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FIRST HAWAII TITLE CORPORATION

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FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY REGIME

OF

KAI MAKANI

CONDOMINIUM FILE PLAN NO. 3849

Declarant: WS Kai Makani, Inc., a Colorado corporation
5690 DTC Boulevard, Suite 280W
Englewood, Colorado 80111

First Amendment to Declaration of Condominium Property Regime of Kai Makani

This First Amendment is dated this 26th day of August, 2005, and is executed by WS KAI MAKANI, INC., a Colorado corporation, of 5690 DTC Boulevard, Suite 280W, Englewood, Colorado 80111 ("Declarant").

RECITALS: Declarant is the "Declarant" under the Declaration of Condominium Property Regime of Kai Makani, dated September 28, 2004, recorded in the State of Hawaii Bureau of Conveyances as Document No. 2004-204231 (the "Declaration"), together with Condominium File Plan No. 3849 (the "Condominium Map").

The purpose of this First Amendment is to amend the Declaration and Condominium Map in certain respects.

AMENDMENT:

1. The Declarant is recording in the State of Hawaii Bureau of Conveyances concurrently with this First Amendment, an amendment to the Condominium Map entitled "Amended Sheet 2 of the Condominium Map of Kai Makani Condominiums", which contains the parking space numbering system and designates certain parking spaces for public beach parking use. The certificate of Patrick W. Nook, Registered Professional Architect, is recorded with said Amendment. Said Amendment is hereby incorporated by reference herein.

2. The Declaration is hereby amended by adding a new paragraph (j) to Section 9 to read as follows:

"(j) Public Beach Parking. The Condominium Map shows sixteen (16) parking spaces, labeled "BP". The Association shall hold and maintain said spaces and make them available to the public for daytime beach parking, subject to reasonable rules and regulations adopted by the Board of Directors from time to time with respect to hours of operation, limitation of use, signage and any other reasonable restrictions for the purpose of maintaining the peace, security and good order within the condominium."

3. The Declaration is hereby further amended by deleting Exhibit "A" therefrom and substituting therefor "Exhibit A (Revised)" in the form attached hereto and made a part hereof, reflecting the new perimeter description of the Land resulting from the consolidation of the constituent parcels into a single tract.

EXHIBIT "A" (REVISED)

All of that certain parcel of land (being Lots 1, 2 and 3 of the Kai Makani Condominium Consolidation (L.U.C.A. #3.2121) and being also all of Land Patent Grant 11,293 to Clarence R. Baldwin (Lot 17 of the "Waiakoa House Lots"), Land Patent Grant 11,492 issued to Harold M. Baldwin (Lot 18 of the "Waiakoa House Lots") and being also a portion of Land Patent Grant 7209 to John Kupahau) situate Northerly of South Kihei Road approximately 1,000 feet southerly of its junction with Ohukai Street at Waiakoa, Kihei, Kula, Island and County of Maui, State of Hawaii, being LOT 1, designated as TMKs: (II) 3-9-41:002, 003, 026 & 038, and being more particularly described as follows:

Beginning at a 1/2 inch pipe (found) at the Northeasterly corner of this parcel of land, the Southeasterly corner of Lot 16 of the Wai Wai Pa'a Subdivision and being also a point on the Westerly side of Kenolio Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 18,421.59 feet North and 24,963.27 feet West and running by azimuths measured clockwise from true South:

1. 335° 19' 52.30 feet the Westerly side of Kenolio Road to a 3/4 inch pipe (found); thence,

Following along Lot 1 of the Waiakoa Makai Homesteads along a curve to the left with a radius of 12.00 feet, the chord azimuth and distance being:

2. 117° 56' 30" 14.57 feet to a 3/4 inch pipe (found); thence,
3. 80° 34' 148.65 feet along the same to a "PK" Nail (found); thence,
4. 6° 54' 157.79 feet along the same to a 3/4 inch pipe (found); thence,
5. 238° 10' 85.66 feet along the same to a 3/4 inch pipe (found); thence,

- 6. 335° 19' 300.00 feet along Lots R, S, T and U of the Waiakoa Makai Homesteads to a 1/2 inch pipe (set); thence,
- 7. 67° 21' 414.67 feet along Lots I-1-A and I-4-A of a subdivision of a portion of Grant 7108 to Leialoha to a 1/2 inch pipe (set); thence,
- 8. 359° 06' 165.30 feet along Lots I-4-A of a subdivision of a portion of Grant 7108 to Leialoha to a "PK" Nail (set); thence,
- 9. 74° 47' 30" 358.95 feet along Lot 19 of the Waiakoa House Lots to a 1/2 inch pipe (found); thence,
- 10. 164° 47' 30" 165.85 feet along the Easterly side of South Kihei Road to a 1/2 inch pipe (set); thence,

Following along the same along a curve to the right with a radius of 7,619.44 feet, the chord azimuth and distance being:

- 11. 166° 38' 16" 490.95 feet to a 1/2 inch pipe (set); thence,
- 12. 260° 34' 417.14 feet along Lot 16-D of a subdivision of Lot 16 of the Waiakoa House Lots to a 1/2 inch pipe (set); thence,
- 13. 167° 36' 89.54 feet along the same and along Lot 16-C of a subdivision of a Lot 16 of the Waiakoa House LOTS to a 1/2 inch pipe (set); thence,
- 14. 260° 34' 455.90 feet along Lot 12 through 16 inclusive of the Wai Wai Pa'a Subdivision to the point of beginning and containing an area of 9.835 acres, more or less, as shown on Survey dated August 25,

2005, prepared by Randall
Sherman, Licensed Professional
Land Surveyor No. LS4187.

TOGETHER WITH a perpetual, nonexclusive easement for sight distance purposes, as granted by Sight Distance Easement dated January 23, 1996, recorded in the said Bureau of Conveyances as Document No. 96-020098; and subject to the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein, and being more particularly described as follows:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 7209 to John Kupahau) situate, lying and being at Waiakoa Makai Homesteads at Kula, District of Kihei, Island and County of Maui, State of Hawaii, being a portion of Lot 16 of Wai Wai Paa Subdivision and thus bounded and described prepared by Harold Zane, Licensed Professional Land Surveyor with Austin Tsutsumi & Associates, Inc.:

Beginning at the Southeast corner of this parcel of land, on the Southwest side of Kenolio Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KALAEPOHAKU" being 2,012.52 feet South and 1,477.19 feet East, and running by azimuths measured clockwise from true South:

1. 80° 34' 00" 3.00 feet along the remainder of Land Patent Grant 7209 to John Kupahau;
2. 159° 32' 30" 39.29 feet along the remainder of Land Patent Grant 7209 to John Kupahau, along the remainder of Lot 16 of Wai Wai Paa Subdivision;
3. 335° 19' 00" 39.97 feet along the Southwest side of Kenolio Road to the point of beginning and containing an area of 58 square feet, more or less.

Being all of the land conveyed by Warranty Deed between Aheahe Makani, LLC, a Hawaii limited liability company, as Grantor, and Cathy Associates, LLC, a Colorado limited liability company, as to an undivided 60.61% interest, and Mary Associates, LLC, a Colorado limited liability company, as to an

undivided 39.39% interest, as Tenants in Common, as Grantee, dated August 12, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-176308.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Unilateral Agreement and Declaration for Conditional Zoning dated November 22, 1990, recorded in the said Bureau of Conveyances as Document No. 90-190094.
3. Restrictive conditions as contained in Land Patent Grant No. 11,492, to which reference is hereby made.
4. Restrictive conditions as contained in Land Patent Grant No. 11,293, to which reference is hereby made.
5. Grant in favor of County of Maui, a political subdivision of the State of Hawaii, dated June 8, 1984, recorded in the said Bureau of Conveyances in Liber 18195 on Page 12, granting a perpetual non-exclusive easement to construct, reconstruct, maintain, operate, repair and remove a sanitary sewer line or lines, etc., over and across the following described parcel of land:

SEWER LINE EASEMENT 1, AFFECTING LOT 18
OF WAIAKOA HOUSELOTS, T.M.K. 3-9-41:2

All of that certain parcel of land being a portion of Grant 11492 to Harold M. Baldwin, situate at Waiakoa (Kihei), Kula, Makawao, Hawaii.

Beginning at the Southwesterly corner of this easement, said point being also the Southwesterly corner of said Grant 11492, and on the Easterly side of South Kihei Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

14,983.00 feet North
24,950.49 feet West

and running by azimuths measured clockwise from true South:

1. 164° 47' 30" 7.50 feet along the Easterly side of South Kihei Road;

2. 254° 47' 30" 273.93 feet along the remainder of said Grant 11,492;
3. 252° 44' 00" 87.79 feet along the remainder of said Grant 11,492;
4. 359° 06' 00" 10.99 feet along Grant 7108 to Leialoha;
5. 74° 47' 30" 358.95 feet along Grant 12,958 to Frank A. F. Kong to the point of beginning and containing an area of 2,835 square feet, more or less.

6. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

Declaration of Condominium Property Regime of "Kai Makani" dated September 28, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-204231, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Joinder in Condominium Documents executed by Cathy Associates, LLC, a Colorado limited liability company, and Mary Associates, LLC, a Colorado limited liability company, "Fee Owner", by instrument dated September 20, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-204233.

Condominium Map No. 3849, to which reference is hereby made.

(The Apartment Units created are more particularly described in Schedule "1" attached hereto)

7. ByLaws of the Association of Apartment Owners of Kai Makani dated September 22, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-204232.

Joinder in Condominium Documents executed by Cathy Associates, LLC, a Colorado limited liability company, and Mary Associates, LLC, a Colorado limited liability company, "Fee Owner", by instrument dated September 20, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-204233.

8. The following encroachment(s), as shown on the survey map prepared by Randall Sherman, Licensed Professional Land Surveyor, No. LS4187, dated August 25, 2005:

(a) Encroachment Building (8.4' x 6.7' = 52 square feet, approximately) from Lot 1 of the Waiakoa Makai Homesteads.

9. Restriction of vehicle access rights as shown on the survey map prepared by Randall Sherman, Licensed Professional Land Surveyor, No. LS4187, dated August 25, 2005.

END OF EXHIBIT "A"

Tax Key: (2) 3-9-041-002
(2) 3-9-041-003
(2) 3-9-041-026
(2) 3-9-041-038