

TG 286988
 RECORDATION REQUESTED BY:
 TITLE GUARANTY ESCROW SERVICES, INC.
 AFTER RECORDATION, RETURN TO:
 TITLE GUARANTY ESCROW SERVICES, INC.
 RETURN BY: MAIL () PICKUP (X)

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 88- 77438

STATE OF HAWAII
 BUREAU OF CONVEYANCES
 JUN - 2 AM 8:00
 21994 261
 K. VIELA, REGISTRAR

Maui County TMK Nos. (2) 3-9-019-001
 3-9-019-003

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

KEONEKAI HEIGHTS I SUBDIVISION

WHEREAS, KEONEKAI I PARTNERS, a Hawaii partnership, whose principal place of business and post office address is 1993 South Kihei Road, Suite #203, Kihei, Maui, Hawaii 96753, hereinafter called the "Declarant", owns in fee simple the real property situated at Kamaole, Maui, State of Hawaii, more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Declarant has subdivided the Exhibit "A" property into Seventy - Eight (78) individual lots (the "Residential Lots"), as shown on File Plan No. 1923 filed in the Hawaii Bureau of Conveyances on _____, 198__, and has constructed or is constructing improvements on each of said Residential Lots consisting of residential dwellings; and

WHEREAS, Declarant proposes to offer to sell and convey its fee simple interest in the Residential Lots, improved as aforesaid; and

1.

R.12/24/87

WHEREAS, Declarant is desirous of protecting and maintaining this area as a high-quality, stable, family-oriented neighborhood of dwellings, and of preserving and increasing the desirability, attractiveness, and economic value of said real property to its owners, lessees, residents and to the community at large, and to this end, Declarant desires to bind the Residential Lots to the declarations hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that each of the Residential Lots described in said File Plan No. 1923, hereafter sold by Declarant or hereafter leased by Declarant shall be held, sold, conveyed, encumbered, leased, used, occupied and improved, subject to the following limitations, restrictions, covenants and conditions which are for the purpose of protecting, preserving and maintaining the value, desirability and attractiveness of the residential area, all for and in furtherance of preserving an attractive residential district for the advantage of the residents of the area and the community at large.

The limitations, restrictions, covenants, and conditions contained herein, as they now are or hereafter become effective as provided above, run with the Residential Lots, and shall be binding upon all parties having or acquiring any right, title or interest in and to any of the Residential Lots and their respective personal representatives, heirs, successors and assigns, and shall inure to the benefit of Declarant and each owner and Lessee thereof as herein set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration (unless the context otherwise specifies or requires) shall have the following meanings:

(a) "Declarant" shall mean and refer to Keonekai I Partners, a Hawaii partnership, and its successors and assigns.

(b) "Owner" shall mean and refer to the legal or equitable owner, whether one or more persons or entities, of all or any part of the fee simple interest in any Residential Lot, but excluding those having such interest merely as security for the performance or repayment of an obligation.

(c) "Lessee" shall mean and refer to those persons who are the Lessees of record under leases of Residential Lots or portions thereof or interests therein, from Declarant or its successors in interest, already in effect or to be made effective in the future.

(d) "Residential Lots" shall mean and refer to the individual residential parcels of real property described in said File Plan No. _____.

(e) "File Plan" shall mean and refer to the subdivision map filed as File Plan No. 1923 in the Bureau of Conveyances of the State of Hawaii.

(f) "Land Court Application" shall mean and refer to Land Court Application _____, as numbered and shown in the Bureau of Conveyances of the State of Hawaii.

(g) "Building Code" shall mean and refer to Title 16 of the Maui County Code, enacted as of the effective date of this Declaration, as the same may be amended from time-to-time hereafter.

(h) "Zoning Code" shall mean and refer to Title 19 of the Maui County Code, enacted as of the effective date of this Declaration, as the same may be amended from time-to-time hereafter.

ARTICLE II

RESTRICTIONS

Section 1. Use: All lots shall be occupied and used only for residential purposes and only those dwellings shall be erected, placed, maintained or permitted on each Residential Lot as are permissible under the Maui Building and Zoning Codes in effect from time-to-time. No building or structure on any lot nor any portion of any building or structure shall be used as a boarding house, tenement house, rooming-house, hotel, motel or apartment house. No accessory structures or buildings shall be constructed, placed or maintained upon any lot except in compliance with the Zoning and Building Codes of the County of Maui. Any such accessory building shall be painted with color(s) complimentary to the main dwelling unit.

No lot, or building or structure on any lot, shall be used for the conduct of any business, trade or commercial purpose, except as specifically permitted under the Zoning or Building Codes.

No lot, or building or structure on any lot, shall be used for the storage of any boat, truck exceeding one (1) ton in capacity, house-trailer, mobile home, or commercial vehicle unless such vehicle is kept inside a completely enclosed garage.

Periodic and non-continuous habitation of a dwelling unit (rentals and short-term leases having a duration of less than thirty (30) days) shall not be permitted.

Section 2. Building Heights: No building or dwelling unit shall exceed two (2) stories nor thirty (30) feet in height.

Section 3. Subdivision and Consolidation: Existing lots shall not be further subdivided, or consolidated and resubdivided, to create any additional building lots of less than seven thousand five hundred (7,500) square feet in area.

Section 4. Setback Lines: No building or structures shall be erected or placed between any boundary of any lot and any setback along such boundary as established from time-to-time by the Zoning Code or Regulations of the County of Maui.

Section 5. Repair and Maintenance: All buildings, structures and improvements now or hereafter built or placed on the lots shall be well and substantially maintained in a neat and attractive condition at all times.

Section 6. Noise-Making Devices: No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the lot and improvements thereon, shall be placed or used upon any lot.

Section 7. Signs: No signs whatsoever, including without limitations, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon any lot except:

- (a) such signs as may be required by legal proceedings;

(b) residential identification signs of a combined total face area of two (2) square feet or less;

(c) during the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors, subcontractors and tradesmen; and

(d) not more than one (1) "For Sale" or "For Rent" sign having a maximum face area of three (3) square feet, such sign to refer only to the premises on which it is situated.

Section 8. Laundry Drying: Laundry shall not be put out to dry on the exterior of any structure so that it is visible from the street or by any neighbor.

Section 9. Storage of Wastes: The storage of wastes, debris, and garbage shall be confined within the interior of each lot so that it is covered and not visible from the street or by any neighbor. Waste, debris and garbage for disposal shall not be placed on the exterior of any lot or on the street more than twenty-four (24) hours prior to the scheduled pickup for disposal. Following the pickup, empty cans, containers or leftovers shall be removed from the street and the lot's exterior within twenty-four (24) hours. Stored cans and containers shall not be visible nor create odors noticeable from the street or by any neighbor.

Section 10. Construction and Operation of Other Machinery: In the interest of noise reduction, construction and landscaping work (including the use

of lawn mowers, leaf blowers, weed trimming machines, etc.) shall not commence before 8:00 am. nor continue after 5:00 p.m.

Section 11. Pets: No lot, or building or structure on any lot, or any portion thereof, shall be used for the raising or keeping of livestock, poultry, or bees, or for the housing of more than two (2) dogs, cats, or birds, nor shall a kennel be permitted on any lot. Notwithstanding the generality of the foregoing, no animal which is a nuisance to neighbors or to the general public shall be kept and maintained on any lot.

Section 12. Landscaping: All lots, together with the land between the lot boundary and the street pavement, shall be landscaped and maintained in a neat and attractive condition at all times. Trees, shrubs and grass shall be kept in a neat and attractive condition.

Section 13. Antennas: No television or radio antenna shall be installed except in compliance with the Zoning and Building Codes of the County of Maui. In any event, no "dish-type" antenna shall be installed on any lot unless the dish is completely hidden from the view of the street and from the view of any neighbors.

Section 14. Private Garages and Carports: Any carport or private garage which is constructed, altered or maintained upon any lot shall conform to the Zoning and Building Codes of the County of Maui. No Owner or Lessee of any lot shall park his car or permit his family, invitees and guests to park their cars on any public park or sidewalk area or on any portion of his lot visible from a street, except in a garage or carport or on a paved driveway area.

Section 15. Open Storage of Personal Property: No open storage of furniture, fixtures, appliances and other goods and chattels shall be permitted on any lot so as to be visible from neighboring property, and no washing or drying machines, outside clothes lines or other outside clothes drying or airing facilities shall be maintained on any lot unless the same is screened from view and is not visible from neighboring property or streets.

Section 16. Open Burning: There shall be no open burning or any other exterior fires permitted on any lot, except barbecue fires, and no Owner or Lessee shall permit any condition on his lot which creates a fire hazard.

Section 17. Garage Sales: No Owner or Lessee of any lot shall conduct, hold or permit to be held on his lot more than one (1) "garage sale" every six (6) months, any such "garage sale" to last no more than two (2) consecutive days.

Section 18. Permission of Violations: No Owner or Lessee of a lot shall violate or permit the violations on his lot of any provision of this Declaration or of any applicable law or ordinance pertaining to zoning, building, fires, signs or other matters relating to the use and development of his lot.

ARTICLE III

GENERAL PROVISIONS

Section 1. Applicability: The restrictions set forth herein shall become effective upon the recordation hereof in the Hawaii Bureau of Conveyances and/or the filing hereof in the Hawaii Land Court, and shall thereafter run with the land.

Section 2. Duration; Cancellation; Amendment: The limitations, restrictions, covenants and conditions contained in this Declaration shall continue and remain in full force and effect as to each Residential Lot from the date on which they become effective as to such lot and including the date on which (a) the Owners and (b) the Lessees of Declarant who together own or lease a total of Seventy-Five Percent (75%) or more of the Residential Lots shall cancel and terminate or amend such limitations, restrictions, covenants and conditions by the execution of any instrument or instruments setting forth such cancellation, termination or amendment and the recordation and/or filing of the same in each of the places in the State of Hawaii in which this Declaration has been recorded and/or filed of record.

Section 3. Enforcement: Owners, and the Lessees of Declarant or of Owners under valid and existing leases of Residential Lots, or portions thereof or interests therein, shall each have the right, but not the responsibility, to enforce any or all of the limitations, restrictions, covenants and conditions imposed by this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such limitation, restriction, covenant or condition, and any judgment for any such violation may require all costs and expenses of such enforcement action, including a reasonable attorney's fee, to be paid by the person whom the Court finds to be in violation of any such limitation, restriction, covenant or condition. No failure by any of the Owners, or Lessees of Declarant or of Owners, to seek enforcement of the provisions of this Declaration shall entitle any Owner, Lessees of Declarant or of Owners, or

other person, to bring or maintain any action or proceeding in law against the Owners, or Lessees of Declarant or of Owners, as a result of this failure.

Section 4. No Waiver: No failure to enforce the provisions of any limitation, restriction, covenant or condition of this Declaration shall constitute a waiver of any right by the Owners, or Lessees of Declarant or Owners, to enforce any provision of this Declaration in another case against or with respect to the same Owner or Lessee.

Section 5. Severability: The limitations, restrictions, covenants and conditions of this Declaration shall be deemed independent and several and the invalidity or partial invalidity of any provision or portion thereof or any such limitation, restriction, covenant or condition shall not affect the validity or enforceability of any other provisions.

Section 6. Hawaii Law Governs: The provisions of this Declaration shall be construed under and governed by the laws of the State of Hawaii.

IN WITNESS WHEREOF, Declarant has executed these presents this
26 day of January, 1988.

KEONEKAI I PARTNERS,
a Hawaii partnership

By Jesse E. Spencer
Its General Partner

STATE OF HAWAII
(CITY AND) COUNTY OF Honolulu) ss:

On this 26th day of January, 1988, before me
appeared Jesse E. Spencer, duly-authorized General Part-
ner of KEONEKAI I PARTNERS, a Hawaii partnership, to me personally known
or proved to me on satisfactory evidence to be the person described in and who
executed the foregoing instrument and acknowledged that he executed the same
as his free act and deed as such General Partner.

(seal)

Kathleen A. DeJoster
Notary Public, State of Hawaii
My commission expires: 10/14/89