

LAND COURT

REGULAR SYSTEM

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SETTLE MEYER LAW
A Limited Liability Law Company
900 Fort Street Mall, Suite 1800
Honolulu, Hawaii 96813
Phone: (808) 534-4434

TITLE OF DOCUMENT:

**UNIT DEED WITH RESERVATIONS AND USE, SALES AND TRANSFER RESTRICTIONS
AND SHARED APPRECIATION EQUITY (“SAE”) PROGRAM AGREEMENT**
(HHFDC Restricted Unit)

PARTIES TO DOCUMENT:

“GRANTOR”: **PUMEHANA HUI LP**, a Hawaii limited partnership, with a mailing address of 770 Kapiolani Boulevard, Suite 200, Honolulu, Hawaii 96813

“GRANTEE”: **NAME**, status, with a mailing address

TMK No. _____ CPR No. _____

Unit No. _____

Undivided Interest: 0.____%

No. of Pages _____

**UNIT DEED WITH RESERVATIONS AND USE, SALES AND TRANSFER RESTRICTIONS
AND SHARED APPRECIATION EQUITY PROGRAM AGREEMENT**
(HHFDC Restricted Unit)

THIS UNIT DEED WITH RESERVATIONS AND USE, SALES AND TRANSFER RESTRICTIONS AND SHARED APPRECIATION EQUITY PROGRAM AGREEMENT, made this ___ day of _____, 201__, by and between **PUMEHANA HUI LP**, a Hawaii limited partnership, with a mailing address of 770 Kapiolani Boulevard, Suite 200, Honolulu, Hawaii 96813 (hereinafter called "Grantor"), and **[TBD]**, a/an **[TBD]**, whose address is **[TBD]** (hereinafter called "Grantee").

WITNESSETH:

That the Grantor, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, receipt of which are hereby acknowledged, and of the promises and covenants hereinafter set forth and on the part of the Grantee to be faithfully observed and performed, does hereby grant, bargain, sell, and convey, forever, unto the Grantee, as **[TBD]**, its heirs, devisees, personal representatives, successors and assigns, the following described real property (the "Property") and the reversions, remainders, rents, issues, and profits thereof and all of the estate, title and interest of Grantor, both at law and in equity, therein and thereto;

The Property hereby conveyed comprises a portion of the `Ohana Hale Condominium Project (the "Project"), as established by that certain Declaration of Condominium Property Regime of `Ohana Hale dated December 11, 2018, recorded at the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("Land Court") as Document No. T-10572363A thru T-10572363B, as may be amended from time to time (the "Declaration"). The Project consists of that certain land situate at Honolulu, City and County of Honolulu, State of Hawaii, and more particularly described in the Declaration and in **Exhibit A** attached hereto, which description is incorporated herein by this reference, together with the improvements located thereon, as more particularly described in the Declaration. The portion of the Project constituting the Property hereby conveyed is more particularly described as follows:

FIRST: Unit No. **[TBD]** (hereinafter called the "Unit") of the Project as more fully described in and established by the Declaration and as shown on Condominium Map No. 2424 recorded in the Land Court (the "Condominium Map"), together with the limited common elements and rights and easements appurtenant thereto and as described in the Declaration; subject, however, to the rights and easements excepted and reserved in the Declaration.

SECOND: An undivided **[TBD]** % interest as tenant in common with the Grantor, its successors and assigns, and the holders from time to time of other undivided interests in and to the common elements of the Project, including the Property, as more fully described in the Declaration and in said **Exhibit A**, subject to the

restriction that it may not be transferred or assigned separately and apart from the Unit; and,

SUBJECT, to the encumbrances set forth in said **Exhibit A**.

TO HAVE AND TO HOLD the same unto Grantee, according to the tenancy and estate hereinabove set forth, as to the Unit and said undivided interest, together with all rights, easements, privileges, and appurtenances belonging or appertaining or held and enjoyed therewith unto the Grantee, absolutely and in fee simple, and as to the personal property described in said **Exhibit A**, if any, absolutely and forever.

The Grantor hereby covenants that the Grantor is lawfully seized in fee simple of said property and rights and has good right to sell and convey the same as aforesaid and that the same is free and clear of and from all encumbrances except as herein mentioned; that the Grantor is the sole and absolute owner of said personal property, if any, described in said **Exhibit A** and that the Grantor's title thereto is free and clear of and from all encumbrances; and that the Grantor will WARRANT and DEFEND the same unto Grantee, forever, against the lawful claims and demands of all persons claiming through Grantor, except as herein set forth.

Grantee hereby understands and agrees that the Property is being conveyed "**AS IS, WHERE IS AND WITH ALL FAULTS,**" and except for the warranty of title set forth herein, Grantor has not made and does not make any warranties and representations of any kind, express or implied, as to the conditions, merchantability, habitability, workmanlike construction or state of repair of the Property (including, without limitation, the roof, walls, foundations, soils, plumbing, electrical and mechanical systems, etc., located on, in or above the Property) or the fitness of the Property for any particular purpose, as to the soil condition (including, without limitation, suitability, stability, composition and drainage), the likelihood of appreciation in value of the Property, the existence of gaps, gores or encroachments or violations of easements, building setbacks or building restrictions, or as to the compliance of the Property with any applicable county, state or federal statute, ordinance, rule or regulation or as to any other matter whatsoever to the Property. GRANTEE ACCEPTS ALL RISKS OF ANY DEFECTS OR DEFICIENCIES IN THE PROPERTY, WHETHER KNOWN OR UNKNOWN, AND GRANTEE ACKNOWLEDGES THAT, EXCEPT FOR SAID WARRANTY OF TITLE, GRANTOR MAKES NO EXPRESS WARRANTIES OF ANY KIND AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF ANY NATURE WHATSOEVER PERTAINING TO THE PROPERTY. Grantee hereby acknowledges that Grantor is not responsible for any latent defects or defects which time may reveal with respect to the Property, and for injury to persons or property arising from any such defects. The "AS IS" covenants contained in this paragraph shall not run with the Property.

The Grantee does hereby covenant and agree for the benefit of the owners from time to time of all other units in the Project, to at all times observe, perform, comply with, and abide by all the covenants, agreements, obligations, conditions, and other provisions set forth in the Declarations, Bylaws of the Association of Unit Owners of `Ohana Hale dated as of December 11, 2018, recorded in the Land Court as Document No. T-10572364 ("**Bylaws**"), as the same exist or may hereafter be amended in accordance with the law and does hereby accept and approve the Declaration and Bylaws and Grantee will indemnify and save harmless Grantor for any failure to observe and perform any such terms, covenants, conditions, agreements, obligations and restrictions for so long as the Declaration and Bylaws exist and are in effect. The covenants of Grantee herein contained shall run with the Property.

AND IT IS HEREBY AGREED BY AND AMONG THE PARTIES HERETO AS FOLLOWS:

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

B. HHFDC USE, SALE AND TRANSFER RESTRICTIONS. The Grantee, for the Grantee, the Grantee's heirs, personal representatives, successors and assigns, does hereby covenant and agree, as a covenant running with the land, that until the tenth anniversary of the date of recordation of this instrument conveying the Property to the Grantee (at which date such covenant shall automatically terminate and be of no further force and effect without the necessity of filing a release), or until released by HHFDC, whichever shall first occur, the Property shall be held subject to the 10-year provisions of Sections 201H-47, 48, 49, 50 and 51 of the Hawaii Revised Statutes, as amended, relating to HHFDC's first option to purchase the Property, also known as the Buyback Program (the "HHFDC's Use, Sale and Transfer Restrictions"), a current copy of which is attached as Exhibit "B" hereto and made a part hereof, and Grantee, for the Grantee, and the Grantee's heirs, personal representatives, successors and assigns, does hereby further covenant and agree, as a covenant running with the land, to and with HHFDC and its successors and assigns that until the HHFDC's Use, Sale, and Transfer Restrictions are released by the HHFDC or until the HHFDC's Use, Sale and Transfer Restrictions lapse by its own terms, whichever shall first occur, to: (a) observe and perform all covenants, terms and conditions contained in the HHFDC's Use, Sale and Transfer Restrictions, (b) take all necessary actions to make all conveyances of the Property subject to HHFDC's Use, Sale and Transfer Restrictions, (c) require that each conveyance of the Property shall incorporate the HHFDC's Use, Sale and Transfer Restrictions and shall contain the covenant of the Grantee thereunder to observe and perform the HHFDC's Use, Sale and Transfer Restrictions, (d) not sell the Property to any person who does not have a bona fide intent to reside on the Property, (e) not sell the Property to any person who is not a "qualified resident", as that term is defined in Chapter 201H of the Hawaii Revised Statutes, and obtain HHFDC's written approval thereof, (f) take all actions necessary to insure that any subsequent sale or transfer of the Property be to a "qualified resident" and that HHFDC's written approval thereof be obtained. Grantee further covenants and agrees that the "Corporation" referred to in Exhibit "B" is the HHFDC herein and that the "Original Cost to the Purchaser" referred to therein is \$ _____ and that the ten (10) year period of restriction shall be effective from the date of recordation of this deed.

C. GRANTEE'S OBLIGATION TO HHFDC'S SHARED APPRECIATION EQUITY (SAE) PROGRAM AGREEMENT. The Grantee, for the Grantee, the Grantee's heirs, personal representatives, successors and assigns, does hereby further covenant and agree, as a covenant running with the land, to and with HHFDC, its successors and assigns, that until such restrictions are released by HHFDC or until such restrictions expire by the terms of the Grantee's Agreement to Pay HHFDC a Share of the Net Appreciated Value of the Property ("Shared Appreciation Equity (SAE) Program Agreement") as set forth in Exhibit "C" attached hereto, which Exhibit "C" by this reference is hereby explicitly made a part hereof and

incorporated herein, the covenants, terms and conditions contained in said Exhibit "C" being herein referred to as the "SAE Program Agreement", whichever shall first occur, to (a) observe and perform all covenants, terms and conditions of the SAE Program, (b) take all necessary actions to make all conveyances of the Property subject to the restrictions of the SAE Program Agreement, (c) require that each conveyance of the Property shall incorporate the SAE Program Agreement and shall contain the covenant of the grantee thereunder to observe and perform the terms, covenants and restrictions of the SAE Program Agreement, and (d) agree and state that the Grantee's Original Purchase Price referred to in Exhibit "C" is \$_____.

D. GRANTOR'S RESERVED RIGHTS. Grantee acknowledges and agrees that under the terms of the Declaration, Grantor reserved rights and powers, including without limitation those set forth in Article 13 of the Declaration ("Development Rights"). Grantee irrevocably consents to the exercise of the Development Rights by Grantor and Grantor's successors and assigns, and Grantee irrevocably appoints as Grantee's attorney-in-fact to do all things reasonably necessary or convenient to effectuate Grantor's exercise of the Development Rights as set forth in paragraph E below. In particular, Grantee understands and agrees that, pursuant to the Declaration, the Grantor has the right for any reasonable purpose to designate, grant, convey, transfer, cancel, relocate, and otherwise deal with any easements over, under, across or through the common elements of the Project, has the right to accept any easements for ingress to and egress from the Project over, under, across, or through portions of the Property subject to withdrawal from the Project pursuant to the Declaration and to incorporate such easements into the common elements of the Project, and has the right for any reasonable purpose to transfer, cancel, relocate or otherwise deal with any easement over, under, across, or through any lands adjacent to or across the street from the Project, which may be appurtenant to the Property. The Grantee consents to the foregoing rights and undertakes and agrees to join in any such act or thing done pursuant to the foregoing reserved rights and to execute any document or instrument necessary or appropriate, as determined in the sole and absolute discretion of the Grantor, to effect the same, and the Grantee hereby irrevocably appoints the Grantor the true and lawful attorney of the Grantee, in the Grantee's name, place, and stead, to execute, acknowledge, deliver, and record such documents and instruments. Said power of attorney, being coupled with an interest, is irrevocable for the term of said reserved rights.

E. SPECIAL POWER OF ATTORNEY. To enable the Grantor to exercise the rights reserved to the Grantor herein and as the Developer in the Declaration, THE GRANTEE HEREBY IRREVOCABLY APPOINTS THE GRANTOR AS THE GRANTEE'S SPECIAL ATTORNEY-IN-FACT WITH FULL POWER OF SUBSTITUTION TO EXECUTE ALL SUCH DOCUMENTS AND DO ALL SUCH OTHER THINGS ON THE GRANTEE'S BEHALF AS MAY BE DONE BY THE GRANTOR IN THE REASONABLE EXERCISE OF THE RIGHTS RESERVED TO THE GRANTOR HEREIN AND IN THE DECLARATION, WHICH GRANT OF SUCH POWER, BEING COUPLED WITH AN INTEREST, IS IRREVOCABLE AND SHALL NOT BE AFFECTED BY THE DISABILITY OF THE GRANTEE OR ANY ONE OF THEM IF THERE BE MORE THAN ONE, AND THE GRANTEE HEREBY FURTHER AGREES UPON THE REQUEST OF THE GRANTOR TO EXECUTE SUCH OTHER DOCUMENTS AND DO SUCH OTHER THINGS AS MAY BE REASONABLY NECESSARY OR CONVENIENT TO EFFECT SAME.

The rights and obligations of Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. All obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention shall be clearly expressed elsewhere

herein. Without limiting the generality of the foregoing, each and every acknowledgment, acceptance, appointment, agreement and covenant of Grantee herein shall run with the land and constitute an equitable servitude and lien, and is made by Grantee for Grantee and on behalf of Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. Each and every person hereafter acquiring from Grantee or Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust or assigns, an interest in the property hereby conveyed, by such acquisition, makes said acknowledgments, acceptances, appointments, agreements and covenants for such person and for such person's estate, heirs, devisees, personal representatives, successors, successor-in-trust and assigns.

The exhibits attached to this instrument are incorporated herein by reference. This instrument together with the exhibits, constitutes the full and complete agreement of the parties and all other prior oral and written agreements shall be deemed to have merged into this instrument and have no further force or effect, except as expressly stated therein.

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

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

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

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

(The remainder of this page is intentionally left blank)

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

GRANTOR:

PUMEHANA HUI LP,
a Hawaii limited partnership

By: MJF Development Corporation, a
California corporation, its General Partner

By _____
Franco J. Mola
Its President

GRANTEE:

Name

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this _____ day of _____, 201____, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public, State of Hawai'i
Printed Name: _____
My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____

Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this _____ day of _____, 201____, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public, State of Hawai'i
Printed Name: _____
My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____

Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

EXHIBIT A

Property Description

-FIRST:-

Unit No. [TBD] ("Unit") of that certain condominium project known as "OHANA HALE" (the "Project"), as described in that certain Declaration of Condominium Property Regime of `Ohana Hale dated December 11, 2018, recorded in the Office of the Assistant Registrar, Land Court, State of Hawaii ("Land Court") as Document No. T-10572363A thru T-10572363B, as the same may be amended from time to time ("Declaration"), and shown on the plans thereof filed as aforesaid as Condominium Map. No. 2424 (the "Condominium Map").

TOGETHER WITH those easements appurtenant to the Unit as set forth in the Declaration, which may include:

- (a) Exclusive easements in the Limited Common Elements of the Project which are described in the Declaration as being appurtenant to the Unit.
- (b) Nonexclusive easements in the Common Elements designed for such purposes as ingress to, egress from, utility services for and support, maintenance and repair of such Unit; in the other Common Elements for use according to their respective purposes; and in all other Units of said Project for support.

-SECOND:-

An undivided [TBD] % interest in all Common Elements of the Project as established by the Declaration, including the land described in the Declaration, or such other interest as hereafter established for the Unit by any amendment of the Declaration, as tenant in common with the holders of other undivided interests in and to said Common Elements.

The land upon which the Project is located is described as follows:

-PARCEL FIRST:-

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

LOT 3, BLOCK 3 of the "McCULLY TRACT", area 7,200 square feet, more or less, more or less, as shown on Map 4, filed in the Land Court with Land Court Application No. 279 (amended) of Guardian Trust Company, Limited;

-PARCEL SECOND:-

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

LOT 4, BLOCK 3 of the "McCULLY TRACT", area 7,200 square feet, more or less, more or less, as shown on Map 4, filed in the Land Court with Land Court Application No. 279 (amended) of Guardian Trust Company, Limited;

Being land(s) described in Transfer Certificate of Title No. 1,057,358 issued to PUMEHANA HUI LP, a Hawaii limited partnership.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR : KAWAMURA FAMILY PARTNERS, LLC, a Hawaii limited liability company

GRANTEE : PUMEHANA HUI LP, a Hawaii limited partnership

DATED : March 8, 2013

FILED : Land Court Document No. T-8474242

SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Easement for drainage through an unobstructed water course crossing Course 45, as shown on Map 1, and set forth in Original Certificate of Title No. 593.
3. Encroachment(s) as shown on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, dated December 17, 2012.
4. That certain Mortgage, Security Agreement and Fixture Filing made by Pumehana Hui LP, a Hawaii limited partnership, as mortgagor, and Bank of Hawaii, a corporation, as mortgagee, dated September 29, 2015, and filed in the Land Court of the State of Hawaii as Land Court Document No. T-9405141.
5. That certain Assignment of Lessor's Interest in Leases and Rents by and between Pumehana Hui LP, a Hawaii limited partnership, as assignor, and Bank of Hawaii, a Hawaii corporation, as assignee, dated September 29, 2015, and recorded in the Bureau of Conveyances as Document No. A-57530279.
6. That certain Financing Statement by and between Pumehana Hui LP, a Hawaii limited partnership, as debtor, and Bank of Hawaii, a Hawaii corporation, as secured party, recorded in the Bureau of Conveyances on October 2, 2015, as Document No. A-57530280
7. That certain Declaration of Land Use Restrictive Covenants for Ohana Hale Affordable Housing Condominium Project dated August 10, 2016 made by Pumehana Hui LP, as developer, in favor of the Hawaii Housing Finance and Development Corporation, a public body and body corporate and politic of the state of Hawaii, recorded in the Land Court on August 26, 2016 as Document No. T-9734393, which Declaration shall be released upon conveyance of the last remaining unit in the project from Developer.
8. Declaration of Condominium Property Regime of `Ohana Hale dated December 11, 2018 and recorded in Land Court as Document No. T-10572363A thru T-10572363B.
9. Bylaws of the Association of Unit Owners of `Ohana Hale dated December 11, 2018 and recorded in the Land Court as Document No. T-10572364.
10. Condominium Map No. 2424 dated December 6, 2018.

TOGETHER WITH all built-in furniture, attached existing fixtures, built-in appliances, water heater, electrical stove and plumbing fixtures, attached carpeting, air conditioner, dishwasher, garbage disposal, washer, dryer, existing window coverings, microwave and refrigerator.

EXHIBIT B

HHFDC Use, Sale, and Transfer Restrictions

EXHIBIT C

HHFDC Shared Appreciation Equity Program