

**MOANA ANIANI ESTATES  
PURCHASE CONTRACT**

ACKNOWLEDGMENT OF RECEIPT, OPPORTUNITY TO REVIEW, AND ACCEPTANCE OF PROJECT DOCUMENTS LISTED BELOW FORM AN ESSENTIAL PART OF THIS CONTRACT. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS RECEIVED COPIES OF EACH OF THE FOLLOWING DOCUMENTS BY EITHER ACCESSING THEM DIRECTLY AT SELLERS WEBSITE AT “**ANIANIESTATES.COM**” OR REQUESTING A COPY ON COMPUTER DISK OR IN PRINT FROM THE SELLER. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS HAD OR WILL HAVE WITHIN THE SEVEN (7) DAYS FOLLOWING PURCHASER’S SIGNING OF THIS CONTRACT A FULL AND COMPLETE OPPORTUNITY TO READ, REVIEW AND EXAMINE EACH OF THE FOLLOWING DOCUMENTS. PURCHASER AGREES THAT IF PURCHASER DOES NOT EXERCISE THE OPTION TO CANCEL THIS CONTRACT WITHIN THE SEVEN (7) DAYS THAT IS DESCRIBED ON THE SIGNATURE PAGE OF THIS CONTRACT, PURCHASER WILL BE DEEMED TO HAVE ACCEPTED AND APPROVED EACH OF THE FOLLOWING DOCUMENTS:

- a. the form of the Contract;
- b. the Plot Plan;
- c. the Moana Aniani Estates Declaration of Covenants, Conditions and Restrictions;
- d. the Design Guidelines; and,

Purchaser’s Initials \_\_\_\_\_

**DISCLOSURE**

THOMAS M. SMITH, REPRESENTS ONLY HIMSELF AS SELLER IN THIS TRANSACTION, AND NOT THE PURCHASER. BY INITIALING BELOW, PURCHASER ACKNOWLEDGES AND CONFIRMS THAT ORAL OR WRITTEN DISCLOSURE OF SUCH REPRESENTATION IS HEREBY BEING PROVIDED TO PURCHASER BEFORE THE SIGNING OF THIS CONTRACT.

Purchaser’s Initials \_\_\_\_\_

**CONTRACTOR’S RIGHT TO RESOLVE ALLEGED CONSTRUCTION DEFECTS**

CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE THE CONTRACTOR WITH A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

Purchaser’s Initials \_\_\_\_\_

**AGRICULTURAL ZONING DISCLOSURE**

EACH ONE-HALF (1/2) ACRE LOT IN MOANA ANIANI ESTATES IS ZONED AGRICULTURAL. THE LAND USE COMMISSION OF THE STATE OF HAWAII (“COMMISSION”) HAS DETERMINED THAT ANY BUILDINGS LOCATED ON ANY PARCEL OF LAND DESIGNATED BY THE COMMISSION WITH A LAND USE CLASSIFICATION OF “AGRICULTURAL” MUST BE RELATED TO SOME KIND OF AGRICULTURAL ACTIVITY OR USE. NOTHING CONTAINED IN THE MOANA ANIANI ESTATES DECLARATION OF COVENANTS AND THE DESIGN GUIDELINES OR ANY OTHER RULES OR REGULATIONS SHALL PREVENT THE USE OF A LOT FOR AGRICULTURAL PURPOSES. THE COUNTY OF HAWAII, AS THE ENFORCEMENT AND PERMITTING AGENCY OF IMPROVEMENTS BUILT WITHIN THE AGRICULTURAL LAND USE CLASSIFICATION, REQUIRES THAT A FARM DWELLING AGREEMENT BE OBTAINED FROM THE PLANNING DEPARTMENT.

Purchaser’s Initials \_\_\_\_\_

**MOANA ANIANI ESTATES  
PURCHASE CONTRACT**

<b>MOANA ANIANI ESTATES Lot No.:</b>		Hawaii Subdivision Registration No.	
		HUD Subdivision Registration No. <b>05-</b>	
<b>Total Purchase Price</b>		<b>Ownership:</b>	<input checked="" type="checkbox"/> Severalty
			<input type="checkbox"/> Tenants by the Entirety
			<input type="checkbox"/> Joint Tenants
<b>Method of Payment:</b>		<input type="checkbox"/> Tenants in Common - Indicate % Interest:	
Payment A:	\$ <b>0.00</b>	(1)	(2)
	Paid to: Title Company		<input type="checkbox"/> To be determined
Payment B:	\$ <b>000.00</b> (Balance of Purchase Price) paid as follows: (a) by cash, cashier's check or wire transfer in the amount of \$195,000.00 Each Payment shall be made at the place and times described in Paragraph 2. Closing Costs and Prorations shall be paid as described in Paragraph 5.		
		<b>Date of Closing:</b>	<b>, 2015</b>
		<b>Escrow Agent:</b> Janet Lum Won Escrow Officer	Title Guaranty Escrow Services, Inc. 75-170 Hualalai Road Suite C-210 Kailua-Kona, Hawaii 96740 (808) 327-3220 Fax: 808-329-3322 <a href="mailto:jlumwon@tghawaii.com">jlumwon@tghawaii.com</a>
<b>Special Provisions:</b>			
<b>Sellers Broker:</b>		<b>Cooperating Broker:</b>	
N/A		N/A	
<b>PURCHASER</b> (Include all persons in whom title is to be vested)		<b>PURCHASER</b> (Include all persons in whom title is to be vested)	
For Individuals: <input type="checkbox"/> Single		For Individuals: <input type="checkbox"/> Single <input type="checkbox"/> Married	
For Entities: Type:	State of Registration:	For Entities: Type:	State of Registration:
Social Security/Federal Tax I.D. No.:		Social Security/Federal Tax I.D. No.:	
Street Address or P.O. Box Number		Street Address or P.O. Box Number	
City, State and Zip Code/Country		City, State and Zip Code/Country	
( )	( )	( )	( )
Bus. Phone No.	Res. Phone No.	Bus. Phone No.	Res. Phone No.
( )	( )	( )	( )
Cell Phone No.	Fax Phone No.	Cell Phone No.	Fax Phone No.
E-Mail:		E-Mail:	

THIS CONTRACT (the "Contract") is made by and between THOMAS M. SMITH ("Seller"), whose principal place of business and post office address is 4054 McKinney Avenue, Suite 310, Dallas, Texas 75204, and the above named Purchaser(s) ("Purchaser").

#### PROJECT DESCRIPTION

Seller is the developer of the subdivision of lots that is called the Moana Aniani Estates (the "Subdivision"). The legal description of the lot in the Subdivision that is the subject of this Contract (the "Lot") is attached hereto as **Exhibit A** and incorporated herein by reference.

The Subdivision will be subject to the Moana Aniani Estates Phase Declaration of Covenants, Conditions and recorded at the Bureau of Conveyances of the State of Hawaii as the same may be amended or supplemented from time to time ("Declaration"). Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller fee simple title to the Lot, all in accordance with the terms, covenants and conditions of this Contract. Accordingly, Purchaser and Seller agree as follows:

1. Sale of Lot: Lot Deed. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller a fee simple interest in the Lot. Seller will convey the Lot to Purchaser at Final Closing in fee simple, free and clear of monetary liens, together with and subject to the applicable terms and conditions of, and encumbrances shown in the Moana Aniani Estates Warranty Deed with Covenants ("Lot Deed"), a copy of the form of which has been provided to Purchaser. For the purposes of this Contract, the term "Final Closing" shall mean (i) the date of Final Closing filled in above or (ii) if earlier than the date filled in above, the date when the Lot Deed for the Lot is recorded in the Bureau.

2. Payment of Purchase Price. Purchaser agrees to pay the purchase price for the Lot (hereinafter referred to as the "Purchase Price") set forth above, to be paid as follows:

a. PAYMENT A, in the amount set forth above, shall be made upon Purchaser's execution of this Contract;

b. PAYMENT B, in the amount set forth above, shall be deposited with Escrow Agent no later than two (2) Banking Days before Final Closing.

Purchaser acknowledges that all of Purchaser's payments shall be deposited with the Escrow Agent pending Final Closing and disbursed by Escrow Agent. If Purchaser is financing Purchaser's purchase under this Contract with an independent lender, Purchaser, by signing this Contract, authorizes the lender and Escrow Agent to deliver the proceeds of such financing to Seller upon Final Closing. For purposes of this Contract, "Banking Days" shall mean days on which banks in the State of Hawaii are open for business.

3. Financing of Purchase. Purchaser represents that Purchaser is financially capable of making, when due, all payments required under this Contract. If all or any portion of Payment B is to be made by way of a loan from an independent lender, Purchaser shall be solely responsible for securing such financing. PURCHASER'S OBLIGATIONS UNDER THIS CONTRACT ARE NOT CONTINGENT OR CONDITIONED ON PURCHASER'S ABILITY TO SECURE FINANCING FROM AN INDEPENDENT LENDER.

4. Final Closing Procedures. No later than seven (7) days before the date of Final Closing, Purchaser shall execute all the documents and other items necessary for the Final Closing, together with such other additional documents that Seller deems necessary or desirable to effectuate this transaction. If Purchaser resides on the Island of Hawaii, Purchaser shall execute the documents at the office of Escrow Agent or as otherwise directed by Seller; otherwise, all documents required for the Closing shall be sent to Purchaser for signature by courier, and Purchaser shall return them to Escrow Agent. At Final Closing, the Lot Deed shall be recorded in the Bureau and delivered to Purchaser. PURCHASER ACKNOWLEDGES Title Guarantee Services, Inc. ("Title Company") shall issue to Purchaser an ALTA Owner's policy of title insurance policy ("Title Policy"), with liability equal to the total Purchase Price, that shows fee simple title to the Lot vested in Purchaser subject to the covenants, conditions, restrictions, reservations, rights, exceptions, easements and other encumbrances set forth in the Preliminary Title Report, and the endorsements, if any, exceptions and exclusions to coverage contained in the Title Policy. The date of Final Closing may be changed by mutual agreement of Purchaser and Seller, provided that, in no event, shall Final Closing occur later than 90 days after the date that this Contract becomes binding upon Purchaser and Seller.

5. Closing Costs; Prorations; Start-Up Fees. Seller agrees to pay 60% of the premium for the Title Policy, the cost of drafting of conveyance documents, Seller's notary fees, conveyance tax, and 50% of escrow fees. Purchaser agrees to pay 40% of the premium for the Title Policy, and any additional costs relating to the issuance of extended coverage policy (including a lender's policy), the cost of drafting of any revisions or addenda to the Contract, the cost of obtaining Purchaser's consents, if any, Purchaser's notary fees, all recording fees, 50% of escrow fees, and any mortgage fees, and Hawaii General Excise Tax. Prorations and adjustments shall be made between Purchaser and Seller through escrow on the basis of a 30 day month as of the Final Closing for nondelinquent real property taxes and assessments. If the amount of real property taxes is unavailable for the current year, Seller shall estimate such taxes and assessments taking into consideration the existing tax rate, the Purchase Price, the County's tax and assessment formula, and such other information and factors as shall be deemed reasonable under the circumstances.

6. Risk of Loss; Condemnation. Risk of loss on the Lot shall be borne by Seller until the date of Final Closing and thereafter such risk of loss shall be borne by Purchaser. No taking by eminent domain of an easement or other limited right which does not in any such case substantially interfere with or diminish the practical enjoyment and use by Purchaser of the Lot as originally planned shall be deemed grounds for cancellation of this Contract.

7. Construction of Lot Improvements Project Infrastructure and Utility Completion.

a. Seller has completed the following with respect to the Lot: (i) taken all steps necessary to construct any required Preservation Site on the Lot, and (ii) taken all steps to recover data from any known sites within the Lot.

b. From the Final Closing, Purchaser shall have the right to possess the Lot and construct Purchaser's improvements thereon.

c. Seller agrees to construct and complete all County roads through Moana Aniani Estates that provide access to the Lot. Seller also agrees to construct and complete the following underground utilities to service the Lot: electricity, telephone, cable television, and onsite water. Seller shall extend all utilities to the roadway adjacent to the Lot; Purchaser shall be responsible for arranging for the connection of the utilities to any improvements that Purchaser constructs on the Lot.

8. Maintenance Assessments and Managing Agent. Purchaser acknowledges and agrees that the Purchaser shall be liable for the payment of a quarterly assessment to the Association. Purchaser shall start paying such assessments in the calendar quarter following the Final Closing. Purchaser has approved the estimate of quarterly assessment for the Association, and Purchaser agrees that Seller may employ a responsible and competent corporation for the management, operation and maintenance of Moana Aniani Estates. Purchaser also agrees that the Declarant may at any time and from time to time prior to the Final Closing, for and on behalf of Purchaser at Purchaser's proportionate common expense, enter into such other contracts, licenses and concessions as are generally necessary or desirable in the Declarant's discretion for the management, operation or maintenance of Moana Aniani Estates.

9. Project Documents. Purchaser acknowledges that Purchaser has had or will have within the seven days following Purchaser's execution of this Contract a full opportunity to read, review and examine all of the documents listed on the first page of this Contract. PURCHASER AGREES THAT IF PURCHASER DOES NOT EXERCISE THE OPTION TO CANCEL THIS CONTRACT WITHIN THE SEVEN DAYS (7) AS DESCRIBED ON THE SIGNATURE PAGE, PURCHASER WILL BE DEEMED TO HAVE ACCEPTED AND APPROVED ALL OF THE FOREGOING DOCUMENTS. Purchaser authorizes Declarant under the Declaration, to exercise all powers of the Association and its Board and Officers, including voting, until the election of the Board and its Officers in accordance with the terms of the Declaration. Purchaser further authorizes Seller to exercise all rights and incidents of membership in the Association attributable to the Lot contracted for herein until the recordation of the Lot Deed conveying the Lot to Purchaser.

10. Minor Changes in Documents. Declarant reserves the right to modify the documents listed on the first page of the Contract, as may be required by law, by title insurance company, by any institutional mortgagee, or by any regulatory agency with jurisdiction over the sale of lots in Moana Aniani Estates, provided that no such modification shall, without Purchaser's written approval: (a) increase the percentage of Association Expenses payable by an owner of the Lot; (b) increase the cost of the Lot; (c) require a substantial physical change of the Lot; (d) substantially impair or

modify any of the obligations given or undertaken by Seller; or (e) materially increase Purchaser's obligations under the Lot Deed.

11. Sales of Lots. Purchaser acknowledges the reservation by the Declarant and its agents, as set forth in the Declaration, of the right to maintain within Moana Aniani Estates, until the sale of the last Lot, all models, sales offices and advertising signs and banners, if any, and lighting in connection therewith, together with the right of ingress and egress and transient parking therefore through the common elements of Moana Aniani Estates.

Without limiting the generality of the foregoing paragraph, Seller reserves for itself, so long as the Seller owns any property described in Exhibits A or B of the Declaration, to grant and record easements over the Lot as set forth in Sections 9.2(a) and 9.2(b) of the Declaration, subject to the restrictions set forth in Section 9.2(c) of the Declaration. By executing this Contract Purchaser consents to Seller's exercise of such right and agrees to join in any and all documents and proceedings necessary to accomplish the delineation and granting of such easement(s) over the Lot.

12. Securities Laws and Regulations. Purchaser understands and agrees that:

a. Seller, its officers, employees, agents or real estate brokers or real estate sales persons have made no representations: (i) regarding the possibility or probability of economic benefit from the purchase and ownership of a Lot; (ii) to the effect that Seller or the managing agent of Moana Aniani Estates will provide services relating to the sale of the Lot; or (iii) as to the possible advantages of the ownership of the Lot under federal law and state tax laws. Neither Seller nor its agents or employees make any representation regarding either economic benefit to be derived from the ownership, rental or tax treatment of any purchaser of a Lot. The tax treatment and economic benefits may vary with individual circumstances, and Seller and its agents recommend that Purchaser consult Purchaser's own attorney, accountant or other tax counsel for advice regarding tax treatment. Purchaser further agrees and acknowledges that Purchaser has not been induced nor solicited by Seller or its agents to purchase a lot or lots in the Subdivision as a "security" as defined under federal or state securities laws and regulations.

b. Purchaser agrees that Seller may, as a condition to closing, require Purchaser and any licensed real estate salesperson participating in the sale to sign additional documents to satisfy Seller that no representations contrary to the provisions of this Paragraph 12 have been made up to and including the date of Final Closing.

c. In the event that Purchaser establishes, after the Final Closing, that there has been any violation of federal or state securities laws or disclosure laws or other breach of the obligations of Seller under the terms of this Contract, Purchaser agrees that Purchaser's sole remedy shall be rescission of this Contract pursuant to Hawaii Revised Statutes Section 484-16(b), pursuant to which Purchaser shall be entitled upon reconveyance of the Lot to recover the Purchase Price actually paid by Purchaser, together with interest thereon, and the amount of any real property taxes, reasonable attorneys' fees (based upon reasonable hourly rates) and costs that Purchaser actually paid, less the amount of any income that Purchaser received. Purchaser agrees that any other expenses that Purchaser incurs including, but not limited to, Association assessments, interest payments on mortgages and mortgage loan fees, shall constitute the reasonable use value of the Lot from the Final Closing until the date of repayment and shall not be recoverable from Seller.

13. Default; Liquidated Damages; Delays in Closing.

a. If Purchaser shall default in making any payment when required under this Contract, or fail to perform any other obligation required of the Purchaser hereunder, including the obligation to execute promptly all documents necessary to close this transaction, Seller shall notify Purchaser in writing by certified or registered mail of such default. Purchaser shall have a period of ten (10) days after the date of such notice to cure Purchaser's default. If Purchaser does not cure such default within such ten (10) day period, Seller may elect, at Seller's sole discretion, to terminate this Contract by written notice to Purchaser. Upon such termination, the full amount of Purchaser's Payment A that is set forth on page two, and all accrued interest on Payment A, shall be paid to Seller as liquidated damages. Purchaser and Seller specifically acknowledge and agree that in the event of default by Purchaser the injury to Seller will be difficult and expensive to measure in view of Seller's financial commitments with respect to the Subdivision and 327 Kona LLC; the connection between sale, cancellation or default with respect to one lot and sale, cancellation or default with respect to other lots in the Subdivision; and the nature of the real estate market in Hawaii. As a reasonable estimate of Seller's fair compensation for any damages resulting from such default, the parties agree that the sums paid by Purchaser hereunder as Payment A and all accrued interest thereon, shall belong to Seller as liquidated damages.

b. If Seller shall fail to perform any obligation required hereunder prior to Final Closing, including the obligation to execute promptly all documents necessary to close this transaction, Purchaser shall notify Seller in writing by certified or registered mail of such default. Seller shall have a period of ten (10) days after the date of such notice to cure such default. If Seller does not cure such default within such ten (10) day period, Purchaser may elect, at Purchaser's sole discretion, to either (i) terminate this Contract, or (ii) seek specific performance. Purchaser shall give written notice of its election to Seller. If Purchaser elects to terminate the Contract, the full amount of Purchaser's Payment A, and interest on Payment A computed at the rate of 10% per year, shall be paid to Purchaser as its sole remedy and Seller shall be released and discharged from any further obligation hereunder. If Purchaser seeks specific performance, then Purchaser shall not be entitled to recover any damages from Seller in such action.

14. Resolution of Disputes; Venue.

a. Any dispute by or between Seller, Purchaser arising out of or incident to this Contract, or the development or management of the Project, the sale of any Lot or the use or occupancy thereof, or any other aspect of the relationship between Seller, Purchaser regarding the Project which is raised or otherwise asserted after the Final Closing shall be submitted to mediation and, if necessary, to arbitration with Dispute Prevention & Resolution, Inc. ("DPRI") or such other dispute resolution agency as the parties may mutually select. Any person that desires to submit any issue or dispute to arbitration shall promptly so notify the other party in writing. Claims or disputes involving \$25,000 or less shall be heard by a single arbitrator. Claims involving more than \$25,000 or non-monetary issues shall be heard by a panel of three (3) arbitrators. The arbitrator(s) shall be selected by DPRI upon receiving notice from any party that a dispute exists. The arbitration shall be conducted in accordance with the commercial arbitration rules of DPRI then in effect. The decision of a majority of such arbitrators shall be final, conclusive and binding on the parties hereto. All proper costs and expenses of such arbitration including, without limitation, witness fees, attorney's fees and the fees of the arbitrators shall be charged to the party or parties in such amounts as the majority of the arbitrators shall determine at the time of the award. In the event of the failure, inability or refusal of any arbitrator to act, DPRI shall appoint a replacement arbitrator. An award so rendered shall be binding in all aspects and shall be subject to the provisions of Chapter 658A, Hawaii Revised Statutes, as the same may be amended from time to time (with the exception of Hawaii Revised Statutes §§ 658A-15(b) (2) and (c); 17(c); 19; and 21(a), (c), and (e), which the parties hereby agree to waive). In the resolution of any dispute or controversy as set forth in this paragraph, each party hereby irrevocably waives any right and claim to exemplary or punitive damages in any jurisdiction. The parties further agree that any documents of assignment, lease or conveyance of the Lot by the Purchaser shall contain a provision substantially in the form set forth above, requiring the assignee, lessee or grantee to arbitrate any and all disputes concerning the Lot. Further, Seller and Purchaser each agree to indemnify, defend and hold harmless the other from and against any and all damage occurring as a result of the resolution of any such dispute other than by arbitration Seller and Purchaser agree that any arbitration proceedings under this section will be submitted to arbitration in Honolulu, Hawaii.

b. Notwithstanding anything else in this Paragraph 14 to the contrary, claims by Purchaser, Seller and/or the Association against a contractor for construction defects, as such terms are defined in Hawaii Revised Statutes, Chapter 672E ("Contractor Repair Act"), shall be handled in accordance with the provisions of the Contractor Repair Act. The dispute resolution procedures set forth in Paragraph 14.a shall be modified as necessary to comply with the provisions of the Contractor Repair Act.

c. Notwithstanding anything else in this Paragraph 14 to the contrary, any dispute by or Seller and Purchaser arising out of or incident to this Contract that is raised or otherwise asserted before the Final Closing need not be submitted to arbitration as provided herein, and Seller and Purchaser shall be free to pursue such dispute, as otherwise provided herein, in proceedings before any court of competent jurisdiction. Purchaser and Seller agree that any judicial proceedings initiated under the preceding sentence shall be conducted in Honolulu, Hawaii.

15. Brokers. Purchaser acknowledges that Seller has disclosed to Purchaser that Seller represents only Seller in this transaction. Purchaser was represented in Purchaser's purchase of the Lot by Purchaser's Broker, if any, who is identified on the signature page of this Contract and the Cooperating Brokerage Agreement, if any. Purchaser acknowledges that Seller's sales agents, if any, represent Seller only and do not represent Purchaser. Purchaser agrees that Seller is not responsible for any representation or statements of Purchaser's Broker that are inconsistent with those set forth in this Contract or the Public Offering Statement. If "None" is written in the space on the signature page of this Contract for the insertion of the name of the Purchaser's Broker, Purchaser warrants that no real estate broker or other person represented Purchaser or was engaged by Purchaser in connection with Purchaser's purchase of the Lot and agrees to indemnify, defend, and hold Seller harmless against claims to the contrary.

16. Seller Makes No Warranties or Promises Except as Expressly Stated in This Contract.

a. Purchaser acknowledges that no representations, warranties or inducements, either orally or in writing, express or implied, have been made by Seller or Seller's employees, agents or sales representatives to Purchaser except as specifically set forth in this Contract. Seller does not warrant the correctness of any information contained in, and Purchaser may not rely upon, any schematic drawings, designs, topographical or survey information or any other depictions of the Lot or the Project unless the same have been specifically set forth in this Contract. Purchaser acknowledges that Seller has made no warranties, express or implied, with respect to the Lot, its quality or grade, or any Common Area or anything installed therein, its quality or grade. The Seller, not being the manufacturer of any of the improvements in the Project, disclaims any express or implied warranty of any kind whatsoever with respect to such improvements, including the merchantability of such improvements or their fitness for a particular purpose. Purchaser acknowledges that Purchaser is purchasing the Lot based on Purchaser's own examination and judgment and not through any representations made to Purchaser by Seller or Seller's employees, agents or sales representatives as to the Lot's views, value, future value, potential for generating income, or suitability for the construction of any particular type, size, or kind of residence and other related improvements thereon.

b. The Lot Plot Plan is intended to show only the physical location and boundaries of the Lot and the same is not intended by Seller to contain or to be any other representation or warranty.

17. Additional Closing Requirements for Corporate Purchasers. If Purchaser is a corporation, partnership or limited liability company, no later than seven (7) days before Final Closing, Purchaser shall submit resolutions or other evidence satisfactory to Seller and Escrow Agent confirming that Purchaser's purchase under this Contract has been duly authorized and approved. In addition, upon request Purchaser shall provide copies of Purchaser's organizational documents.

18. General Provisions. Purchaser and Seller further agree as follows:

a. Time of the Essence. Time is the essence of this Contract.

b. Attorneys Fees. If legal action is initiated by either party to enforce this Contract, the prevailing party shall be entitled to an award of reasonable attorneys' fees (based upon reasonable hourly rates) and costs.

c. Notices. All notices and other communications shall be in writing, and shall be deemed received upon personal delivery to the party to whom the notice is directed or, if sent by a reputable overnight courier (such as Federal Express), one (1) day following its deposit with such courier, or if sent by United States mail, three (3) days following its deposit in the United States mail, postage prepaid, certified mail, return receipt requested. Notices to Seller, Purchaser or Escrow Agent shall be as follows: (a) if to Seller, to the address set forth in the preamble to this Contract; (b) if to Purchaser, to the address set forth on the first page of this Contract; and (c) If to Escrow Agent, to the address of the Escrow Agent set forth on the first page of this Contract. If more than one person is listed as a Purchaser, notice may be given to any one of them. The notice provisions above shall not limit Purchaser's right to give notice of cancellation or rescission pursuant to the cancellation rights required by the Hawaii Uniform Land Sales Act or the Interstate Land Sales Registration Division of the U.S. Department of Housing and Urban Development ("HUD") that are set forth in the box above Purchaser's signature line on the last page of this Contract.

d. Terms. The terms "Purchaser" and "Seller" whenever used herein shall include his, her or its successors, heirs, personal representatives or assigns, where the context so admits or requires, including the plural. If Purchaser consists of more than one person or entity, all agreements and obligations of Purchaser hereunder shall be the joint and several agreements and obligations of each such person or entity; and these presents shall be equally binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto, respectively. Unless otherwise defined herein, capitalized terms shall have the meaning given them in the Declaration.

e. Captions. The captions of the paragraphs hereof are for convenience only, are not an operative part hereof, and do not limit or amplify in any way the provisions hereof.

f. Cancellation in the Event of Purchaser's Death. If Purchaser, or any one or more of the Purchasers, if there is more than one Purchaser, should die prior to the Final Closing, Seller reserves the right to return all



deposits paid hereunder by Purchaser without interest and whereupon this Contract shall then be deemed to have been canceled and both Seller and Purchaser shall be released from all obligations and liability hereunder.

g. Integration. This Contract contains the entire agreement between the parties and supersedes any and all understandings or agreements heretofore made, if any, and no representation or warranties have been made by Seller or its agents other than those contained herein.

h. Assignment. This Contract shall not be assigned by Purchaser without the prior written consent of Seller, which consent may be withheld by Seller for any reason at Seller's sole discretion. Any purported assignment of the Purchaser's right, title and interest hereunder shall be null and void. Any assignment or attempted assignment by Purchaser without such consent shall constitute a material breach of this Contract.

i. Banking Day. In the event the day on which any action is required to be taken under the terms of this Contract is not a day on which banks in the State of Hawaii are open for business, the action shall be taken on the next such day.

j. Severability. In the event any portion of this Contract shall be declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be severed from this Contract, and the remaining Contract shall remain in full force and effect, as though such severed portion had never been part of this Contract.

k. Interpretation. The language in all parts of this Contract shall be in all cases construed simply according to its fair meaning and not strictly for or against Purchaser or Seller.

l. Applicable Law. This Contract shall be construed and enforced in accordance with the laws of the State of Hawaii.

m. Offer Only and Execution. Execution of this Contract by Purchaser constitutes an offer to buy the Lot from Seller on the terms and conditions set forth herein. Under no circumstances shall this Contract be deemed an offer by Seller to sell the Lot. This Contract shall not be binding upon Seller unless and until it has been executed by Seller and thereafter a duly executed copy has been delivered to Purchaser. For purposes of executing this Contract and any amendments thereto, any signed document transmitted by facsimile machine with automatic confirmation of receipt shall be treated in all manner and respects as an original document. This Contract and its attachments may be executed in more than one counterpart, each of which shall be deemed to be an original, but all of which together shall constitute a single Contract.

19. Survival. This Contract shall survive Closing, the terms and conditions of this Contract shall not merge into the Lot Deed at Final Closing.

PURCHASER ACKNOWLEDGES HAVING READ THIS CONTRACT IN FULL AND THAT PURCHASER IS AWARE OF AND ACCEPTS ALL OF ITS TERMS AND CONDITIONS, INCLUDING THE LIQUIDATED DAMAGES PROVISIONS IN PARAGRAPH 13, PURSUANT TO WHICH PURCHASER'S PAYMENT A MAY BE FORFEITED IN THE EVENT PURCHASER DEFAULTS, AND THE MANDATORY ARBITRATION PROVISION IN PARAGRAPH 14.

<p><b>HAWAII CANCELLATION NOTICE: YOU MAY CANCEL THIS CONTRACT BY NOTICE TO THE SELLER UNTIL MIDNIGHT OF THE SEVENTH DAY FOLLOWING THE SIGNING OF THE CONTRACT OR AGREEMENT.</b></p>
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IN WITNESS WHEREOF, Purchaser has executed this Contract as of the date indicated below.

**PURCHASER:**

\_\_\_\_\_

This Contract is executed by Purchaser this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Seller's Acknowledges Receipt of Payment A.

By: \_\_\_\_\_

Name: Thomas M. Smith

**SELLER: THOMAS M. SMITH**

By: \_\_\_\_\_

This Contract is executed by Seller this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Name: Thomas M. Smith  
4054 McKinney Avenue, Suite 310  
Dallas, Texas 75204  
214-520-0600  
Fax: 214-559-3124  
Email: [tom@atty.bz](mailto:tom@atty.bz)

**EXHIBIT A**  
**(LOT \_\_\_\_\_ LEGAL)**