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Charles P. Neumann III
REGISTERAR

NOTED ON CERTIFICATE NO. 153216

IN REGISTRATION BOOK _____ PAGE _____

TRANSFER OF CERTIFICATE OF TITLE ISSUED
AND TRANSFERRED INTO

REGISTRATION BOOK _____ PAGE _____

BEING CERTIFICATE NO. _____ IN

OFFICE OF THE ASSISTANT REGISTRAR
LAND COURT

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL () PICKUP ()

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

DECLARATION OF HORIZONTAL PROPERTY REGIME

MAKAHA SURFSIDE

KNOW ALL MEN BY THESE PRESENTS, THAT WHEREAS,

PROJECT COORDINATOR'S OFFICE, INC., a Hawaii corporation, General Partner of Makaha Surfside Development Company, a Hawaii registered limited partnership, whose principal place of business and post office address is 1776 Kapiolani Boulevard, Honolulu, Hawaii, hereinafter referred to as "Grantor", is the owner of all of the interest described in the real property described in Exhibit "A", hereinafter referred to as "land"; and

Grantor intends to improve said land by constructing thereon a condominium project;

NOW THEREFORE, said Grantor does hereby submit said land and the improvements to be constructed thereon to the provisions of Chapter 514, Hawaii Revised Statutes, as amended, known as the Horizontal Property Act, and does hereby establish a Horizontal Property Regime with respect to said land and the improvements known as the "Makaha Surfside" and in furtherance thereof hereby makes the following declaration as to divisions, covenants, restrictions, limitations, conditions and uses to which the above described land and improvements and appurtenances to be constructed thereon may be put, and hereby specifies that said Declaration shall constitute covenants to run with the land and shall be binding on said Grantor, its heirs, successors and assigns:

1.0 DESCRIPTION OF PROJECT. The project will consist of three concrete and hollow tile apartment buildings and a concrete and hollow tile parking building and parking areas, and two recreation areas to be located at 85-175 Farrington Highway, Makaha, Oahu, State of Hawaii in accordance with plans and specifications prepared by A. Daniel Klein and Associates, Inc, and the floor plans recorded with the Office of the Assistant Registrar of the Land Court, State of Hawaii as Condominium Map No. 150 (hereinafter referred to as the "Condominium Map"). Building A will have four floors with a total of 165 apartments. Building B will have four floors with a total of 103 apartments. Building C will have four floors with a total of 105 apartments including a manager's unit. The parking areas shall have a total of 51 parking spaces and the parking building shall have four floors with a total of 537 parking spaces.

1.1 DESCRIPTION OF GROUNDS. The grounds will have street level (on grade) parking on the mauka side of Building A and street level (on grade) parking on the mauka side of a portion of Building C. On the makai side of Building A there is one recreation area and a garden court. On the makai side between Buildings B and C there is a recreation area. There is one laundry building on the mauka side of Building A adjacent to the parking building and another laundry building on the mauka side of Building C. The grounds will have walkway areas connecting the various buildings with the parking areas, recreation areas and the parking building.

1.2 DESCRIPTION OF BUILDING A. The ground floor contains 40 apartments with two trash rooms, one electric room, walkways two passageways and stairways leading up to the second floor. The second through fourth floors each contain 42 apartments, two trash chute rooms, walkways and stairways connecting each floor. There are two elevators in this building which will reach the third floor only and if the City and County of Honolulu approves a variance then to the fourth floor which the Grantor does not guarantee.

1.3 DESCRIPTION OF BUILDING B. The ground floor contains 25 apartments, one electric room, one passageway and walkway and stairways leading up to the second floor. The second through fourth floors each contain 26 apartments with walkways and stairways connecting each floor. There is one elevator in this building which will reach the third floor only and if the City and County of Honolulu approves a variance then to the fourth floor which the Grantor does not guarantee.

1.4 DESCRIPTION OF BUILDING C. The ground floor contains 44 apartments including one manager's apartment, lobby and mail area, trash and equipment room, passageway, walkways and stairways leading up to the second floor. The second through fourth floors each contain 47 apartments, storage room, trash chute room, with walkways and stairways connecting each floor. There are two elevators in this building which will reach the third floor only and if the City and County of Honolulu approves a variance then to the fourth floor which the Grantor does not guarantee.

1.5 DESCRIPTION OF PARKING BUILDING. The parking building for the entire project shall consist of two (2) sections. The mauka section shall consist of four levels of parking A, C, E and G. The makai section shall consist of four levels B, D, F and H. There shall be up and down ramps interconnecting the various levels of parking. In addition, there shall be ramps or stairs to Buildings A, B and C and to grade level.

2.0 DIVISION OF PROJECT. The Project is hereby divided into the following separate freehold estates:

2.1 Apartments. The following are the types of apartments in this project:

- a. Vacation Apartment. A vacation apartment is approximately 301 square feet and contains a balcony, living-bedroom area, a bathroom, range and refrigerator space.

b. One-Bedroom Apartment. A one-bedroom apartment is approximately 412 square feet and contains a balcony, living room, bathroom, a bedroom, range and refrigerator space.

c. Two-Bedroom Apartment. A two-bedroom apartment is approximately 886 square feet and contains a balcony, entry, living room, dining room, two bedrooms, two bathrooms and kitchen. A purchaser may select a two-bedroom apartment in place of two one-bedroom apartments. In that event the number assigned to that two-bedroom apartment will be the apartment numbers assigned to the two one-bedroom apartments, e.g. 101-102 and the assignment of two parking stalls.

Each unit has immediate access to the walkways which are part of the common elements.

2.2 NUMBER AND LOCATION OF APARTMENTS. The apartments in Buildings A and B are all one-bedroom apartments and are numbered as such subject to two one-bedroom apartments being combined into a two-bedroom apartment as described in 2.1(c). The apartments in Building C consists of vacation apartments numbered C-112 through C-127 inclusive (No Number C-113); C-130 through C-148 inclusive; for the second floor, C-211 through C-227 inclusive (No Number C-213); C-230 through C-248 inclusive and repeats itself in like manner for the third and fourth floors in the numbering. All other apartments in Building C are one-bedroom apartments subject to being combined into two-bedroom apartments as described in 2.1(c). The two-bedroom apartments are as follows: A 101-102, A 103-104, A 301-302 and B 426-427.

BUILDING A

<u>NUMBERS</u>	<u>FLOOR</u>
A 101 through A 114 inclusive (No Number A 113) A 116 through A 129 inclusive, A 131 through A 143 inclusive	Ground
A 201 through A 243 inclusive (No Number A 213)	Second
A 301 through A 343 inclusive (No Number A 313)	Third
A 401 through A 443 inclusive (No Number A 413)	Fourth

BUILDING B

<u>NUMBER</u>	<u>FLOOR</u>
B 101 through B 112 inclusive B 115 through B 127 inclusive	Ground
B 201 through B 227 inclusive (No Number B 213)	Second
B 301 through B 327 inclusive (No Number B 313)	Third
B 401 through B 427 inclusive (No Number B 413)	Fourth

BUILDING C

<u>NUMBERS</u>	<u>FLOOR</u>
C 103 (Manager's Apartment), C 104 through C 110 inclusive, C 112 through C 148 inclusive (No number C 113)	Ground
C 201 through C 248 inclusive (No number C 213)	Second
C 301 through C 348 inclusive (No number C 313)	Third
C 401 through C 448 inclusive (No number C 413)	Fourth

2.3 PARKING STALLS. There are 588 separately designated and described parking stalls; in the parking building numbered A-1 through A-69 inclusive (No number A-13); B-1 through B-65 inclusive (No number B-13); C-1 through C-69 inclusive (No number C-13); D-1 through D-68 inclusive (No number D-13); E-1 through E-69 inclusive (No number E-13); F-1 through F-68 inclusive (No number F-13); G-1 through G-69 inclusive (No number G-13); H-1 through H-68 inclusive (No number H-13); and street level (on grade) parking stalls numbered 0-1 through 0-12 inclusive and 0-14 through 0-52 inclusive. Parking stalls 0-7 through 0-12 inclusive, 0-14 through 0-23 inclusive and 0-35 through 0-48 inclusive cover a ground space of 7½ feet by 16 feet (120 square feet) and all other parking stalls cover a ground or floor space of 8½ feet by 19 feet (161½ square feet) with all parking stalls including the air space up to the ceiling in the case of parking stalls within the parking building and as to street level and parking ramps "C" and "H" it extends to the height limit as permitted by the building and zoning ordinances. As to parking stalls B-48 through B-65 inclusive designated as area B-R-I and parking stalls B-11, B-12, B-14 through B-32 inclusive designated as area B-R-II the owner and holders of said parking stalls are given the right to enclose said areas including the alteration of the floor areas in order that the same can be converted for use into rooms. The parking stalls may be separately sold, leased, rented, mortgaged, encumbered, used and occupied to the exclusion of any other parking stall owners. At least one parking stall shall be assigned to each apartment as set forth in Exhibit "B". Parking stalls 0-7 through 0-12 inclusive and 0-14 through 0-34 inclusive are part of the common elements which the Association shall utilize for guest parking under such terms and conditions as the Association shall determine appropriate.

2.32 LAUNDRY BUILDINGS. Each laundry building covers approximately 600 square feet of ground space. Each laundry building may be separately sold, leased, rented, mortgaged, encumbered, used and occupied. The owner of the laundry building shall be responsible for installation and maintenance of any appliances placed within the same. The Association, however, shall be responsible for and pay for the maintenance of the laundry buildings both the interior and exterior including the clean up of the floors and the painting of the same.

2.4 LIMITS OF APARTMENTS. The respective apartment shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load bearing walls. The floors and ceilings surrounding each of them or any pipes, wiring, conduits or other utility lines running through them which are utilized for or serve more than

one unit, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions, floors and ceilings which are not load bearing within its perimeter walls including plaster, paint, wallpaper or the like, carpeting, floor covering and built-in fixtures. Additionally, the boundary lines of each apartment are the exteriors of doors, windows and glass walls and the frames thereof.

2.5 COMMON ELEMENTS. The common elements include:

- a. The undivided fee simple land described in Exhibit "A".
- b. The foundations, columns, girders, beams, supports, main walls, roofs and floors of the laundry buildings, Buildings A, B and C, and the parking building.
- c. The lobby, manager's office number C 102, manager's apartment C 103 all located in Building C and parking stall 0-1.
- d. The passageways, walkways, stairs and stairways, the easements over the parking driveways except areas B-R-I and B-R-II, and guest parking stalls 0-7 through 0-12 inclusive and 0-14 through 0-34 inclusive held by the Association for its use as is set forth in the Condominium Map.
- e. Trash rooms, storage rooms, trash chutes, electric room, utility and service buildings and elevators.
- f. Entrances and exits of all the buildings.
- g. The central and appurtenant installations for services such as power, light, gas, hot and cold water and like utilities.
- h. The yard and recreation areas.
- i. All other parts of the project existing for the common use or necessary to the existence, maintenance and safety of the project.

2.6 LIMITED COMMON ELEMENT. A certain part of the common elements, herein called and designated "Limited Common Element", is hereby set aside and reserved for the exclusive use of apartments A101, A102, A103 and A104, and such apartments shall have appurtenant thereto exclusive easements over such limited common element. The limited common element so set aside and reserved shall be the Garden Court, containing an area of approximately 2,080 square feet, as shown on said Condominium Map.

3.0 PERCENTAGE OF UNDIVIDED INTEREST IN THE COMMON ELEMENTS.

- a. The percentage of undivided interest in the common elements appertaining to each apartment, parking stall and laundry building are as follows:

<u>Type of Unit</u>	<u>Percentage of Undivided Interest in the Common Elements</u>	<u>No. of Units</u>	<u>Percentage of Ownership in the Common Elements Per Type</u>
Vacation	.1695	139	23.5605
One Bedroom	.1947	314	61.1358
Parking Stall	.0262	560	14.6720
Laundry Building	.31585	2	.6317
Total			100.0000

b. Voting and Percentage in the Common Elements. For purposes of percentage in the common elements and voting on all matters requiring action by the owners when completed and occupied the percentages as provided in paragraph "a" above shall govern. Where two one-bedroom apartments are combined into a two-bedroom apartment the percentage will be doubled.

4.0 EASEMENTS. Each apartment, parking stall and laundry building shall have and be subject to and have appurtenant thereto non-exclusive easements in the common elements designed for such purposes as ingress to, egress from, utilities services for, and support, and maintenance and repair of each apartment, parking stall or laundry building, and in the other common elements for use according to their respective purposes. If any part of the common elements encroaches upon any apartment, parking stall or laundry building, a valid easement for such encroachment and the maintenance thereof so long as it continues shall and does exist. In the event any portion of any buildings shall be partially or totally destroyed and then rebuilt minor encroachments of any parts of the common elements due to such construction shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist. The Association shall have the right to be exercised by its Board of Directors or the Managing Agent to enter into each apartment from time to time during reasonable hours as may be necessary for the operation of the project or for making emergency repairs therein necessary to prevent damage to any unit or common elements.

5.0 ALTERATION AND TRANSFER OF INTEREST. The common interest and easements appurtenant to each apartment, parking stall or laundry building shall have a permanent character and shall not be altered without the consent of all owners affected thereby as expressed in an amendment to this Declaration duly recorded, shall not be separated from such apartment, parking stall or laundry building and shall be deemed conveyed or encumbered with such apartment, parking stall or laundry building even though not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided and no rights shall exist to partition or divide any part thereof except as provided by the Horizontal Property Act.

6.0 PURPOSES FOR WHICH THE BUILDING AND EACH OF THE APARTMENTS MAY BE USED. The apartments are intended primarily for residential purposes. However, certain commercial and business uses shall be permitted (such as hotel operation) subject to such limitation as may be contained herein and in the By-Laws of the

Association and House Rules which may be adopted from time to time governing the use of the apartments. The assigned parking stalls shall be used for parking purposes and the unassigned parking stalls may be used for such commercial uses as may be determined by the owner thereof.

7.0 ASSOCIATION OF OWNERS. Administration of the project shall be vested in its Association consisting of all owners of apartments, parking stalls and laundry buildings in the project in accordance with the By-Laws of the Association attached hereto and made a part hereof as Exhibit "C". The owners of any apartment, parking stall or laundry building upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as its ownership ceases for any reason at which time his membership in the Association shall automatically cease. Until such time as the deed conveying title to any interest in the project has been delivered to the purchaser thereof the Grantor shall be deemed to be the owner of such interest and shall have the right to exercise all of the powers appurtenant thereto. Operation of the project and maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto shall be in accordance with the provisions of the Horizontal Property Act, this Declaration and the By-Laws.

8.0 MANAGING AGENT AND SERVICE OF PROCESS. Operation of the project shall be conducted for the Association by a managing agent which shall be appointed by the Association in accordance with the By-Laws. For an initial period of at least three years the managing agent shall be Trans Isle Realty, Inc., a Hawaii corporation, whose principal place of business and post office address is 1776 Kapiolani Boulevard, Honolulu, Hawaii, and which is hereby authorized to receive service of legal process in all cases provided in said Horizontal Property Act until the successor is appointed by the Board of Directors in which event such successor or any member of the Board of Directors residing in the City and County of Honolulu, State of Hawaii, may be served with such process of service.

9.0 COMMON EXPENSES. All charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration of the project, including without limitation, the operation thereof, all maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto, all labor, services, materials, supplies and equipment therefor, water to be provided on a common meter basis, all liability whatsoever for loss or damage arising out of or in connection with the common elements or any accident, fire or nuisance thereof, all real property taxes (except real property taxes and such other taxes which are or may hereafter be assessed separately on each apartment, parking stall and laundry building and the interest in the common elements appertaining thereto or the personal property or other interest of an owner), and all premiums for hazard and liability insurance herein required with respect to the project shall constitute common expenses of the project and all apartment, parking stall and laundry building owners shall be severally liable for such common expenses in the same proportion as their percentage share in the common interests. The Board shall from time to time assess the common expenses against all the apartments, parking stalls and laundry buildings according to their respective obligations therefor and the unpaid amount of such assessments for any apartment, parking stall or laundry building which may be assessed by the Board or Managing Agent as provided by said Horizontal Property Act, provided that 30 days' prior written notice of intention to assess shall be mailed, postage prepaid, to all persons having any interest in such apartment, parking stall or laundry building as shown in the Association's record of ownership. Suit to recover any money

judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

10.0 COMPLIANCE WITH DECLARATION, BY-LAWS AND DECISIONS. All apartment, parking stall and laundry building owners, their tenants, families, employees, servants and guests, and any other persons who may in any manner use the project or any part thereof, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws of the Association and all agreements, decisions and determinations of the Association, lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover monies due, for damages or injunctive relief, or any other remedies available in law or in equity, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved apartment, parking stall or laundry building owner.

11.0 INSURANCE. The Board on behalf of the Association at its common expense shall at all times keep all project improvements insured against loss or damage by fire with extended coverage in an insurance company authorized to do business in Hawaii in an amount as near as practicable to the full replacement cost thereof without deduction for depreciation, in the name of the Board as trustee for all apartment, parking stall and laundry building owners and mortgagees according to the loss or damage to their respective apartments, parking stalls and laundry buildings and appurtenant common interests and easements and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, without prejudice to the right of each apartment, parking stall and laundry building owner to insure his apartment, parking stall or laundry building for his own benefit. In every case of such loss or damage all insurance proceeds shall be used as soon as reasonably possible by the Board, on behalf of the Association for rebuilding, repairing or otherwise reinstating the buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall:

- a. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of any other insurance obtained by or for any owner;
- b. Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the board or any owner or any other person under either of them;
- c. Provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least 30 days' prior written notice thereof to the Board and every other person in interest who shall have requested such notice of the insurer;
- d. Contain a waiver by the insurer of any right of subrogation

