

KALUA KOI CORPORATION  
745 Fort Street  
Suite 907, Hawaii Bldg.  
Honolulu, HI 96813

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**1049448**  
STATE OF HAWAII  
LAND COURT  
FILED

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ASSISTANT REGISTRAR  
NOTED ON CERTIFICATE 730003 730005 + 730006  
BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

1007  
RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL ( ) PICKUP ( )

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

FIFTH  
SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS  
(Lots 94, Map 15, and Lots 98 and 97, Map 16  
LAND COURT APPLICATION NO. 1683)

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WHEREAS, KALUA KOI CORPORATION, a Hawaii corporation, hereinafter referred to as "DECLARANT", and KEPUHI PARTNERSHIP, a Hawaii partnership, did execute a certain Declaration of Covenants and Restrictions dated October 1, 1976, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 784612 and noted on Transfer Certificate of Title No. 181,964, hereinafter referred to as the "West Molokai Protective Covenants", covering certain parcels of land situated at Kaluakoi and Iloli, Island of Molokai, County of Maui, State of Hawaii, which together with future annexations is to be known as "West Molokai"; and

WHEREAS, DECLARANT previously filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 922290 a "Supplemental Declaration of Covenants and Restrictions (Lots 24 through 40 and 42 through 56, Map 8, Land Court Application No. 1683)", and as Document No. 928497 a "Second Supplemental Declaration of Covenants and Restrictions (Lots 63 and 66, Map 9, Land Court Application No. 1683)", and as Document No. 993562 a "Third Supplemental Declaration of

Covenants and Restrictions (Lots 70 through 85, Map 11, Land Court Application No. 1683)", and as Document No. 1019966 a "Fourth Supplemental Declaration of Covenants and Restrictions (Lot 68, Map 9, Land Court Application No. 1683)"; by which DECLARANT annexed certain lands owned by it in accordance with the West Molokai Protective Covenants; and

WHEREAS, DECLARANT is the fee owner of certain parcels of land situated at Kaluakoi and Iloli, Island of Molokai, County of Maui, State of Hawaii, being Lot 94, as shown on Map 15, and Lots 97 and 98, as shown on Map 16, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1683, and being the land described in Transfer Certificate of Title Nos. 230,003, 230,005 and 230,006, respectively; and,

WHEREAS, DECLARANT desires to make and record this Declaration annexing Lot 94, as shown on Map 15 and Lots 97 and 98, as shown on Map 16 of Land Court Application No. 1683, to West Molokai as hereinafter set forth; and

WHEREAS, pursuant to the provisions of Article II of the West Molokai Protective Covenants, DECLARANT may annex land owned by it at the time of such annexation so that it becomes entitled to the benefits and subject to the burdens of the West Molokai Protective Covenants, and DECLARANT may subject the specific property annexed to the West Molokai Protective Covenants to additional or different limitations, restrictions, covenants, and conditions;

NOW, THEREFORE, pursuant to the provisions of Section 2.02 of the West Molokai Protective Covenants, DECLARANT does hereby declare that Lot 94, Map 15 and Lots 97 and 98, Map 16, shall be, and hereby are, annexed to West Molokai, and that said

Lots 94, 97, and 98 are held and shall be held, sold, conveyed, encumbered, leased, occupied, and improved subject to the West Molokai Protective Covenants, but with the following special provisions and restrictions applicable to said Lots 94, 97, and 98 which are in addition to and not in derogation of any covenants and restrictions contained in the West Molokai Protective Covenants, except to the extent herein set forth:

1. Lot 94 is hereby designated a Multiple Family Residential Lot, as hereinafter defined.

2. "Multiple Family Residential Lot" shall mean any lot intended to be used for residential purposes by more than one (1) family. Except as set forth herein, Lot 94 may be used for any purposes and in any manner which a Multiple Family Residential Lot may be used under the West Molokai Protective Covenants, or, transient occupancy or such commercial uses as are permissible under the applicable zoning laws, rules, and regulations of the County of Maui.

3. The height limitation of each structure or improvements on Lot 94 shall be two (2) stories.

4. No more than One Hundred Seventy-Five (175) residential or commercial condominium units shall be constructed on Lot 94.

5. Lots 97 and 98 are hereby designated as Commercial Lots and shall be used for hotel or condominium hotel purpose. Provided that Lot 97 shall be used primarily for recreational facilities and commercial uses related to such recreational facilities.

6. Lots 97 and 98 shall be governed and restricted in the same manner and to the same extent as a Commercial Lot is

d restricted under the West Molokai Protective Cov-  
cept as set forth herein.

. The height, limitation of each structure or  
s on Lot 97 shall be three (3) stories.

. The height limitation of each structure or  
s on Lot 98 shall be three (3) stories.

. No more than Three Hundred (300) condominium units  
dred (400) hotel rooms, or the equivalent thereof,  
nstructed on Lots 97 and 98, but such limitations are  
to commercial or recreational condominium units or

he provisions hereof shall be deemed independent and  
and the invalidity or partial invalidity or  
lity of any provision shall not affect the validity  
bility of any other provision hereof. This Fifth  
i Declaration shall continue and remain in full force  
until such time as the West Molokai Protective  
s terminated under Section 8.01 of Article VIII of  
nts.

WITNESS WHEREOF, DECLARANT has executed these  
is 30<sup>th</sup> day of December, 1980.

KALUA KOI CORPORATION

By [Signature]  
Its President

By [Signature]  
Its 1st Treasurer

STATE OF HAWAII

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SS.

CITY AND COUNTY OF HONOLULU

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On this 30<sup>th</sup> day of December, 1980, before me personally appeared Phillip L. Boydston and Edwin Kobayashi, to me known, who,

being by me duly sworn, did say that they are True President and Assistant Treasurer

respectively, of KALUA KOI CORPORATION, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and said officers acknowledged the instrument to be the free act and deed of said corporation.

Jo Ann Steinbach  
Notary Public, First Judicial  
Circuit, State of Hawaii

My commission expires: 8/5/84