

AGREEMENT OF PURCHASE AND SALE

FOR THE SPA IMPROVEMENTS

KAPALUA, MAUI, HAWAII

Dated: June 19, 2006

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AGREEMENT OF PURCHASE AND SALE

This Agreement, dated as of June 19, 2006 (“**Effective Date**”), is between KAPALUA BAY, LLC, a Delaware limited liability company (“**Seller**”), and MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation (“**Buyer**”).

ARTICLE I

PURCHASE AND SALE OF PROPERTY

Section 1.1 Sale.

Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms, covenants and conditions set forth herein, all of Seller’s right, title and interest in and to the following property (collectively, the “**Property**”):

Section 1.2 Real Property.

(a) The improvements now or hereafter located on that certain real property located in the Kapalua Resort Area of Maui, Hawaii, more particularly described in Exhibit A attached hereto and made a part hereof and as the same are to be constructed pursuant to the approved Working Plans and Specifications, also as are generally defined in conceptual form on Exhibit A (the “**Improvements**”); and

(b) Tangible Personal Property. All of the furniture, furnishings, equipment, fixtures supplies and other tangible personal property, if any, owned by Seller and now or hereafter located on and used exclusively in the operation, ownership or maintenance of the Improvements (collectively, the “**Tangible Personal Property**”); and

(c) Intangible Property. To the extent assignable at no cost to Seller, all intangible property, if any, owned by Seller and related to the Improvements, including, without limitation: any plans and specifications and other architectural and engineering drawings; any guaranties and warranties; surveys, engineering reports and other technical information relating to the Improvements and any other contract and recovery rights related to the Property (but only to the extent Seller’s obligations thereunder are expressly assumed by Buyer pursuant to the Assignment of Intangible Property as defined in Section 8.3(a)(2) below); and any governmental permits, approvals and licenses (including any pending applications), including, without limitation, the permits listed on Schedule 2 attached hereto (collectively, the “**Intangible Personal Property**”).

Section 1.3 Purchase Price.

(a) The purchase price of the Property shall be an amount equal to 100% of that portion of the Projects Costs incurred by Seller with respect to the construction of the Improvements (excluding therefrom the Back of House Portion of Project Costs described below) (the “**Purchase Price**”). The Project Costs allocable to the Improvements shall include all actual direct construction costs (“**Direct Hard Costs**”) associated with the foundation and vertical improvements of the construction of the Improvements, and including any furnishings,

fixtures and equipment paid for by the Seller and installed therein. For this purpose, Project Costs shall also include any costs or expenses actually incurred by Seller in the termination of any of the KBH Shops leases or relocation of the tenants thereunder. The Project Costs for the Improvements shall also include a percentage of the overall Project's indirect costs not otherwise specifically allocated to the Improvements and actually incurred for debt financing, entitlements, architectural costs and general fees and services and other "soft" costs paid in association with the development of the Project ("**Indirect Soft Costs**"). For example, the Indirect Soft Costs shall not include the following costs: sales and marketing, the formation and administration of Kapalua Bay AOA, Ritz-Carlton Technical Service Fee and other costs not necessary for or related to the construction of the Improvements. The Project Costs for the Improvements shall also include a percentage of the entire Project's "**Indirect Hard Costs**", which are defined as demolition, site preparation (grading, utilities, etc.) and site improvements (paving, landscaping, pools, and all other Project Costs not deemed Direct Hard Costs). The allocation percentage to be applied to Indirect Soft Costs and Indirect Hard Costs shall be the same percentage as the relationship which the Direct Hard Costs associated with the construction of the Improvements bears to the aggregate Direct Hard Costs for the construction of the entire Project. The Direct Hard Costs for the Project are the same as those defined for the construction of the Improvements and shall include the amounts of Direct Hard Costs associated with the construction of the Improvements. A description of the categories of such costs and the amounts estimated therefore as of the Effective Date are described in the attached **Schedule 1**. Capitalized terms used herein but not defined shall have the meanings given to them in the Limited Liability Company Agreement of Kapalua Bay Holdings, LLC (the sole member of Seller) dated August 31, 2004 (the "**LLC Agreement**"). For purposes hereof, the "**Back of House Portion of the Project Costs**" shall mean that portion of the Project Costs (both soft costs and hard costs) incurred by Seller for construction of the portion of the Improvements (as more particularly described or used by the respective owners' associations for "back of house services" (the "**Back of House Portion**"), and is intended to include any and all incremental increases in Project Costs attributable to the construction of the Back of House Portion.

(b) The Purchase Price (plus or minus the prorations pursuant to Section 8.4 hereof) shall be determined upon completion of construction of the Improvements and shall be paid to Seller in cash or by wire transfer of other immediately available funds at the consummation of the purchase and sale contemplated hereunder (the "**Closing**"). Notwithstanding the foregoing, provided that sums are otherwise then due Buyer or its affiliate as distributions pursuant to the Seller's LLC Agreement, Buyer may elect to have the Purchase Price paid by deducting the amount of the Purchase Price from the distributions otherwise then due to Buyer under the Seller's LLC Agreement.

ARTICLE II

BUYER'S EXAMINATION

Section 2.1 Buyer's Independent Investigation.

(a) Subject to the Assignment of Intangible Property as provided herein, Buyer acknowledges and agrees that prior to the Effective Date it has been given a full opportunity to inspect and investigate each and every aspect of the Property, either independently or through agents of Buyer's choosing, including, without limitation:

(1) All matters relating to title and survey, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements and building codes.

(2) The physical condition and aspects of the Property, including, without limitation, the Improvements and the presence or absence of Hazardous Materials, as defined below. For purposes of this Agreement, “**Hazardous Materials**” shall mean inflammable explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, lead, lead-based paint, radon, under and/or above ground tanks, hazardous materials, hazardous wastes, hazardous substances, oil, or related materials, which are listed or regulated in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.) and any other applicable federal, state or local laws (collectively, “**Environmental Laws**”).

(3) Any easements and/or access rights affecting the Property.

(4) All other matters of material significance affecting the Property.

(b) BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ANY SELLER RELATED PARTIES, OR THEIR AGENTS OR BROKERS, OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER, AS TO ANY MATTERS CONCERNING THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH IN SECTION 3.1 AND EXCEPT FOR SELLER’S ENFORCEMENT OF ANY WARRANTIES ON BUYER’S BEHALF AS PROVIDED HEREIN, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, access to the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (viii) the condition of title to the Property, (ix) the value, economics of the operation or income potential of the Property, or (x) any other fact or condition which may affect the Property, including without limitation, the physical condition, value, economics of operation or income potential of the Property.

Section 2.2 Release.

(a) Without limiting the above, and subject to the representations and warranties of Seller contained in Section 3.1 hereof, Buyer on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, each Seller, Seller's affiliates, Seller's investment advisor, the partners, trustees, beneficiaries, shareholders, members, managers, directors, officers, employees and agents and representatives of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, the "**Seller Related Parties**"), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, court costs and attorneys' fees and disbursements), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, the environmental condition of the Property and the presence of Hazardous Materials on, under or about the Property, (ii) any law or regulation applicable to the Property, including, without limitation, any Environmental Law and any other federal, state or local law, and (iii) valuation, salability or utility of the Property, or its suitability for any purpose whatsoever.

Section 2.3 Survival.

The provisions of this Article II shall survive the Closing subject to the limitations and qualifications contained in such provisions and in Section 9.11 hereof.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of Seller.

Subject to the provisions of Article II above, Seller hereby makes the following representations and warranties with respect to the Property.

(a) As of the date hereof, Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "**Code**") and any related regulations.

(c) This Agreement has been, and all documents executed by Seller which are to be delivered to Buyer at Closing will be, duly authorized, executed and delivered by Seller, and this Agreement does not and such other documents will not violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) Seller has the power and authority to enter into this Agreement and all documents executed by Seller which are to be delivered to Buyer at Closing and to perform its obligations hereunder and thereunder.

(e) Seller represents, covenants and agrees that upon Buyer's request, Seller will either enforce all guaranties and warranties for the construction of the Improvements for the benefit of Buyer or separately assign the same to Buyer in such a manner so as to enable Buyer to enforce such guaranties and warranties.

Section 3.2 Survival of Representations and Warranties.

The representations and warranties of Seller and Buyer contained herein shall survive for a period of twelve (12) months after the Closing.

Section 3.3 Representations and Warranties of Buyer.

Buyer represents and warrants to Seller as follows:

(a) Buyer represents and warrants to Seller that this Agreement and all documents executed by Buyer which are to be delivered to Seller at Closing do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Buyer is a party or to which Buyer is subject.

(b) Buyer represents and warrants to Seller that Buyer has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Buyer's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Buyer's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Buyer's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(c) Buyer has been duly organized, is validly existing and is in good standing in the state in which it was formed, and is qualified to do business in the state in which the Improvements are located. This Agreement has been, and all documents executed by Buyer which are to be delivered to Seller at Closing will be, duly authorized, executed and delivered by Buyer.

(d) Buyer is not a party in interest with respect to any employee benefit or other plan within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), or of Section 4975(e)(1) of the Code, which is subject to ERISA or Section 4975 of the Code and which is an investor in Seller.

(e) Buyer has had no contact with any broker or finder with respect to the Property.

Each of the representations and warranties of Buyer contained in this Section shall be deemed remade by Buyer as of the Closing and shall survive the Closing as provided in Section 3.3 above.

ARTICLE IV
INTENTIONALLY OMITTED

ARTICLE V
RISK OF LOSS

Any risk of loss to the Property shall be borne by Seller until the Closing. If prior to the Closing there are instituted any proceedings, whether judicial, administrative, or otherwise, which relate to the taking of any portion of the Property by eminent domain or the Property is destroyed or damaged in whole or in part, Buyer shall have the right to extend the Closing Date until the repair is completed or the proceeding is concluded. If Buyer does not so extend the Closing Date, then at the Closing, Seller shall assign to Buyer all of its right, title, and interest in any insurance proceeds or award arising out of such taking or destruction plus the amount of any insurance deductible.

ARTICLE VI
BROKERS AND EXPENSES

Section 6.1 Brokers.

The parties represent and warrant to each other that no broker or finder was engaged to arrange or bring about this transaction. If any other person brings a claim for a commission or finder's fee based upon any contact, dealings or communication with Buyer or Seller, then the party through whom such person makes his claim shall defend the other party (the "**Indemnified Party**") from such claim, and shall indemnify the Indemnified Party and hold the Indemnified Party harmless from any and all costs, damages, claims, liabilities or expenses (including without limitation, court costs and reasonable attorneys' fees and disbursements) incurred by the Indemnified Party in defending against the claim. The provisions of this Section 6.1 shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Agreement.

Section 6.2 Expenses.

Except as provided in Article IV above, and Sections 8.4(b) and 9.5 below, each party hereto shall pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby.

ARTICLE VII
OPERATION OF THE PROPERTY

Seller agrees to keep its customary property insurance covering the Property in effect until the Closing (provided, however, that the terms of any such coverage maintained in blanket form may be modified as Seller deems necessary).

ARTICLE VIII
CLOSING AND ESCROW

Section 8.1 Escrow Instructions.

Upon execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with the First American Title Insurance Company (“**Title Company**”), and this instrument shall serve as the instructions to the Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and Buyer agree to execute such reasonable additional and supplementary escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

Section 8.2 Closing.

The Closing hereunder shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company or as otherwise mutually agreed, on a date which is within thirty (30) days of the later to occur of (a) “Substantial Completion” of the Improvements, and (b) the issuance of certificates of occupancy for twenty-five percent (25%) or more of the residential units being constructed as part of the Project (the “**Closing Date**”). “**Substantial Completion**” will be deemed to have occurred upon the date on which the Improvements are completed in accordance with the plans and specifications therefor, subject only to minor punchlist items, and, if the Seller performs the Seller Build Out (as defined in Section 9.9 below), a certificate of occupancy procured, so that the Buyer lawfully can occupy and utilize the Improvements, subject to final completion of any punchlist items. Except as expressly provided herein, such date and time may not be extended without the prior written approval of both Seller and Buyer.

Section 8.3 Deposit of Documents.

(a) At or before the Closing, Seller shall deposit into escrow the following items:

(1) the duly executed and acknowledged Deed in the form attached hereto as **Exhibit B** conveying the Improvements to Buyer subject to the Conditions of Title;

(2) four (4) duly executed originals of a Bill of Sale in the form attached hereto as **Exhibit D** for the Tangible Personal Property;

(3) four (4) duly executed counterparts of an Assignment and Assumption of Intangible Property in the form attached hereto as **Exhibit C** (the “**Assignment of Intangible Property**”);

(4) four (4) duly executed counterparts of the agreement described in Section 8.5(e) below;

(5) four (4) duly executed counterparts of an agreement between Buyer and Seller, in a form reasonably acceptable to Buyer and Seller, which obligates Buyer to operate the Improvements as a first-class spa in accordance with standards reasonably acceptable to Buyer and Seller (the “**Facilities Operations and Standards Agreement**”);

(6) four (4) duly executed counterparts of the Back of House Lease, as the same hereinafter defined in Section 8.5(e);

(7) State of Hawaii, Department of Taxation, Conveyance Tax Certificates, in the amount of the Purchase Price;

(8) FIRPTA and HARPTA Certificates; and

(9) any other documents reasonably necessary to close the transaction.

(b) At or before Closing, Buyer shall deposit into escrow the following items:

(1) immediately available funds necessary to close this transaction, including, without limitation, the Purchase Price (less the interest thereon net of investment fees, if any) and funds sufficient to pay Buyer’s closing costs and share of prorations hereunder;

(2) four (4) duly executed counterparts of the Assignment of Intangible Property;

(3) four (4) duly executed counterparts of the agreement described in Section 8.5(e) below;

(4) four (4) duly executed counterparts of the Facilities Operations and Standards Agreement;

(5) four (4) duly executed counterparts of the Back of House Lease;
and

(6) any other documents reasonably necessary to close the transaction.

(c) Seller and Buyer shall each execute and deposit a closing statement, such transfer tax declarations and such other instruments as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the acquisition of the Property in accordance with the terms hereof. Seller and Buyer hereby designate Title Company as the “Reporting Person” for the transaction pursuant to Section 6045(e) of the Code and the regulations promulgated thereunder and agree to execute such documentation as is reasonably necessary to effectuate such designation.

Section 8.4 Prorations and Closing Costs.

(a) Real property taxes, assessments and any common expenses affecting the Property shall be prorated as of the Closing Date based on the actual number of days in the month and year.

(b) Buyer shall pay all title insurance premiums (and all endorsements to the title policy) and all other title insurance company charges and all survey costs in connection with this transaction, including (i) 100% of any escrow fees charged by Escrow Agent, (ii) all transfer taxes and recording fees, and (iii) all sales and use taxes with respect to the transaction contemplated hereby. Each party shall pay its own legal fees and all of its other expenses in connection with this transaction.

(c) Charges to the Seller pursuant to this Section 8.4 shall be considered “Project Costs” pursuant to the Seller’s LLC Agreement.

(d) The provisions of this Section 8.4 shall survive the Closing.

Section 8.5 Conditions of Closing.

In addition to any other conditions set forth in this Agreement, the obligation of Seller, on the one hand, and Buyer, on the other hand, to consummate the transactions contemplated hereunder shall be contingent upon the following:

(a) As of the Closing Date, the other party shall have performed its obligations hereunder in all material respects and all deliveries to be made at Closing have been tendered.

(b) There shall exist no pending or threatened action, suit, arbitration, attachment, proceeding, assignment for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding against the other party that would materially and adversely affect the party’s ability to perform its obligations under this Agreement.

(c) If the Seller performs the Seller Build Out, as provided in Section 9.9, a certificate of occupancy shall have been issued for the Improvements by the applicable governmental authority.

(d) Buyer and Seller shall have agreed upon the final form of lease, substantially in the form attached hereto as **Exhibit E** (“**Back of the House Lease**”) for the Back of the House Portion of the Project whereby Seller or the Association of Apartment Owners of Kapalua Bay Condominium shall, effective as of the Closing, lease an interest in Back of House Portion.

So long as a party is not in default hereunder, if any condition to such party’s obligation to proceed with the Closing hereunder has not been satisfied as of the Closing Date, such party may, in its sole discretion and as its sole and exclusive remedy: (i) elect to extend the Closing until such condition is satisfied, or (ii) elect to consummate the transaction, notwithstanding the non-satisfaction of such condition, in which event such party shall be deemed to have waived any such condition.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Notices.

Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile with confirmation of receipt, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

To Buyer: Maui Land & Pineapple Company, Inc.
120 Kane Street
P. O. Box 187
Kahului, Maui, HI 96732
Attention: Mr. Ryan Churchill
Fax No.: (808) 669-5454

with a copy to: Teel, Palmer & Roeper, LLP
11455 El Camino Real, Suite 300
San Diego, CA 92130
Attention: Dean E. Roeper, Esq.
Fax No.: (858) 794-2909

To Seller: Kapalua Bay, LLC
c/o Maui Land & Pineapple Company, Inc.
120 Kane Street
P. O. Box 187
Kahului, Maui, HI 96732
Attention: Mr. Ryan Churchill
Fax No.: (808) 669-5454

with a copy to: Marriott International, Inc.
10400 Fernwood Road
Bethesda, MD 20817
Attention: Rena Hozore Reiss, Esq.
Assistant General Counsel
Fax Nos.: (301) 380-6727

with a copy to: The Ritz-Carlton Development Company, Inc.
c/o The Ritz-Carlton Club
6649 Westwood Blvd.
Orlando, FL 32821
Attn.: Allen J. Daniel, Esq., Senior Counsel
Fax Nos.: (407) 206-6420

with a copy to: Exclusive Resorts, LLC
1530 Sixteenth Street, Suite 600
Denver, CO 80202
Attention: Mr. Robert Parsons
Fax Nos.: (800) 447-8988

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be effective only upon delivery.

Section 9.2 Entire Agreement.

Without modification or limitation of Seller's LLC Agreement, this Agreement, together with the Exhibits and schedules hereto, contains all representations, warranties and covenants made by Buyer and Seller and constitutes the entire understanding between the parties hereto with respect to the acquisition of the Property by Buyer. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement together with the Exhibits and schedules hereto.

Section 9.3 Entry and Indemnity.

In connection with any entry by Buyer, or its agents, employees or contractors onto the Property, Buyer shall give Seller reasonable advance notice of such entry and shall conduct such entry and any inspections in connection therewith (a) during normal business hours, (b) in compliance with all applicable laws, and (c) otherwise in a manner reasonably acceptable to Seller. Without limiting the foregoing, prior to any entry to perform any on-site testing, including but not limited to any borings, drillings or samplings, Buyer shall give Seller written notice thereof, including the identity of the company or persons who will perform such testing and the proposed scope and methodology of the testing. Seller shall approve or disapprove, in Seller's sole discretion, the proposed testing within three (3) business days after receipt of such notice. If Buyer or its agents, employees or contractors take any sample from the Property in connection with any such approved testing, Buyer shall provide to Seller a portion of such sample being tested to allow Seller, if it so chooses, to perform its own testing. Buyer shall permit Seller or its representative to be present to observe any testing or other inspection or due diligence review performed on or at the Property. Upon the request of Seller, Buyer shall promptly deliver to Seller copies of any reports relating to any testing or other inspection of the Property performed by Buyer or its agents, representatives, employees, contractors or consultants. Notwithstanding anything to the contrary contained herein, Buyer shall not contact any governmental authority without first obtaining the prior written consent of Seller thereto in Seller's sole discretion, and Seller, at Seller's election, shall be entitled to have a representative participate in any telephone or other contact made by Buyer to a governmental authority or tenant and present at any meeting by Buyer with a governmental authority. Buyer shall maintain, and shall assure that its contractors maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of Buyer and its agents, employees or contractors, arising out of any entry or inspections of the Property pursuant to the provisions hereof, and Buyer shall provide Seller with evidence of such insurance coverage upon request by Seller. Buyer shall indemnify and hold Seller harmless from and against any costs, damages, liabilities, losses, expenses, liens or claims (including, without

limitation, court costs and reasonable attorneys' fees and disbursements) arising out of or relating to any entry on the Property by Buyer, its agents, employees or contractors in the course of performing the inspections, testings or inquiries provided for in this Agreement, including, without limitation, any release of Hazardous Materials or any damage to the Property; provided that Buyer shall not be liable to Seller solely as a result of the discovery by Buyer of a pre-existing condition on the Property to the extent the activities of Buyer, its agents, representatives, employees, contractors or consultants do not exacerbate the condition. The provisions of this Section 9.3 shall be in addition to any access or indemnity agreement previously executed by Buyer in connection with the Property; provided that in the event of any inconsistency between this Section 9.3 and such other agreement, the provisions of this Section 9.3 shall govern. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement.

Section 9.4 Time.

Time is of the essence in the performance of each of the parties' respective obligations contained herein.

Section 9.5 Attorneys' Fees.

If either party hereto fails to perform any of its obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

Section 9.6 Assignment.

Buyer's rights and obligations hereunder shall not be assignable without the prior written consent of Seller in Seller's sole discretion, provided, however, that Buyer may, without being released from its obligations hereunder, assign its rights and obligations to an affiliate of Buyer without Seller's consent. Subject to the provisions of this Section, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 9.7 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Section 9.8 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State in which the Improvements are located.

Section 9.9 Seller Build Out of Improvements.

Seller shall complete the build out of the interior improvements to the Improvements beyond the base, shell and core such that the Improvements are “ready for occupancy” as of the Closing Date (“**Seller Build Out**”). Seller shall manage and facilitate design of the build out of the Improvements with Buyer providing design directions and guidance. Seller and Buyer shall enter into a mutually acceptable work letter agreement pursuant to which Seller shall complete the Seller Build Out, subject to Buyer’s agreement to pay the costs thereof as a part of the Purchase Price as provided in Section 1.2 above. Notwithstanding the foregoing, in the event that the parties are unable to agree upon the costs associated with the Seller Build Out, then, and in such event, Buyer shall complete the construction of the tenant improvements beyond the base, shell and core (“**Buyer Build Out**”). In the event Buyer performs the Buyer Build Out, then, and in such event, the definition of “Substantial Completion”, for purposes of this Agreement, shall not include the completion of the interior tenant improvements.

Section 9.10 Interpretation of Agreement.

The article, section and other headings of this Agreement are for convenience of reference only and shall not be construed to affect the meaning of any provision contained herein. Where the context so requires, the use of the singular shall include the plural and vice versa and the use of the masculine shall include the feminine and the neuter. The term “**person**” shall include any individual, partnership, joint venture, corporation, trust, unincorporated association, any other entity and any government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

Section 9.11 Limited Liability.

The obligations of Seller under this Agreement are intended to be binding only on the property of Seller and shall not be personally binding upon, nor shall any resort be had to, the private properties of any Seller Related Parties.

Section 9.12 Amendments.

This Agreement may be amended or modified only by a written instrument signed by Buyer and Seller and approved by Seller’ lender(s).

Section 9.13 No Recording.

Neither this Agreement or any memorandum or short form thereof may be recorded by Buyer.

Section 9.14 Drafts Not an Offer to Enter Into a Legally Binding Contract.

The parties hereto agree that the submission of a draft of this Agreement by one party to another is not intended by either party to be an offer to enter into a legally binding contract with respect to the purchase and sale of the Property. The parties shall be legally bound with respect to the purchase and sale of the Property pursuant to the terms of this Agreement only if and when the parties have been able to negotiate all of the terms and provisions of this Agreement in a

manner acceptable to each of the parties in their respective sole discretion, and both Seller and Buyer have fully executed and delivered to each other a counterpart of this Agreement (or a copy by facsimile transmission).

Section 9.15 ERISA.

Without limiting Buyer's representation and warranty in Section 3.5(e) above, within ten (10) days after the Effective Date, Buyer shall furnish to Seller all information regarding Buyer, its affiliates and the shareholders, members, investors or partners of each of them and any permitted assignees of Buyer hereunder (collectively, the "**Buyer Related Parties**") as Seller requests in order to enable Seller to determine to Seller's sole satisfaction that Buyer's representation and warranty contained in Section 3.5(e) of this Agreement is true and correct. Buyer represents and warrants and covenants to Seller that there will not be any change in any such information regarding Buyer or the Buyer Related Parties prior to or on the Closing. In the event any such information or change in Seller's reasonable judgment makes this transaction a sale to a party-in-interest, Seller may terminate this Agreement without liability on the part of Seller or Buyer (provided such change did not occur as a result of a default by Buyer), other than Buyer's indemnity contained in Section 9.3 hereof and the obligations of Buyer contained in Sections 6.1 and 9.9 hereof, and the Deposit will be returned to Buyer.

Section 9.16 No Partnership.

The relationship of the parties hereto is solely that of Seller and Buyer with respect to the Property and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

Section 9.17 No Third Party Beneficiary.

The provisions of this Agreement are not intended to benefit any third parties except Seller's lender(s).

Section 9.18 Survival.

Except as expressly set forth to the contrary herein, no representations, warranties, covenants or agreements of Seller contained herein shall survive the Closing.

Section 9.19 Survival of Article IX.

The provisions of this Article IX shall survive the Closing.

The parties hereto have executed this Agreement as of the date set forth in the first paragraph of this Agreement.

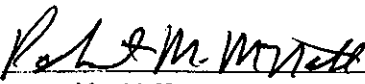
Seller:


KAPALUA BAY, LLC,
a Delaware limited liability company

By: 
Name: Ryan Churchill
Title: President

Buyer:

MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawaii corporation

By: 
Name: Robert M. McNatt
Title: Executive Vice President
Community Development

By: 
Name: Thomas H. Juliano
Title: Executive Vice President
Resort Operations

[Signature Page – Spa Improvements Agreement of Purchase and Sale]

EXHIBIT A

**IMPROVEMENTS DESCRIPTION
AND REAL PROPERTY DESCRIPTION**

[To Be Attached]

EXHIBIT B
FORM OF DEED

[To Be Attached]

IN WITNESS WHEREOF, the Grantor has executed these presents on this _____ day of _____, 200_.

GRANTOR

KAPALUA BAY, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF HAWAII)
) ss.
COUNTY OF _____)

On _____, before me, _____,
a Notary Public in and for said state, personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument and acknowledged to me that he/she executed
the same in his/her authorized capacity, and that by his/her signature on the instrument, the
person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State

SCHEDULE 1
LEGAL DESCRIPTION

EXHIBIT C

ASSIGNMENT OF INTANGIBLE PROPERTY

This Assignment of Intangible Property (this “**Assignment**”) is made and entered into _____, 200_, by and between KAPALUA BAY, LLC, a Delaware limited liability company (“**Assignor**”), and MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation (“**Assignee**”), pursuant to that certain Agreement of Purchase and Sale dated _____, 200_ between Assignor and Assignee (the “**Purchase Agreement**”).

For good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign, transfer, set over and deliver unto Assignee all of Assignor’s right, title, and interest in and to the Intangible Property (as defined in the Purchase Agreement).

ASSIGNEE ACKNOWLEDGES AND AGREES, BY ITS ACCEPTANCE HEREOF, THAT, EXCEPT AS EXPRESSLY PROVIDED IN, AND SUBJECT TO THE LIMITATIONS CONTAINED IN, THE PURCHASE AGREEMENT, THE INTANGIBLE PROPERTY IS CONVEYED “AS IS, WHERE IS” AND IN ITS PRESENT CONDITION WITH ALL FAULTS, AND THAT ASSIGNOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE NATURE, QUALITY OR CONDITION OF THE INTANGIBLE PROPERTY, THE INCOME TO BE DERIVED THEREFROM, OR THE ENFORCEABILITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE INTANGIBLE PROPERTY.

By accepting this Assignment and by its execution hereof, Assignee assumes the payment and performance of, and agrees to pay, perform and discharge, all the debts, duties and obligations to be paid, performed or discharged from and after the Closing Date (as defined in the Agreement) by the owner under the Intangible Property. Assignee agrees to indemnify, hold harmless and defend Assignor from and against any and all claims, losses, liabilities, damages, costs and expenses (including, without limitation, court costs and reasonable attorneys’ fees and disbursements) resulting by reason of the failure of Assignee to pay, perform or discharge any of the debts, duties or obligations assumed or agreed to be assumed by Assignee hereunder arising out of or relating to, directly or indirectly, in whole or in part, the Intangible Property, from and after the Closing Date.

The obligations of Assignor are intended to be binding only on the property of Assignor and shall not be personally binding upon, nor shall any resort be had to, the private properties of any Seller Related Parties.

All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed on the day and year first above written.

Assignor:

KAPALUA BAY, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Assignee:

MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawaii corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT D

BILL OF SALE

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, KAPALUA BAY, LLC, a Delaware limited liability company (“**Seller**”), does hereby give, grant, bargain, sell, transfer and deliver unto , and MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation (“**Buyer**”), all of its right, title and interest in any and all of the personal property which is located on and used in connection with the real property more particularly described on **Exhibit 1** attached hereto, which is real property being conveyed to Buyer on the date hereof. The property conveyed hereunder is conveyed by Seller and accepted by Buyer AS IS, WHERE IS, AND WITHOUT ANY WARRANTIES OF WHATSOEVER NATURE, EXPRESS OR IMPLIED, EXCEPT AS SET FORTH IN THE PURCHASE AGREEMENT BETWEEN SELLER AND BUYER DATED _____.

Seller:

KAPALUA BAY, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT E

BACK OF THE HOUSE LEASE

[To Be Attached]

SCHEDULE 1

**CATEGORIES OF WHAT CONSTITUTES PROJECT COSTS
AND ESTIMATES OF SAME**

Percentage of Vertical Improvements

	Cost	% of Total
Project Direct Costs excluding Improvements	\$ 250,978,000	92.05%
Spa	\$ 19,863,460	7.28%
Beach Club	\$ 1,408,303	0.52%
Sundry	\$ 418,584	0.15%
Total Project	\$ 272,668,347	100.00%

EXPENSES

	Cost	Spa				Total
		Indirect Soft Costs	Direct Soft Costs	Indirect Hard Costs	Direct Hard Costs	
Administration						
Administrative overhead (misc)	\$ 274,288	\$ 19,981	N/A			
Accounting Overhead and annual audit	\$ 277,143	\$ 20,189	N/A			
Real property tax (in hotel ops prior to closure)	\$ 1,135,000	N/A	\$ 80,000			
Permits & Fees	\$ 4,320,000	N/A	\$ 75,000			
Builders Risk Insurance	\$ 1,258,000	\$ 91,643	N/A		\$ 91,643	
OCIP/Latent Defects Insurance	\$ 8,749,000	\$ 637,351	Unknown		\$ 637,351	
Escrow Bonds	\$ 240,000	\$ 17,484	N/A			
JV Operating Expenses	\$ 1,516,000	\$ 110,438	N/A			
Legal Registration Fees	\$ 1,750,000	N/A	N/A			
LLC-related	\$ 250,000	\$ 18,212	N/A			
AOAO related	\$ 100,000	N/A	N/A			
Kapalua Resort Association Dues	\$ 100,000	\$ 7,285	N/A			
Total administrative	\$ 20,584,429	\$ 287,749	\$ 75,000		\$ 342,749	
Sales & Marketing						
Hospitality Startup	\$ 500,000	N/A	N/A			
Unsold Maintenance Fees	\$ 6,400,000	N/A	N/A			
Marketing & Selling Residential	\$ 21,000,000	N/A	N/A			
Marketing & Selling Club	\$ 53,800,000	N/A	N/A			
Sales facilities-	\$ 3,850,000	N/A	N/A			
Wholly-owned commissions	\$ 11,782,293	N/A	N/A			
RCDC Brand Fee and C&S Overhead	\$ 24,334,560	N/A	N/A			
Total Sales & marketing	\$ 121,466,853				\$ -	
Entitlement						
MLP service agreement	\$ 450,000	\$ 32,782	N/A			
Entitlement Consultants	\$ 620,000	\$ 45,166	N/A			
Total entitlement		\$ 77,948			\$ 77,948	
Design						
RC technical service fee	\$ 350,000	N/A	N/A			
Owner Consultants	\$ 100,000	\$ 7,285	N/A			
Architect & Subconsultants	\$ 7,500,000	N/A	\$ 425,000			
Spa/Fitness Consultant	\$ 171,382	N/A	\$ 171,382			
Cost Manager	\$ 225,000	\$ 16,391	N/A			
RCHC TSA	\$ 400,000	N/A	N/A			
Total design	\$ 8,746,382	\$ 23,676	\$ 596,382		\$ 620,057	
Project management						
3rd Party manager (see attached schedule)	\$ 3,105,545	\$ 226,234	N/A			
Structural inspection	\$ 250,000	\$ 18,212	N/A			
Geotechnical monitoring	\$ 100,000	\$ 7,285	N/A			
Total construction management	\$ 3,455,545	\$ 251,731			\$ 251,731	
Construction & FF&E Costs						
Site development**	\$ 25,450,000		\$ 1,853,992	N/A		
Site improvement	\$ 33,000,000		\$ 2,403,998	N/A		
Project Direct Costs excluding Improvements	\$ 250,978,000		N/A	N/A		
Beach Club Direct Costs	\$ 1,408,303		N/A	N/A		
Spa Direct Costs	\$ 19,863,460		N/A	\$ 19,863,460		
Sundry Store Direct Costs	\$ 418,584		N/A	N/A		
Total Construction & FF&E	\$ 318,839,690		\$ 4,257,991	\$ 19,863,460	\$ 24,121,451	
Financing						
Interest Expense	\$ 20,130,000	\$ 1,466,439				
Closing Cost / Loan Fee	\$ 5,377,000	\$ 391,706	N/A			
Servicing Fees	\$ 528,000	\$ 38,464	N/A			
Total Financing	\$ 26,035,000	\$ 1,896,609			\$ 1,896,609	
Grand Total					\$ 28,039,540	

** Includes Spa & Beach Club site costs

SCHEDULE 2

INTANGIBLE PERSONAL PROPERTY