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LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATIONS
(Kula Makai)

PARTIES TO DOCUMENT:

GRANTOR: KUKUI‘ULA DEVELOPMENT COMPANY (HAWAII), LLC,
a Hawaii limited liability company
2700 Ke Alaula Street, Suite B
Koloa, Kaua‘i, Hawaii 96756

GRANTEE: _____

PROPERTY DESCRIPTION:

Lot ____, Kukui‘ula Parcel A Subdivision, Phase I

LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATIONS
(Kula Makai)

THIS LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATIONS (Kula Makai) (this “**Deed**”) is made as of _____, _____, by and between **KUKUI‘ULA DEVELOPMENT COMPANY (HAWAII), LLC**, a Hawaii limited liability company (“**Grantor**”), the address of which is 2700 Ke Alaula Street, Suite B, Koloa, Kauai, Hawaii 96756, and _____ (“**Grantee**”), whose address is _____.

I. DEED

Grantor, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid to it by Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto Grantee, as [INSERT TENANCY] that certain real property (the “**Lot**”) described in Exhibit A attached hereto and shown on the plot plan attached hereto as Exhibit C (the “**Plot Plan**”), which Exhibit A and Exhibit C are incorporated into this Deed by reference; subject, however, to the covenants, conditions, reservations, easements, exceptions, and encumbrances set forth herein and in Exhibit A;

AND the reversions, remainders, rents, issues and profits of the Lot, together with all rights, easements, rights of way, rights of record, privileges and appurtenances held and enjoyed with the Lot, including the appurtenances described in Exhibit A, and all of the estate, right, title and interest of Grantor, both at law and in equity, in the Lot.

EXCEPTING AND RESERVING, HOWEVER, UNTO GRANTOR, its successors and assigns, all rights reserved unto Grantor as Declarant under the “**Community Charter**” and under the “**Covenant**,” both of which are defined in Exhibit A.

EXCEPTING AND RESERVING ALSO UNTO GRANTOR, its successors and assigns: (1) all easements and rights reserved by Grantor as Declarant under the Community Charter for access, utility, drainage and other purposes, (2) all easements and rights reserved by Grantor as Declarant under the Covenant, and (3) all easements and rights reserved by Grantor under the documents referenced in Exhibit A attached hereto.

EXCEPTING AND RESERVING ALSO UNTO GRANTOR, its successors and assigns, in Grantor’s sole and absolute discretion and without the consent or joinder of Grantee or anyone claiming by, through or under Grantee, the right to designate, grant, convey and dedicate additional easements as more particularly described in Section IV of this Deed.

SUBJECT, HOWEVER, TO: current real property taxes, special taxes (including the CFD Assessment as defined in Exhibit A) and other current assessments; patent reservations; all covenants, conditions, restrictions, reservations, easements and declarations, encumbrances, liens, obligations, liabilities or other matters which are set forth herein or in Exhibit A or other matters of record or to which reference is made in the public record; any and all conditions, easements, encroachments, rights-of-way, or restrictions which a physical inspection or accurate ALTA survey of the Lot would reveal; all items shown or referred to on the Plot Plan; and the applicable zoning and use regulations of any municipality, county, state, or the federal government affecting the Lot.

TO HAVE AND TO HOLD the same unto Grantee forever, subject, however, to the encumbrances mentioned in this Deed, including Exhibit A.

In consideration of the premises, Grantor does hereby covenant with Grantee that Grantor has good right to sell and convey the Lot unto Grantee as aforesaid, and that the Lot is free and clear of and from all encumbrances made or suffered by Grantor, excepting the lien of real property taxes, special taxes and other assessments that are assessed for the current fiscal year but not yet due, and further excepting any and all exceptions, reservations and encumbrances created by or referred to in this Deed and/or in Exhibit A, and that Grantor will warrant and defend the title of the Lot against any and all encumbrances made or suffered by Grantor, except as described herein.

II. COVENANTS AND RESTRICTIONS

Grantee, for itself, its heirs, devisees, personal representatives, successors, successors in trust and assigns, does hereby make the following covenants and agreements, as covenants running with the land:

1. Compliance with the Community Charter, Governing Documents, and Covenant. Grantee agrees to observe, perform, comply with, and abide by all of the covenants, conditions, restrictions, and provisions contained in the Community Charter, the Covenant, and the “**Governing Documents**” described in the Community Charter (which includes the Community Charter and the Covenant), and to pay so long as Grantee owns the Lot, all dues, assessments and impositions as therein required. Thereafter, all subsequent owners of the Lot shall observe and perform all of the terms and conditions contained in this Deed, the Community Charter, the Governing Documents, and the Covenant, and to pay all dues, assessments, and impositions as required in any of said documents whether or not the deed or other instrument conveying the Lot to such owner contains a covenant of the owner to so observe and perform.

2. Condition of Lot. Except for the limited warranties of title set forth above, Grantee agrees that (a) it is purchasing the Lot on an “AS IS” basis, and (b) Grantor is not making, and has not made, any express or implied warranties as to the future value, quality or saleability of the Lot.

3. Domestic Water Service to Lot. Domestic water service to the Lot will not be available until the required construction improvements for the Kukui‘ula Parcel A Subdivision, Phase I are completed and accepted by the Department of Water, County of Kaua‘i.

4. No Additional Dwelling Unit. The Grantee acknowledges and agrees that no “Additional Dwelling Unit” (as the term is defined by the Comprehensive Zoning Ordinance of the County of Kaua‘i) shall be permitted on the Lot.

III. NEARBY AGRICULTURAL ACTIVITIES.

Grantee, for itself, and Grantee’s heirs, devisees, personal representatives, successors, successors in trust and assigns, as applicable, hereby acknowledges and confirms that Grantor has advised and disclosed that the Lot and the Kukui‘ula Parcel A Subdivision, Phase I (the “**Subdivision**”) are adjacent to, nearby or in the general vicinity of lands that were, are or in the future may be actively used for the growing, harvesting and/or processing of sugarcane, coffee and other agricultural products (collectively, the “**Agricultural Activities**”), which Agricultural Activities may from time to time result in smoke, dust, noise, heat, agricultural chemicals, particulates and/or similar substances and nuisances (collectively the “**Agricultural By-Products**”) being brought upon the Subdivision and the Lot. The foregoing acknowledgement and confirmation of disclosure shall constitute a covenant running with the land.

Further, the aforesaid acknowledgement and confirmation of disclosure regarding Agricultural Activities and the resulting Agricultural By-Products shall be binding upon, and all references to the “Grantee” shall mean Grantee, and Grantee’s heirs, devisees, personal representatives, successors, successors in trust and assigns, as applicable, and all persons or entities now or hereafter acquiring any right, title or interest in or to the Lot or occupying all or any portion of the Lot. By accepting any right, title or interest in the Lot or by occupying all or any portion of the Lot, Grantee and each such other person automatically shall be deemed to have received the aforesaid disclosure regarding Agricultural Activities on the adjacent and nearby lands and of the resulting Agricultural By-Products arising from such Agricultural Activities.

[For Lot N only, include Bill of Sale:]

IV. BILL OF SALE AND COVENANTS REGARDING RETAINING WALL

Grantor does hereby quitclaim, transfer, and deliver unto Grantee the grade adjustment retaining wall constructed along the south and west portions of the Lot (the “**Retaining Wall**”). Grantee accepts the Retaining Wall in “AS IS, WHERE-IS” condition, with all faults, obligations and liabilities related to the Retaining Wall, without any express or implied representation or warranty of any nature whatsoever, all of which Grantor hereby disclaims and negates, including without limitation, any express or implied warranty as to merchantability or fitness for a particular purpose. Grantee assumes all risk of damage to property and bodily injury or death to persons arising out of or related to the Retaining Wall or the construction of a home on the Lot. Grantee hereby waives all claims which Grantee or any party claiming through or under Grantee may have, now or later, against Grantor, its successors and assigns, and their respective affiliates, members, executives, principals, officers, employees, agents, contractors, and representatives (collectively, “**Grantor Parties**”), for any such damage, injury or death. Grantee shall indemnify, defend and hold harmless Grantors and all Grantor Parties from and against all claims, demands, actions, losses, damages, liabilities, costs and expenses, including, without limitation, attorneys’ fees and costs, asserted against, incurred or suffered by Grantors or the Grantor Parties, which, directly or indirectly, arise out of, are caused or occasioned by, or result from: (i) any acts or omissions of Grantee or anyone claiming, by, through or under Grantee, in the construction on, and maintenance, repair, operation and use of, the Lot and the Retaining Wall; and (ii) any breach or failure to observe or perform any of the Grantee’s covenants or obligations set forth in this Deed.]

V. RESERVATIONS IN FAVOR OF GRANTOR

1. Temporary Construction Easement. Grantor hereby reserves unto itself and its successors and assigns, Grantor’s sole and absolute discretion and without the consent or joinder of Grantee or anyone claiming by, through or under Grantee, a temporary construction easement upon the Lot effective immediately following the recordation of this Deed, to allow for use of the Lot by Grantor and its successors and assigns for the purposes, and subject to the terms and limitations, set forth in Exhibit B attached hereto, which Exhibit B is incorporated into this Deed by reference.

2. File Plan. Grantee agrees that Grantor reserves the right and may seek approval, without the consent or joinder of Grantee, to show all or a portion of the Subdivision, including the Lot, on a file plan in which case a metes and bounds description for the Lot and the other lots shown on the file plan will be replaced by the file plan description. Grantee further agrees that, although unlikely, minor (de

minimis) corrections to the metes and bounds description of the Lot may be required in such file plan approval process.

3. Right to Designate and Grant Additional Easements, and to Consolidate and/or Resubdivide. Grantor hereby reserves unto itself and its successors and assigns, in Grantor's sole and absolute discretion and without the consent or joinder of Grantee or anyone claiming by, through or under Grantee, to exercise Grantor's reserved rights, including the right to designate and grant to the State of Hawaii, the County of Kauai, Kukui'ula Community Association (as identified in the Community Charter), The Club at Kukui'ula (as identified in the Covenant), or other appropriate governmental agency or to any public or private utility or other corporation, partnership, individual or entity, additional easements for access, maintenance, landscaping, wall, sanitary sewer, drainage, signage, gasline, electrical, gas, cable television, communications, other utility facilities, and mailbox purposes, over, under, along, across, or through the Lot (including, without limitation, easements set forth on the Plot Plan) under the usual terms and conditions required by the grantee or holder of such easement rights and under such other terms and conditions as may be more particularly described in the Community Charter. Without limiting the foregoing or anything else in the Community Charter, Grantor further reserves unto itself and its successors and assigns, in Grantor's sole discretion and without the consent or joinder of Grantee or anyone claiming by, through or under Grantee, to subdivide, and/or consolidate and resubdivide, any roadway lot upon which an easement appurtenant to the Lot is located.

4. Power-of-Attorney. If Grantor elects to have Grantee give or join in such grants, documents, and instruments, Grantee hereby irrevocably appoints Grantor (and, if applicable, the Lot's mortgagees) as Grantee's attorney-in-fact to execute such grants, documents and instruments, to record the same, and do all other things necessary to effectuate Grantor's reserved rights. This power-of-attorney is coupled with an interest, is irrevocable and shall not be affected by the disability of any such party. Notwithstanding such appointment, if Grantor elects not to execute such grants, documents, and instruments as attorney-in-fact for Grantee, then Grantee shall, promptly upon Grantor's request and for no additional consideration, join in and execute such grants, documents and instruments to effectuate the exercise of such reservations as may be requested by Grantor. The acquisition of any interest in the Lot by Grantee or by any other person shall constitute a grant of the aforesaid power of attorney and consent to the execution, delivery and recording of such grants, documents, and instruments as may be necessary or convenient to effect the foregoing actions and agreements and do such other things as may be necessary or desirable to accomplish the same.

VI. MISCELLANEOUS

1. Grantor and Grantee. This conveyance and the covenants of Grantor shall be binding upon Grantor and Grantor's successors and assigns, and shall run in favor of and inure to the benefit of Grantee and Grantee's heirs, devisees, personal representatives, successors, successors in trust and assigns, as applicable. The covenants and agreements of Grantee and the rights and reservations of Grantor shall run with the land described in Exhibit A attached hereto, shall be binding upon Grantee and Grantee's heirs, devisees, personal representatives, successors, successors in trust and assigns, as applicable, and shall run in favor of and inure to the benefit of Grantor and Grantor's successors and assigns.

2. Enforcement. The violation or breach of any of the covenants, conditions, agreements or restrictions contained herein shall give Grantor the right, but not the obligation, to prosecute a proceeding at law or in equity against Grantee or the then owner of the Lot to prevent or enjoin Grantee from violating or breaching any of the covenants, conditions, agreements or restrictions, or to cause said violation or breach to be remedied, or to recover damages or other remedies available for such violation

or breach. In any legal or equitable proceeding for the enforcement of or to restrain the violation or breach of any provision herein or to obtain damages or other suitable remedy, the prevailing party shall be entitled to recover such attorneys' fees and costs as may have been incurred in enforcing or defending its rights hereunder.

3. Counterparts; Completion of Blanks. The parties hereto agree that this Deed may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatories to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this Deed, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document. The parties agree that the person or company recording or arranging for the recordation of this Deed is authorized to complete any blanks contained in this Deed with, among other information, the applicable number of pages, dates, recordation information, and addressees, whether before or after this Deed has been notarized by a notary public, and in no event shall completion of any such blanks be deemed an alteration of this Deed by means of the insertion of new content.

[Remainder of page intentionally left blank; signatures on following page.]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed as of the date first written above.

GRANTOR:

GRANTEE:

KUKUI'ULA DEVELOPMENT COMPANY
(HAWAII), LLC, a Hawai'i limited liability
company

By: _____

Name:

Title:

[Notarial Acknowledgments to be added.]

KUKUI'ULA PARCEL A SUBDIVISION, PHASE I

LOT ____

EXHIBIT A

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 6714, Land Commission Award Number 7714-B, Apana 2 to M. Kekuaiwa no M. Kekuanaoa, and Royal Patent Number 4512, Mahele Award 43 to J.Y. Kanehoa, situate at Koloa (Makai) and Lawa'i, Koloa, Island and County of Kauai, State of Hawaii, being LOT ____ of the Kukui'ula Parcel A Subdivision, Phase I (the "**Lot**"), containing an area of _____ acres, more or less, being more specifically described as follows:

INSERT LEGAL DESCRIPTION HERE

Said above described parcel of land being a portion of property acquired as follows:

1. By LIMITED WARRANTY DEED dated March 31, 2003, recorded in the Bureau of Conveyances of the State of Hawaii (sometimes referred to herein as the "Bureau") as Document No. 2003-058405, between KDC, LLC, a Hawaii limited liability company, as grantor, and KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company, as the grantee; and
2. By LIMITED WARRANTY DEED dated March 31, 2005, recorded in the Bureau as Document No. 2005-062345, between MCBRYDE SUGAR COMPANY, LIMITED, a Hawaii corporation, and ALEXANDER & BALDWIN, INC., a Hawaii corporation, as grantors, and KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company, as the grantee.

TOGETHER WITH THE FOLLOWING:

1. The easements, rights, privileges and appurtenances in favor of the Lot as set forth in the Community Charter subject, however, to the terms and conditions of the Community Charter, including, without limitation, easements for ingress, egress, and access purposes (including vehicular and pedestrian access) and for underground utility purposes on, over, under, and across the following premises: Lots 15 and 16 of Kukui'ula Large Lot Subdivision III and Lot X of Kukui'ula Parcel A Subdivision, Phase I (collectively known as Ala Kukui'ula), Lot Y of Kukui'ula Parcel A Subdivision, Phase I (known as Makani Kai Street), and Lot Z of Kukui'ula Parcel A Subdivision, Phase I (known as Noho Kai Street).
2. Such designated easements as are required to serve the access, utility and drainage needs of the Lot, including, without limitation, those applicable easements referenced generally and specifically in the Community Charter, to be used in common with others entitled thereto, subject, however, to the terms and conditions of the Community Charter.

Note: Lots 18 and 19 of Kukui'ula Large Lot Subdivision III (also known as Ala Kalanikaumaka and as Western Bypass Road) were dedicated to the County of Kauai pursuant to that certain Dedication Deed recorded in the Bureau on November 25, 2013, as Document No. A-50770705.

SUBJECT, HOWEVER, TO:

1. Reservation in favor of the State of Hawaii of all oil, gas, mineral and metallic rights.
2. Reservation in favor of Grantor (and its predecessors in interest) of all water rights.
3. Deed dated March 31, 2003, recorded in the Bureau as Document No. 2003-058405.
4. Declaration of Conditions dated November 4, 2003, recorded in the Bureau as Document No. 2003-244116.
5. Limited Warranty Deed dated March 31, 2005, recorded in the Bureau as Document No. 2005-062345.
6. Agreement dated November 9, 2004, recorded in the Bureau as Document No. 2005-080268.
7. Right of Entry Agreement dated July 25, 2005, recorded in the Bureau as Document No. 2005-206940.
8. The terms and provisions contained in the Community Charter for Kukui‘ula dated May 8, 2006 and recorded in the Bureau as Document No. 2006-088739, as amended and restated by instrument dated August 5, 2015, recorded in the Bureau as Document No. A-56951009, as supplemented by instrument dated _____, recorded in the Bureau as Document No. _____ (the Kula Makai Supplement to the Community Charter) and as may be further amended, amended and restated, and/or supplemented from time to time (collectively, the “**Community Charter**”).
9. The terms and provisions contained in Covenant for the Club at Kukui‘ula dated May 8, 2006 and recorded in the Bureau as Document No. 2006-088740, as amended and restated by instrument dated August 5, 2015, recorded in the Bureau as Document No. A-56951010, as supplemented by instrument dated _____, recorded in the Bureau as Document No. _____ (the Kula Makai Supplement to the Covenant), as may be further amended, amended and restated, and/or supplemented from time to time (collectively, the “**Covenant**”).
10. Declaration acknowledged September 8, 2006, recorded in the Bureau as Document No. 2006-170244.
11. Kukui‘ula Trail System Declaration dated February 28, 2008, recorded in the Bureau as Document No. 2008-034082.
12. Certificate of Formation of County of Kaua‘i Community Facilities District No. 2008-1 (Kukui‘ula Development Project) dated September 22, 2010, recorded in the Bureau as Document No. 2010-143092 (the “**CFD Assessment**”).
13. Right of Entry Agreement For TMK: (4) 2-6-15:001, dated May 19, 2006, recorded in the Bureau as Document No. 2006-206414.
14. Short Form Memorandum of Development Agreement dated February 23, 2010, recorded in the Bureau as Document No. 2010-037139.

15. The terms and provisions set forth in the Deed to which this Exhibit A is attached, including without limitation, the acknowledgment by the Grantee that domestic water service to the Lot will not be available until the required construction improvements for the Subdivision are completed and accepted by the Department of Water of the County of Kauai.
16. (a) Easement(s) _____ for _____ purposes as described in _____;
- (b) Easement(s) _____ for _____ purposes as described in _____;
- (c) Easement(s) _____ for _____ purposes as described in _____;

[Encumbrances shown in the Public Offering Statement for the Kukui‘ula Parcel A Subdivision, Phase I (the “Public Offering Statement”) or listed in a title commitment covering the Lot. They may include the following:]

17. Declaration of Restrictive Covenants and Grant of View Protection and Building Setback Easements, effective February 23, 2010, recorded in the Bureau as Document No. 2010-037140 (as to Lots S and T).
18. Encroachments which would be shown on a correct survey, including, without limitation, such encroachments as shown on the Plot Plan.
19. Terms, provisions, reservations, covenants, conditions and restrictions set forth in the Limited Warranty Deed with Covenants and Reservations (Parcel A) to which this Exhibit A is attached.

END OF EXHIBIT A

EXHIBIT B

TEMPORARY CONSTRUCTION EASEMENT

Grantor hereby reserves an easement upon the Lot effective following the recordation of the Deed to which this Exhibit B is attached, to allow for use of the Lot by Grantor and its successors and assigns for the following purposes, subject to the limitations set forth in this easement:

(a) To facilitate construction of subdivision improvements, including without limitation grading, road work, utilities, drainage, and water and sewer facilities, and retaining walls and driveway improvements within the Kukui‘ula Parcel A Subdivision, Phase I; and

(b) If applicable, locating construction materials, construction equipment and contractor’s vehicles during grading and construction of Subdivision Improvements.

While Grantor or its successors or assigns are exercising rights granted in this easement, they shall (i) employ effective dust control procedures; (ii) secure, maintain in effect and comply with all permits necessary for the intended activities in or about the Lot; (iii) conduct all maintenance, repairs, refueling and similar activities concerning construction vehicles and construction equipment off the Lot; (iv) not bring onto the Lot any hazardous materials; and (v) comply with all applicable laws, rules and regulations pertaining to all such intended activities in or about the Lot. Grantor shall have no other responsibility for maintenance of the Lot during the term of this easement.

Unless earlier terminated by written agreement executed by Grantor and Grantee, this easement and all rights and obligations provided herein (except as otherwise specifically provided herein) shall automatically terminate, with no further action, on the Subdivision Improvements are completed. Notwithstanding the foregoing, at any time after such date, Grantee may request that Grantor execute, acknowledge and deliver to Grantor for recording, an instrument evidencing the termination of this easement, and Grantor shall do so promptly upon such request.

Grantor shall indemnify, defend and hold harmless Grantee for, from and against all claims, losses or damages sustained by or made or threatened against Grantee which result from or arise out of or in connection with Grantor’s exercise of the easement rights granted herein, including without limitation claims which result from or arise out of or in connection with any work, occurrence, conduct, act, error or omission (whether or not negligent or in violation of any applicable law, rule, regulation or order) maintained, performed, permitted or suffered by Grantor, or any representative, contractor, subcontractor or supplier of Grantor on or about the Lot. The foregoing indemnification obligations of Grantor shall survive any termination or expiration of this easement.

The provisions of this easement are not intended to and do not constitute a dedication for public use of the easement, and the rights herein created are private and for the benefit only of Grantor, its successors and assigns. All provisions of this easement, including the benefits and burdens, run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

The easement rights granted herein are in addition to and shall not modify in any manner the other rights reserved to Grantor in the Deed, nor any rights and benefits granted in the Governing Documents for Kukui‘ula, as described in the Community Charter for Kukui‘ula, as amended.

This reserved easement shall be governed by and construed in accordance with the laws of the State of Hawaii and shall be given a reasonable construction so that the intention of the parties (including without limitation the intention of the parties to confer usable easement rights upon Grantor) is implemented. This easement may be amended, modified or revoked only by recording a written instrument reciting such revocation or amendment, bearing the acknowledged signatures of both parties hereto, or their successors and assigns.

END OF EXHIBIT B

EXHIBIT C
Plot Plan