

L-374

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

MAY 05, 1999 10:00 AM

Doc No(s) 2541614

on Cert(s) 506,333

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-799

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

MAY 05, 1999 10:00 AM

Doc No(s) 99-070732.

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICK UP ()

To: WATANABE, ING & KAWASHIMA
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Attention: John R. Aube

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Total Pages: 14

**ELEVENTH AMENDMENT OF THE
MAUNA LANI RESORT ASSOCIATION
DECLARATION OF COVENANTS AND RESTRICTIONS**

(Annexation of Lot 1, File Plan 2202; Lot 2, File Plan 2202, Lot 3, File Plan 2202;
Lot 6, File Plan 2202; Lot 38, Land Court Map 16 of Land Court Application No. 1785)

WHEREAS, the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Declaration") made on June 3, 1982 was filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (hereinafter referred to as "Land Court") as Document No. 1120889 and noted on Transfer Certificate of Title No. 154,928 and also recorded in the Bureau of Conveyances of the State of Hawaii (hereinafter referred to as the "Bureau") in Liber 16425 at Page 203;

WHEREAS, an Amendment of Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "First Amendment") was filed in said Land Court as Document No. 1121081 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 16428 at Page 456;

WHEREAS, a Second Amendment of Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Second Amendment") was filed in

said Land Court as Document No. 1129996 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 16545 at Page 345;

WHEREAS, the Second Amendment canceled, nullified and rescinded the First Amendment and declared the First Amendment to be void and of no force and effect;

WHEREAS, the Second Amendment amended the Declaration by deleting the first page of Exhibit "A" attached to said Declaration and substituting a description of the total property made available for future annexation into the Mauna Lani Resort Association;

WHEREAS, by amending Exhibit A to the Declaration, the Second Amendment effectively annexed and incorporated the Mauna Lani Terrace condominium project into the Mauna Lani Resort Association (the Mauna Lani Terrace condominium project was already incorporated into Exhibit B to the Declaration);

WHEREAS, the Third Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Third Amendment") was filed in said Land Court as Document No. 1380755 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 19613 at Page 236;

WHEREAS, by amending Exhibits "A" and "B" attached to said Declaration, as amended by the Second Amendment, the Third Amendment effectively annexed and incorporated the Mauna Lani Point condominium project into the Mauna Lani Resort Association;

WHEREAS, the Fourth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Fourth Amendment") was filed in said Land Court as Document No. 1432988 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 20284 at Page 384;

WHEREAS, Mauna Lani Resort, Inc., a Hawaii corporation (hereinafter referred to as "MLR"), was the declarant of the Declaration and was required to make certain changes to the original Declaration, as amended by the First Amendment, Second Amendment, and Third Amendment, in order to obtain a registration permit in the State of California;

WHEREAS, the Fifth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Fifth Amendment") was filed in said Land Court as Document No. 1507024 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 21287 at Page 398;

WHEREAS, by amending Exhibits "A" and "B" attached to said Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment, the Fifth Amendment effectively annexed and incorporated the Mauna Lani "T" site into the Mauna Lani Resort Association;

WHEREAS, the Sixth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Sixth Amendment") was filed in said

Land Court as Document No. 1560401 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau in Liber 22084 at Page 131;

WHEREAS, by amending Exhibits "A" and "B" attached to said Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and the Fifth Amendment, the Sixth Amendment effectively corrected the description of the lands which comprise the "Master Plan Area", the land intended for future development pursuant to the terms of the California Department of Real Estate registration application and permit, and annexed and incorporated the Ritz-Carlton parcel into the Mauna Lani Resort Association;

WHEREAS, the Seventh Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Seventh Amendment") was filed in said Land Court as Document No. 1832379 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau as Document No. 91-089395;

WHEREAS, by amending Exhibits "A" and "B" attached to said Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, and the Sixth Amendment, the Seventh Amendment effectively corrected the description of the lands which comprise the "Master Plan Area" and annexed and incorporated Lot 8 of Mauna Lani Resort Phase IV as shown on File Plan Number 1926 into the Mauna Lani Resort Association;

WHEREAS, the Eighth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Eighth Amendment") was filed in said Land Court as Document No. 2109682 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau as Document No. 94-009533;

WHEREAS, by amending Exhibit "B" attached to said Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, and the Seventh Amendment, the Eighth Amendment effectively deleted the description of Lot 8 contained in Exhibit "B", Page 6e of said Seventh Amendment, and substituted in the place thereof the description of Lot 1 contained in Exhibit "B" attached to and made a part of the Eighth Amendment;

WHEREAS, the Ninth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Ninth Amendment") was filed in said Land Court as Document No. 2281205 and noted on Transfer Certificate of Title No. 154,928 and also recorded in said Bureau as Document No. 95-168247;

WHEREAS, the Ninth Amendment clarified which property should be encumbered with the Declaration, annexed additional property into the Mauna Lani Resort Association, clarified the description of the Annexed Property as described in Exhibit "1" and clarified the description of the Master Plan Area as described in Exhibit "2";

WHEREAS, MLR assigned its rights as declarant to Mauna Lani Service, Inc. and Mauna Lani Service, Inc. (hereinafter referred to as "Declarant") accepted said rights and obligations of declarant pursuant to that certain instrument dated March 10, 1998, filed in said Land Court as Document No. 2445165 and noted on Transfer Certificate of Title Nos. 154,928, 351,521 and 336,044, and recorded in said Bureau as Document No. 98-033812;

WHEREAS, the Tenth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions (hereinafter referred to as the "Tenth Amendment") was filed in said Land Court as Document No. 2537869 and noted on Transfer Certificate of Title No. 154,928, and recorded in said Bureau as Document No. 98-155464;

WHEREAS, the Tenth Amendment annexed and incorporated Lot 2, File Plan Number 2199, into the Mauna Lani Resort Association;

WHEREAS, Declarant desires to annex Lot 1, Lot 2, Lot 3 and Lot 6, all as shown on File Plan Number 2202, and Lot 38, as shown on Land Court Map 16, filed with Land Court Application No. 1785, all of which comprise a portion of the Master Plan Area, into the Mauna Lani Resort Association;

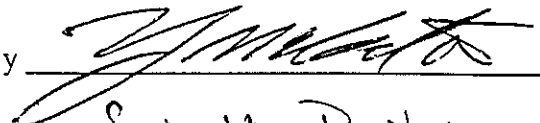
WHEREAS, pursuant to Article III, Section 2 of the Declaration, Declarant may unilaterally add land to the Annexed Property so long as said land is included in the Master Plan Area up to January 1, 2007;

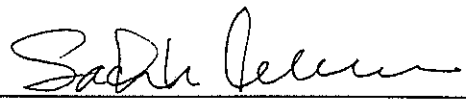
NOW, THEREFORE, Declarant hereby amends said Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment and the Tenth Amendment, by annexing the real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property") into the Mauna Lani Resort Association. Said property shall be included in the property described in Exhibit "1" of the Declaration and in the term "Annexed Property" as defined in the Declaration, as amended.

All other terms, conditions, covenants and provisions of the Declaration, as amended, shall be and remain unchanged and shall continue to be valid, binding and fully enforceable.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 30th day of April, 1999.

MAUNA LANI SERVICE, INC.

By 
Its Senior Vice President

By 
Its Vice President

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 30 day of APRIL, 1999, before me appeared YASUYUKI NAKATA and SACHI KO MURANO, to me personally known, who, being by me duly sworn, did say that they are the VICE PRESIDENT and VICE PRESIDENT of MAUNA LANI SERVICE, INC., a Hawaii corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and said persons acknowledged that they executed said instrument as their free act and deed of said corporation.

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[Signature]
Name: SAE B. WILSON

Notary Public in and for the
above noted State and County

My commission expires: July 5, 2002

EXHIBIT "A"

ANNEXED PROPERTY

ITEM I:

All of that certain parcel of land situate at Kalahuipuaa and Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being **LOT 1** of the **"MAUNA LANI RESORT NORTH COURSE SUBDIVISION NO. 2"**, as shown on File Plan Number 2202, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 2.547 acres, more or less.

Together with an access easement for ingress and egress to be used in common with others entitled thereto, over and across Lot 6 of the **"NORTH COURSE SUBDIVISION NO. 1"** (File Plan 2200), known as North Kaniko Drive; over and across Lot 5, as shown on File Plan No. 2100, known as Service Road; and over and across Lot 12 of the **"MAUNA LANI RESORT- PHASE IV"** (File Plan 1926), known as Mauna Lani Drive, which runs into Queen Ka'ahumanu Highway, a public highway, Lot 6, Lot 5 and Lot 12 being roadway lots.

Being the premises acquired by **WARRANTY DEED**, entered into by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, as Grantor, and **TOKYU CORPORATION**, a Japan corporation, as Grantee, dated February 27, 1998, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 2442328, and recorded in said Bureau as Document No. 98-030599.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the **CERTIFICATE**, dated April 22, 1986, recorded in said Bureau in Liber 19452 at Page 724.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain unrecorded **GOLF COURSE USE AGREEMENT**, dated September 3, 1986, by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, and **THE RITZ-CARLTON HOTEL COMPANY**, a Georgia corporation, as amended by that certain unrecorded **AMENDMENT OF PURCHASE AGREEMENT AND GOLF COURSE USE AGREEMENT**, dated June 29, 1988, and, by mesne assignments, assigned to **HALATEL**, a Hawaii general partnership, by that certain unrecorded **ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT, GOLF COURSE USE AGREEMENT AND COLLATERAL RIGHTS**, dated June 29, 1988, all of which are set forth in **MEMORANDUM OF GOLF COURSE USE AGREEMENT**, dated June 29, 1988, filed in said Office as Land Court Document No. 1561024, recorded in said Bureau in Liber 22090 at Page 554, as amended by instruments dated November 1, 1988, filed in said Office as Land Court Document No. 1592436, recorded in said Bureau in Liber

22558 at Page 18, dated October 4, 1989, recorded in said Bureau in Liber 23735 at Page 35, dated March 31, 1994, recorded in said Bureau as Document No. 94-063492, and as amended by **unrecorded memorandum**, dated September 23, 1994, and as further amended by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated September 10, 1997, recorded in said Bureau as Document No. 97-125634, and by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated February 12, 1998, recorded in said Bureau as Document No. 98-022012 .

The interest of **HALATEL**, a Hawaii general partnership, by mesne assignments, was assigned to **ML HOTEL INVESTORS, L.P.**, a Delaware limited partnership, by **INSTRUMENT**, dated March 5, 1996, filed in said Office as Land Court Document No. 2293729, recorded in said Bureau as Document No. 96-030078.

4. **DESIGNATION OF EASEMENT "1"** (area 3,819 square feet, 10 feet wide) for purpose of golf cartpath as shown on File Plan No. 2202.
- 5.. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER LINE RIGHTS AGREEMENT** dated October 16, 1998, filed in said Office as Land Court Document No. 2493254, recorded in said Bureau as Document No. 98-155468, executed by and among **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation, **MAUNA LANI SERVICE, INC.**, a Hawaii corporation and **MAUNA LANI STP, INC.**, a Hawaii corporation.
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER SERVICES AGREEMENT AND ASSIGNMENT; GRANT OF SEWER LINE RIGHTS**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493255, recorded in said Bureau as Document No. 98-155469, executed by and among **MAUNA LANI STP, INC.**, a Hawaii corporation, **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation and **SEA CLIFF DEVELOPMENT, LLC**, a Delaware limited liability company.

ITEM II:

All of that certain parcel of land situate at Kalahuipuaa and Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being **LOT 2** of the "**MAUNA LANI RESORT NORTH COURSE SUBDIVISION NO. 2**", as shown on File Plan No. 2202, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 10.040 acres, more or less.

Together with an access easement for ingress and egress to be used in common with others entitled thereto, over and across Lot 6 of the "**NORTH COURSE SUBDIVISION NO. 1**" (File Plan No. 2200), known as North Kaniku Drive; over and across Lot 5, as shown on File Plan No. 2100, known as Service Road; and over and across Lot 12 of the "**MAUNA LANI**

RESORT- PHASE IV" (File Plan No. 1926), known as Mauna Lani Drive, which runs into Queen Ka'ahumanu Highway, Lot 6, Lot 5 and Lot 12 being roadway lots.

Being the premises acquired by **WARRANTY DEED**, entered into by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, as Grantor, and **TOKYU CORPORATION**, a Japan corporation, as Grantee, dated February 27, 1998, filed in said Office as Land Court Document No. 2442328, recorded in said Bureau as Document No. 98-030599.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in **CERTIFICATE**, dated April 22, 1986, recorded in said Bureau in Liber 19452 at Page 724.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain unrecorded **GOLF COURSE USE AGREEMENT**, dated September 3, 1986, by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, and **THE RITZ-CARLTON HOTEL COMPANY**, a Georgia corporation, as amended by that certain unrecorded **AMENDMENT OF PURCHASE AGREEMENT AND GOLF COURSE USE AGREEMENT**, dated June 29, 1988, and, by mesne assignments, assigned to **HALATEL**, a Hawaii general partnership, by that certain unrecorded **ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT, GOLF COURSE USE AGREEMENT AND COLLATERAL RIGHTS**, dated June 29, 1988, all of which are set forth in **MEMORANDUM OF GOLF COURSE USE AGREEMENT**, dated June 29, 1988, filed in said Office as Land Court Document No. 1561024, recorded in said Bureau in Liber 22090 at Page 554, as amended by instruments dated November 1, 1988, filed in said Office as Land Court Document No. 1592436, recorded in said Bureau in Liber 22558 at Page 18, dated October 4, 1989, recorded in said Bureau in Liber 23735 at Page 35, dated March 31, 1994, recorded in said Bureau as Document No. 94-063492, and as amended by **unrecorded memorandum**, dated September 23, 1994, and as further amended by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated September 10, 1997, recorded in said Bureau as Document No. 97-125634, and by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated February 12, 1998, recorded in said Bureau as Document No. 98-022012 .

The interest of **HALATEL**, a Hawaii general partnership, by mesne assignments, was assigned to **ML HOTEL INVESTORS, L.P.**, a Delaware limited partnership, by **INSTRUMENT**, dated March 5, 1996, filed in said Office as Land Court Document No. 2293729, recorded in said Bureau as Document No. 96-030078.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER LINE RIGHTS AGREEMENT**

dated October 16, 1998, filed in said Office as Land Court Document No. 2493254, recorded in said Bureau as Document No. 98-155468, executed by and among **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation, **MAUNA LANI SERVICE, INC.**, a Hawaii corporation and **MAUNA LANI STP, INC.**, a Hawaii corporation.

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER SERVICES AGREEMENT AND ASSIGNMENT; GRANT OF SEWER LINE RIGHTS**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493255, recorded in said Bureau as Document No. 98-155469, executed by and among **MAUNA LANI STP, INC.**, a Hawaii corporation, **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation and **SEA CLIFF DEVELOPMENT, LLC**, a Delaware limited liability company.

ITEM III:

All of that certain parcel of land situate at Kalahuipuaa and Waikoloa, District of South Kohala, Island of Hawaii, being **LOT 3** of the "**MAUNA LANI RESORT COURSE SUBDIVISION NO 2**", as shown on File Plan Number 2202, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 10.034 acres, more or less.

Together with an access easement for ingress and egress to be used in common with others entitled thereto, over and across Lot 6 of the "**NORTH COURSE SUBDIVISION NO. 1**" (File Plan No. 2200), known as North Kaniku Drive; over and across Lot 5, as shown on File Plan No. 2100, known as Service Road; and over and across Lot 12 of the "**MAUNA LANI RESORT- PHASE IV**" (File Plan No. 1926), known as Mauna Lani Drive, which runs into Queen Ka'ahumanu Highway, a public highway, Lot 6, Lot 5 and Lot 12 being roadway lots.

Being the premises acquired by **WARRANTY DEED**, entered into by and between, **MAUNA LANI RESORT, INC.**, a Hawaii corporation, as Grantor, and **TOKYU CORPORATION**, a Japan corporation, as Grantee, dated February 27, 1998, filed in said Office as Land Court Document No. 2442328, recorded in said Bureau as Document No. 98-030599.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the **CERTIFICATE**, dated April 22, 1986 and recorded in said Bureau in Liber 19452 at Page 724.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain unrecorded **GOLF COURSE USE AGREEMENT**, dated September 3, 1986, by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, and **THE RITZ-CARLTON HOTEL COMPANY**, a

Georgia corporation, as amended by that certain unrecorded **AMENDMENT OF PURCHASE AGREEMENT AND GOLF COURSE USE AGREEMENT**, dated June 29, 1988, and, by mesne assignments, assigned to **HALATEL**, a Hawaii general partnership, by that certain unrecorded **ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT, GOLF COURSE USE AGREEMENT AND COLLATERAL RIGHTS**, dated June 29, 1988, all of which are set forth in **MEMORANDUM OF GOLF COURSE USE AGREEMENT**, dated June 29, 1988, filed in said Office as Land Court Document No. 1561024, recorded in said Bureau in Liber 22090 at Page 554, as amended by instruments dated November 1, 1988, filed in said Office as Land Court Document No. 1592436, recorded in said Bureau in Liber 22558 at Page 18, dated October 4, 1989, recorded in said Bureau in Liber 23735 at Page 35, dated March 31, 1994, recorded in said Bureau as Document No. 94-063492, and as amended by **unrecorded memorandum**, dated September 23, 1994, and as further amended by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated September 10, 1997, recorded in said Bureau as Document No. 97-125634, and by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated February 12, 1998, recorded in said Bureau as Document No. 98-022012 .

The interest of **HALATEL**, a Hawaii general partnership, by mesne assignments, was assigned to **ML HOTEL INVESTORS, L.P.**, a Delaware limited partnership, by **INSTRUMENT**, dated March 5, 1996, filed in said Office as Land Court Document No. 2293729, recorded in said Bureau as Document No. 96-030078.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER LINE RIGHTS AGREEMENT**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493254, recorded in said Bureau as Document No. 98-155468, executed by and among **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation, **MAUNA LANI SERVICE, INC.**, a Hawaii corporation and **MAUNA LANI STP, INC.**, a Hawaii corporation.
5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER SERVICES AGREEMENT AND ASSIGNMENT; GRANT OF SEWER LINE RIGHTS**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493255, recorded in said Bureau as Document No. 98-155469, executed by and among **MAUNA LANI STP, INC.**, a Hawaii corporation, **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation and **SEA CLIFF DEVELOPMENT, LLC**, a Delaware limited liability company.

ITEM IV:

PARCEL FIRST:

All of that certain parcel of land situate at Kalahuipuaa, Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 38, area 19.765 acres, more or less, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1785 of **Francis Hyde Ii Brown**;

Being land(s) described in Transfer Certificate of Title No. 506,333 issued to **TOKYU CORPORATION**, a Japan corporation.

Together with access to Queen Ka'ahumanu Highway, a public highway, over and across Lot 6 (File Plan No. 2202) and over and across North Kaniku Drive (Lot 6, File Plan 2200 and Lot 5, File Plan 2100) and Mauna Lani Drive (Lot 12, File Plan No. 1926) being roadway lots, as set forth by Land Court Order No. 130033, filed in said Office on November 21, 1997.

PARCEL SECOND:

All of that certain parcel of land situate at Kalahuipuaa, Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being **LOT 6** of the "**MAUNA LANI RESORT NORTH COURSE SUBDIVISION NO. 2**", as shown on File Plan Number 2202, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 33.183 acres, more or less.

Together with an access easement for ingress and egress to be used in common with others entitled thereto, over and across Lot 6 of the "**NORTH COURSE SUBDIVISION NO. 1**" (File Plan 2200), known as North Kaniku Drive; over and across Lot 5, as shown on File Plan No. 2100, known as Service Road; and over and across Lot 12 of the "**MAUNA LANI RESORT - PHASE IV**" (File Plan No. 1926), known as Mauna Lani Drive, which runs into Queen Ka'ahumanu Highway, a public highway, Lot 6, Lot 5 and Lot 12 being roadway lots.

Being the premises acquired by **WARRANTY DEED**, entered into by and between, **MAUNA LANI RESORT, INC.**, a Hawaii corporation, as Grantor, and **TOKYU CORPORATION**, a Japan corporation, as Grantee, dated February 27, 1998, filed in said Office a Land Court Document No. 2442328, recorded in said Bureau as Document No. 98-030599.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. **AS TO PARCEL FIRST:**
 - (A) Location of the seaward boundary in accordance with the laws of the State of Hawaii and the effect, if any, upon the area of the land described herein.

- (B) **DESIGNATION OF EASEMENT "B"**, for right of way purposes, as shown on Map 3, as set forth by Land Court Order No. 57369, filed in said Office on August 6, 1980.
- (C) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain unrecorded **GOLF COURSE USE AGREEMENT**, dated September 3, 1986, by and between **MAUNA LANI RESORT, INC.**, a Hawaii corporation, and **THE RITZ-CARLTON HOTEL COMPANY**, a Georgia corporation, as amended by that certain unrecorded **AMENDMENT OF PURCHASE AGREEMENT AND GOLF COURSE USE AGREEMENT**, dated June 29, 1988, and, by mesne assignments, assigned to **HALATEL**, a Hawaii general partnership, by that certain unrecorded **ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT, GOLF COURSE USE AGREEMENT AND COLLATERAL RIGHTS**, dated June 29, 1988, all of which are set forth in **MEMORANDUM OF GOLF COURSE USE AGREEMENT**, dated June 29, 1988, filed in said Office as Land Court Document No. 1561024, recorded in said Bureau in Liber 22090 at Page 554, as amended by instruments dated November 1, 1988, filed in said Office as Land Court Document No. 1592436, recorded in said Bureau in Liber 22558 at Page 18, dated October 4, 1989, recorded in said Bureau in Liber 23735 at Page 35, dated March 31, 1994, recorded in said Bureau as Document No. 94-063492, and as amended by **unrecorded memorandum**, dated September 23, 1994, and as further amended by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated September 10, 1997, recorded in said Bureau as Document No. 97-125634, and by instrument entitled **Amendment to Partial Release of Memorandum of Golf Course Use Agreement**, dated February 12, 1998, recorded in said Bureau as Document No. 98-022012 .

The interest of **HALATEL**, a Hawaii general partnership, by mesne assignments, was assigned to **ML HOTEL INVESTORS, L.P.**, a Delaware limited partnership, by **INSTRUMENT**, dated March 5, 1996, filed in said Office as Land Court Document No. 2293729, recorded in said Bureau as Document No. 96-030078.

- (D) **DESIGNATION OF EASEMENT "7"** (10 feet wide) for public pedestrian access purposes, as shown on Map 16, as set forth by Land Court Order No. 130033, filed in said Office on November 21, 1997.

3. **AS TO PARCEL SECOND:**

- (A) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in **QUITCLAIM DEED**, dated September 8, 1982, effective June 12, 1981, recorded in said Bureau in Liber 16695 at Page 96.

The foregoing includes, but is not limited to, matters relating to mineral reservation, water reservation and reservation of prehistoric and historic remains.

- (B) **DESIGNATION OF EASEMENT "A"** for road and utility purposes, as shown on File Plan No. 1926.
- (C) **GRANT to HALATEL**, a Hawaii general partnership, dated June 29, 1988, recorded in said Bureau in Liber 22090 at Page 547, granting a perpetual nonexclusive right and easement for pedestrian access, vehicular access and utility purposes over, across, along, under and upon said Easement "A".

Said Grant was amended by instrument, dated September 14, 1988, recorded in said Bureau in Liber 22439 at Page 639.

- (D) **DESIGNATION OF EASEMENT "2"** (10 feet wide, area 17,130 square feet), for pedestrian access purposes, as shown on File Plan No. 2202
- 4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER LINE RIGHTS AGREEMENT**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493254, recorded in said Bureau as Document No. 98-155468, executed by and among **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation, **MAUNA LANI SERVICE, INC.**, a Hawaii corporation and **MAUNA LANI STP, INC.**, a Hawaii corporation.
 - 5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain **SEWER SERVICES AGREEMENT AND ASSIGNMENT; GRANT OF SEWER LINE RIGHTS**, dated October 16, 1998, filed in said Office as Land Court Document No. 2493255, recorded in said Bureau as Document No. 98-155469, executed by and among **MAUNA LANI STP, INC.**, a Hawaii corporation, **TOKYU CORPORATION**, a corporation organized under the laws of Japan, **MAUNA LANI RESORT (OPERATION), INC.**, a Hawaii corporation and **SEA CLIFF DEVELOPMENT, LLC**, a Delaware limited liability company.
 - 6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the **MEMORANDUM OF RESTRICTIONS OF RESIDENTIAL DEVELOPMENT ON HOTEL SITE 4**, dated October 16, 1998, by and between **TOKYU CORPORATION**, a Japan corporation, and **SEA CLIFF DEVELOPMENT, LLC**, a Delaware limited liability company, filed in said Office as Land Court Document No. 2493253, recorded in said Bureau as Document No. 98-155466.