

**KAPALUA
PLANTATION ESTATES**

**HOMEOWNERS ASSOCIATION
Documentation**

**Kapalua
Maui, Hawaii 96761**

Declaration of Horizontal Property Regime (HPR)
Amendments (if any)

ORIGINAL

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STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

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ARCHIE K. YIELA, REGISTRAR

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LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

PAUL M. UEOKA
CARLSMITH, WICHMAN,
CASE, MUKAI AND ICHIKI
2145 Walls Street, Suite 201
Wailuku, Maui, Hawaii 96793

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PLANTATION ESTATES

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR

PLANTATION ESTATES

RECITALS: A. PLANTATION CLUB ASSOCIATES, a Hawaii partnership (the "Declarant"), having its principal place of business and mailing address at 500 Office Road, Kapalua, Maui, Hawaii 96761, owns in fee the real property (the "Land") described in Exhibit "A" attached hereto and by reference made a part hereof; and

B. The Land (and other lands in the area) is or will be subject to the Declaration of Covenants and Restrictions for the Kapalua resort area dated December 29, 1976, and recorded in the Bureau of Conveyances of the State of

Hawaii (the "Bureau") in Liber 11922 on Page 26, as amended and supplemented from time to time (the "KRA Covenants"); and

C. The Declarant intends to develop portions of the Land as a subdivision project to be known as "Plantation Estates" (the "Project") as described herein in accordance with the subdivision map(s) that will be recorded in the Bureau as a File Plan(s) (the "File Plan");

NOW, THEREFORE, the Declarant hereby declares and agrees that the Land and Project are held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to the KRA Covenants, and any Bylaws and Rules and Regulations adopted pursuant thereto, the declarations, limitations, covenants, restrictions, and conditions set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Plantation Estates Lot Owners' Association ("Association") and any Association Rules adopted by the Association, as provided in Section 19(e) below, as the same may from time to time be amended, which declarations, limitations, covenants, restrictions, and conditions shall run with the Land and shall be binding on, and shall inure to the benefit of, the Declarant, its successors and assigns, and all subsequent owners, lessees and occupants of all or any part of the Land and Project and their successors, heirs, personal representatives, and assigns.

1. Name. The Project established hereby shall be known as "Plantation Estates" and is further described in Section 2(n) below.

2. Definitions.

(a) Association: Plantation Estates Lot Owners' Association, a Hawaii non-profit corporation formed or to be formed by the Declarant and charged with the duties and vested with the powers and rights prescribed by law, this Declaration, and its Articles of Incorporation and Bylaws, as more particularly described in Section 19 below.

(b) Association Rules: Rules and regulations adopted by the Association pursuant to its Articles of Incorporation, Bylaws, and Section 19(e) of this Declaration.

(c) Committee Rules: Rules and regulations adopted by the Design Review Committee which clarify, interpret, enhance, expand, or implement the provisions of this Declaration and the Design and Construction Rules insofar as they relate to the duties and functions of the Design Review Committee, as more fully described in Section 17(g) herein.

(d) Common Elements: Roadway lots and Landscape Easements, as shown on the File Plan which are or will be owned and/or maintained by the Association, as well as any other land, roadways, easements, equipment, buildings, structures, and improvements which are or will be owned and/or maintained by the Association, or the ownership or use of which

is shared in common by the Owners. The Common Elements are more fully described in Section 10 below.

(e) Declaration: This Declaration of Covenants, Conditions & Restrictions For Plantation Estates, which will be recorded in the Bureau.

(f) Design and Construction Rules: The Design and Construction Rules For Plantation Estates as set forth in Exhibit "B" attached hereto and by reference made a part hereof.

(g) Design Review Committee: The Plantation Estates Design Review Committee whose duties and functions shall include approving or disapproving any plans, proposals, specifications, or any other material submitted to it pertaining to the construction of any improvements on any Lot in the Project, as described in Section 17 below.

(h) KRA: Kapalua Resort Association, a Hawaii non-profit corporation, authorized and created by the KRA Covenants. The KRA is further described in Section 18 below.

(i) KRA Covenants: The Declaration of Covenants and Restrictions for the Kapalua resort area which also establishes the KRA dated September 29, 1976, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11922 on Page 26, as amended and supplemented from time to time.

(j) Land: The property described in Exhibit "A" attached hereto and by reference made a part hereof, which includes the Project land.

(k) Lot: A subdivided lot within the Project, which is located within the overall development known as "The Plantation At Kapalua." The term "Lot" shall not include lots designated for roadway purposes, gulches, golf courses, clubhouse, maintenance buildings, Common Elements, or any other similar purpose or any lot not within or a part of the Project. The term shall be limited to Lots designated for sale to purchasers. The use of the Lots will be generally restricted to limited agricultural and single-family residential purposes.

The Lots shall not be deemed to include any pipes, manholes, ducts, cables, wires, conduits or other utility or service lines or appurtenant equipment located within any Lot which are utilized for or serve more than one Lot in the Project.

(l) Managing Agent: The person, corporation, firm, or entity selected, appointed or hired by the Association or the Declarant to handle the day-to-day operations of the Project, as described in Section 20 herein.

(m) Owner: The person or entity, whether one or more, who has recorded title or ownership to any Lot in the Project.

(n) Project: The subdivision known as "Plantation Estates", which is located within and is a part of the overall development known as "The Plantation At Kapalua", which includes an 18-hole golf course ("The Plantation Course") and a clubhouse ("The Plantation Club"). The Project will

eventually consist of a total of approximately 76 Lots. The first 36 Lots will be Lots 1 to 36, inclusive, as described in Exhibit "A-1" attached hereto and by reference made a part hereof. These Lots will be known as "Plantation Estates I."

Lot No. 46, as described in Exhibit "A-2" attached hereto and by reference made a part hereof, is a large parcel containing an area of 153.948 acres, more or less, which will later be subdivided into approximately 40 Lots, and will be known as "Plantation Estates II." Plantation Estates I and Plantation Estates II together will comprise the Project and will be known as "Plantation Estates."

The Project is generally located mauka (mountain side or uphill) from the Honoapiilani Highway at Kapalua, Island and County of Maui, State of Hawaii, and approximately nine miles north of Lahaina Town.

(c) ~~Residence~~: The main residential dwelling, a single, ancillary dwelling for use as a guest cottage, servants' quarters, or caretakers' quarters, if any, any ancillary structures or improvements such as walls, covered or open parking areas, tennis courts, swimming pools, landscaping, lighting and irrigation systems, and all other improvements and structures comprising the single family residence on each Lot. The Residence shall be designed, planned and submitted to and approved by the Design Review Committee, and constructed all in accordance with the provisions and procedures in this Declaration, the Design and

Construction Rules, and the Committee Rules adopted by the Design Review Committee pursuant to Section 17(g) below.

3. General Use of Lots. The use of the Lots shall be generally restricted to limited agricultural and single-family residential purposes only. Each Owner has the right to construct a Residence on his Lot in accordance with, and subject to this Declaration, the Design and Construction Rules, and the Committee Rules. Agricultural activity shall be limited to the Agricultural Activity Easement (as described and defined in the Design and Construction Rules attached hereto as Exhibit "B") designated within each Lot.

4. Use Restrictions. Each Lot in the Project shall be subject to the following restrictions and limitations:

(a) Single Family Use: Unless otherwise permitted by the Association and the Declarant, no more than one family nor more than two (2) persons not of the same family (excluding live-in household employees and temporary guests) shall occupy any dwelling on any Lot; provided, however, that nothing in this Section shall be deemed to prevent the leasing or renting of any dwelling from time to time by the Owner thereof to one family or not more than two (2) persons not of the same family (excluding live-in household employees and temporary guests) for residential purposes only and not for transient accommodation purposes. The term "family" shall mean one or more persons, all related by blood, adoption or marriage. The

term "transient accommodation" shall mean rental accommodations of 30 days or less.

(b) Limited Agricultural Activity: Each Lot in the Project shall conform and comply with the requirements of Chapter 205, Hawaii Revised Statutes ("Chapter 205"), pertaining to land in agricultural districts having soil classified by the Land Study Bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U. Such use of the Lots shall be further restricted and limited by the limitations, conditions, covenants and restrictions contained in this Declaration, the Design and Construction Rules, Committee Rules, Articles and Bylaws of the Association, and the Association Rules.

The agricultural activity requirements of Chapter 205 shall be confined, limited and restricted to the Agricultural Activity Easement designated within each Lot as defined and described in the Design and Construction Rules attached hereto as Exhibit "B". The agricultural activity to satisfy the requirement of Chapter 205 shall be limited and restricted to Norfolk Island Pine trees planted approximately 50 feet apart and harvested and sold as whole trees (e.g. no harvesting of treetops) unless otherwise allowed by the Design Review Committee.

Notwithstanding any other provision contained herein to the contrary or contained in the Articles, the Declarant reserves the absolute right to increase, decrease or alter the

size and shape of any Agricultural Activity Easement in order to comply with the requirements of Chapter 205.

(c) No Rental Pool or Time Sharing: No Owner shall enter into any rental pool with other Owners. No Owner shall enter into any time sharing plans as defined in Chapter 514E, Hawaii Revised Statutes, as may be amended from time to time or any successor statute.

(d) No Condominiums: No condominium, as defined or described in Chapter 514A, Hawaii Revised Statutes, as may be amended from time to time, or any successor statute, shall be permitted on any Lot.

(e) Pets: No animals, livestock, or poultry of any kind, shall be raised, bred or kept upon any Lot. Only a reasonable number of dogs, cats, or similar household pets are permitted provided that they are expressly permitted by the KRA Covenants or the Rules adopted by the KRA and by any Association Rules. However, under no circumstances shall such dogs, cats, or household pets be raised, kept, or bred for commercial purposes.

(f) No Street Parking: No street parking shall be allowed on any streets or roadways within the Project, except for and during special spectator events sponsored by or held on The Plantation Course and/or The Plantation Club. All other parking shall be confined within each Lot.

(g) Signs: Except as permitted by this Declaration, the KRA Covenants, the Association, and the Declarant, or as

may be required by law, no Owner or occupant of a Lot shall post any "For Sale" sign or other realty sign, advertisement, bill, poster, or any other sign on or about the Project, including any signs on vehicles or signs in vehicles which are clearly visible from the roadways or other Lots in the Project, provided, however, that the Declarant, through its realtor, shall be permitted to post professionally made signs to sell Lots in the Project.

(h) Mailboxes: If centralized mailboxes are provided, no individual mailboxes shall be permitted on any Lot. Mailboxes and newspaper receptacles must be approved by the Design Review Committee.

(i) Noise: All Owners and occupants shall exercise extreme care to refrain from causing or permitting noises that may disturb the Owners or occupants of other Lots. No exterior speakers, horns, whistles, bells, or other sound devices, including security devices to protect the Lot, shall be placed or used on any Lot without the prior written approval of the Design Review Committee.

(j) No Satellite Dishes or Antennas: No satellite dishes or discs, exterior antenna, or similar device or equipment shall be permitted on any Lot.

(k) Nuisance: No noxious or offensive activity shall be permitted on any Lot, nor shall anything be done or placed on any Lot which may be or become a nuisance, or cause unreasonable embarrassment, odors, noise, disturbance, or

annoyance to other Owners or occupants of other Lots in the Project or The Plantation At Kapalua.

(l) Prohibited Vehicles: No mobile homes, campers, recreational vehicles, house trailer, commercial vehicles, vehicles with signs or insignia painted on or visible from outside any Lot, boats, boat trailers, horsetrainers, or other similar vehicles, shall be kept or permitted on any Lot except in an enclosed garage facility for that purpose. No commercial vehicles of any nature shall be permitted to park in the Project overnight.

No motorcycles, motor scooters, mopeds, motorized bicycles or any form of the foregoing shall be permitted to be ridden or driven anywhere in the Project at any time.

(m) No Commercial Activity: No commercial activity is permitted on any Lot, except for sale of Lots by the Declarant or its realtor and any agricultural activity within the Agricultural Activity Easement in each Lot that may be required by Chapter 205, Hawaii Revised Statutes.

(n) No Wells: No wells of any nature shall be dug, bored or drilled upon any Lot.

(o) General Restrictions: No Lot and no portion of the Project shall be used for any purpose which will (a) injure the reputation of the Project, (b) damage, break, alter, destroy, or otherwise jeopardize the Common Elements in any way, (c) interfere with or unreasonably disturb the rights of the Owners and occupants of other Lots, (d) reduce the value of

other Lots or the Project, (e) cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance maintained by or for the Association, or (f) violate any provision in this Declaration, the KRA Covenants, the Bylaws of the Association, or Association Rules.

5. Golf Course. The Project is located within the overall development known as The Plantation At Kapalua, which includes an 18-hole golf course known as The Plantation Course. Owners are aware of, and Owners shall advise, warn, and notify occupants of the Lots in the Project of the possible nuisances, hazards, dangers and damages that may be caused by golf course operations, including stray or errant golf balls. If any area of a Lot is subject to stray or errant golf balls, the Owner of such Lot shall take such precautions as are deemed prudent to protect people and property from possible injury or damage.

6. Pineapple and Similar Agricultural Operations. Portions of the Land and Project were used for pineapple fields and similar agricultural operations, and subject to the use of fertilizers, pesticides, herbicides, and other similar chemicals. No active agricultural activity has been carried on since August 1989.

Other areas adjacent to or around the Project may be used for pineapple plantation and other agricultural operations. The operations of burning pineapple tops, milling and other activities incident to a pineapple plantation or similar agricultural activities may result in the creation,

discharge, emission and/or infliction of noise, smoke, soot, dust, lights, pesticide and herbicide contamination, noxious vapors, odors and other nuisances of every description arising from activities incidental to the operation of a pineapple plantation or similar agricultural activities. Owners shall own and accept the Lots subject to such nuisances arising out of or in connection with such pineapple or similar agricultural operations.

7. Access To Lots. Each Lot shall have direct access to the roadway in the Project adjacent to such Lot which is or will be owned and maintained by the Association. Use of the roadways may be limited or restricted to the Association Rules as may be adopted by the Association from time to time.

8. Consolidation/Subdivision of Lots. The Owner of two (2) or more adjacent Lots, without the prior approval of any other Owner, but with the prior written approval of the Association, the Declarant, the KRA, Maui Land & Pineapple Company, Inc. ("MLP"), and the County of Maui (the "County"), and upon such terms and conditions as may be imposed by the Association, the Declarant, KRA, MLP, and/or the County, may consolidate such Lots and construct a Residence on the consolidated Lot, provided that any pipes, manholes, ducts, cables, wires, conduits and other utility or service lines or equipment which serve other Lots are not thereby affected (or if affected, are suitably taken care of as required by the

Association, the Declarant, KRA, MLP, and/or the County). The Declarant reserves the right to determine new setback line requirements for the consolidated Lot, which may exceed the setback line requirements for each Lot separately, and the right to relocate, re-shape, and rearrange the Agricultural Activity Easement and any other Easements or Areas of the Lot.

The Owner must, at Owner's expense, consolidate the adjacent Lots into a single Lot prior to construction of the Residence which will utilize the consolidated Lots. In such consolidation, the Owner retains the cumulative rights and obligations with respect to the Lots prior to consolidation, including the voting rights in and maintenance assessments of the Association and the KRA.

Once consolidated, the consolidated Lot may not be resubdivided unless the subdivision will result in restoring the Lots to their original dimensions and permitted uses, and the Owner receives the prior written approval of the Association, Declarant, KRA, MLP, and the County. If a Residence is constructed on the consolidated Lot, then the prior written consent of the Design Review Committee will also be required for the resubdivision into two Lots.

No other subdivision of any Lot in the Project shall be permitted.

9. Lot Maintenance.

(a) Prior to Construction. Prior to construction of a Residence, each Lot shall be kept and maintained in a clean, neat, and orderly condition at all times so that the Lot is visually similar to or indistinguishable from adjacent Lots or landscaped or grassed Common Elements. Gulches may be left in their natural state.

(b) Rubbish. Each Lot shall remain free and clear of trash, garbage, rubbish, debris, junk, and undesirable or excessive vegetation to keep it from becoming unsightly, a nuisance, or a health or fire hazard.

No garbage, refuse, or trash of any kind shall be thrown, placed, kept or burned on any Lot or Common Element other than within refuse containers or other disposal facilities provided for such purposes and approved by the Design Review Committee.

(c) Improvements. Each Owner shall, at his own expense, keep the Residence and all improvements, structures, and landscaping on his Lot in good order and repair.

Each Owner shall promptly perform all repair, maintenance and alteration work on his Lot, the omission of which would adversely affect any Common Element or any other Lot, and shall be responsible for all loss and damage caused by his failure to do so.

The exterior of each Residence in the Project shall present an attractive appearance, and the Association or the

Declarant may require the painting or repair of the exterior or any part thereof so that it is consistent with the original construction. Should any Owner fail to do so, the Association or the Declarant, in addition to any other remedy available, is authorized to contract for said painting and repair and to assess such Owner the cost of such painting and repair.

(d) Casualty Damage; Removal or Restoration. In the event of casualty damage or destruction to all or part of a Residence or major structure, the Owner shall decide within thirty (30) days after such casualty whether to rebuild, repair or restore the Residence or structure. If the Owner decides not to rebuild, repair or restore, the Owner shall remove all the debris (including any portion of the Residence or major structure left standing after such damage or destruction) within sixty (60) days after the casualty and shall restore the Lot (including landscaping) to such a condition that it will be visually similar to or indistinguishable from adjacent Lots or any landscaped or grassed Common Elements.

If the Owner decides to rebuild, repair, or restore the Residence or structure, such work shall be pursued diligently, but in no event shall it take longer than one (1) year from the date of the casualty, unless an extension is granted by the Design Review Committee.

(e) Failure to Maintain. If an Owner fails to maintain his Lot in accordance with requirements provided in this Declaration, the Association or the Declarant shall have

the right, (but not the obligation), after five (5) working days' written notice, to enter the Lot from time to time during reasonable hours for the purpose of making necessary repairs or maintenance at the Owner's expense. The costs of such repairs or maintenance shall become an assessment or charge to the Lot and/or the Owner affected.

Nothing in this Sub-Section shall restrict, limit, curtail, or otherwise affect the rights of enforcement or remedies contained in Section 22 and 29 below.

10. Common Elements. The term "Common Elements" as used in this Declaration shall mean and include the roadway lots, roadway easements, landscape easements, drainage easements, and other lots or easements on the File Plan(s) of the Project which are or will be owned and/or maintained by the Association.

The Common Elements shall also include all roadways, pavements, sidewalks, walkways, landscaping, maintenance buildings, equipment, personal property, trash areas, drainage lines, security gates, security gate kiosks, rock walls, fences, utility lines, and any other structures, equipment, buildings, installations, or improvements located within said lots or easements, or of common use to the Owners or the Project, which are owned and/or maintained by the Association, and all other parts of the Project necessary or convenient to the existence, maintenance, and safety of the Project when normally in common use.

No Owner shall use or keep anything on or in the Common Elements which would in any way hinder the full use and enjoyment thereof by the Association or any other Owner, occupant, or party entitled to use such Common Elements. No Owner shall do any work or act which would jeopardize the soundness or safety of the Common Elements, reduce the value thereof, or impair the use or purpose of any Common Element.

11. Maintenance and Repair of Common Elements.

All maintenance, repairs and replacements of the Common Elements, whether or not located within any Lot, shall be made by the Association and be charged to all the Owners as a common expense, unless caused by the negligence, misuse or neglect of an Owner, in which case such expense shall be charged to such Owner. Each Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements or equipment thereof damaged or lost through the fault of such Owner or any person(s) occupying, renting, or using any part of the Project under him, including any general contractor hired by Owner, and shall give prompt notice to the Association of any such damage, loss, or other defect when discovered.

12. Casualty to Common Elements. In the event of damage or destruction of all or part of the Common Elements, the Common Elements shall be rebuilt, repaired or restored, unless at least seventy-five percent (75%) of the Owners of Lots in the Project execute an instrument confirming their

decision not to rebuild, repair, or restore such Common Elements.

13. Additions or Alterations to Common Elements.

Whenever in the judgment of the Association, the Common Elements shall require additions or alterations, the Association may, with the prior written consent and approval of the KRA and the Declarant, proceed with such additions or alterations and shall assess all Owners for the cost thereof as a common expense.

14. Other Easements. In addition to the easements conveyed to them, the Lots and Common Elements shall have and/or be subject to the following general easements and easement rights:

(a) Each Lot shall have appurtenant thereto nonexclusive easement rights in and to the Common Elements for ingress to, egress from, utility services for, drainage, and maintenance and repair of such Lot, unless otherwise prohibited herein or by the Association Rules.

(b) If any Common Element now or hereafter encroaches upon any Lot, a valid easement for such encroachment and the maintenance thereof, as long as it continues, does and shall exist. If any Common Element is partially or totally destroyed and then repaired or rebuilt, minor temporary encroachments by the Common Elements upon any Lot due to such repairs or construction shall be permitted, and valid temporary

easements for such encroachments and the maintenance thereof shall exist.

(c) The Association shall have the right to enter any Lot from time to time during reasonable hours as may be appropriate for the operation of the Project or at any time for making emergency repairs therein which may be necessary to prevent damage to any Lot, Residence, Common Element or any portion or portions thereof.

(d) Each Owner shall have an easement in common with other Owners to use all pipes, wires, ducts, cables, conduits, public utility lines, and other Common Elements located in other Lots (if any) or Common Elements serving such Owner's Lot. Each Lot shall be subject to an easement in favor of other Owners to use the pipes, ducts, cables, wires, conduits, public utilities, and other Common Elements serving such other Lots and actually located in such Lot.

(e) The Declarant reserves the right at its expense for the benefit of the Project, any adjacent property, any property owned by Declarant, or other property subject to the KFA Covenants (i) to grant over, across, and under the Common Elements, easements for utilities, sanitary sewers, storm drainage, cable television, walkways, roadways, rights of way, or any other access or utility purposes, and (ii) to relocate, redesign, realign, or redesignate any existing easements and rights of way over, across, and under the Common Elements, including without limitation, any existing utilities, storm

drainage systems, and cable television lines and connect same, over, across and under the Common Elements, provided that such easements, realignments, relocations, redesigns, redesignations, and connections of lines shall not materially impair or interfere with the use of any Lot. In addition, the Association, through its Board of Directors, is authorized to give, convey, transfer, cancel, relocate, realign, redesign, and otherwise deal with any and all utility and other easements now or hereafter located on or affecting the Project.

15. Irrigation Water System. Each Lot will be provided with a separate irrigation water system lateral which will be owned and maintained by the Kapalua Water Company, Ltd. ("KWC"). The irrigation system will supply non-drinkable, non-potable water strictly for irrigation purposes. The use and connection to the irrigation water lateral shall be made in accordance with, and subject to the rules and regulations of KWC.

KWC is a privately owned corporation providing a public utility service to the area, and is regulated by the Public Utilities Commission of the State of Hawaii ("PUC"). The services and rates of KWC require the approval of the PUC.

The irrigation lateral shall only be connected to irrigation systems within the Lot. No faucets or hose bibs will be permitted to be hooked up to the irrigation water system.

The Declarant, MLP and KLC shall not be directly or indirectly responsible or liable for any illness, injury or damage caused by improper use of the irrigation water system.

16. Design Review Committee Approvals. The prior written approval of the Design Review Committee shall be required for the following:

(a) Residence: The Residence shall be designed, planned, submitted to and approved by the Design Review Committee, and constructed all in accordance with the provisions and procedures in this Declaration, the Design and Construction Rules, and the Committee Rules adopted by the Design Review Committee pursuant to Section 17(g) below.

(b) Alterations or Additions: All alterations, changes, remodeling, additions, or improvements to the Residence (including awnings, jalousies, windows, and landscaping changes, but excluding normal maintenance and repair to restore the exterior to its original appearance) shall require the prior written approval of the Design Review Committee, following the same procedures and provisions to obtain approval for the original Residence unless the Design Review Committee adopts a different procedure.

(c) KRA Covenants: The Residence and any alterations or additions thereto are also subject to review by the Community Design Committee, also known as the Kapalua Design Committee, under the provisions of the KRA Covenants. Each Owner is responsible for complying with such review

procedures. Owners may apply to the Community Design Committee, or the KRA for a waiver or exemption from complying with the KRA Covenants pertaining to such review and approval.

(d) Exemptions: The Common Elements and the subdivision improvements made by the Declarant (i.e. roads, sidewalks, curbs, gutters, rock walls, security gates, landscaping, electrical lighting system, irrigation system, etc.) shall be exempt from the Design and Construction Rules and approval by the Design Review Committee.

17. Plantation Estates Design Review Committee.

The Plantation Estates Design Review Committee ("Design Review Committee") is hereby created with all of the rights, powers, duties, and privileges as hereinafter set forth.

(a) Members: The number of members on the Design Review Committee shall not be less than three (3) and not more than seven (7), as the Declarant may determine from time to time.

(b) Appointment: The Declarant shall have the sole right and power to appoint all members of the Design Review Committee. The Declarant may ask the Association for advice and suggestions, but the Declarant shall be under no obligation or duty to appoint any members suggested by the Association. Members of the Design Review Committee do not have to be members of the Association nor employees of Declarant.

(c) Removal; Resignation: Any members of the Design Review Committee may be removed by the Declarant with or without cause, at any time. New members shall be appointed by the Declarant as hereinabove set forth. Any member of the Design Review Committee may resign by submitting a written letter of resignation to the Declarant stating the effective date of the resignation.

(d) Term: Members of the Design Review Committee shall serve until death, incapacity, resignation, or until removed by the Declarant.

(e) Functions and Duties: The functions and duties of the Design Review Committee, in addition to any other functions or duties set forth elsewhere in this Declaration, shall be to consider and approve or disapprove any plans, proposals, specifications or other material submitted to it for the construction of the Residence on any Lot in the Project, and any other landscaping or improvements, or for the alteration or remodeling of, or any additions to, any existing structures on any Lot in the Project in accordance with the Design and Construction Rules; to adopt rules and regulations to clarify, implement, enhance, or expand upon the duties and obligations of the Design Review Committee and/or the Design and Construction Rules; and to perform such other duties or functions that may, from time to time, be delegated to it by the Declarant.

(f) Meetings: The Design Review Committee shall meet from time to time as necessary to perform its duties and functions hereunder. The vote or written consent of a majority of the members shall constitute an act by the Design Review Committee unless the unanimous decision of its members is otherwise required. Any action required to be taken by the Design Review Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Design Review Committee. The Design Review Committee shall keep and maintain a record of all actions taken by it.

(g) Committee Rules: The Design Review Committee shall by vote have the exclusive power to adopt, amend and repeal rules and regulations, to be known as "Committee Rules", which clarify, interpret, enhance, expand, or implement the provisions of this Declaration and the Design and Construction Rules insofar as they relate to the duties and functions of the Design Review Committee. A copy of the Committee Rules, as they may from time to time be amended, shall be maintained with the records of the Association and shall be available for inspection by any Owner. The Committee Rules shall not apply to any structure constructed in accordance with plans and specifications previously approved by the Design Review Committee.

(h) Nonwaiver: The approvals by the Design Review Committee of any plans, drawings or specifications for any work

done or proposed, or in connection with any other matter requiring the approval of the Design Review Committee shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter.

(i) Nonliability: Neither Declarant nor the Design Review Committee nor any member thereof shall be liable to the Association, or to any Owner, or to any other person, for any damage, loss or prejudice suffered or claimed on account of (i) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, or other request submitted by an Owner pursuant to this Declaration, whether or not defective (ii) the construction or performance of any work, whether or not complying with this Declaration or the terms of any approval by the Design Review Committee, (iii) the development or manner of development of any Lot within the Project, (iv) the failure of any plans, drawings, specifications or other item approved by the Design Review Committee to comply with any or all applicable laws, regulations, ordinances or codes, or (v) any other matter, decision, act or omission; provided that the Declarant or Design Review Committee member shall not have acted in bad faith.

18. Kapalua Resort Association. Each Lot Owner shall become a member of the KRA (Kapalua Resort Association) and shall comply with, and abide by all of the provisions of

the KRA Covenants and the Articles and Bylaws of the KRA, including payment of all assessments for common expenses levied by the KRA. Each Owner is responsible for contacting the KRA and familiarizing himself with the KRA Covenants, Articles and Bylaws of the KRA, and any rules and regulations adopted by the KRA.

19. Plantation Estates Lot Owners' Association.

The Plantation Estates Lot Owners' Association ("Association") shall be a Hawaii nonprofit corporation formed by the Declarant and charged with the duties and vested with the powers and rights prescribed by law, this Declaration, and its Articles of Incorporation and Bylaws. If the Association as a corporate entity is dissolved, a nonprofit, unincorporated association governed by the Bylaws of the Association shall forthwith, and without further action or notice, be formed to succeed all rights, duties, privileges and obligations of the Association.

(a) Membership: Each Owner of a Lot in the Project shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of the Lot. Rights to membership shall terminate upon termination of status as an Owner. Upon conveyance of an Owner's entire interest in the Lot, the conveying Owner shall be relieved of liability for assessments levied from and after the date of such conveyance. No Owner may avoid the obligations of membership during the period when he is an Owner by nonuse of

the Common Elements, renunciation or abandonment of his Lot, or any other act of abandonment or renunciation.

(b) Voting Rights: Voting rights shall be determined by the Articles and/or Bylaws of the Association. If none are formally adopted, each Owner shall be entitled to one vote per Lot. Votes may be cast in person or by proxy. The purchaser of a Lot under a recorded Agreement of Sale shall have the right to vote unless the vote is retained by the Seller under the Agreement of Sale. A personal representative, guardian, or trustee may vote in person or by proxy for each Lot owned or controlled by him in such capacity, provided that he shall first present evidence satisfactory to the Association that he owns or controls such Lot in such capacity. The vote for any Lot owned by two or more Owners may be exercised by any one of them present at any meeting in the absence of protest by the other Owner(s). In case of protest, each Owner shall be entitled to a share of the vote in proportion to his share of ownership in such Lot, provided that he shall first present evidence satisfactory to the Association that he owns such share in the Lot.

(c) Duties of Association: The Association shall have the following obligations and duties for the benefit of the Owners:

(i) The Association shall accept all Owners as members of the Association.

(ii) The Association shall accept title to all Common Elements conveyed, transferred, leased, or assigned to it by the Declarant or Declarant's nominee.

(iii) The Association shall maintain, repair, replace, and landscape the Common Elements as needed. If permitted by law and/or the owners thereof, the Association may maintain, repair, and/or landscape neighboring properties or properties adjacent to the Project.

(iv) The Association shall pay all real property taxes and assessments levied upon any Common Element.

(v) Unless otherwise provided, the Association shall contract for, employ, or otherwise provide for security guard service, refuse disposal service, maintenance service, and any other services deemed necessary or desirable by the Association.

(vi) The Association shall obtain and maintain a policy or policies of fire insurance, with extended coverage, including insurance against theft, vandalism, and malicious mischief, for the full replacement value of the Common Elements, and comprehensive general liability insurance coverage relating to the Common Elements, in such amounts and with such coverage as prudent insurance practices in the community would require for similar situations. The liability insurance policy, if and to the extent it can be obtained, shall include as insureds, the Declarant, the Association, the Association's Board of Directors, the Design Review Committee,

the Owners, and their agents, representatives, members, guests and employees.

(vii) The Association shall be required to grant and convey to the Declarant, Declarant's nominees, or any other third parties as required by the Declarant, the Common Elements, or any portion or portions thereof in fee, by lease, by easement or otherwise, with or without consideration or payment to the Association, when requested by the Declarant or the Declarant's nominees; provided, however, that such grants and conveyances and the use thereof by the grantees shall not materially interfere with the use of such Common Elements, or any portion or portions thereof so conveyed, by the Association or the Owners. Such grants and conveyances shall include, but not be limited to roadway access rights and utility easements.

(viii) The Association shall levy and assess each Lot an equal share of the common expenses incurred by the Association to carry out its duties and responsibilities set forth in this Declaration and its Articles and Bylaws. The Owner(s) of each Lot is responsible for paying said share. The common expenses shall include, but shall not be limited to, all costs, charges, and expenses whatsoever incurred by the Association for and in connection with the administration and operation of the Project, including without limitation to the KRA dues, all real property taxes for Common Elements, assessments, insurance premiums, losses or damages to the Common Elements, maintenance and repair costs and expenses,

including repaving roadways and repainting structures, janitorial and yard maintenance services, garbage disposal wages, accounting and legal fees, management fees, and utility charges, including water, electricity, gas, and telephone charges. If any such costs and expenses can be separated or are separately metered, or otherwise separately attributable to a Lot or group of Lots, the Association shall proportionately assess such costs and charges to such Lot or group of Lots accordingly. Common expenses may also include such amounts as the Association may deem proper to make up any deficit in common expenses for any prior years.

(d) Powers of the Association. The Association, through its Board of Directors, shall have in addition to the powers conferred by law and set forth in its Articles and Bylaws, and subject to any prohibitions, restrictions, or limitations established by law, its Articles and Bylaws, the KRA Covenants, and this Declaration, the following powers:

(i) Without liability to any Owner for trespass, damage, or otherwise, the Association may enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if the Owner fails to do so, or if the Owner fails to remove any improvement constructed, reconstructed, refinished, altered or maintained upon a Lot in violation of this Declaration and the Design and Construction Rules, and to bill or assess such Owner for the costs and expenses thereof.

(ii) To commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, the Design and Construction Rules, Committee Rules, and any Association Rules.

(e) Association Rules. The Association may, from time to time, and subject to the provisions of the KRA Covenants, this Declaration, and the Design and Construction Rules, adopt, amend and repeal rules and regulations to be known as the Association Rules governing, among other things:

(i) The Common Elements and the use of same.

(ii) Mail service.

(iii) The collection and disposal of refuse.

(iv) Utility services.

(v) Any situation or circumstance affecting more than one Lot or one Owner in the Project.

(f) Lien for Nonpayment of Assessments: Each assessment levied by the Association for common expenses shall be a separate, distinct and personal debt and obligation of the Owner(s) of the Lot against whom it is assessed. Each Owner, by acceptance of ownership of his Lot, shall be deemed to have covenanted and agreed to pay such assessments to the Association. If the Owner does not pay any such assessment when due, the Owner shall be deemed in default. The amount of any unpaid assessment, together with any subsequent unpaid assessments, together with interest at the rate of twelve percent (12%) per annum, and costs and expenses, including

reasonable attorneys' fees, shall be and become a lien upon the Lot owned by such Owner upon filing by the Association of a notice of default in the Bureau of Conveyances of the State of Hawaii. Such liens may be foreclosed upon through suit in a like manner as a mortgage of real property, and the Association shall have the power to bid on the Lot at the foreclosure sale and to acquire and hold the same. The Association may file a separate action to require a money judgment for unpaid assessments without foreclosing or waiving the lien securing same. Such remedies shall be in addition to any other remedies provided by law for the enforcement and collection of such assessments.

20. Managing Agent to Operate Project. The Project shall be governed and operated in accordance with this Declaration, the Design and Construction Rules, the KRA Covenants, and the Articles and Bylaws of the Association, and the Association Rules.

The day-to-day operation of the Project shall be conducted for the Association by a responsible Managing Agent who shall be selected, appointed, or hired by the Association. Prior to the first meeting of the Association, the Declarant shall select and hire the Managing Agent to operate the Project for and on behalf of the Association and the Owners. The Association shall be responsible for compensating the Managing Agent.

21. Annexation. The Declarant, its successors and assigns, reserves the right to merge or annex nearby and adjoining parcels of land to the Project from time to time and in its sole discretion, in accordance with the following provisions:

(a) The Declarant may annex undeveloped parcels of land which will be developed and subdivided into lots. The Declarant may also annex lots which have already been subdivided. The parcels or lots to be annexed shall be collectively referred to as "Annexed Property."

(b) The Declarant shall file in the Bureau of Conveyances of the State of Hawaii an amendment or supplement to this Declaration describing the Annexed Property; declaring that the Annexed Property will be held, sold, conveyed, encumbered, owned, leased, occupied and improved subject to this Declaration; and setting forth such additional covenants, conditions, restrictions, and limitations, if any, as may be applicable to the Annexed Property.

(c) Declarant shall prepare and file any other forms, agreements, documents, or reports which are required by any other governmental agency to effectuate the annexation or merger.

(d) The Annexed Property shall be subject to the covenants, conditions, and restrictions contained in this Declaration, and all of the rights, privileges, obligations,

limitations and restrictions, covenants and conditions contained in the Articles of Incorporation and Bylaws of the Association, and any Committee Rules and Association Rules.

(e) The owners of subdivided lots in the Annexed Property shall automatically become members of the Association, and subject to the Articles, Bylaws and Association Rules that are imposed upon each member of the Association and each Owner of a lot in the Project, as though the Annexed Property and the Project had been developed as a single development or project.

(f) Declarant expressly reserves the right to grant to others, nonexclusive easements for access and utility purposes over and across all roadways, common areas, Common Elements, and private easements within the Project. The owners of subdivided lots in the Annexed Property shall have nonexclusive rights to use the roadways and other Common Elements in the Project, to the same extent as, and subject to the same limitations as are imposed upon any Owner as though the Annexed Property had been developed with the Project as a single development or project.

Reciprocally, the Owners of Lots in the Project shall have nonexclusive rights to use the roadways and other Common Elements in the Annexed Property to the same extent as, and subject to the same limitations as are imposed upon the owners of subdivided lots in the Annexed Property.

(g) Upon such annexation or merger, the Annexed Property shall become a part of the Project, provided, however, that the Annexed Property shall not be or become liable for any of the debts or obligations of the Association incurred prior to the date of the annexation or merger.

The Annexed Property will bear a proportionate share of the total common expenses of the merged project, treating both the Lots in the Project and the subdivided lots in the Annexed Property together as a single development or project for this purpose.

(h) For the purposes of administration, management, use, and regulation of the entire project, as merged or annexed together, the total area to the merger or annexation shall be treated as a part of a single project all of which shall be subject to the provisions of the Declaration, Articles and Bylaws of the Association, and the Association Rules, except to the extent expressly otherwise provided therein or herein.

(i) Nothing in this Declaration or in this Section shall be construed to require the Declarant to develop any area or merge any area with this Project, or to prohibit the Declarant from developing, subdividing and/or selling any property in the nearby area independently of this Project. The rights of the Declarant under this Section shall extend to KLC and MLP, and their respective successors and assigns.

22. Violations/Enforcement. In the event of a breach or violation of any provision of this Declaration, the

Design and Construction Rules, Articles and Bylaws of the Association, or the Association Rules, the following persons or entities shall have the right to exercise any remedy at law or in equity to compel compliance or to cure the default, breach or violation:

- (a) The Declarant and/or the Design Review Committee.
- (b) Any Owner of a Lot in the Project.
- (c) The Association.

If any person or entity brings an action for the enforcement of such breach, violation, or default, such person or entity shall be entitled to reasonable attorneys' fees and costs if he or it prevails in such action.

In addition to the foregoing, the Association shall have the right to enter a Lot where such violation, default or breach exists, and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition causing the default, breach, or violation, and the Association shall not be deemed guilty of trespass under any circumstance.

23. Right of Access. An Owner shall grant a right of access to the Lot to the Association and/or the Managing Agent and/or any other person authorized by the Association or the Managing Agent, for the purpose of making inspections or for the purpose of correcting any condition originating in the Lot and threatening another Lot or the Common Elements, or for

the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in the Lot, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be deemed granted, to be effective immediately, whether the Owner is present at the time or not.

24. Non-Waiver. The failure of the Association, Declarant, or any Owner, to insist in any one or more instances upon a strict performance of or compliance with any of the covenants, conditions, and restrictions hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect.

25. Invalidity. The invalidity of any provision of this Declaration shall not impair or affect the remainder of this Declaration, and in such event, all other provisions of this Declaration shall continue in full force and effect as if such invalid provision had not been included herein.

26. Amendment and Duration of Declaration.

(a) Except as otherwise provided herein, this Declaration may be amended by a vote of not less than seventy-five percent (75%) of the Owners, AND the written approval of

the Declarant, effective only upon recording of an instrument setting forth such amendment and vote, duly executed by such Owners or by the proper officers of the Association, AND the Declarant, provided, however, that at any time prior to the transfer of title of the first Lot in the Project, the Declarant may amend this Declaration in any manner.

(b) The covenants and restrictions of this Declaration shall run with and bind the Land and the Lots in the Project, and shall extend to and be binding upon the Owners and their respective heirs, successors, personal representatives, and assigns. This Declaration shall be automatically extended for ten (10) year periods unless terminated by recording an instrument directing such termination signed by not less than seventy-five percent (75%) of the Lot Owners AND the Declarant.

27. Controlling Declaration. This Declaration is made subject to the provisions of the KRA Covenants and in case of any conflict, the provisions of the KRA Covenants shall control, except for the rights reserved in the Declarant, its successors or assigns.

28. Disclaimer. Nothing herein contained, nor any advertising or other documentation in connection with the Project or the Kapalua resort area, shall be construed as obligating the Declarant or any other person to develop any land other than the Land described in Exhibit "A", or to construct any subdivision improvements other than the

improvements described herein, nor as granting any Owner any membership or other interest in any entity, club, or facility (recreational or otherwise), including any golf course or country club, other than the Association and the KRA.

29. Dispute Resolution. Except as otherwise provided in this Declaration, any dispute or conflict by, between or among any Owners, the Association, and/or the Declarant with respect to the design and construction of the subdivision improvements, the operation and management of the Project, or any violation, breach, enforcement or compliance with this Declaration, shall be resolved as follows:

(a) Meeting: The parties to the dispute and any third parties involved in the dispute shall meet promptly in an effort to resolve the dispute.

(b) Submission of Dispute to a Professional: If the dispute is not resolved as a result of the Meeting described in subparagraph (a) above, the dispute shall be referred to a Professional (an architect, engineer, attorney, accountant, etc.) selected by Declarant for non-binding resolution of the dispute within fifteen (15) days of the Meeting. The Professional shall issue its non-binding decision within fifteen (15) days of the date of submission.

(c) Mediation: If the dispute is not resolved as a result of Submission of the Dispute to a Professional as described in subparagraph (b) above, the dispute shall be referred to the American Intermediation Society ("AIS") for

nonbinding mediation before a mediator designated by AIS. Referral of the dispute to AIS shall occur within fifteen (15) days of the date the Professional issues his resolution of the dispute. The parties to the dispute shall meet with the AIS mediator within fifteen (15) days of the date the dispute is referred to the AIS. No formal discovery shall occur in connection with the mediation. All oral and written communications to and from the mediator and the parties to the dispute shall be confidential and inadmissible for any purpose in any subsequent arbitration, and the parties shall agree to execute a standard form AIS Confidentiality Agreement prior to commencing the mediation. The mediator shall issue his nonbinding resolution of the dispute within thirty (30) days of his meeting with the parties to the dispute. The mediator's resolution shall be in the form of an oral, nonbinding opinion which addresses the merits of each party's position and assesses which party is likely to prevail on the merits at arbitration. The mediator's resolution, or any reference thereto, shall be confidential and inadmissible for any purpose in any subsequent arbitration or litigation.

(d) Arbitration: If the dispute is not resolved as a result of Mediation as described in paragraph (c) above, the dispute shall be decided by binding arbitration. The arbitration shall be held before a single arbitrator selected by mutual agreement of the parties. In the event the parties are unable to select the arbitrator, an arbitrator shall be

designated through application to the Circuit Court of the Second Circuit, State of Hawaii, pursuant to the provisions of Section 658-4, Hawaii Revised Statutes. The arbitration shall be conducted in accordance with the appropriate American Arbitration Association Rules (depending on the type of dispute), as modified by the rules specified in this subparagraph and in subparagraph (e) below. The parties shall have the right to join other third parties in any arbitration proceeding. Thereafter, the parties or such other third party shall be bound by and have the benefit of this arbitration agreement and the arbitrator's decision or award to the same extent as the parties. The decision or award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with Chapter 658, Hawaii Revised Statutes, in any court of competent jurisdiction thereof.

(e) Discovery in Arbitration: The parties to the arbitration shall be entitled to such discovery as would be available to them in the court of general jurisdiction where the Project is located and the arbitrator will have all of the authority of the court incidental to such discovery including, but not limited to, orders to produce documents or other materials and others to appear and submit to deposition and to impose appropriate sanctions including, but not limited to, awarding against a party for failure to comply with any order. The rules of evidence for such court of general jurisdiction in equity matters will apply during the arbitration.

(f) Notice of Arbitration: Notice of the demand for arbitration shall be filed in writing with the other party or parties, and a copy shall be filed with the Declarant. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or by any shorter contractual limitations period.

(g) Waiver of Litigation: The provisions specified in this Section 29 are and shall be the exclusive remedy for the resolution of any claim or dispute as described above between any Owner, the Association, and the Declarant.

(h) Award of Attorneys' Fees, Expenses and Costs: The losing party in such arbitration (as determined by the arbitrator) shall pay all costs and expenses of the arbitration, including the prevailing party's reasonable attorneys' fees (as determined by the arbitrator) unless the arbitrator determines that there is no losing party, in which event each party shall bear the costs of its own witnesses and attorneys' fees and the other costs of the arbitration including the arbitrator's fee shall be paid equally by the parties.

30. Rights Accrue to Managing Partner of Declarant. Notwithstanding any other provisions contained herein to the

contrary, in the event of the dissolution or termination of the Declarant, all of the rights, privileges, benefits, exceptions, and reservations contained herein in favor of the Declarant, shall accrue and inure to the benefit of and be deemed automatically assigned, transferred, and conveyed to Kapalua Land Company, Ltd., a Hawaii corporation, (Managing Partner of the Declarant), and its successors and assigns.

EXECUTED April 3, 1990.

PLANTATION CLUB ASSOCIATES

By KAPALUA LAND COMPANY, LTD.,
a Hawaii corporation,
General Partner

By Gary L. Gifford
GARY L. GIFFORD
Its President

By Don Young
DON YOUNG
Its Vice-President/
Operations

By ROLFING PARTNERS, a Hawaii
limited partnership,
General Partner

By ROLFING DEVELOPMENT CORPORATION,
a Hawaii corporation

By Mark Rolfing
MARK ROLFING
Its President

By Debi Rolfing
DEBI ROLFING
Its Vice President

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 3rd day of APRIL, 1990, before me personally appeared GARY L. GIFFORD and DON YOUNG, to me personally known, who, being by me duly sworn, did say that they are the President and Vice-President/Operations, respectively, of KAPALUA LAND COMPANY, LTD., a Hawaii corporation, as the General Partner of PLANTATION CLUB ASSOCIATES, a Hawaii general partnership, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation, as said General Partner of PLANTATION CLUB ASSOCIATES, a Hawaii general partnership.

Stephanie J. Hall
Notary Public, State of Hawaii

My commission expires: 9-29-93

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 29th day of March, 1990, before me personally appeared MARK ROLFING and DEBI ROLFING, to me personally known, who, being by me duly sworn, did say that they are the President and Vice President, respectively, of ROLFING PARTNERS, a Hawaii limited partnership, as the General Partner of PLANTATION CLUB ASSOCIATES, a Hawaii general partnership, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation, as said General Partner of PLANTATION CLUB ASSOCIATES, a Hawaii general partnership.

Fredrick D. Domy
Notary Public, State of Hawaii

My commission expires: 7/17/91

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES
FEB 02 1999 10-00 AM

DATE _____ TIME _____

DOCUMENT NO. 99-015944

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: Mail [] Pickup [] To:

**AMENDMENT TO THE DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS FOR
PLANTATION ESTATES**

(File Plan No. 2040)

KNOW ALL MEN BY THESE PRESENTS:

1. Plantation Club Associates submitted land in Kapalua, Maui, Hawaii to the Declaration of Covenants, Conditions and Restrictions for Plantation Estates dated April 3, 1990, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-049432 (the "Declaration").

2. Plantation Club Associates was subsequently dissolved and, therefore, pursuant to Section 30 of the Declaration all of the rights, privileges, benefits, exceptions, and reservations in the Declaration in favor of the Declarant were automatically assigned, transferred, and conveyed to Kapalua Land Company, Ltd., a Hawaii corporation ("Declarant").

3. In accordance with Paragraph (a) of Section 26 of the Declaration, the Declaration can be amended from time to time upon the affirmative vote of seventy-five percent (75%) of the owners with the written approval of the Declarant.

4. At a meeting of the Plantation Estates Lot Owners' Association duly called and held on December 17, 1998, 94.23% of owners, in person and by proxy, voted to amend the Declaration and the Declarant approves said amendments as follows:

NOW, THEREFORE, the Declaration shall be and hereby is amended as follows:

(a) Section 2(k) is hereby amended to read as follows:

Section 2(k) Lot: A subdivided lot within the Project, which is located within the overall development known as "The Plantation At Kapalua." The term "Lot" shall not include lots designated for roadway purposes, gulches, golf course, clubhouse, maintenance buildings, Common Elements, or any other similar purpose or any lot not within or a part of the Project. The term shall be limited to Lots designated for sale to purchasers including, without limitation, the single lot to be created by the consolidation of Lots 15 to 40 in Plantation Estates II and denominated as Plantation Estates II Lot 15A and those 8 Lots which may be subsequently created from said Lot 15A as provided herein. The use of the Lots will be generally restricted to limited agricultural and single-family residential purposes.

The Lots shall not be deemed to include any pipes, manholes, ducts, cables, wires, conduits or other utility or service lines or appurtenant equipment located within any Lot which are utilized for or serve more than one Lot in the Project.

(b) Section 2(n) is hereby amended to read as follows:

Section 2(n) Project: The subdivision known as "Plantation Estates," which is located within and is part of the overall development known as "The Plantation At Kapalua," which includes an 18-hole golf course ("The Plantation Course") and a clubhouse ("The Plantation Club"). The Project now consists of approximately 76 Lots (36 in Plantation Estates I and 40 in Plantation Estates II); however, upon the consolidation of Lots 15 to 40 in Plantation Estates II to create Plantation Estates II Lot 15A, the Project will consist of a total of 51 Lots, with the potential, as described herein, to be increased to a total of 58 Lots through further subdivision of Plantation Estates II Lot 15A. The first 36 Lots are Lots 1 to 36, inclusive, as described in Exhibit "A-1" attached hereto and by reference made a part hereof. These Lots are known as "Plantation Estates I."

Lot No. 46, as described in Exhibit "A-2" attached hereto and by reference made a part hereof, is a large parcel containing an area of 153.948 acres, more or less, which has been subdivided into approximately 40 Lots, and is known as "Plantation Estates II." Plantation Estates I and Plantation Estates II together will comprise the Project and will be known as "Plantation Estates."

The Project is generally located mauka (mountain side or uphill) from the Honoapiilani Highway at Kapalua, Island and County of Maui, State of Hawaii, and approximately nine miles north of Lahaina Town.

(c) Section 3 is hereby amended to read as follows:

Section 3. General Use of Lots. (a) General. The use of the Lots shall be generally restricted to limited agricultural and single-family residential purposes only. Each Owner has the right to construct a Residence on his Lot in accordance with, and subject to this Declaration, the Design and Construction Rules, and the Committee Rules. Agricultural activity shall be limited to the Agricultural Activity Easement (as described and defined in the Design and Construction Rules attached hereto as Exhibit "B") designated within each Lot.

(b) Plantation Estates II Lot 15A. Notwithstanding the provisions in subpart (a), following the consolidation of lots to create Plantation Estates II Lot 15A (as described above in Section 2(n)), the owner of Plantation Estates II Lot 15A shall also have the right to construct ancillary structures or improvements directly related to the Limited Agricultural Uses permitted on said Lot pursuant to Section 4(b) subject to the prior written approval of the Design Review Committee and subject to this Declaration, the Design and Construction Rules, and the Committee Rules.

(d) Section 4(b) is hereby amended to read as follows:

Section 4(b) Limited Agricultural Activity: Each Lot in the Project shall conform and comply with the requirements of Chapter 205, Hawaii Revised Statutes ("Chapter 205"), pertaining to land in agricultural districts having soil classified by the Land Study Bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U. Such use of the Lots shall be further restricted and limited by the limitations, conditions, covenants and restrictions contained in this Declaration, the Design and Construction Rules, Committee Rules, Articles and Bylaws of the Association, and the Association Rules.

The agricultural activity requirements of Chapter 205 shall be confined, limited and restricted to the Agricultural Activity Easement designated within each Lot as defined and described in the Design and Construction Rules attached hereto as Exhibit "B." The agricultural activity to satisfy the requirement of Chapter 205 shall be limited and restricted to Norfolk Island Pine trees planted approximately 50 feet apart and harvested and sold as whole trees (e.g., no harvesting of treetops) unless otherwise allowed by the Design Review Committee. Notwithstanding the foregoing, following the consolidation of lots to create Plantation Estates II Lot 15A (as described above in Section 2(n)), the

owner of Plantation Estates II Lot 15A may undertake the following Limited Agricultural Uses within the Agricultural Activity Easement on said Lot pursuant to Chapter 205:

- Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber.
- Raising of livestock for economic or personal use; provided, however, that except for the livestock permitted by Section 4(e), no livestock can be kept without the prior written approval of the Association, Declarant and KRA.
- Agricultural services and uses which support and are accessory to the above-mentioned uses, including but not limited to the right to construct ancillary structures or improvements directly related to said uses including but not limited to farm buildings and storage facilities subject to the conditions described in Section 3(b) above.

Notwithstanding any other provision contained herein to the contrary or contained in the Articles, the Declarant reserves the absolute right to increase, decrease or alter the size and shape of any Agricultural Activity Easement in order to comply with the requirements of Chapter 205.

(e) Section 4(e) is hereby amended to read as follows:

Section 4(e): Pets: No animals, livestock, or poultry of any kind, shall be raised, bred or kept upon any Lot. Only a reasonable number of dogs, cats, or similar household pets are permitted provided that they are expressly permitted by the KRA Covenants or the Rules adopted by the KRA and by any Association Rules. However, under no circumstances shall such dogs, cats, or household pets be raised, kept, or bred for commercial purposes. Notwithstanding the foregoing, following the consolidation of lots to create Plantation Estates II Lot 15A (as described above in Section 2(n)), the owner of Plantation Estates II Lot 15A may keep up to 40 non-domestic animals, namely horses and llamas (or alpacas), within the Agricultural Activity Easement for said Lot, in a fenced area the location and size of which is shown on Exhibit "C" attached hereto and more specifically defined in the Design and Construction Rules. No other animals, livestock, or poultry of any kind shall be raised, bred or kept on said Lot 15A except as provided herein without the prior written approval of the Declarant, KRA and the Association.

(f) Section 4(l) is hereby amended to read as follows:

Section 4(l): Prohibited Vehicles: No mobile homes, campers, recreational vehicles, house trailer, commercial vehicles, vehicles with signs or insignia painted on or visible from outside any Lot, boats, boat trailers, horse

trailers, or other similar vehicles, shall be kept or permitted on any Lot except in an enclosed garage facility for that purpose. No commercial vehicles of any nature shall be permitted to park in the Project overnight.

No motorcycles, motor scooters, mopeds, motorized bicycles or any form of the foregoing shall be permitted to be ridden or driven anywhere in the Project at any time.

No truck, trailer or other vehicle with a net weight of over 7,500 lbs shall be used on any roadway in the Project without the prior written consent of the Board; provided, however, that this restriction shall not apply to construction equipment used exclusively in connection with the construction of any work or improvement permitted by this Declaration or to maintenance and construction equipment used by Declarant for maintenance of the golf course described in Section 5 hereof, provided that such equipment is not used by Declarant more than 40 days per year.

(g) Section 4(m) is hereby amended to read as follows:

Section 4(m): No Commercial Activity: No commercial activity is permitted on any Lot, except for sale of Lots by the respective owners thereof or their agents and any agricultural activity within the Agricultural Activity Easement in each Lot that may be required by Chapter 205, Hawaii Revised Statutes, and permitted by this Declaration.

(h) Section 7 is hereby amended to read as follows:

7. Access To Lots. Each Lot shall have direct access to the roadway in the Project adjacent to such Lot which is or will be owned and maintained by the Association; provided, however, that the roadway(s) which serve Plantation Estates II Lot 15A or the "Resubdivided Lots" as may be created pursuant to Section 8(b) hereof may be owned and maintained by the owner of Plantation Estates II Lot 15A or the owners of said "Resubdivided Lots" as provided in Section 8(b). Use of the roadways may be limited or restricted to the Association Rules as may be adopted by the Association from time to time.

(i) Section 8 is hereby amended to read as follows:

8. Consolidation/Subdivision of Lots. (a) Generally. The Owner of two (2) or more adjacent Lots, without the prior approval of any other Owner, but with the prior written approval of the Association, the KRA, Maui Land & Pineapple Company, Inc. ("MLP"), and the County of Maui (the "County"), and upon such terms and conditions as may be imposed by the Association, the KRA, MLP, and/or the County, may consolidate such Lots and construct a Residence

on the consolidated Lot, provided that any pipes, manholes, ducts, cables, wires, conduits and other utility or service lines or equipment which serve other Lots are not thereby affected (or if affected, are suitably taken care of as required by the Association, the Declarant, KRA, MLP, and/or the County). The Design Review Committee reserves the right to determine new setback line requirements for the consolidated Lot, which may exceed the setback line requirements for each Lot separately, and the right to relocate, re-shape, and rearrange the Agricultural Activity Easement and any other Easements or Areas of the Lot.

The Owner must, at Owner's expense, consolidate the adjacent Lots into a single Lot prior to construction of the Residence which will utilize the consolidated Lots. In such consolidation, the Owner retains the cumulative rights and obligations with respect to the Lots prior to consolidation, including the voting rights in and maintenance assessments of the Association and the KRA.

Once consolidated, the consolidated Lot may not be resubdivided unless the subdivision will result in restoring the Lots to their original dimensions and permitted uses, and the Owner receives the prior written approval of the Association, KRA, MLP, and the County. If a Residence is constructed on the consolidated Lot, then the prior written consent of the Design Review Committee will also be required for the resubdivision into two Lots.

No other subdivision of any Lot in the Project shall be permitted.

(b) Plantation Estates II Lot 15A. Notwithstanding the provisions in subpart (a), following the consolidation of lots to create Plantation Estates II Lot 15A (as described above in Section 2(n)), said Lot 15A shall be deemed to be one Lot and the owner of said Lot 15A shall have voting rights and pay maintenance assessments to the Association on the basis that Lot 15A is one Lot; provided, however, the owner of Plantation Estates II Lot 15A shall have the right to subdivide said Lot 15A into as many as 8 new Lots (the "Resubdivided Lots"), subject to the following conditions:

(i) the subdivision will not require the approval of any other Owner but will require the prior written approval of the County;

(ii) the subdivision will occur upon such terms and conditions as may be imposed by the Association, KRA, MLP, and/or the County;

(iii) all infrastructure necessary or appropriate for the Resubdivided Lots shall be constructed and/or installed with equivalent specifications as the existing infrastructure in Plantation Estates at the sole cost of the owner of said Lot 15A or the owners of the Resubdivided Lots subject to the prior written approval of the Design Review Committee and KRA;

(iv) following the filing of the final subdivision map or the metes and bounds descriptions of the Resubdivided Lots with the Bureau of Conveyances and prior to construction of any improvements, KRA and the Design Review Committee shall have the right to determine new setback line requirements for the Resubdivided Lots and the right to relocate, reshape and rearrange the Agricultural Activity Easement and any other Easement or Areas of the Resubdivided Lots so long as said requirements, relocation, reshaping and rearranging are equivalent to those of Plantation Estates I;

(v) notwithstanding the fact that certain exemptions from restrictions in this Declaration will exist following the creation of Plantation Estates II Lot 15A for said Lot 15A, upon the filing of the final subdivision map or the metes and bounds descriptions of the Resubdivided Lots with the Bureau of Conveyances, the Resubdivided Lots shall be subject to all of the restrictions of this Declaration including, without limitation, the restrictions on agricultural activity as defined in Section 4(b) above; provided, however, that any existing improvements which have been approved for said Lot 15A will be allowed to remain and that the owner of said Lot 15A will be permitted to keep the 40 nondomestic animals described in Section 4(e) on a Resubdivided Lot to which said owner retains title after the resubdivision so long as the keeping of said animals does not create a nuisance;

(vi) following the filing of the final subdivision map or the metes and bounds descriptions of the Resubdivided Lots with the Bureau of Conveyances and conveyance of any of the Resubdivided Lots to persons or entities not affiliated with the owner of Plantation Estates II Lot 15A:

(a) the owners of each of the Resubdivided Lots will be entitled to all rights of membership in the Association including, without limitation, voting rights for each such Lot, and

(b) the owners of each of the Resubdivided Lots will be subject to all of the obligations of membership in the Association including, without limitation, payment of assessments for common expenses as defined in Section 19 hereof; provided, however, that to the extent that costs and expenses related to the Resubdivided Lots are separately attributable to the Resubdivided Lots, the Association shall assess such costs and expenses to those Resubdivided Lots as provided in Section 19(c) hereof;

(vii) the owner of Plantation Estates II Lot 15A and the owners of the Resubdivided Lots shall be responsible for all costs and expenses related to all infrastructure for the Resubdivided Lots, any roadway(s) between the Resubdivided Lots and Plantation Estates I or any roadway(s) serving the

Resubdivided Lots, including without limitation, costs and expenses related to installation, maintenance, repair or replacement of said infrastructure and roadways and/or utility improvements made to any such roadways; provided, however, that said infrastructure and roadways shall be maintained and repaired in a manner equivalent to the infrastructure and roadways of Plantation Estates I and that the Association and its members shall have a right to use said roadways. In the event said infrastructure and/or roadways are not maintained and repaired as herein provided, the Association shall have the right to effect such maintenance and repair and to assess the owner of Lot 15A and/or the owners of the Resubdivided Lots, as applicable, for all costs thereof. Following the filing of the final subdivision map or the metes and bounds descriptions of the Resubdivided Lots, the owner of Lot 15A shall have the option of conveying said infrastructure and/or roadways to the Association as Common Element(s); provided, however, that the costs and expenses of maintaining, repairing and improving said infrastructure and roadways shall be considered costs and expenses separately attributable to the Resubdivided Lots and shall be assessed proportionately among the Resubdivided Lots as provided in Section 19(c) hereof.

(j) **Section 11 is hereby amended to read as follows:**

11. Maintenance and Repair of Common Elements. (a) Generally. All maintenance, repairs and replacements of the Common Elements, whether or not located within any Lot, shall be made by the Association and be charged to all the Owners as a common expense, unless caused by the negligence, misuse or neglect of an Owner, in which case such expense shall be charged to such Owner. Each Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements or equipment thereof damaged or lost through the fault of such Owner or any person(s) occupying, renting, or using any part of the Project under him, including any general contractor hired by Owner, and shall give prompt notice to the Association of any such damage, loss, or other defect when discovered.

(b) Plantation Estates II Lot 15A. The owner of Plantation Estates II Lot 15A shall pay for any roadways or portions thereof connecting said Lot 15A with Plantation Estates I as well as infrastructure and/or utility improvements made to any such roadway regardless of whether said roadways, infrastructure and/or improvements are part of Lot 15A or a separate Lot and shall maintain, repair and insure said roadways, infrastructure and improvements all at said owner's sole cost and expense. Said roadways, infrastructure and improvements shall be maintained in a manner equivalent to the roadways, infrastructure and improvements of Plantation Estates I and the Association and its members shall have a right to use said roadways.

(k) Section 17 is hereby amended to read as follows:

17. Plantation Estates Design Review Committee.

The Plantation Estates Design Review Committee ("Design Review Committee") is hereby created with all of the rights, powers, duties, and privileges as hereinafter set forth:

(a) Members: The number of members on the Design Review Committee shall not be less than three (3) and not more than seven (7), as the Board of Directors of the Association ("Board") may determine from time to time.

(b) Appointment: The Board shall have the sole right and power to appoint all members of the Design Review Committee. Members of the Design Review Committee do not have to be members of the Association.

(c) Removal; Resignation: Any members of the Design Review Committee may be removed by the Board with or without cause, at any time. New members shall be appointed by the Board as hereinabove set forth. Any member of the Design Review Committee may resign by submitting a written letter of resignation to the Board stating the effective date of the resignation.

(d) Term: Members of the Design Review Committee shall serve until death, incapacity, resignation, or until removed as aforesaid.

(e) Functions and Duties: The functions and duties of the Design Review Committee, in addition to any other functions or duties set forth elsewhere in this Declaration, shall be to consider and approve or disapprove any plans, proposals, specifications or other material submitted to it for the construction of the Residence on any Lot in the Project, and any other landscaping or improvements, or for the alteration or remodeling of, or any additions to, any existing structures on any Lot in the Project in accordance with the Design and Construction Rules; to adopt rules and regulations to clarify, implement, enhance, or expand upon the duties and obligations of the Design Review Committee and/or the Design and Construction Rules.

(f) Compensation: Members of the Design Review Committee who are not members of the Association shall be entitled to reasonable compensation as determined by the Board for acting as such. All members of the Design Review Committee shall be entitled to reimbursement of their reasonable out-of-pocket expenses incurred in connection with acting as a member as determined by the Board.

(g) Meetings: The Design Review Committee shall meet from time to time as necessary to perform its duties and functions hereunder. The vote or written consent of a majority of the members shall constitute an act by the Design Review Committee unless the unanimous decision of its members is otherwise required. Any action required to be taken by the Design Review Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Design Review Committee. The Design Review Committee shall keep and maintain a record of all actions taken by it.

(h) Committee Rules: The Design Review Committee shall by vote have the exclusive power to adopt, amend and repeal rules and regulations, to be known as "Committee Rules," which clarify, interpret, enhance, expand, or implement the provisions of this Declaration and the Design and Construction Rules insofar as they relate to the duties and functions of the Design Review Committee. A copy of the Committee Rules, as they may from time to time be amended, shall be maintained with the records of the Association and shall be available for inspection by any Owner. The Committee Rules shall not apply to any structure constructed in accordance with plans and specifications previously approved by the Design Review Committee.

(i) Nonwaiver: The approvals by the Design Review Committee of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Design Review Committee shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter.

(j) Nonliability: Neither Declarant nor the Board nor the Design Review Committee nor any member thereof shall be liable to the Association, or to any Owner, or to any other person, for any damage, loss or prejudice suffered or claimed on account of (i) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, or other request submitted by an Owner pursuant to this Declaration, whether or not defective, (ii) the construction or performance of any work, whether or not complying with this Declaration or the terms of any approval by the Design Review Committee, (iii) the development or manner of development of any Lot within the Project, (iv) the failure of any plans, drawings, specifications or other item approved by the Design Review Committee to comply with any or all applicable laws, regulations, ordinances or codes, or (v) any other matter, decision, act or omission; provided that the Declarant, the director or Design Review Committee member shall not have acted in bad faith.

(l) Section 26(a) is hereby amended to read as follows:

26. Amendment and Duration of Declaration.

(a) Except as otherwise provided herein, this Declaration may be amended by a vote or written consent of not less than seventy-five percent (75%) of the Owners, effective only upon recording of an instrument setting forth such amendment and vote or written consent, duly executed by such Owners or by the proper officers of the Association; provided, however, (i) that at any time prior to the transfer of title of the first Lot in the Project, the Declarant may amend this Declaration in any manner and (ii) so long as Declarant owns any interest in the property described in Exhibit "A," no amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant. Notwithstanding anything to the contrary herein, Sections 3(b), 4(b), 4(e), 4(l), 4(m), 7, 8(b), 11(b), 17, 26(a) and 29 of this Declaration may be amended only by the vote or written consent of not less than seventy-five percent (75%) of the Owners other than the Declarant or its affiliates.

(m) Section 29 is hereby amended to read as follows:

29. Dispute Resolution. (a) Except as otherwise provided in this Declaration, any dispute or conflict by, between or among any Owners, the Association, and/or the Declarant with respect to the design and construction of the subdivision improvements, the operation and management of the Project, or any violation, breach, enforcement or compliance with this Declaration, shall first be submitted to mediation.

(b) Nothing in this Section shall be interpreted to mandate the mediation of any dispute involving:

(1) Actions seeking equitable relief involving threatened property damage or the health or safety of Association members or any other person;

(2) Actions to collect assessments;

(3) Personal injury claims; or

(4) Actions against the Association, the Board of Directors, or one or more directors, officers, agents, employees, or other persons for amounts in excess of \$2,500 if insurance coverage under a policy of insurance procured by the Association or the Board of Directors would be unavailable for defense or judgment because mediation was pursued.

(c) If any mediation under this Section is not completed within two months from commencement, no further mediation shall be required unless agreed to by the Association, the Owner and/or the Declarant.

(n) **Exhibit "B" to the Declaration, "Design and Construction Rules for Plantation Estates," is hereby amended to read as follows:**

The second paragraph of Paragraph 2.1 shall be amended to read:

As shown in Figure 2.1, the Buildable Area has been established for each Lot except the single lot which shall be known as Plantation Estates II Lot 15A following the consolidation of lots as described in Section 2(n) of the Declaration. The Owner should review the designated Buildable Area of his Lot and, if necessary, consult with the Design Review Committee to clarify its location.

Paragraph 2.2(a) shall be amended to read:

2.2 Setbacks

Front, rear and side yard setbacks are established for each Lot as follows;

- (a) Front yard setback shall be 50 feet from the Lot's property line fronting the roadway, and includes the Landscape Easement and Agricultural Activity Easement. Provided, however, that the single lot which shall be known as Plantation Estates II Lot 15A following the consolidation of lots as described in Section 2(n) of the Declaration shall have no Landscape Easement and the Agricultural Activity Easement for that Lot shall be as shown on Exhibit "D" attached hereto. Existing rock walls within the front yard setback shall not be altered without the prior written approval of the Design Review Committee.

Paragraph 2.4 shall be amended to read:

2.4 Agricultural Activity Easement

The Agricultural Activity Easement is generally a minimum width of 20 feet and adjacent to the Landscape Easement along the roadway frontage and/or side yard as shown on the File Plan for the Project. The irrigation and landscape maintenance of the Norfolk Island Pine trees within this area shall be the responsibility of the Owner. Provided, however, that the single lot which shall be known as Plantation Estates II Lot 15A following the consolidation of lots as described in Section 2(n) of the Declaration shall have no Landscape Easement and the Agricultural Activity Easement shall be of the size and location as shown on Exhibit "D" attached hereto. See also Section 4(b) CC&Rs.

Paragraph 2.6.1 shall be amended to read:

2.6 Landscaping

...

- 2.6.1 Landscape Easement and Agricultural Activity Easement Zone: Generally designated at a depth of 40 feet along the roadway frontage and/or side yard of the Lot, landscaping within this zone is restricted to a double row of Norfolk Island Pines and mowed lawn groundcover planted by the Declarant. If the Norfolk Island Pines within the Agricultural Activity Easement are removed, they shall be replaced in the locations originally planted at 50 feet apart. As provided for in Section 2.8, the driveway and related improvements allow for accent plantings related to the entry and gate walls. The owner of the single lot which shall be known as Plantation Estates II Lot 15A following the consolidation of lots as described in Section 2(n) of the Declaration shall present a landscape plan for prior approval by the Design Review Committee, which plan shall include landscaping for the Agricultural Activity Easement.

Paragraph 2.6.2, second paragraph, shall be amended to read as follows:

2.6.2 Buildable Area and Setback Areas:

...

For all Lots, except the single lot which shall be known as Plantation Estates II Lot 15A following the consolidation of lots as described in Section 2(n) of the Declaration which will have submitted a landscape plan, the front yard landscaping is established by the Norfolk Island Pines planted within the Landscape Easement and Agricultural Activity Easement. In general, the rear and side yard setback areas should be utilized as extensions of the Residence and blend with the natural terrain. As shown in Figure 2.4, the use of open lawn areas with informal groupings and massings of trees and shrubs can create a natural setting for the Residence and enhance the Project's overall landscape character.

5. All other terms, conditions and provisions of the Declaration of Covenants, Conditions and Restrictions for Plantation Estates, as heretofore amended and which are not inconsistent herewith, shall remain in full force and effect.

6. Terms set forth herein having initial capitalization are utilized with the same definitions as set forth in the Declaration.

The undersigned officers of the Plantation Estates Lot Owners' Association hereby certify that the foregoing amendments to the Declaration were adopted by a vote of more than seventy-five percent (75%) of the owners.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 15th day of January, 1998.

PLANTATION ESTATES
LOT OWNERS' ASSOCIATION

By: Richard Williams

TYPE NAME: Richard C. Williams

TYPE TITLE: Vice President-Treasurer

By: Robert C. Miller

TYPE NAME: Robert C. Miller

TYPE TITLE: President

THAT KAPALUA LAND COMPANY, LTD., a Hawaii corporation, the fee owner and developer ("Declarant") of the land described in the Declaration of Covenants, Conditions and Restrictions for Plantation Estates (the "Declaration") dated April 3, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-049432, does hereby consent to this Amendment of the Declaration and agrees that to the extent that any of the provisions of these amendments may conflict with existing rights of Declarant established through other instruments including, without limitation, grants of easements or deeds, the provisions of these amendments shall prevail.

IN WITNESS WHEREOF, the undersigned have executed these presents this 26th day of January, 1998. 1999 dam

KAPALUA LAND COMPANY, LTD.

By: Don Young

TYPE NAME: Don Young

TYPE TITLE: President and CEO

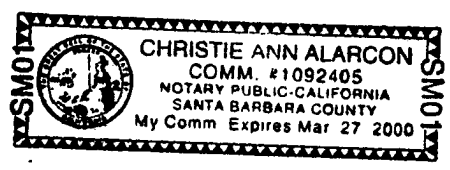
By: Caroline Peters Egli

TYPE NAME: Caroline Peters Egli

TYPE TITLE: Vice President/Administration

STATE OF California)
) SS.
COUNTY OF San Luis Obispo)

On this 23rd day of December, 1998, before me personally appeared Richard C. Williams, to me personally known, who being by me duly sworn, did say that he is the ~~Vice President~~ ^{Secretary} of the PLANTATION ESTATES LOT OWNERS' ASSOCIATION and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

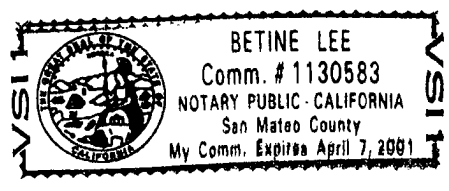


Christie A. Alarcon
(Signature)
Christie A. Alarcon
(Printed or Typed Name)

Notary Public, State of California
My commission expires: Mar. 27, 2000

STATE OF ~~HAWAII~~ California)
) SS.
COUNTY OF San Mateo)

On this 15 day of January, 1998, before me personally appeared Robert C. Miller, to me personally known, who being by me duly sworn, did say that he is the President of the PLANTATION ESTATES LOT OWNERS' ASSOCIATION and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.



Betine Lee
(Signature)
BETINE LEE
(Printed or Typed Name)

Notary Public, State of Hawaii CA
My commission expires: 4-7-01

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 26th day of January, 1999^{Jan}, before me personally appeared Don Young, to me personally known, who being by me duly sworn, did say that he is the President and CEO of KAPALUA LAND COMPANY, LTD. and that said instrument signed in behalf of said corporation by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said corporation.

Debra A. Mahon

(Signature)

Debra A. Mahon

(Printed or Typed Name)

IS

Notary Public, State of Hawaii

My commission expires: October 1, 2000

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 26th day of January, 1999^{Jan}, before me personally appeared Caroline Peters Egli, to me personally known, who being by me duly sworn, did say that she is the Vice President / Administration of KAPALUA LAND COMPANY, LTD. and that said instrument signed in behalf of said corporation by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said corporation.

Debra A. Mahon

(Signature)

Debra A. Mahon

(Printed or Typed Name)

IS

Notary Public, State of Hawaii

My commission expires: October 1, 2000

EXHIBIT C

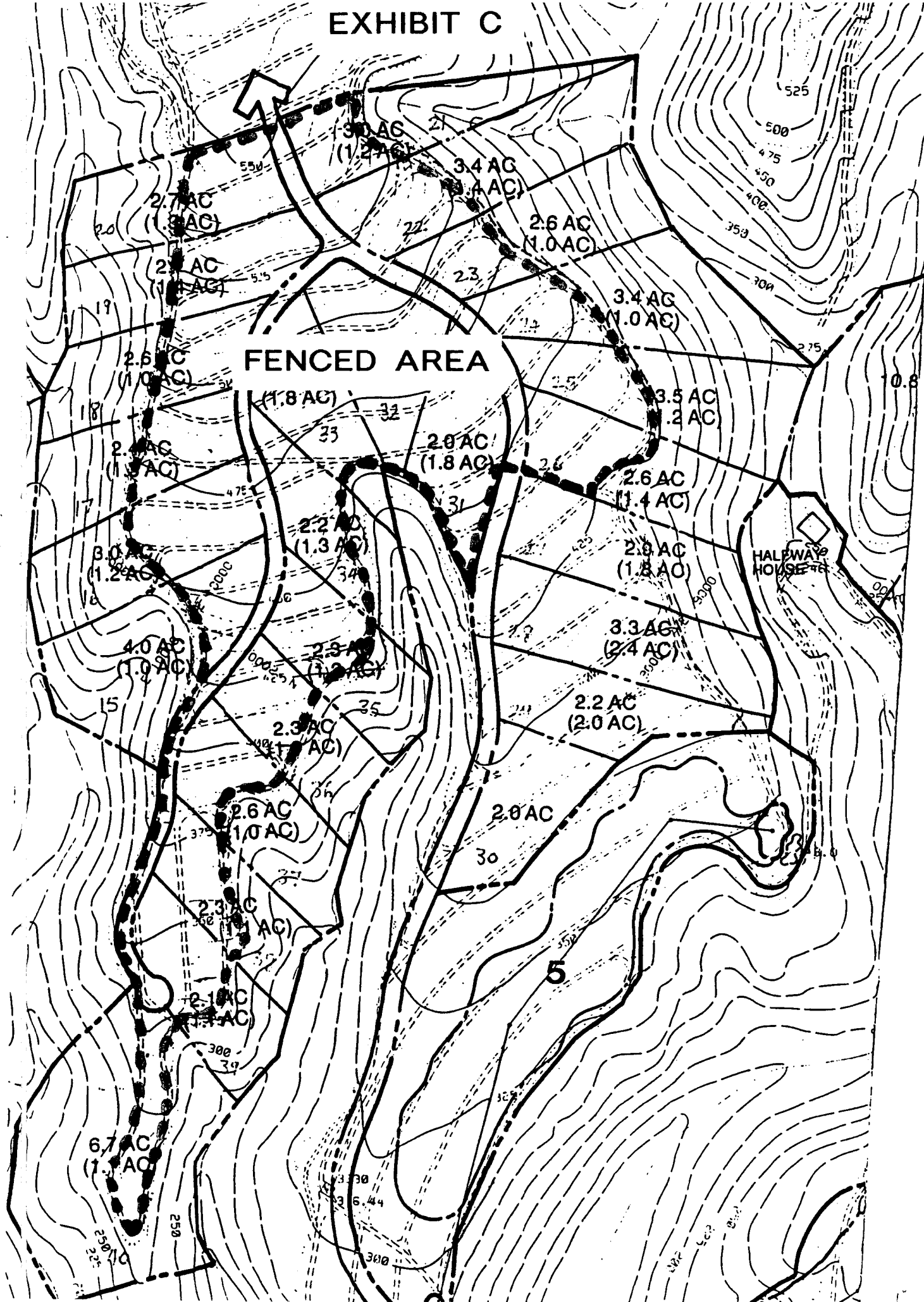
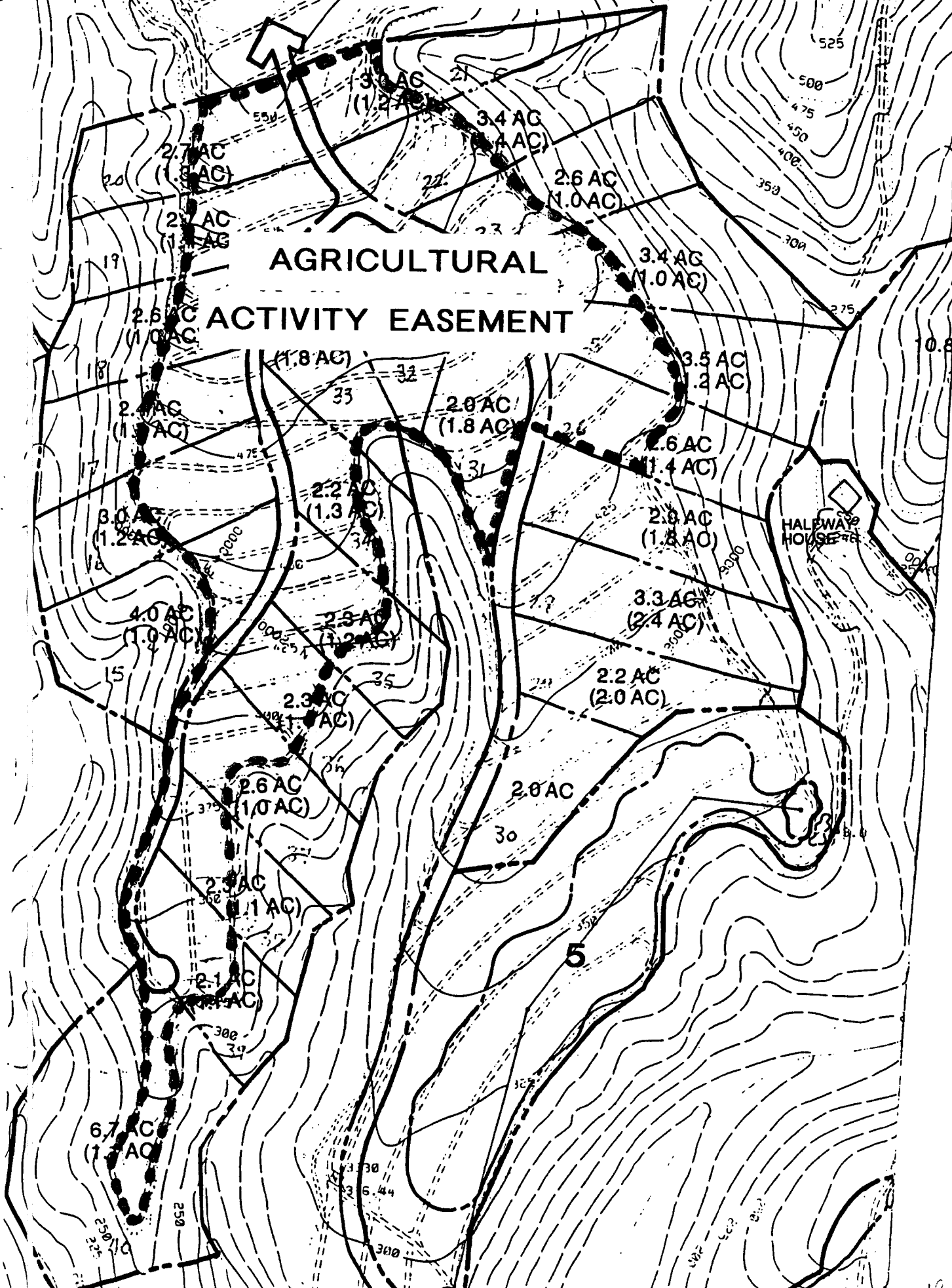


EXHIBIT D

AGRICULTURAL ACTIVITY EASEMENT



R-893

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

FEB 26, 2002 09:30 AM

Doc No(s) 2002-036773

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Pickup To:

CARLSMITH BALL LLP
2200 Main Street, Suite 400
Wailuku, Hawaii 96793
Attention: Rick Kiefer
Telephone: 242-4535

TG-200202338-B
A 2-204-0045

RS
2

TITLE OF DOCUMENT:

SUPPLEMENTAL DECLARATION WITH RESTRICTIVE COVENANTS
(Plantation Estates Lot 40-A)

PARTIES TO DOCUMENT:

DECLARANT: KAPALUA LAND COMPANY, LTD., a Hawaii corporation

OWNER: MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation

TAX MAP KEY(S): Maui 4-2-5-96 (This document consists of ___ pages.)

SUPPLEMENTAL DECLARATION WITH RESTRICTIVE COVENANTS
(Plantation Estates Lot 40-A)

THIS SUPPLEMENTAL DECLARATION WITH RESTRICTIVE COVENANTS (this "Declaration") is made this _____ day of FEB 26 2002, 2002, by KAPALUA LAND COMPANY, LTD., a Hawaii corporation ("Declarant").

W I T N E S S E I H:

A. By the Declaration of Covenants, Conditions and Restrictions for Plantation Estates dated April 3, 1990, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-049432, Plantation Club Associates, a Hawaii general partnership, subjected certain lands that are described therein and known as the "Plantation Estates" subdivision to the covenants, conditions and restrictions contained therein. Said Declaration was amended by instrument dated January 26, 1999, recorded in said Bureau as Document No. 99-015944. Said Declaration, as heretofore and hereafter amended, is called the "Declaration".

B. By virtue of a General Partnership Dissolution Statement filed with the Department of Commerce and Consumer Affairs of the State of Hawaii on April 6, 1998, Plantation Club Associates was dissolved effective December 31, 1997.

C. Section 30 of the Declaration provides that "in the event of the dissolution or termination of [Plantation Club Associates], all of the rights, privileges, benefits, exceptions, and reservations contained herein in favor of [Plantation Club Associates] shall accrue and inure to the benefit of and be deemed automatically assigned, transferred, and conveyed to" Declarant.

D. As set forth in Section 21 of the Declaration, Plantation Club Associates reserved to itself, to its successors and assigns, to Declarant, and to Maui Land & Pineapple Company, Inc., a Hawaii corporation ("MLP"), the right to merge and annex nearby and adjoining parcels of land to Plantation Estates from time to time by recording a supplemental declaration.

E. Section 21 further provides that such a supplemental declaration may set forth additional covenants, conditions, restrictions and limitations that are applicable to the parcels to be annexed.

F. MLP is the owner of the subdivided lot that is more particularly described in **Exhibit A** attached hereto ("Lot 40-A").

G. Declarant desires to annex Lot 40-A to Plantation Estates as a "Lot" designated for sale to purchasers and use for limited agricultural and single-family residential purposes in accordance with the Declaration, and to set forth certain additional covenants and restrictions applicable to Lot 40-A.

NOW, THEREFORE, Declarant hereby declares that:

1. Annexation of Lot 40-A. Lot 40-A as described in **Exhibit A** is annexed to Plantation Estates as a "Lot" as defined in the Declaration, and shall, at all times, be held, sold, conveyed, encumbered, owned, leased, occupied and improved subject to the covenants, conditions and restrictions set forth in said Declaration. The covenants, conditions and restrictions set forth in the Declaration and this Supplemental Declaration shall run with Lot 40-A and shall be binding upon all persons acquiring any right, title or interest in and to Lot 40-A, and shall inure to the benefit of the Declarant, the Plantation Estates Lot Owners' Association and each person who becomes an owner of any such interest, and each successor in interest of such owner.

2. Additional Restrictions Applicable to Lot 40-A.

a. The portion of Lot 40-A that is designated as "Natural Area" on the map attached hereto as **Exhibit B** shall be restricted to use as "Natural Area" as defined in Sections 2.5 and 2.6.3 of the Declaration's Design and Construction Rules for Plantation Estates. Declarant shall plant kukui trees in that area which shall be permanently maintained as a visual screen between Lot 40-A and the adjoining Lot 31.

b. The portion of Lot 40-A that is located between the "Natural Area" and the "Pine Tree Line" shown on **Exhibit B** may be used for landscaping, walkways and a pool and other water features, but no other buildings or structures may be constructed in that area.

c. A row of pine trees currently exists of Lot 40-A as shown on **Exhibit B**. No more than twelve (12) of those trees may be cut or removed without Declarant's prior written approval, which shall not be unreasonably withheld.

The restrictions in this paragraph 2 are made for the benefit of, and may be enforced by, the Declarant, the Plantation Estates Lot Owners' Association, and the present and future owners of Lot 31 of "The Plantation at Kapalua" subdivision as shown on File Plan 2006, which is adjacent to Lot 40-A.

AND MLP, as owner of the fee simple interest in Lot 40-A hereby joins in and consents to the foregoing annexation and declaration of additional covenants.

This Declaration shall be effective when it is recorded in the Bureau of Conveyances of the State of Hawaii.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed on the day and year first above written.

KAPALUA LAND COMPANY, LTD., a Hawaii corporation

By Robert M. McNatt
Robert M. McNatt
Its Vice President/Land Planning &
Development

"Declarant"

MAUI LAND & PINEAPPLE COMPANY,
INC., a Hawaii corporation

By Robert M. McNatt
Robert M. McNatt
Its Vice President/Land Planning &
Development

"MLP"

STATE OF HAWAII

)

COUNTY OF MAUI

) ss.

)

On this 26th day of February, 200², before me 4
personally appeared Robert M. McNatt, to me personally known, who, being
by me duly sworn, did say that said person is the Vice President/Land
Planning & Development of KAPALUA LAND COMPANY, LTD., a Hawaii
corporation, and that said instrument was signed on behalf of said corporation
by authority of its Board of Directors, and the said officer acknowledged said
instrument to be the free act and deed of said corporation.

L.S.



Name: Lydia A. Toda
Notary Public, State of Hawaii

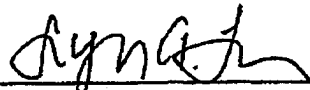
My commission expires: 11-17-2004

STATE OF HAWAII
COUNTY OF MAUI

)
) ss.
)

On this 26th day of February, 200², before me LT
personally appeared Robert M. McNatt, to me personally known, who, being
by me duly sworn, did say that said person is the Vice President/Land
Planning & Development of MAUI LAND & PINEAPPLE COMPANY, INC., a
Hawaii corporation, and that said instrument was signed on behalf of said
corporation by authority of its Board of Directors, and the said officer
acknowledged said instrument to be the free act and deed of said corporation.

L.S.



Name: Lydia A. Toda
Notary Public, State of Hawaii

My commission expires: 11-17-2004

EXHIBIT A

**The Plantation at Kapalua
Description of Lot 40-A**

Land situated on the easterly side of Honoapiilani Highway, F.A.P. No. RF-030-1(3) at Honolua and Honokahua, Lahaina, Maui, Hawaii

Being a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunailo

Beginning at a point at the northeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,811.49 feet North and 7,036.82 feet East and running by azimuths measured clockwise from True South:

1. 55° 52' 367.75 feet along the westerly side of Plantation Club Drive to a point;
2. 133° 30' 258.23 feet along the remainder of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunailo, being also along Lot 40-B of The Plantation at Kapalua to a point;
3. 225° 45' 35.16 feet along Lot 41 of The Plantation at Kapalua (File Plan 2006) to a point;
4. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 135° 45', and the point of tangency azimuth from the radial point being: 156° 30', having a radius of 266.10 feet, the chord azimuth and distance being:
 236° 07' 30" 95.84 feet to a point;
5. 336° 30' 21.10 feet along same to a point;
6. 246° 30' 239.09 feet along same to a point;
7. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being:

336° 30', and the point of tangency azimuth from the radial point being: 318° 35', having a radius of 350.00 feet, the chord azimuth and distance being:

- | | | | |
|-----|--------------|--------|--|
| | 237° 32' 30" | 109.00 | feet to a point; |
| 8. | 318° 35' | 83.45 | feet along same to a point; |
| 9. | 24° 00' | 82.68 | feet along Lot 31 of The Plantation at Kapalua (File Plan 2006) to a point; |
| 10. | 315° 00' | 64.68 | feet along same to the point of beginning and containing an Area of 2.135 acres. |

TOGETHER WITH AND SUBJECT TO, the following easement:

1. An Agricultural Easement 104-A (20 feet wide) over and across a portion of Lot 40-A of The Plantation at Kapalua and being more particularly described as follows:

Beginning at a point at the southeasterly corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,619.23 feet North and 6,717.56 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|---|
| 1. | 133° 30' | 20.48 | feet along Lot 40-B of The Plantation at Kapalua; |
| 2. | 235° 52' | 368.85 | feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo, being also over and across a portion of Lot 40-A of The Plantation at Kapalua; |
| 3. | 315° 00' | 20.37 | feet along Lot 31 of The Plantation at Kapalua (File Plan 2006); |
| 4. | 55° 52' | 368.30 | feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo, being also over and across a |

portion of Lot 40-A of The Plantation at
Kapalua to the point of beginning and
containing an Area of 7,373 square feet,
more or less.

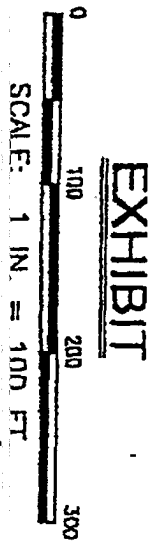
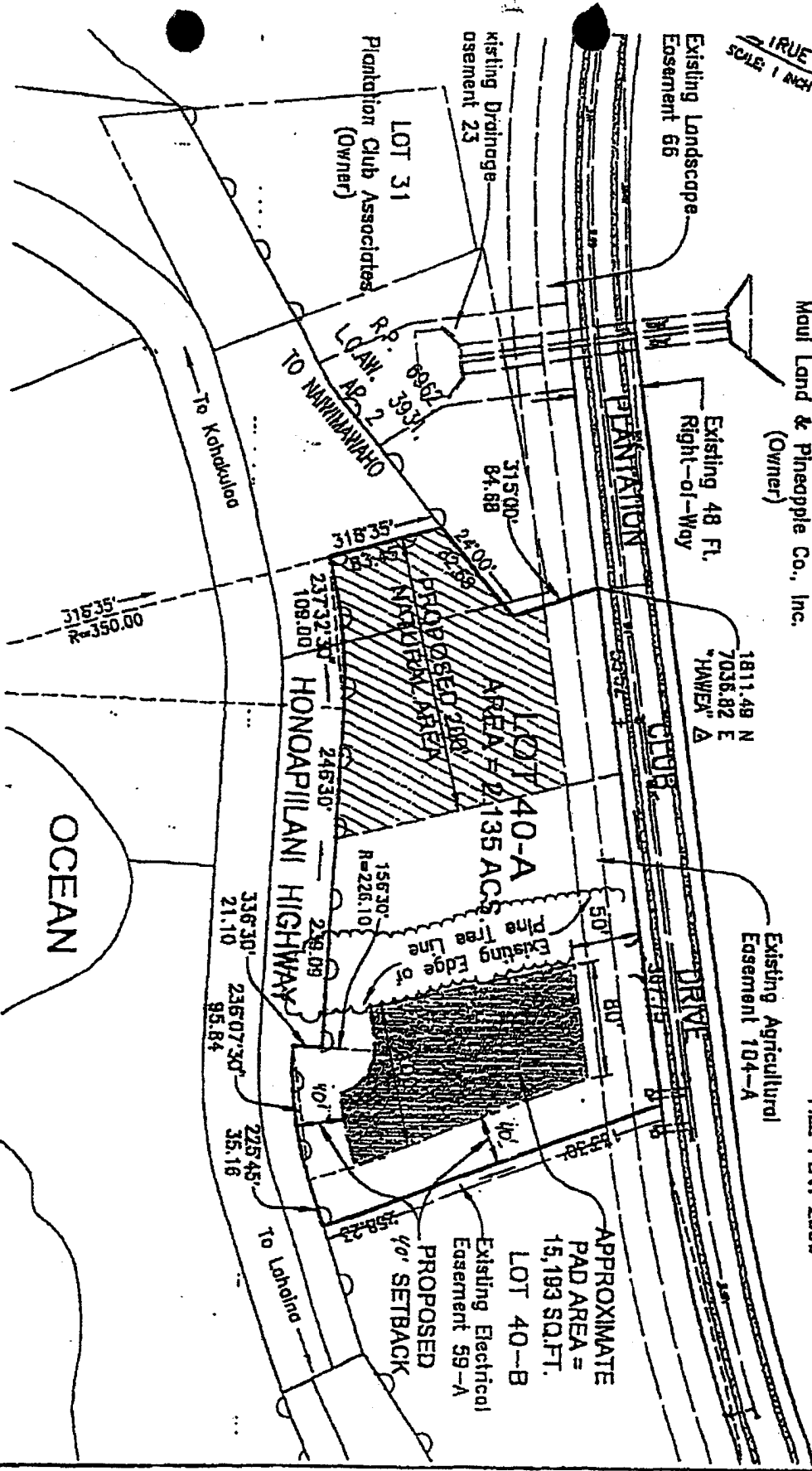
SUBJECT, HOWEVER, to the following:

1. A portion of existing Landscape Easement 66 in favor of
Plantation Estates Lot Owners Association.
2. A restriction of vehicular access rights along course numbers 3 to
8, inclusive, of the above described lot.

TMK: Maui 4-2-5-96

TRUE NORTH
SCALE: 1 INCH = 100 FEET

PLANTATION GOLF COURSE
 TMK: (2) 4-2-05 : 39
 LOT 39
 Moul Land & Pineapple Co., Inc.
 (Owner)
 HONOLULUA
 "THE PLANTATION AT KAPALUA"
 FILE PLAN 2008



EXHIBIT



WARREN S. UNEMORI - ENGINEERING, INC.
 Waike Street Professional Center - Suite 403
 2145 Waike Street - Waike, Maui, Hawaii 96793
 (808)242-4403 FAX: (808)244-4058

February 13, 2008

WSJIF 400042.10

EXHIBIT B



R-573 STATE OF HAWAII
 BUREAU OF CONVEYANCES
 RECORDED
 MAR 01, 2002 08:02 AM
 Doc No(s) 2002-037457



ACTING
 /s/ CARL T. WATANABE
 REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Pickup To:

CARLSMITH BALL LLP
 2200 Main Street, Suite 400
 Wailuku, Hawaii 96793
 Attention: Rick Kiefer
 Telephone: 242-4535

TB-200202338
 A2-204-0045

11 pgs

RS
 (2)

TITLE OF DOCUMENT:

SUPPLEMENTAL DECLARATION
 (Plantation Estates Lot 40-B)

PARTIES TO DOCUMENT:

DECLARANT: KAPALUA LAND COMPANY, LTD., a Hawaii corporation

OWNER: MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation

TAX MAP KEY(S): Maui 4-2-5-40 (This document consists of ___ pages.)

5073049.1.012139-00158

SUPPLEMENTAL DECLARATION
(Plantation Estates Lot 40-B)

THIS SUPPLEMENTAL DECLARATION (this "Declaration") is made this _____ day of FEB 26 2002, 2002, by **KAPALUA LAND COMPANY, LTD.**, a Hawaii corporation ("Declarant").

W I T N E S S E T H:

A. By the Declaration of Covenants, Conditions and Restrictions for Plantation Estates dated April 3, 1990, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-049432, Plantation Club Associates, a Hawaii general partnership, subjected certain lands that are described therein and known as the "Plantation Estates" subdivision to the covenants, conditions and restrictions contained therein. Said Declaration was amended by instrument dated January 26, 1999, recorded in said Bureau as Document No. 99-015944. Said Declaration, as heretofore and hereafter amended, is called the "Declaration".

B. By virtue of a General Partnership Dissolution Statement filed with the Department of Commerce and Consumer Affairs of the State of Hawaii on April 6, 1998, Plantation Club Associates was dissolved effective December 31, 1997.

C. Section 30 of the Declaration provides that "in the event of the dissolution or termination of [Plantation Club Associates], all of the rights, privileges, benefits, exceptions, and reservations contained herein in favor of [Plantation Club Associates] shall accrue and inure to the benefit of and be deemed automatically assigned, transferred, and conveyed to" Declarant.

D. As set forth in Section 21 of the Declaration, Plantation Club Associates reserved to itself, to its successors and assigns, to Declarant, and to Maui Land & Pineapple Company, Inc., a Hawaii corporation ("MLP"), the right to merge and annex nearby and adjoining parcels of land to Plantation Estates from time to time.

E. MLP is the owner of the subdivided lot that is more particularly described in Exhibit A attached hereto ("Lot 40-B").

F. Declarant desires to annex Lot 40-B to Plantation Estates as a "Lot" designated for sale to purchasers and use for limited agricultural and single-family residential purposes in accordance with the Declaration.


NOW, THEREFORE, Declarant hereby declares that Lot 40-B as described in Exhibit A is annexed to Plantation Estates as a "Lot" as defined in the Declaration, and that said Lot shall, at all times, be held, sold, conveyed, encumbered, owned, leased, occupied and improved subject to the covenants, conditions and restrictions set forth in said Declaration. The covenants, conditions and restrictions set forth in the Declaration shall run with Lot 40-B and shall be binding upon all persons acquiring any right, title or interest in and to said Lot, and shall inure to the benefit of the Declarant, the Plantation Estates Lot Owners' Association and each person who becomes an owner of any such interest, and each successor in interest of such owner.

AND MLP, as owner of the fee simple interest in Lot 40-B hereby joins in and consents to said annexation.

This Declaration shall be effective when it is recorded in the Bureau of Conveyances of the State of Hawaii.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed on the day and year first above written.

KAPALUA LAND COMPANY, LTD., a Hawaii corporation

By 
Robert M. McNatt
Its Vice President/Land Planning &
Development

"Declarant"

MAUI LAND & PINEAPPLE COMPANY,
INC., a Hawaii corporation

By Robert M. McNatt

Robert M. McNatt
Its Vice President/Land Planning &
Development

"MLP"

STATE OF HAWAII

)
) ss.
)

COUNTY OF MAUI

On this 26th day of February, 2002, before me personally appeared Robert M. McNatt, to me personally known, who, being by me duly sworn, did say that said person is the Vice President/Land Planning & Development of KAPALUA LAND COMPANY, LTD., a Hawaii corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.



Name: Lydia A. Toda
Notary Public, State of Hawaii

L.S.

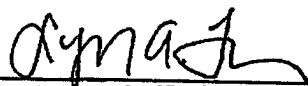
My commission expires: 11-17-2004

STATE OF HAWAII

COUNTY OF MAUI

)
) ss.
)

On this 26th day of February, 200²1, before me ✓
personally appeared Robert M. McNatt, to me personally known, who, being
by me duly sworn, did say that said person is the Vice President/Land
Planning & Development of MAUI LAND & PINEAPPLE COMPANY, INC., a
Hawaii corporation, and that said instrument was signed on behalf of said
corporation by authority of its Board of Directors, and the said officer
acknowledged said instrument to be the free act and deed of said corporation.



Name: Lydia A. Toda
Notary Public, State of Hawaii

My commission expires: 11-17-2014

L.S.

EXHIBIT A

The Plantation at Kapalua Description of Lot 40-B

Land situated on the easterly side of Honoapiilani Highway, F.A.P. No. RF-030-1(3) at Honolua and Honokahua, Lahaina, Maui, Hawaii

Being portions of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunailo and R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis

Beginning at a point at the northeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,605.14 feet North and 6,732.42 feet East and running by azimuths measured clockwise from True South:

1. 55° 52' 48.07 feet along the westerly side of Plantation Club Drive to a point;
2. Thence along same on a curve to the left having a radius of 979.00 feet, the chord azimuth and distance being:

 49° 21' 30" 221.93 feet to a point;
3. 42° 51' 133.07 feet along same to a point;
4. Thence along the northerly side of Plantation Estates Drive on a curve to the right with the point of curvature azimuth from the radial point being: 312° 51', and the point of tangency azimuth from the radial point being: 39° 09' 24", having a radius of 30.00 feet, the chord azimuth and distance being:

 86° 00' 12" 41.04 feet to a point;
5. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 219° 09' 24", and the point of tangency azimuth from the radial point being: 211° 18' 41", having a radius of 606.00

feet, the chord azimuth and distance being:

125° 14' 02.5" 82.91 feet to a point;

6. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 31° 18' 41", and the point of tangency azimuth from the radial point being: 118° 55' 58", having a radius of 30.00 feet, the chord azimuth and distance being:

165° 07' 19.5" 41.54 feet to a point;

7. 208° 55' 58" 339.15 feet along the easterly side of Honoapiilani Highway, F.A.P. No. RF-030-1(3) to a point;

8. 225° 45' 93.01 feet along Lot 41 of The Plantation at Kapalua (File Plan 2006) to a point;

9. 313° 30' 258.23 feet along the remainder of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo, being also along Lot 40-A of The Plantation at Kapalua to the point of beginning and containing an Area of 2.002 acres.

TOGETHER WITH AND SUBJECT TO, the following easement:

1. An Agricultural Easement 104-B (20 feet wide) over and across a portion of Lot 40-B of The Plantation at Kapalua and being more particularly described as follows:

Beginning at a point at the northeasterly corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,619.23 feet North and 6,717.56 feet East and running by azimuths measured clockwise from True South:

1. 55° 52' 43.68 feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunailo, being also over and across a portion of Lot 40-B of The Plantation at Kapalua;

2. Thence over and across same on a curve to the left having a radius of 999.00 feet, the chord azimuth and distance being:
 - 49° 21' 30" 226.47 feet;

3. 42° 51' 91.56 feet over and across same;

4. 132° 51' 20.00 feet over and across same;

5. 222° 51' 91.56 feet over and across same;

6. Thence over and across same on a curve to the right having a radius of 1,019.00 feet, the chord azimuth and distance being:
 - 229° 21' 30" 231.00 feet;

7. 235° 52' 39.29 feet over and across same;

8. 313° 30' 20.48 feet along the remainder of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunailo, being also along Lot 40-A of The Plantation at Kapalua to the point of beginning and containing an Area of 7,245 square feet, more or less.

SUBJECT, HOWEVER, to the following:

1. A Landscape Easement 66-A in favor of Plantation Estates Lot Owners Association and being more particularly described as follows:

Beginning at a point at the northwesterly corner of this easement, the coordinates of said point of beginning referred to Government Survey

Triangulation Station "HAWEA" being 1,454.11 feet North and 6,378.01 feet East and running by azimuths measured clockwise from True South:

1. 318° 39' 48" 70.54 feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo;
2. 42° 51' 23.12 feet over and across same;
3. 124° 43' 62.23 feet over and across same;
4. 210° 28' 40.00 feet over and across same to the point of beginning and containing an Area of 2,052 square feet, more or less.

2. A Landscape Easement 66-B in favor of Plantation Estates Lot Owners Association and being more particularly described as follows:

Beginning at a point at the southwesterly corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,474.26 feet North and 6,343.75 feet East and running by azimuths measured clockwise from True South:

1. 208° 55' 58" 73.91 feet along the easterly side of Honoapiilani Highway, F.A.P. No. RF-030-1(3);
2. 298° 55' 58" 39.74 feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo;
3. 28° 55' 58" 74.97 feet over and across same;
4. 120° 28' 39.75 feet over and across same to the point of beginning and containing an Area of 2,958 square feet, more or less.

3. An Electrical, Telephone and Cable Television Easement 59-A (10 feet wide) in favor of Maui Electric Co., Ltd., GTE Hawaiian Telephone Co. and Hawaiian Cablevision Co. and being more particularly described as follows:

Beginning at a point at the northeasterly corner of this easement, being also the northeasterly corner of the above described lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 1,605.14 feet North and 6,732.42 feet East and running by azimuths measured clockwise from True South:

1. 55° 52' 10.24 feet along the westerly side of Plantation Club Drive;
2. 133° 30' 256.43 feet over and across a portion of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo;
3. 225° 45' 10.01 feet along Lot 41 of The Plantation at Kapalua (File Plan 2006);
4. 313° 30' 258.23 feet along the remainder of L.P. 8129, L.C. Aw. 8559-B, Ap. 23 to Wm. C. Lunalilo, being also along Lot 40-A of The Plantation at Kapalua to the point of beginning and containing an Area of 2,574 square feet, more or less.

4. A portion of existing Landscape Easement 66 in favor of Plantation Estates Lot Owners Association.

5. An existing Electrical, Telephone and Cable Television Easement 58 in favor of Maui Electric Co., Ltd., GTE Hawaiian Telephone Co. and Hawaiian Cablevision Co.

6. A restriction of vehicular access rights along Honoapiilani Highway, F.A.P. No. RF-030-1(3) and along course number 8 of the above described lot.