller intends to grant an easement over and dedicate such open area in favor of the Master Association for use as a public dog park. Upon such dedication to the Master Association, the Master Association shall maintain the public dog park and shall be responsible for any costs associated with the use, maintenance, and upkeep of such areas pursuant to the Master Declaration. Purchaser may experience noise, odors, and increased traffic in and around the Project from people and animals accessing and using the public dog park.

(v) Noise; Traffic; Construction. Being located in Ward Village, which is a business, residential, retail, entertainment, and commuter 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 an 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 the Association, Seller, and its shareholders, directors, officers, members, agents, employees, independent contractors, licensees, successors, and assigns, arising directly or indirectly out of or from such noise, dust, vibration, and/or additional traffic, including, without limitation, construction and operation of the Rail Project, which may be constructed directly adjacent to the Tower and above certain open areas of the Project. Traffic, noises, and uses that are typically encountered in a high-rise condominium commercial-residential mixed-use setting like the Project and its surroundings, include, but are not limited to, (a) transient noise and guest or pedestrian traffic from the street, the Commercial Units and/or their Limited Common Elements, and neighboring properties; (b) opening and closing of doors, including, without limitation, car doors, landscaping maintenance, trash collection, and freight loading and unloading activities at or nearby the Project; (c) loud music from restaurants and other establishments, concert events, and other performances; (d) vehicular traffic and noise from the street and Project; (e) voices of people talking outside retail and/or food and beverage establishments; and (f) noises from special events taking place at or near the Project. Specifically, the Commercial Units may be used for retail, restaurant, and other commercial business purposes, as permitted by law and the Declaration, 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). Such traffic, noise, and uses shall not be deemed a "nuisance," as they are common and accepted occurrences in a centrally located high-rise condominium in a mixed-use setting. Additionally, development is anticipated to continue in Ward Village for many more years, which means that owners of units in the Project will experience heavy vehicle and equipment noise, drilling, dredging, and other potentially loud construction noises, dust, roadblocks, and roadway detours. Such normal construction activities shall not be considered a "nuisance." Further, Purchaser 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, traffic, or construction activity at or near the Project. By accepting a Unit Deed or other conveyance of the Unit, Purchaser acknowledges that the Project includes and/or is adjacent to high-traffic roads, businesses, retail/entertainment facilities, and neighboring developments, including, without limitation, the nearby Victoria Ward Park, and that noise, lights, pedestrian and vehicular traffic, dust, and odors common to such activities and related commercial activities as well as the aforementioned construction activities, may exist on or near the Project, at any time and from time to time, and waives and expressly releases any claim for loss or damage resulting from the same.

(vi) No Protected Views. **Purchaser acknowledges that there are no protected views in the Project, and the Unit is not assured the existence or continuation of any particular view or that any neighboring development will be aesthetically comparable to the Project. Any view from the Unit is not intended to be a part of the value of the Unit and is not guaranteed; and Seller makes no representation or warranty regarding whether the Unit will continue to have the same or any view, and the effect of the view or lack thereof on the value of the Unit.** The views from the Unit or the Project will likely 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; (b) the growth of trees, landscaping, and/or vegetation within or outside the Project; and/or (c) the Rail Project, which may be located directly adjacent to the Tower and above certain open areas of 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 shareholders, directors, officers, members (in the case of a limited liability company), agents, employees, independent contractors, 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.

(vii) 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 in use of portions of the Project may occur from time to time.

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

(ix) 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) that may be provided to owners of units in the Project.

(x) 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 improvement on Neighboring Developments. Any use, development, and/or construction on Neighboring Developments may result in noise, dust, and/or other nuisances to the Project and/or owners of units therein, and Purchaser acknowledges the same.

(xi) 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 the layout, décor, coloring, furnishings, or fixtures of or provided with a unit or the types of amenities provided in the Project. The marketing materials are intended to give purchasers a general idea of the standard and quality of the Project and are not intended to represent the precise layout, décor, coloring, furnishing, or fixtures in a unit or the 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.

(xii) Condominium Map. Nothing on the Condominium Map is intended to be or is a representation or warranty by Seller. Typical floor plans may have slight deviations as to the location and type of columns, doors, and fixtures in a unit. The layout and areas of the units with typical depictions are intended to be consistent.

(xiii) **Warranties. Seller is developing the Project but is not the general contractor or an affiliate of the general contractor that is building the Project. TO THE EXTENT PERMITTED BY LAW, SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE UNIT OR THE PROJECT, OR ABOUT CONSUMER PRODUCTS OR ANYTHING ELSE INSTALLED OR CONTAINED IN THE UNITS OR THE PROJECT. THIS INCLUDES, BUT IS NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION, FITNESS FOR A PARTICULAR PURPOSE, AND SUFFICIENCY OF DESIGN.**

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(xiv) Future Rail Route; Potential HART Condemnation. It is anticipated that the future automated fixed-guideway rail system being planned, designed, constructed, operated, and maintained by Honolulu Authority for Rapid Transportation ("**HART**"), known as the Honolulu Rail Transit Project ("**Rail Project**"),

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will be constructed directly adjacent to the Tower and above certain open areas of the Project, which may cause noise, dust, vibrations, traffic congestion, view impairment, and/or other inconveniences or nuisances associated with the development, construction and operation of such Rail Project ("**Rail Effects**"). By signing and accepting a Unit Deed, Purchaser accepts the Rail Effects 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 or enjoyment of the Unit or the Project or the values thereof, or from any inconvenience, property damage or personal injury arising directly or indirectly from the Rail Effects.

HART has the authority to condemn lands in Ward Village for the Rail Project. Seller and its affiliates anticipated this threat of condemnation and, accordingly, incorporated the Rail Project into plans for the Ward Village development as well as various condominium project developments, including this Project. Such plans include, without limitation, strategic design, project budgeting and pricing, and reserves for possible condemnation court hearings. Although Seller is not aware of any current condemnation plans by HART pertaining to the Land, if all or any portion of the Project is "taken" or sold under the threat of condemnation by HART before the end of the Development Period, Seller shall have the reserved right to and until the end of the Development Period to receive all the proceeds payable for or on account of the condemnation of any portion of the Land. By signing and accepting a Unit Deed, Purchaser appoints Seller and its assigns as Purchaser's attorney-in-fact with full power of substitution to execute, deliver and record documents and instruments and to collect any proceeds and do such things on Purchaser's behalf in connection with any such condemnation, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved right, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assign of, or successor-in-interest of Purchaser upon any transfer of the Unit or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

(xv) <u>Kaka'ako Community Development District Mauka Area Plan and Rules; Planned Development Permit, Planned Development Agreement and District-Wide Improvement Program</u>. The Project is located within the Kaka'ako Community Development District and is subject to the jurisdiction of the HCDA and the Mauka Area Plan and Mauka Area Rules. The Project will be developed subject to and in compliance with the terms of various permits and agreements by and/or between Seller or Seller's predecessors in interest and HCDA (collectively, "**HCDA Agreements**"). Some of these HCDA Agreements impose certain responsibilities and limitations on owners within Ward Village pertaining to design, alteration, and use of the master development areas. Exhibit "M" attached to the Public Report contains a summary of the more salient HCDA Agreements. **Purchaser should make careful review of Exhibit "M" attached to the Public Report and all permits and agreements listed therein for additional information on such responsibilities and limitations.** Pursuant to the Declaration, Seller, as the developer of the Project, has the right, without the consent or joinder of any other person or entity, to sign and record (if appropriate) documents or instruments (including, but not limited to, amendments to the Declaration, the Bylaws, or the Condominium Map), enter into agreements and do all things that may be reasonably necessary to obtain further permits and/or agreements as may be required by the HCDA Agreements and/or the Mauka Area Rules, and to comply with all applicable permits, laws, rules, ordinances, and other governmental requirements that pertain to the Project.

The Project may also be subject to the HCDA's district-wide improvement assessment program and may be assessed for the cost of improvements made in the vicinity of the Project. If any such assessments are made, owners of units in the Project shall be responsible for and shall pay their respective prorated share of the assessments as part of such owners' share of the Master Assessments (as such term is defined in the Declaration).

(xvi) <u>Easements Pursuant to the Master Declaration</u>. During the Development Period, to the extent set forth in the Master Declaration, Seller shall have the right to (a) grant easements through the Common Elements for purposes set forth in the Master Declaration and (b) dedicate any "open space" areas to be used for public parks or any burial preservation areas for public access and use purposes or for the purposes set forth in the Master Declaration, including, without limitation, easements to access certain areas of the Project, easements for maintenance and landscaping, and easements for use of certain areas of the Project by the Master

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Association for recreational use, park space, sidewalks, as required by a government agency or by law, or pedestrian and/or bicycle access or other purposes. Such areas or portions thereof may also be dedicated to the public or dedicated for use by the public pursuant to the Master Declaration; provided that the Master Association shall maintain the easement and use areas and shall be responsible for any costs associated with the use, maintenance, and upkeep of such areas pursuant to the Master Declaration. Seller may, without being required to obtain the consent or joinder of any unit owner, lienholder, or other Persons, execute, deliver, and record any easement, deed, and/or amendment to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

(xvii) Archaeological and Environmental Disclosures. Cultural Surveys Hawai'i, Inc. conducted extensive archaeological work and related consultation for the Project and neighboring parcels, including preparing an archaeological inventory survey plan and conducting archaeological inventory survey fieldwork. Previously identified historic properties were documented during the archaeological inventory survey which include pre- and post-contact cultural deposits with associated features, including human burials, and subsurface historic infrastructure remnants and associated deposits. Archaeological, cultural, and environmental review and consultation for the Project are ongoing. There is a risk that prior to and after the commencement of construction of the Project, burials or archaeologically significant items and/or environmental contaminants or hazards are discovered. Developer will continue to comply with any and all applicable laws, ordinances, statutes, rules, or regulations of any local, County, State, or federal government or agency pertaining to archaeological, burial, and/or environmental conditions, including, but not limited to, (a) conducting historic preservation studies, archaeological studies, and archaeological inventory surveys, (b) developing mitigation, monitoring, and preservation plans, as may be required, in consultation with SHPD, (c) conducting environmental assessments and studies, and (d) developing remediation and/or disposal plans, as may be required.

(xviii) 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 or enjoyment of the Unit or the Project or of the values thereof, or from any inconvenience, property damage, or personal injury arising directly or indirectly from the following:

(a) Elevators. The design of the building provides for multiple passenger elevators to provide access to various floors of the Project. Units located in the immediate vicinity of the elevator lobby on each level of the 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 lobbies. Also, during certain hours of the day, there may be delays in the elevators servicing each 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.

(b) Location of Units Near the Recreational Amenities and/or Parking. Units located near the Recreational Amenities and/or parking areas may be exposed to greater noise, traffic, and other nuisances than units located farther from such areas of the Project.

(c) Stone. Natural stone countertops and backsplashes (collectively, "**Countertops**") may be installed in the units of the Project, including in the bathrooms and kitchens. If such material is used, due to the mineral composition and crystalline structure of the Countertops, small pits may be visible on the polished surfaces thereof. The pitting as well as natural fissures shall not be considered flaws, as they do not impair the function or durability of the material. Although the Countertops will be finished, due to the porous nature of stone, the Countertops will still be susceptible to discoloration, staining, fracturing, and chipping. The Countertops have special maintenance, care, and upkeep requirements that will need to be complied with by each unit owner in the Project in order to maximize the enjoyment and useful life of the originally installed Countertops. Some of the shower walls and floors may also be stone. Again, stone is naturally porous and tends to absorb liquid that can penetrate deep into the material quickly and may be hard to remove. Stone can and should be sealed when installed and again every few years to minimize staining. If sealing is not done properly or often enough, however, staining can still occur. Cutting or dropping of objects directly on stone can also scratch, chip, and crack the surface. The failure to comply with the special maintenance, care, and upkeep requirements may result in additional costs to unit owners and detract from the owners' enjoyment of their units.

(d) Engineered Wood Flooring and Wood Veneer Cabinets in Units. Engineered wood flooring may be installed in a portion of each unit. Engineered wood flooring is prone to scratching and has special maintenance, care, and upkeep requirements, as compared to carpeting, with which each unit owner in the Project will need to comply in order to maximize the enjoyment and useful life of the originally-installed engineered wood flooring in the units. 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. The potential sound transmission through an engineered wood floor, when compared to carpeting, is greater, and Purchaser, by signing and accepting the Unit Deed, will thereby be deemed to acknowledge and accept that this condition may result in greater noise being heard from the units above and adjacent to Purchaser's Unit. Purchaser shall at all times comply with the requirements and provisions of the House Rules, as may be amended, for the purpose of minimizing and softening the level of sound transmission through the engineered wood floor of the Unit (if any). Certain kitchens and bathrooms may also have cabinets made from natural wood veneer, which is subject to color, texture, and surface variations and aging. The failure to comply with special maintenance, care, and upkeep requirements may result in additional costs to a unit owner and detract from an owner's enjoyment of a unit.

(e) Mechanical Equipment on Rooftop. The design of the building provides for mechanical equipment to be located on the rooftop. The existence of the same may cause noise and vibrations even in the course of normal operations, which may be evident to the units on the floors immediately below the rooftop.

(xix) Ward Village - Master Declaration and Master By-Laws. The Project will be part of the urban, mixed-use master planned community called "Ward Village," located in central Kaka'ako, Honolulu, being developed by Seller and its affiliates. It is intended that the current landscape surrounding the Project be substantially transformed over the next decade or longer to create Ward Village.

Being a part of Ward Village, the Project is subject to the Community Covenant for Ward Village ("**Master Declaration**") and By-Laws of Ward Village Owners Association ("**Master By-Laws**"), as the same may be amended and/or supplemented from time to time, and any rules and regulations promulgated thereunder, including, without limitation, any master assessments, voting rights, design restrictions, and the design review process set forth therein, if applicable. By signing and accepting a Unit Deed, Purchaser agrees to carefully review, observe, and comply with all covenants, conditions, restrictions, and other requirements to which the Project is subject under the Master Declaration and Master By-Laws, including membership in the Ward Village Owners Association ("**Master Association**") and the payment of such sums as may be assessed pursuant to such Master Declaration or Master By-Laws. Purchaser acknowledges that Seller has the reserved right, without the consent of any unit owners or such owners' mortgagees, to amend the Declaration and to amend the Master Declaration, to the extent such right was assigned to Seller, and to enter into any agreements and to grant easements and to do all things necessary and convenient to effect and implement the purposes of such instruments, and to execute, record, and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to the Declaration and the Condominium Map. In the event of a conflict between the Declaration and Bylaws and the Master Declaration and/or Master By-Laws, the Master Declaration and/or Master By-Laws, as applicable, shall control. The Public Report summarizes some of Purchaser's obligations and responsibilities and Victoria Ward, Limited's rights under the Master Declaration, Master By-laws, and other master governing documents.

(xx) 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 the 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.

(xxi) Right to Modify Project and Amend Documents. Pursuant to the Declaration, Seller has the reserved right to effect such modifications to units and Common Elements in the Project and/or to execute, record, and deliver any amendments to the Declaration, the Condominium Map, the Bylaws, the House Rules, or the Articles of Incorporation, as may be necessary or appropriate to effect compliance by the Project, the Association, and/or Seller with laws that apply to the Project, including, but not limited to, the Fair Housing Act, 42 U.S.C. §§ 3601, et seq., as amended by the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., as amended, and any rules and regulations promulgated thereunder, or as may be required by the Commission, any title insurance company issuing title insurance on the Project or any of the units, any institutional lender lending funds secured by the Project or any of the units, or any government agency.

(xxii) School Impact Fee Districts; Potential for School Impact Fees. Pursuant to Hawaii Revised Statutes, Section 302A-1603, a new residential project within a designated State of Hawaii school impact district, which requires a County building permit or a condominium property regime approval, shall be required to contribute an impact fee (e.g., land dedication, land component impact fee, or fee in lieu and construction cost component impact fee) ("**Impact Fee**"). The Project is located in the Kalihi to Ala Moana School Impact Fee District ("**School Impact Fee District**") and, as such, Seller will be required to pay the Impact Fee for said School Impact Fee District upon County subdivision or building permit approval or State condominium property regime approval for the Project. **The Unit's share of the Impact Fee may be collected by Seller from Purchaser at Closing and will be included in Purchaser's closing cost for the Unit.**

(xxiii) Daniel K. Inouye International Airport. The Project's proximity to the Daniel K. Inouye International Airport, as well as the existence on O'ahu of several military bases, may cause frequent, loud noise from aircraft operations, sightings of aircraft flying at very low altitudes, and fumes, smoke, vibrations, odors, and other nuisances resulting from aircraft flight operations over or near the Project ("**Aircraft Effects**"). By signing and accepting a Unit Deed, Purchaser accepts the Aircraft Effects 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 Aircraft Effects.

MISCELLANEOUS PROVISIONS

30. New Laws and Other Events Beyond Seller's Control; Increase in Total Purchase Price. If after the Contract Date and because of the adoption or enactment of any law, ordinance, rule or regulation, or governmental proclamation, order, or directive, 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 Contract Date, but before the Closing Date of Purchaser's Unit, or due to any fire, earthquake, act of God, the elements, war, acts of terrorism, civil disturbances, epidemic, pandemic, or other public health emergency, strike or other labor disturbance, or economic, transportation, or other governmental controls making it impossible to obtain the necessary labor or material, or market conditions that 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 the Project 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

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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, health/safety, 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 the availability of materials and labor necessary for the construction of housing. As a result, condominium unit prices, including prices of units in the Project, 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/or 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 this Purchase Agreement, Seller may have owned other properties that 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.

31. <u>Material Changes in the Project</u>. When, after this Purchase Agreement has become binding in accordance with **Section D.6** above, there is a Material Change in the Project, excluding any Permissible Material Changes, 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 Act, 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 E.31**, Purchaser shall be entitled to a prompt and full refund of all monies paid, plus any interest earned thereon in accordance with **Section E.5**, if applicable.

32. <u>PRESALE CONTINGENCY</u>. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER MAY CANCEL THIS PURCHASE AGREEMENT IF SELLER HAS NOT OBTAINED BINDING PURCHASE AGREEMENTS TO SELL AT LEAST SEVENTY PERCENT (70%) 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 THE 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 E.32**, PURCHASER SHALL BE ENTITLED TO A FULL REFUND OF ALL MONIES PAID BY PURCHASER TO SELLER HEREUNDER, WITH ANY INTEREST ACCRUED PURSUANT TO **SECTION E.5** IF APPLICABLE. 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 PERCENT (70%) OF THE RESIDENTIAL UNITS IN THE PROJECT, OR ANY SPECIFIC NUMBER OF UNITS, HAS BEEN SOLD.

33. Purchaser's Interest under this Purchase Agreement; Subordination. This Purchase Agreement shall not be construed as a present transfer of any rights or 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 at said Bureau any form of this Purchase Agreement. Purchaser acknowledges that Seller or its affiliates 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 (a) FIVE HUNDRED FORTY MILLION AND NO/100 DOLLARS ($540,000,000.00) at an annual interest rate of up to twelve (12) percentage points or one thousand two hundred (1,200) basis points, over the Lender's chosen rate (which may be Lender's "prime rate," "base rate," or other rate, or Secured Overnight Financing Rate (SOFR), 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 Seller's interest in the Project, including the Unit covered by this Purchase Agreement, and 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 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 Lender's option, perform to, attorn to, and recognize 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 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 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 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.

34. Administration and Management of Project. Purchaser acknowledges that Seller has retained Certified Management Inc., dba Associa Hawaii, a Hawaii corporation, as the initial Managing Agent for the Project. For the duration of the Developer Control Period, **Seller shall have the right to select and/or replace the Managing**

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Agent at any time in Seller's sole discretion. In the event the Managing Agent changes, the maintenance fees and services for the Project may change. 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 General Common Elements, Residential Limited Common Elements, and Residential Unit Limited Common Elements appurtenant to more than one Residential Unit. The Commercial Director may retain a manager (or self-manage) to perform physical management of the Commercial Limited Common Elements and Commercial Unit Limited Common Elements appurtenant to more than one Commercial Unit, in accordance with the Declaration.

35. Assignment of Purchase Agreement. This Purchase Agreement may not be assigned by Purchaser without the prior written consent of Seller. Any assignment of this Purchase Agreement by Purchaser without Seller's prior written consent is void and of no legal effect. By way of examples only and not as limitations, for purposes of this **Section E.35**, assignments shall include, but not be limited to: (i) the transfer of any portion 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 fifteen (15) 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.

36. SELLER'S REMEDIES UPON PURCHASER'S DEFAULT. IN THE EVENT PURCHASER SHALL HAVE DELIVERED THE CONTRACT DEPOSIT (OR ANY PORTION THEREOF REQUIRED TO BE DELIVERED) OR ANY OTHER CONSIDERATION MONIES RELATED TO THE PURCHASE OF THE UNIT 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 OF THE CONTRACT DEPOSIT (OR ANY PORTION THEREOF) TO ESCROW ON OR PRIOR TO THE DEPOSIT DELIVERY DUE DATE, SELLER MAY DELIVER TO PURCHASER WRITTEN NOTICE OF SUCH DEFAULT OR BREACH AND THE OPPORTUNITY FOR PURCHASER TO REMEDY SUCH DEFAULT OR BREACH WITHIN TWENTY (20) CALENDAR DAYS AFTER THE DATE OF RECEIPT OF SUCH NOTICE. IF PURCHASER HAS NOT REMEDIED SUCH DEFAULT OR BREACH WITHIN SUCH TWENTY (20)-DAY PERIOD, SELLER SHALL BE ENTITLED TO ANY REMEDY AVAILABLE AT 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, AND ANY OTHER MONETARY CONSIDERATION DELIVERED BY PURCHASER RELATED TO THE PURCHASE OF THIS UNIT 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.

37. PURCHASER'S REMEDIES UPON SELLER'S DEFAULT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS PURCHASE AGREEMENT, IF SELLER IS 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 THE DEFAULT WITHIN THIRTY (30) CALENDAR DAYS OF SELLER'S RECEIPT OF PURCHASER'S WRITTEN NOTICE, OR COMMENCE CURING THE DEFAULT IF IT IS IMPRACTICAL TO CURE THE ENTIRE DEFAULT WITHIN SAID PERIOD, 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** HEREOF. THE REFUND OF PURCHASER'S CONTRACT DEPOSIT AND OTHER AMOUNTS PAID BY PURCHASER UNDER THIS PURCHASE AGREEMENT SHALL BE PURCHASER'S SOLE REMEDY IN THE EVENT OF SELLER'S DEFAULT HEREUNDER.

38. **DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES; WAIVERS**.

NOTICE TO PURCHASER **Purchaser's Initials ______________**

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, AS APPROPRIATE, 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 E.38**, THE "**PARTIES**") WITH A MECHANISM TO RESOLVE DISPUTES THAT MAY DEVELOP IN THE FUTURE CONCERNING THIS PURCHASE AGREEMENT. THE PARTIES AGREE THAT THESE PROCEDURES SHALL BE REQUIRED IN THE PROSECUTION AND RESOLUTION OF ALL DISPUTES, AND THAT THE GOAL OF THE PARTIES IN AGREEING TO THESE PROCEDURES IS TO UTILIZE ALTERNATIVE DISPUTE RESOLUTION AS THE PRIMARY AND PRINCIPAL MEANS OF RESOLVING DISPUTES AND THEREBY REDUCING THE NEED FOR LITIGATION. ALL PROVISIONS OF THESE PROCEDURES ARE TO BE INTERPRETED WITH THIS PURPOSE IN MIND.

b. DEFINITION. "**DISPUTE**" MEANS AND INCLUDES ANY AND ALL ACTIONS, CLAIMS OR DISPUTES BY, BETWEEN, OR AMONG THE PARTIES THAT ARISE OUT OF 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). NOTWITHSTANDING ANYTHING ELSE IN THIS **SECTION E.38** TO THE CONTRARY, ANY ACTION OR CLAIM BY OR BETWEEN SELLER AND PURCHASER ARISING OUT OF OR INCIDENT TO THIS PURCHASE AGREEMENT THAT IS RAISED OR OTHERWISE ASSERTED BEFORE THE CLOSING DATE NEED NOT BE SUBMITTED TO ALTERNATIVE DISPUTE RESOLUTION AS PROVIDED HEREIN, AND SELLER AND PURCHASER SHALL BE FREE TO PURSUE SUCH ACTION OR CLAIM AS OTHERWISE PROVIDED HEREIN, IN PROCEEDINGS BEFORE ANY COURT OF COMPETENT JURISDICTION WITHOUT FIRST SUBMITTING SUCH ACTION OR CLAIM TO THE PROCEDURES SPECIFIED IN THIS **SECTION E.38**. PURCHASER AND SELLER AGREE THAT ANY JUDICIAL PROCEEDINGS INITIATED UNDER THE PRECEDING SENTENCE SHALL BE CONDUCTED IN HONOLULU, HAWAII. FURTHERMORE, NOTWITHSTANDING THE FOREGOING, THESE PROCEDURES ARE NOT MEANT TO LIMIT (i) THE RIGHTS OF THE ASSOCIATION OR ITS BOARD TO PURSUE THEIR LEGAL REMEDIES IN THE CASE OF ANY DELINQUENCY IN THE PAYMENT OF MAINTENANCE FES, (ii) THE ENFORCEMENT OF THE PROVISION OF THE DECLARATION, BYLAWS, OR HOUSE RULES, AS AMENDED FROM TIME TO TIME, (iii) THE RIGHTS AND REMEDIES OF ANY LENDER THAT SEEKS TO ENFORCE ITS REMEDIES AGAINST SELLER, ANY OWNER, THE ASSOCIATION, OR ANY OTHER PARTY, AND (iv) ANY CONTRACT THAT THE SELLER MAY ENTER INTO WITH A CONTRACTOR TO BUILD THE PROJECT. IN ADDITION, A DISPUTE SHALL NOT INCLUDE CONSTRUCTION DEFECTS COVERED UNDER THE CONTRACTOR REPAIR ACT.

c. KNOWING RELEASES AND WAIVERS. THE PARTIES ACKNOWLEDGE THAT THE PROCEDURES HAVE BEEN A MATERIAL INDUCEMENT FOR THEM TO ENTER INTO THIS PURCHASE AGREEMENT. TO ACCOMPLISH THE PURPOSE OF THESE PROCEDURES, THE PARTIES, WITH RESPECT TO ANY DISPUTE, AND ANY PROHIBITED LITIGATION REFERRED TO IN **SUBSECTION g** BELOW, HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY AGREE TO THE FOLLOWING RELEASES, WAIVERS, AND PROVISIONS:

(i) **WAIVER OF JURY TRIAL. THE PARTIES WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL ON ANY CLAIM, COUNTERCLAIM, OR CAUSE OF ACTION, WHETHER STATUTORY OR BROUGHT IN TORT OR IN CONTRACT, WHICH IS BASED UPON OR ARISING OUT OF SUCH DISPUTE OR SUCH PROHIBITED LITIGATION.**

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(ii) __**WAIVER AND RELEASE OF CERTAIN DAMAGES**__. **THE PARTIES WAIVE AND RELEASE ANY AND ALL RIGHTS THAT ANY OF THEM MAY HAVE TO RECOVER ANY TYPE OF PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, OR TREBLE OR OTHER MULTIPLE DAMAGES PROVIDED FOR BY ANY STATUTE OR RULE. NOTHING CONTAINED IN THESE PROCEDURES SHALL PRECLUDE THE RECOVERY OF OTHER DAMAGES OR ATTORNEYS' FEES AND COSTS AS AND TO THE EXTENT PROVIDED ELSEWHERE IN THIS PURCHASE AGREEMENT, EXCEPT WHERE OTHERWISE PROHIBITED BY LAW.**

(iii) __**WAIVER OF CLASS ACTIONS AND CONSOLIDATION**__. **THE PARTIES WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO INITIATE OR PARTICIPATE IN ANY CLASS ACTION ARISING OUT OF, RELATING TO, OR CONCERNING SUCH DISPUTE OR SUCH PROHIBITED TRANSACTION. THE PARTIES AGREE THAT ALL PROCEEDINGS GOVERNED BY THESE PROCEDURES SHALL BE BROUGHT SOLELY ON AN INDIVIDUAL BASIS AND MAY NOT BE CONSOLIDATED OR JOINED WITH PROCEEDINGS INVOLVING CLAIMS ASSERTED BY ANY OTHER PARTY, PERSON, OR ENTITY.**

d. __DISPUTE NOTICE AND NEGOTIATIONS__. 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 SIXTY (60) DAYS, THE PARTIES TO THE DISPUTE, REPRESENTED BY INDIVIDUALS WITH DECISION-MAKING AUTHORITY, SHALL MEET AT A MUTUALLY ACCEPTABLE PLACE WITHIN OR NEAR THE PROJECT TO DISCUSS THE DISPUTE. THE PARTIES TO THE DISPUTE SHALL NEGOTIATE IN GOOD FAITH IN AN ATTEMPT TO RESOLVE THE DISPUTE. THE PARTIES AGREE THAT THE DISPUTE NOTICE AND NEGOTIATIONS PROCESS SET FORTH IN THIS **SUBSECTION d** MUST BE CONDUCTED AND COMPLETED BEFORE ANY PARTY MAY INITIATE FURTHER PROCEEDINGS ON THE DISPUTE.

e. __MEDIATION__. IF THE PARTIES TO THE DISPUTE CANNOT RESOLVE SUCH DISPUTE PURSUANT TO THE PROCEDURES DESCRIBED IN **SUBSECTION d** ABOVE, THE MATTER SHALL BE SUBMITTED TO MEDIATION PURSUANT TO THE PROCEDURES ADOPTED BY DISPUTE PREVENTION AND RESOLUTION, INC. ("**DPR**") LOCATED IN HONOLULU, HAWAII (EXCEPT AS SUCH PROCEDURES ARE MODIFIED BY THE PROVISIONS OF THIS **SUBSECTION e** OR ANY SUCCESSOR THERETO OR TO ANY OTHER ENTITY OFFERING MEDIATION SERVICES THAT IS ACCEPTABLE TO THE PARTIES. THE MEDIATOR SHALL BE SELECTED WITHIN FIFTEEN (15) DAYS OF THE SUBMITTAL OF THE DISPUTE TO MEDIATION. NO PERSON SHALL SERVE AS A MEDIATOR IN ANY DISPUTE IN WHICH THE PERSON HAS ANY FINANCIAL OR PERSONAL INTEREST IN THE RESULT OF THE MEDIATION, EXCEPT BY THE WRITTEN CONSENT OF ALL PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION. PRIOR TO ACCEPTING ANY APPOINTMENT, THE PROSPECTIVE MEDIATOR SHALL DISCLOSE ANY CIRCUMSTANCES LIKELY TO CREATE A PRESUMPTION OF BIAS OR TO PREVENT A PROMPT COMMENCEMENT OF THE MEDIATION PROCESS. THE PARTIES AGREE THAT THE MEDIATION PROCESS SET FORTH IN THIS **SUBSECTION e** AND ITS SUBPARTS MUST BE CONDUCTED AND COMPLETED BEFORE ANY PARTY MAY INITIATE FURTHER PROCEEDINGS ON THE DISPUTE.

(i) __POSITION LETTER; PRE-MEDIATION CONFERENCE__. WITHIN TEN (10) DAYS OF THE SELECTION OF THE MEDIATOR, EACH PARTY TO THE DISPUTE PARTICIPATING IN THE MEDIATION SHALL SUBMIT A LETTER SETTING FORTH A CONCISE DESCRIPTION OF ITS POSITION WITH REGARD TO THE ISSUES THAT NEED TO BE RESOLVED. SUCH LETTER SHALL BE OF A LENGTH AND MEET THE FORMATTING SPECIFICATIONS ESTABLISHED BY THE MEDIATOR, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE MEDIATOR REQUIRE SUCH LETTER TO BE LESS THAN FIVE (5) SINGLE-SPACED PAGES. THE MEDIATOR SHALL HAVE THE RIGHT TO SCHEDULE A PRE-MEDIATION CONFERENCE, AND ALL PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION SHALL ATTEND UNLESS OTHERWISE AGREED. THE MEDIATION SHALL BE COMMENCED WITHIN TEN (10) DAYS FOLLOWING THE SUBMITTAL OF THE LETTER AND SHALL BE CONCLUDED WITHIN FIFTEEN (15) DAYS FROM THE COMMENCEMENT OF THE MEDIATION, UNLESS THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION MUTUALLY AGREE TO EXTEND THE MEDIATION PERIOD. THE MEDIATION SHALL BE HELD IN HONOLULU, HAWAII OR SUCH OTHER PLACE AS IS MUTUALLY ACCEPTABLE TO THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION.

(ii) __CONDUCT OF MEDIATION__. THE MEDIATOR HAS THE DISCRETION TO CONDUCT THE MEDIATION IN THE MANNER THAT THE MEDIATOR BELIEVES IS MOST APPROPRIATE FOR REACHING A

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SETTLEMENT OF THE DISPUTE. THE MEDIATOR IS AUTHORIZED TO CONDUCT JOINT AND SEPARATE MEETINGS WITH THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION AND TO MAKE ORAL AND WRITTEN RECOMMENDATIONS FOR SETTLEMENT. WHENEVER NECESSARY, THE MEDIATOR MAY ALSO OBTAIN EXPERT ADVICE CONCERNING TECHNICAL ASPECTS OF THE DISPUTE, PROVIDED THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION AGREE AND ASSUME THE EXPENSES OF OBTAINING SUCH ADVICE. THE MEDIATOR DOES NOT HAVE THE AUTHORITY TO IMPOSE A SETTLEMENT ON THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION.

(iii) PARTIES PERMITTED AT SESSIONS. PERSONS OTHER THAN THE PARTIES TO THE DISPUTE PARTICIPATING IN THE MEDIATION, 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 INSURER IN THE MEDIATION TO THE EXTENT REQUIRED UNDER SUCH PARTIES' LIABILITY INSURANCE POLICY.

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

(v) EXPENSES. THE EXPENSES OF WITNESSES FOR EITHER SIDE 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.

f. NONBINDING ARBITRATION. IF THE PARTIES TO THE DISPUTE CANNOT RESOLVE SUCH DISPUTE PURSUANT TO THE PROCEDURES DESCRIBED IN **SUBSECTIONS d** and **e**, ABOVE, THE MATTER SHALL BE SUBMITTED TO NONBINDING ARBITRATION BEFORE DPR OR ANY SUCCESSOR THERETO OR ANY OTHER ENTITY OFFERING ARBITRATION SERVICES THAT IS ACCEPTABLE TO SUCH PARTIES (ANY ONE OF THEM "**DISPUTE AGENCY**") AND PURSUANT TO THE DISPUTE AGENCY'S RULES AND PROCEDURES (EXCEPT AS SUCH RULES ARE MODIFIED BY THE PROVISIONS OF THIS SECTION). THE PARTIES ACKNOWLEDGE AND AGREE THAT THE ARBITRATION OF ANY DISPUTES 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. PURSUANT TO HAWAII REVISED STATUTES, SECTION 658A-10(c), THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE ARBITRATION OF ANY DISPUTE SHALL NOT BE CONSOLIDATED WITH THE CLAIMS OF ANY OTHER PARTY, PERSON, OR ENTITY. ALL ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN HONOLULU, HAWAII OR SUCH OTHER PLACE AS IS MUTUALLY ACCEPTABLE TO THE PARTIES TO THE DISPUTE PARTICIPATING IN THE NONBINDING ARBITRATION. THE PARTIES AGREE THAT THE NONBINDING ARBITRATION PROCESS SET FORTH IN THIS **SUBSECTION f** AND ITS SUBPARTS MUST BE CONDUCTED AND COMPLETED BEFORE ANY PARTY MAY INITIATE FURTHER PROCEEDINGS ON THE DISPUTE.

(i) SELECTION OF ARBITRATOR. ALL DISPUTES SHALL BE HEARD BY A SINGLE ARBITRATOR, WHO SHALL EITHER BE A FORMER JUDGE WITH SUBSTANTIAL EXPERIENCE IN RESIDENTIAL REAL ESTATE LITIGATION MATTERS OR A LICENSED ATTORNEY WITH AT LEAST TEN (10) YEARS EXPERIENCE IN RESIDENTIAL REAL ESTATE TRANSACTIONS AND/OR LITIGATION INVOLVING RESIDENTIAL REAL ESTATE. THE ARBITRATOR SHALL BE SELECTED IN THE MANNER SET FORTH IN THE RULES OF THE DISPUTE AGENCY WITHIN TEN (10) DAYS AFTER THE SUBMITTAL OF THE MATTER TO ARBITRATION.

(ii) POSITION STATEMENTS. WITHIN TEN (10) DAYS AFTER THE SELECTION OF THE ARBITRATOR, THE PARTY WHO REQUESTED ARBITRATION OF THE DISPUTE SHALL FILE WITH THE ARBITRATOR AND SERVE ON THE OTHER PARTY (AND COUNSEL) A POSITION STATEMENT SETTING FORTH A DESCRIPTION OF THE FACTS UNDERLYING THE DISPUTE, THE NATURE OF THE DISPUTE, THE QUESTION(S) TO BE RESOLVED AND THE RELIEF REQUESTED. WITHIN TEN (10) DAYS AFTER THE SERVICE OF THE INITIAL POSITION STATEMENT, THE OTHER PARTY(IES) SHALL FILE AND SERVE WHATEVER COUNTER-POSITION STATEMENT MAY BE APPROPRIATE TO PRESERVE

AND ASSERT SUCH PARTY'S POSITION SETTING FORTH A DESCRIPTION OF THE FACTS UNDERLYING THE DISPUTE, THE NATURE OF THE DISPUTE, THE QUESTION(S) TO BE RESOLVED AND THE RELIEF REQUESTED. TEN (10) DAYS AFTER SERVICE OF THE COUNTER-POSITION STATEMENT, ALL PARTIES SHALL FILE AND SERVE A RESPONSE TO THE POSITION STATEMENTS FILED BY THE OTHER, WHICH RESPONSES SHALL CONTAIN A SHORT DESCRIPTION OF THE RESPONSE TO THE POSITIONS BEING ASSERTED, INCLUDING ANY DEFENSES OF AN AFFIRMATIVE NATURE. ANY QUESTION ARISING OUT OF THE SAME TRANSACTION OR OCCURRENCE SHALL BE SET FORTH IN THE RESPONSES OR BE FOREVER BARRED. THE ARBITRATOR MAY PERMIT A POSITION STATEMENT, COUNTER-POSITION STATEMENT, OR RESPONSE TO BE AMENDED TO ADD A QUESTION TO BE RESOLVED OR DEFENSE ONLY UPON PRESENTATION OF A REASONABLE BASIS THEREFOR.

(iii) CONDUCT OF ARBITRATION HEARING. UNLESS A HEARING IS WAIVED IN WRITING BY ALL PARTIES, ALL DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR AFTER A HEARING CONDUCTED IN ACCORDANCE WITH THESE PROCEDURES. THE ARBITRATOR MAY, IN THE ARBITRATOR'S SOLE DISCRETION, LIMIT TESTIMONY AND ARGUMENT, BOTH LEGAL AND FACTUAL. THE HEARING SHALL BE COMMENCED AT A TIME AND PLACE SELECTED BY THE ARBITRATOR IN HONOLULU, HAWAII, UNLESS OTHERWISE AGREED TO BY THE PARTIES IN WRITING, TO AFFORD EACH PARTY ADEQUATE PREPARATION FOR PRESENTING ITS POSITION AS TO THE DISPUTE BEING ARBITRATED, BUT IN NO EVENT LATER THAN SIXTY (60) DAYS AFTER THE FILING OF THE LAST OF THE PARTIES' RESPONSES. UNLESS OTHERWISE AGREED IN WRITING BY THE PARTIES, THE HEARING SHALL BE CONCLUDED WITHIN TWENTY (20) DAYS OF THE COMMENCEMENT OF THE HEARING.

(iv) RECORD. UNLESS OTHERWISE AGREED TO BY THE PARTIES, THERE SHALL BE NO STENOGRAPHIC RECORD OF THE ARBITRATION PROCEEDINGS.

(v) POWERS OF THE ARBITRATOR. THE ARBITRATOR SHALL HAVE THE POWER TO CONSIDER ALL DISPUTES SUBMITTED TO ARBITRATION HEREUNDER IN ACCORDANCE WITH THESE PROCEDURES, PROVIDED THAT THE REQUIREMENTS OF **SUBSECTIONS d** and **e** HAVE BEEN SATISFIED FOR SUCH DISPUTES. THE ARBITRATOR SHALL NOT HAVE THE POWER TO CONSIDER ANY DISPUTE THAT WAS NOT SUBMITTED TO ARBITRATION BY THE PARTIES. THE PARTIES AGREE THAT IN ANY ARBITRATION PROCEEDING CONDUCTED UNDER THESE PROCEDURES, THE ARBITRATOR SHALL APPLY HAWAII LAW, FOLLOW THE TERMS OF THE DECLARATION, AND ONLY HAVE THE POWER TO PROVIDE IN THE ADVISORY AWARD FOR ANY REMEDY THAT WOULD HAVE BEEN AVAILABLE TO A COURT DECIDING THE SAME MATTER, SUBJECT TO THE LIMITATIONS AND REMEDIES CONTAINED IN THESE PROCEDURES. THE ARBITRATOR MAY EXTEND ANY OF THE DEADLINES SET FORTH IN THIS **SUBSECTION f** UPON THE REQUEST OF EITHER PARTY FOR GOOD CAUSE; PROVIDED, HOWEVER, THAT THE ARBITRATOR SHALL ISSUE THE ARBITRATION AWARD IN THE TIME PRESCRIBED BY **SUBSECTION f(ix)**.

(vi) DISCOVERY. THE SCOPE, METHODS, AND DURATION OF DISCOVERY SHALL BE WITHIN THE SOLE DISCRETION OF THE ARBITRATOR SUBJECT, HOWEVER, TO THE PROVISIONS OF THIS **SUBSECTION f(vi)**. DISCOVERY SHALL NOT BE PERMITTED AS A MATTER OF RIGHT BUT ONLY TO THE EXTENT NECESSARY IN ACCORDANCE WITH HAWAII REVISED STATUTES § 658A-17(c), AS AMENDED, TO ACHIEVE THE PURPOSE OF THESE PROCEDURES, SET FORTH IN THIS SECTION. TO FACILITATE SUCH DISCOVERY, THE ARBITRATOR SHALL HAVE THE POWER TO ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS AS PERMITTED BY HAWAII REVISED STATUTES §658A-17(a), AS AMENDED. THE PARTIES TO THE DISPUTE SHALL COOPERATE TO THE GREATEST EXTENT POSSIBLE SO AS TO AVOID THE NECESSITY FOR THE ISSUANCE OF SUBPOENAS.

(vii) OTHER EVIDENCE. NEITHER HAWAII NOR THE FEDERAL RULES OF EVIDENCE OR CIVIL PROCEDURE WILL BE APPLICABLE, EXCEPT THAT THE ATTORNEY-CLIENT PRIVILEGE AND THE WORK PRODUCT DOCTRINE UNDER HAWAII LAW SHALL APPLY.

(viii) EXPENSES AND FEES. EXCEPT AS AND TO THE EXTENT PROVIDED ELSEWHERE IN THIS PURCHASE AGREEMENT, EACH PARTY SHALL BEAR ITS OWN ATTORNEY'S FEES. ALL OTHER PROPER COSTS AND EXPENSES OF THE ARBITRATION, INCLUDING, WITHOUT LIMITATION, WITNESSES' FEES AND THE FEES OF THE ARBITRATOR, SHALL BE CHARGED TO A PARTY OR PARTIES IN SUCH AMOUNTS AS THE ARBITRATOR DECIDES AT THE TIME OF THE AWARD. NOTWITHSTANDING THE FOREGOING, IF THE ARBITRATOR DECIDES THAT A PARTY'S CLAIMS

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ARE FRIVOLOUS, SUCH PARTY SHALL SOLELY BE RESPONSIBLE FOR ALL PROPERTY COSTS AND EXPENSES OF THE ARBITRATION, INCLUDING, WITHOUT LIMITATION, THE OTHER PARTY'S REASONABLE ATTORNEYS' FEES.

(ix) ADVISORY ARBITRATION AWARD; NONBINDING. THE ARBITRATOR SHALL ISSUE A WRITTEN ADVISORY DECISION ON THE MERITS OF THE ISSUE(S) FRAMED BY THE POSITION STATEMENT, COUNTER-POSITION STATEMENT, AND RESPONSES WITHIN THIRTY (30) DAYS AFTER THE CLOSE OF THE HEARING. **THE ADVISORY AWARD OF THE ARBITRATOR SHALL NOT BE FINAL OR BINDING ON THE PARTIES AND MAY NOT BE CONFIRMED OR ENTERED AS A JUDGMENT IN ANY COURT. FOLLOWING THE ARBITRATOR'S ISSUANCE OF AN ADVISORY AWARD, ANY PARTY TO THE ARBITRATION MAY INITIATE FURTHER DISPUTE RESOLUTION PROCEEDINGS, INCLUDING JUDICIAL ACTION IN A COURT OF COMPETENT JURISDICTION. THE ADVISORY AWARD MAY NOT BE INTRODUCED OR CITED AS EVIDENCE IN ANY SUBSEQUENT PROCEEDINGS. AS SET FORTH IN SUBSECTION h BELOW, NOTHING IN THESE PROCEDURES MAY BE USED OR PRESENTED IN ANY SUBSEQUENT PROCEEDINGS AS EVIDENCE.**

g. NO JUDICIAL INTERVENTION. THE PARTY BRINGING ANY LITIGATION NOT PERMITTED UNDER THESE PROCEDURES WITHOUT FOLLOWING THESE REQUIRED PROCEDURES ("**PROHIBITED LITIGATION**") SHALL BE RESPONSIBLE FOR ALL REASONABLE EXPENSES AND FEES (INCLUDING THOSE OF ATTORNEYS, EXPERTS, AND OTHER PROFESSIONALS) INCURRED BY THE OTHER PARTY AS A RESULT OF SUCH PROHIBITED LITIGATION.

h. CONFIDENTIALITY. ALL NEGOTIATIONS, MEDIATIONS, ARBITRATION PROCEEDINGS, AND ANY DISCOVERY CONDUCTED PURSUANT TO THESE PROCEDURES ARE CONFIDENTIAL. ALL PROCEEDINGS CONDUCTED PURSUANT TO **SUBSECTIONS d, e** and **f** OF 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. ANY BREACH OF THIS CONFIDENTIALITY PROVISION FOR REASON OF FILING LITIGATION IN COURT SHALL BE CONSIDERED PROHIBITED LITIGATION AND SHALL BE SUBJECT TO **SUBSECTION f** ABOVE.

i. STATUTES OF LIMITATION. NOTHING IN THIS **SECTION 38** SHALL BE CONSIDERED TO TOLL, STAY, REDUCE, OR EXTEND ANY APPLICABLE STATUTE OF LIMITATIONS; PROVIDED, HOWEVER, THAT ANY PARTY SHALL BE ENTITLED TO COMMENCE A LEGAL ACTION WHICH IN THE GOOD FAITH DETERMINATION OF THE PARTY IS NECESSARY TO PRESERVE THAT PARTY'S RIGHTS UNDER ANY APPLICABLE STATUTE OF LIMITATIONS, PROVIDED THAT THE PARTY COMMENCING SUCH ACTION SHALL TAKE NO FURTHER STEPS IN PROCESSING THE ACTION UNTIL IT HAS COMPLIED WITH THE PROCEDURES DESCRIBED IN **SUBSECTIONS d, e** and **f** ABOVE.

j. SURVIVAL; SUCCESSORS AND ASSIGNS. THE RIGHTS AND OBLIGATIONS OF THE PARTIES PURSUANT TO THIS **SECTION 38** SHALL SURVIVE THE CONVEYANCE OF THE UNIT PURSUANT TO THIS PURCHASE AGREEMENT. THIS **SECTION E.38** 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.

Purchaser's Initials ______________ **Seller's Initials** ________________

k. THIRD-PARTY BENEFICIARY. IT IS THE INTENT OF SELLER AND PURCHASER THAT THE CONTRACTORS, SUBCONTRACTORS, DESIGN PROFESSIONALS, ENGINEERS AND SUPPLIERS WHO PROVIDE 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

39. Dispute Resolution Procedures and Requirements in the Declaration. Purchaser acknowledges that Article XL 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.

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40. 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.

41. Notices and Amendments. Unless a specific method of delivery is required by law, notices and any amendments to the Public Report required or permitted hereunder between the parties shall be in writing and shall be (a) delivered personally; (b) sent by facsimile; (c) sent by United States mail or overnight courier (i.e., FedEx) to the address set forth herein (or such more recent address of which the mailing party may have notice; or (d) sent electronically by email to the address set forth above. Notices and any amendments to the Public Report shall be deemed delivered (i) immediately when personally delivered, sent via email or sent through facsimile; provided no "error" or "no delivery" message has been received by sender; (ii) two (2) business days after deposited by sending party in the United States mail; or (iii) two (2) business days after being sent by overnight courier. Purchaser agrees to notify Seller in writing of any change in Purchaser's address or email address set forth hereinabove within five (5) business days after the change thereof. Personal delivery, facsimile, mailing, couriering, or emailing of a notice or amendment to the Public Report to any officer of a corporate party if an Entity Purchaser, or to any one Person if multiple Purchasers, shall be deemed sufficient delivery of the notice or amendment. Unless otherwise received by the other party in writing, personal delivery, facsimile, mailing, couriering, or emailing to the party's real estate broker identified in this Purchase Agreement shall be deemed sufficient notice.

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42. 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.35** 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.

43. 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.

44. 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.

45. 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.

46. Brokers. Purchaser acknowledges and agrees that (a) Project Broker has disclosed that it is a licensed real estate broker and represents only Seller in this transaction and does not represent Purchaser, (b) Purchaser was represented in the 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, (c) 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 harmless Seller and Project Broker against any and all claims to the contrary.

47. 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 Initials ______________

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 **Section E.38** above. 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 E.47**. Purchaser will be responsible for paying 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 the Closing of the sale of the Unit to Purchaser.

48. Prohibition Against Marketing Unit Prior to Closing. Prior to Closing, Purchaser, Purchaser's Broker, and other Person(s) associated with Purchaser's purchase of the Unit hereunder shall not sell or offer to sell, publicize, list in any multiple listing service, market, or solicit prospective purchasers for the purchase of the Unit or Purchaser's interest under this Purchase Agreement unless Seller consents to such marketing in writing. Any such activity shall be a breach of this Purchase Agreement, and Purchaser shall be subject to the penalties set forth herein.

49. Transactional Correspondence. Purchaser agrees that Seller or its affiliates may send Purchaser transactional electronic mail ("**email**") messages that relate to the purchase of the Unit. The transactional email messages sent by Seller may facilitate, complete, or confirm the purchase of the Unit, provide warranty, recall, safety, or security information about the Unit, provide information about a change in terms or features, a change in standing or status, or account balance information regarding the purchase of the Unit, or deliver goods or services as part of the purchase of the Unit. Except as otherwise required by applicable law, Purchaser's agreement to receive transactional email messages from Seller shall be irrevocable unless the purchase of the Unit is canceled (and will still apply to any transactional email messages in connection with the cancellation). This agreement does not apply to email messages whose primary purpose is commercial. Purchaser may opt out (unsubscribe) from commercial email messages from Seller by following the procedures contained in the commercial email messages. Opting out (or unsubscribing) to commercial email messages will not affect Purchaser's agreement to receive transactional email messages from Seller. This provision and the agreements contained herein shall survive Closing.

50. 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.

51. 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, Bylaws, and 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 recordation of the Unit Deed.

52. 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 or a DocuSign® signature shall be deemed to be an original signature for any and all purposes.

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Purchaser's Initials _____________

EXHIBIT A
DEFINITIONS

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

"ACT" means the Condominium Property Act codified under Chapter 514B of the Hawaii Revised Statutes, as amended.

"AGREEMENT EXTENSION FEE" means that certain 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), 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 at Purchaser's request.

"AIRCRAFT EFFECTS" mean loud noise from aircraft operations, sightings of aircraft flying at very low altitudes, and fumes, smoke, vibrations, odors, and other nuisances resulting from aircraft flight operations over or near the Project.

"AMENITY DECK" means the portions of level 8 of the building, which are comprised of certain Recreational Amenities, as depicted on the Condominium Map.

"ASSOCIATION" means the Association of Unit Owners of Mahana Ward Village as established pursuant to the Declaration and Bylaws.

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

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

"BYLAWS" means the Bylaws of the Association of Unit Owners of Mahana Ward Village dated June 26, 2026, and recorded at the Bureau as Document No. A-9673000577-78, as the same may be amended from time to time.

"CANCELLATION FEE" means the fee charged by Escrow to Purchaser in the event this 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 recording of the Unit Deed upon payment by Purchaser to Seller of the Total Purchase Price.

"CLOSING 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" mean those portions of the Project designated as Common Elements in the Declaration.

"COMPENSATION AGREEMENT" means the written agreement between Purchaser and Purchaser's Broker specifying and conspicuously disclosing the amount or rate of compensation to be paid to Purchaser's Broker by Purchaser, or how such compensation will be determined.

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

"CONDOMINIUM MAP" means Condominium Map No. 6838 for the Project recorded at the Bureau, 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 and the Third Deposit, as set forth in **Section D.2** above, or any other deposit added by amendment or addendum to this Purchase Agreement.

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

"CORROSIVE ELEMENTS" mean corrosive elements that the Project may be exposed to due to its close proximity to the Pacific Ocean along Oahu's south shore, including, but not limited to, wind, rain, salt air, and volcanic smog (also known as vog), as set forth in **Section E.29.d** herein.

"COUNTY" means the City and County of Honolulu.

"DCCA" means the State of Hawaii Department of Commerce and Consumer Affairs.

"DECLARATION" means the Declaration of Condominium Property Regime of Mahana Ward Village, dated June 26, 2026, recorded at the Bureau as Document No. A-9673000575-76, as the same may be amended from time to time.

"DEVELOPER CONTROL PERIOD" means the period described in **Section E.27** herein 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 PERIOD" means the period starting on the date the Declaration is recorded and ending upon the earlier of (i) December 31, 2046, or (ii) the date Seller records a document relinquishing all of developer's reserved rights in the Declaration.

"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 AGENCY" has the meaning set forth under **Section E.38.f** of this Purchase Agreement.

"DISPUTE NOTICE" means the required written notice given by a Person with a Dispute to the party to whom the Dispute is directed, describing the nature of the Dispute and the proposed remedy.

"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 225 Queen Street, Suite 500, Honolulu, Hawaii 96813, phone: (808) 521-0211.

"ESCROW AGREEMENT" means the Escrow Agreement by and between Seller and Escrow dated April 22, 2026, as the same may be amended and/or supplemented.

"FEMA" means the Federal Emergency Management Agency.

"FINANCIAL DATA" means the personal information and financial data from Purchaser's bankers, accountants, or others, as Seller may require, demonstrating Purchaser's ability to make the payments due at the times and in the amounts described in **Section D.2** of this Purchase Agreement.

"FORCE MAJEURE" means fire, flooding, hurricane, tsunami, epidemic, pandemic, or other public health emergency, the elements, war, civil disturbances, strikes or other labor disturbances, or economic controls making it impossible to obtain the necessary labor or materials, inadvertent archaeological findings, 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.

"HART" is a semi-autonomous local government agency established in 2011 by a charter amendment to plan, design, construct, operate, and maintain the Rail Project.

"HCDA" means the Hawaii Community Development Authority.

"HCDA AGREEMENTS" mean the permits and agreements by and/or between Seller or Seller's predecessors in interest and the HCDA in accordance with which the Project shall be developed. The HCDA Agreements referenced in **Section E.29.h(xv)** of this Purchase Agreement are further described and summarized in the Declaration and Public Report.

"HH" means, collectively, Ward Village Properties, LLC, Victoria Ward, Limited, Howard Hughes Holdings, Inc., and their affiliates.

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

"IBA" means an interest-bearing bank account, as described in **Section E.5** herein.

"IMPACT FEE" means an impact fee (e.g., land dedication, land component impact fee, or fee in lieu and construction cost component impact fee).

"INSPECTION" means the inspection appointment at which Purchaser or Purchaser's designated agent will inspect the Unit with Seller or Seller's designated agent.

"LAND" means the land area underlying the Project as described in Exhibit "A" to the Declaration, as the same may be amended from time to time.

"LANDOWNER" means Victoria Ward, Limited, a Delaware corporation, and its successors and assigns.

"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" mean 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.

"MANAGING AGENT" means the qualified entity or individual employed or retained by the Association from time to time.

"MASTER ASSOCIATION" means the association of Ward Village incorporated as Ward Village Owners Association.

"MASTER BY-LAWS" means that certain By-Laws of Ward Village Owners Association, recorded as Exhibit E to the Master Declaration, which governs the Master Association's internal affairs, such as voting, elections, meetings, etc.

"MASTER DECLARATION" means that certain Community Covenants for Ward Village dated September 13, 2013, and recorded at said Bureau as Document No. A-50040794, as the same may be amended, which imposes certain covenants, conditions, and restrictions on the Project and certain adjoining lands owned by Seller and/or its affiliates, and creates obligations that are binding upon the Master Association and all present and future owners of properties in Ward Village.

"MATERIAL CHANGE" means a change in the Project that 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.

"MAUKA AREA PLAN" means the Kaka'ako Community Development District Mauka Area Plan, effective February 14, 1990, as amended.

"MAUKA AREA RULES" means the Kaka'ako Community Development District Mauka Area Rules, adopted pursuant to Title 15, Subtitle 4, Chapter 22 of the Hawaii Administrative Rules, in effect on June 13, 2005.

"MORTGAGE LENDER" means a bank, insurance company, savings and loan association, credit union, or other established lending institution authorized to make mortgage loans in the State of Hawaii and selected by Purchaser to finance this transaction, if any.

"NAR SETTLEMENT" means the March 15, 2024, National Association of REALTORS® Settlement Agreement.

"NOTICE OF RIGHT TO CANCEL" means notice of the prospective purchaser's thirty (30)-day cancellation right on a form prescribed by the Commission, upon which the prospective purchaser may indicate that 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.

"OWNER-OCCUPANT LAW" means Part V, Subpart B of the Act.

"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 in the Project and any Persons claiming thereunder.

"PERMISSIBLE MATERIAL CHANGE" means a change that occurs in the event of any additions, deletions, modifications, and reservations, including, without limitation, the merger or addition or phasing of the Project, made pursuant to the terms of the Declaration, as set forth in Section 514B-87 of the Act, and includes the exercise by Seller of any of its reserved rights.

"PERSON" means any natural person or any corporation, partnership, limited liability partnership, joint venture, trust, limited liability company, or other legal entity.

"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 advance written notice of Pre-Closing given by Seller, Purchaser's mortgagee, or Escrow to Purchaser any time after the Contract Date of this Purchase Agreement.

"PRESALE CONTINGENCY" means Seller's right to cancel this Purchase Agreement if Seller has not obtained binding purchase agreements to sell that certain percentage of units in the Project, as set forth in **Section E.32** of this Purchase Agreement, 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" mean the dispute notification and resolution procedures set forth in **Section E.38** of this Purchase Agreement.

"PROJECT" means the "Mahana Ward Village" condominium project located in Kaka'ako, Honolulu, City and County of Honolulu, Hawaii.

"PROJECT ARCHITECT" means Solomon Cordwell Buenz, or such other architect for the Project as Seller may designate from time to time.

"PROJECT BROKER" means Ward Village Properties, LLC, or such other broker for the Project as Seller may designate from time to time. Project Broker is an affiliate of Seller.

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

"PUBLIC REPORT" means the Developer's Public Report for the Project for which the Commission has issued an effective date, as the same 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 Act, provided that if the Condominium Map is not provided, it shall be sufficient that Purchaser is provided with notice of an opportunity to examine said map.

"PURCHASE AGREEMENT" means this Purchase Agreement, together with any amendments and/or addenda hereto.

"PURCHASER" means the Person(s) identified in **Section B** of this Purchase Agreement.

"PURCHASER'S BROKER" means the real estate broker designated by Purchaser to represent Purchaser in the purchase and sale of the Unit, as set forth under **Section D.9** of this Purchase Agreement.

"RAIL EFFECTS" mean noise, dust, vibration, traffic congestion, view impairment, and/or other inconveniences or nuisances associated with the development, construction, and operation of the Rail Project.

"RAIL PROJECT" means the automated fixed-guideway rail system being planned, designed, constructed, operated, and maintained by HART.

"RECREATIONAL AMENITIES" mean those recreational amenities located on the Amenity Deck on level 8 of the Tower and the dog run and wash room located on level 1 of the Tower, available for the use and enjoyment of the Residential Unit Owners.

"RESIDENT MANAGER" means the manager that resides at the Project, appointed, and employed and/or contracted by the Managing Agent or Board, if any.

"SCHOOL IMPACT FEE DISTRICT" means the Kalihi to Ala Moana School Impact Fee District in which the Project is located.

"SEA LEVEL RISE EFFECTS" mean the inconveniences or nuisances resulting from sea level rise, as set forth in **Section E.29.f** herein.

"SELLER" means MAHANA WARD VILLAGE, LLC, a Delaware limited liability company, and its successors and assigns.

"SELLER AND/OR ITS AGENTS" mean 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" mean the plans and specifications on file at Seller's sales office, which Purchaser may inspect upon reasonable notice.

"SHPD" means the State Historic Preservation Division of the Department of Land and Natural Resources, State of Hawaii.

"SITE MANAGER" means the manager appointed and employed and/or contracted by Managing Agent or the Board to manage the on-site operation of the Project, if any.

"STATE" means the State of Hawaii.

"TOTAL PURCHASE PRICE" means the amount set forth in **Section D.1** of this Purchase Agreement.

"TOWER" means the tower building comprised of levels 1 through 39, as depicted on the Condominium Map.

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

"UNIT DEED" means the Mahana Ward Village Limited Warranty Unit Deed, Encumbrances and Reservation of Rights with Power of Attorney and Power of Sale. 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.

"UNIT 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 **Section E.9** of this Purchase Agreement.

"VICTORIA WARD, LIMITED" means Victoria Ward, Limited, a Delaware corporation, and its successors and assigns. Victoria Ward, Limited is the "Declarant" under the Master Declaration.

"WARD VILLAGE" means that certain master-planned community known as "Ward Village."