

ATTACHMENT 9

SELLER'S ADDITIONAL DISCLOSURES
MAKILA RIDGE

1. **NAME AND ADDRESS OF DEVELOPER:** MAKILA RIDGE PROPERTIES INC., 33 Lono Ave., Suite 450, Kahului, Maui, Hawaii 96732.
2. **DESCRIPTION OF LAND:** Makila Ridge consists of 507.78 acres of land situated at Launiupoko, Island and County of Maui, State of Hawaii, consisting of eleven (11) agricultural lots and one (1) road lot. Please see Attachment 2 to this sales contract for a description of the number and size of lots.
3. **OWNERSHIP OF THE LAND:** The land is owned in fee simple by MAKILA RIDGE PROPERTIES INC.
4. **NATURE OF INTEREST IN LAND TO BE CONVEYED:** The Developer will convey fee simple title to each lot purchased, together with nonexclusive easements for access over private roads within the subdivision and neighboring subdivisions to access public roads.
5. **TYPE OF INSTRUMENT TO BE USED FOR CONVEYANCE:** General Warranty Deed.
6. **ZONING REGULATIONS AND RESTRICTIONS ON LOTS:** The zoning classification of the land is Agricultural. Hawaii State Land Use designation is Agricultural. Several restrictions apply. The Makila Plantation Declaration of Covenants, Conditions and Restrictions ('CCRS') and Sales Contract spell out several easements, restrictions and risks relating to conservation, preservation, alien and invasive species, building areas and setbacks, public recreational access, and other land uses and encumbrances. See also Attachment 2 listing of lot-specific encumbrances.

Under Agricultural zoning, the following restrictions apply:

- a) There is a limit of two farm dwellings per lot, one of which shall not exceed 1,000 square feet of developable area. Dwellings can only be built in conjunction with a farm.
- b) Height limit for buildings: Two (2) stories or thirty (30) feet, or as per Maui County Code.
- c) Front (roadside) setback: Twenty-five (25) feet.
- d) Side yard setback: Fifteen (15) feet.
- e) Rear yard setback: Fifteen (15) feet.

THE MAKILA RIDGE DECLARATION OF RESTRICTIVE COVENANTS ESTABLISH BUILDING AND USE RESTRICTIONS WHICH ARE MORE RESTRICTIVE THAN THE ZONING CODE.

7. **USE FOR WHICH PROPERTY IS OFFERED:** The use of each lot will be for agricultural use, including farm dwellings as defined by state law and Maui County ordinances.
8. **EXISTING TAXES, SPECIAL TAXES OR ASSESSMENTS:** Real property taxes will continue to accrue but there are no other existing taxes, special taxes or assessments. Present rates for agricultural lands (fiscal year, July 1, 2008 – June 30, 2009) are \$4.50 per \$1,000 of assessed valuation, but no representations are made concerning whether or not such tax rate will continue.
9. **TAX ESTIMATE:** The real property tax on each of the lots will vary depending on its fair market value or selling price. Since lots vary considerably in size, a reliable estimate of real property taxes for each lot cannot be made at this time. However, a rough estimate may be made by applying a tax rate of \$4.50 per \$1,000 of assessed valuation to 100% of the sales price of each lot.

10. **ROADS:** The principal roadways leading to the subdivision (Kai Hele Ku Street, Haniu Street and Punakea Loop) are existing private roads. Kai Hele Ku Street connects to Honoapiilani Highway and provides access to the subdivision. Lots 7, 8 and 9 have access through the interior roads of Mahanalua Nui. All of the existing interior roads within Mahanalua Nui (including Kai Hele Ku) are privately owned and maintained, and are part of the Phase I, II, III and IV developments of Mahanalua Nui Subdivision. Haniu Street and Punakea Loop are private and maintained by the Makila Plantation Homeowners Association, Inc. as a common expense of the subdivision. The roads may not be dedicated to the County, unless the Association shall decide to dedicate them in the future.

No roadway improvements are required by the State of Hawaii, Department of Transportation.

11. **WATER SUPPLY:** All lots in the subdivision will be served by a dual water system providing potable (drinking) and nonpotable (irrigation) water. Two separate water laterals will be available to each lot. Potable Water is serviced by Launiupoko Water Company ['LWC'], and nonpotable water is serviced by Launiupoko Irrigation Company ['LIC']. Both LWC and LIC are regulated by the Public Utilities Commission.

Water lines and meters will be installed at a location to be determined by the Developer. Each buyer is urged to consult with the Developer to determine the locations of the water meters which will serve buyer's lot. Owners must apply for water service from the LWC or LIC.

The details of the water system are in the Declaration. The existing potable water supply consists of (i) a well (No. 5138-01) approved by the State Department of Health as an approved water source, with an approved production capacity of 500,000 gallons per day; (ii) a second well (No. 5137-01), capable of producing 130,000 gallons per day; and (iii) a third well (No. 5238-01) approved by the State Department of Health and capable of providing 720,000 gallons per day. Developer has constructed storage and chlorinating facilities and the water distribution system to serve the subdivision. The County of Maui, Department of Water Supply does not review or approve this system under county code.

12. **LOTS SUBJECT TO SPECIAL CONSIDERATION CONCERNING WATER PRESSURE:** All lots in the subdivision will experience low water pressure because of their elevation in relation to the water tanks and reservoirs. Buyer may elect or be required to install a private pressure system, as discussed in more detail in Section 3 of the Sales Contract.
13. **SEWAGE DISPOSAL FACILITIES: SEPTIC BY OWNER:** Each lot in the subdivision will be served by its own private septic system, to be installed and maintained by the lot owner. Each lot owner must comply with design standards and approval requirements of the State of Hawaii, Department of Health. Construction costs for a septic system run from \$12,000 to \$15,000. Septic systems on Lots 1, 9, 10 and 11 within 1,000 feet of Well No. 5138-01 and Well No. 5238-01 must install an aerobic septic system, the cost of which runs from \$15,000 to \$20,000.
14. **NATURAL HAZARDS:** The area has a risk of brush fires. The Developer knows of no other existing or probable future hazards, either in the form of unusual safety factors or natural hazards which may affect the subdivision, other than those which affect the Hawaiian Islands generally (e.g., hurricanes, typhoons, high winds, etc.). Some of the lots are subject to areas which may be affected by "100-year" flooding conditions. These areas are shown on the subdivision plan.
15. **NUISANCES:** Most of the land near the subdivision is zoned Agricultural, which may increase the risk of noise, dust, emission and other nuisances. Under Section 8 of the Declaration, all lot owners waive all claims against the Developer, Developer's affiliates, adjoining landowners, Makila Plantation Homeowners Association, Inc. and the Mahanalua Nui Homeowners Association with respect to these nuisances.

High voltage power lines exist throughout portions of the subdivision and may pose a hazard due to the strong winds present throughout the valley. There may be other environmental or health concerns relating to the electrical field which have been suggested but not scientifically proven.

16. **ELECTRICITY, TELEPHONE, CATV AND GAS:** Electricity and telephone service will be available to each lot at each lot boundary. The buyers will be required to pay the cost of installing electrical and telephone wires from the roadway to the home, as part of the construction cost of the home on the lot. Buyers will also be required to pay all meter, service and other hookup charges for electricity, telephone and cable, if available.

A Blanket Easement for electrical lines and facilities for the subdivision is in place. Owners may elect to create specific easements on their lots at their expense.

- a. **ELECTRICAL TRANSFORMER:** The lot owners will be required to install and pay for an electrical transformer and/or electrical booster unit.
 - b. **CATV:** Cable television is presently unavailable to the subdivision.
 - c. **GAS:** There will be no gas pipelines installed.
17. **MAIL SERVICE:** The U. S. Postal Service has not agreed to provide mail delivery to the lots in the subdivision.
18. **TERMS OF SALE:** Cash sales only.
19. **EXISTING OR PROPOSED ASSOCIATION OF LOT OWNERS THAT PURCHASERS SHALL BE REQUIRED TO JOIN:** Each lot owner will automatically become a member of the Makila Plantation Homeowners Association, Inc., a Hawaii nonprofit corporation, formed for the purpose of holding, maintaining, operating and managing all of the common areas and facilities of Makila Plantation, of which Makila Ridge is a part. These consist of paved roadways, drainage system, and sites and trails as easements, public and private parks, conservation areas and public recreational access areas.

As provided in Section 5.05 of the Declaration, the Developer will have the right to control all actions and decisions of the Association and its Board of Directors for a period of up to fifteen (15) years from May 21, 2002. Otherwise, each lot will have one vote in the affairs of the Association, such as electing the board of directors of the Association annually and adopting amendments to the Declaration. The day-to-day management of Association affairs will be handled by the board of directors, who are vested with the authority of appointing and overseeing the Association's officers.

The Developer has reserved the right to amend said Declaration to expand the subdivision by adding other lots to be developed on adjacent or nearby lands. This right may be exercised at any time up to ten (10) years from May 21, 2002.

All expenses of the Association, including but not limited to the cost of maintaining, operating, repairing and replacing the roads and other common facilities, will be borne by the lot owners as a common expense, with each lot paying an equal share of the costs as and when assessed by the Association (except for certain water use charges, which will be based on usage). The board of directors of the Association is given broad power to budget, assess and collect common expenses from the lot owners, including the right to establish reasonable reserves to cover operating shortfalls and major repairs or replacements. If a lot owner fails to pay any common expense assessment, the Association, acting through the board of directors, has the right to enforce a lien against the delinquent lot.

Copies of the Declaration and the Articles and Bylaws of the Association are included in the sales packets and otherwise are available upon request from the Developer or Developer's agent.

20. **ESCROW OR TRUST AGREEMENT:** All sales will be escrowed with First Hawaii Title Corp. at 310 Ohukai Road, #319, Kihei, Hawaii 96753 (Telephone: 808-879-1585). No funds will be disbursed to the Developer until a sale is closed and a general warranty deed to the purchaser is recorded.
21. **DESCRIPTION OF ROAD MAINTENANCE FUNDING:** As stated in Section 26 above, the Association, acting through its board of directors, will be responsible for the management, maintenance, operation, repair and replacement of all roads.

The responsibility for assessing and collecting road maintenance costs against lot owners as a common expense is delegated to the Association, acting through its board of directors. As part of its authority, the board may establish such reserves as it may deem appropriate to cover operating shortfalls and major repairs and replacements.

All funds collected by the Association will be deposited in, and administered through, one or more banks in the State of Hawaii in federally insured accounts. The Association will provide all lot owners with reports, not less frequently than annually, concerning all receipts, disbursements, and account balances of the Association, including any road maintenance fund.

22. **REPRESENTATIVE OR REAL ESTATE AGENT IN HAWAII:** The real estate agent for the subdivision in the State of Hawaii is WEST MAUI LAND COMPANY, INC., 33 Lono Ave., Suite 450, Kahului, Hawaii 96732 (Telephone: 808-877-4202).