

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

August 7, 2019

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Authorize the Transfer of Ke Kilohana Unit 2405 to a Revocable Trust and Defer the Payment of Shared Equity and the HCDA's First Option to Purchase the Unit?

SUMMARY:

The owner of Ke Kilohana Unit 2405 would like to transfer her Reserved Housing Unit into a revocable trust. The Authority previously approved such a request for an owner at Rycroft Terrace, conditioned upon the execution of a new unilateral agreement reinstating the Hawaii Community Development Authority's (HCDA) reserved housing requirements and a provision that allowed the HCDA to review the trust documents. The owner of Ke Kilohana Unit 2405 is prepared to follow the same conditions if HCDA allows the transfer and defers the payment of shared equity and HCDA's first option to purchase the unit.

AUTHORITIES:

Ke Kilohana Unit 2405 is governed by Hawaii Administrative Rules (HAR) § 15-218 (2018 Rules). Under these rules, a transfer to a revocable trust is allowed at the board's discretion.

Pursuant to HAR §15-218-42 (5), "the Authority may defer its first option to purchase and equity sharing when the unit is transferred into an inter vivos trust in which the purchasers remain the primary beneficiary and their rights of occupancy are not affected."

BACKGROUND:

At its January 9, 2019 meeting, the Authority deferred its first option to purchase and the payment of shared equity to allow the owner of Rycroft Terrace Unit 529 to transfer the unit to a revocable trust during the regulated term, subject to the following conditions:

1. A new unilateral declaration of restrictive covenants is executed;
2. The reserved housing requirements listed in the rules governing the unit are incorporated into the new deed; and
3. The new deed and trust documents are subject to review by the HCDA Executive Director to ensure they are sufficient.

On June 25, 2019, Michele Chong, owner of Ke Kilohana Reserved Housing Unit #2405, sent a letter to the HCDA requesting to opt in to the 2018 Rules and transfer her unit to a revocable living trust. Ms. Chong's letter is attached hereto as Exhibit "A."

In subsequent communication with Ms. Chong, she also requested the Authority defer its first option to purchase and defer payment of its share of equity in accordance with HAR §15-218-42 (5). Ms. Chong submitted a draft of the Disclosure of Trust document, which shows she will remain the primary beneficiary under the proposed Revocable Living Trust. This document is attached hereto as Exhibit "B."

Ms. Chong also submitted a Draft Apartment Deed to transfer ownership of Ke Kilohana Reserved Housing Unit #2405 to her Revocable Living Trust, which is attached hereto as Exhibit "C." The Deed includes HCDA's Reserved Housing restrictions under the Grantee's Covenants in Section B, as well as in Exhibit B. In addition, Ms. Chong also drafted a new Unilateral Declaration of Restrictive Covenants to be executed alongside the Deed, which mirrors the existing Unilateral Declaration for her Unit. The proposed new Unilateral Declaration is attached hereto as Exhibit "D."

ANALYSIS:

Another state agency, the Hawaii Housing Finance and Development Corporation (HHFDC), regards transfers to revocable trusts as "permitted transfers" and allows for administrative waivers of HHFDC's first option to purchase and deferral of shared equity with the proper documentation. HHFDC also requires owner occupancy and stipulates that the primary beneficiary of the trust must remain living in the unit as their primary residence.

HHFDC requires that the revocable trust and new Deed documentation be provided for review to ensure the original Unit Deed encumbrances are referenced and that HHFDC's first option to purchase is retained. The original restrictions are recorded in the new Deed under the original terms. For example, the Regulated Term expires 10 years after the original date of recordation. The term does not start over with the execution of a new Deed.

Like HHFDC's requirements, HCDA Reserved Housing Requirements could be incorporated in the new Deed that would run with the property, as well as a new Unilateral Declaration. The owner occupancy requirement would apply to the original qualified program participant. The deed restriction contained in the trust would also ensure all other program elements such as regulated term, shared equity, and transfers remain intact.

Ms. Chong's request to transfer her Reserved Housing Unit to a trust is specifically allowed under the rules governing her unit (2018 Rules- HAR §15-218-42), provided it is approved by the Authority.

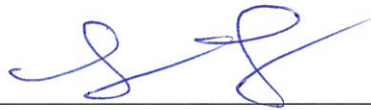
Ms. Chong has already prepared draft documents showing that HCDA's Reserved Housing requirements will remain as encumbrances on the Unit following the transfer to a revocable trust. If executed, these would protect HCDA's shared equity and first option to purchase the unit during the regulated term.

RECOMMENDATION

HCDA staff recommends that the Board Authorize the Transfer of Ke Kilohana Unit 2405 to a Revocable Trust and Defer the Payment of Shared Equity and the HCDA's First Option to Purchase the Unit, Provided the Following Conditions are Met:

1. A new unilateral declaration of restrictive covenants is executed;
2. The reserved housing requirements listed in the rules governing the unit are incorporated into the new deed; and
3. The new deed and trust documents are subject to review by the HCDA Executive Director to ensure they are sufficient.

Respectfully submitted,



Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:



Aedward Los Banos, Executive Director

Attachments

- Exhibit A – Letter from Michele Chong dated June 25, 2019
- Exhibit B – Disclosure of Trust
- Exhibit C – Draft Apartment Deed
- Exhibit D – Draft Unilateral Declaration of Restrictive Covenants

Michele Michiko Chong
988 Halekauwila Street, Apt. #2405
Honolulu, Hawaii 96814
(808) 230-0293
michele.chong808@gmail.com

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dated: JUN 25 2019

Hawaii Community Development Authority
ATTN: Lindsey Doi, Asset Manager
547 Queen Street
Honolulu, Hawaii 96813

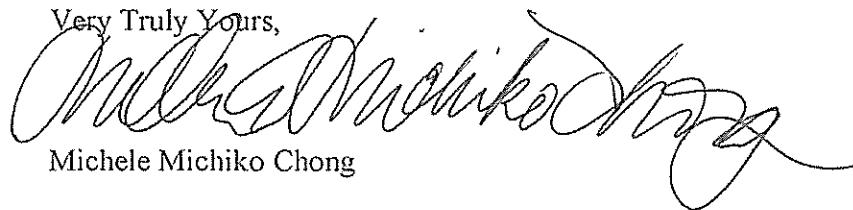
RE: "988 Halekauwila", Apt. #2405; TMK: (1) 2-1-050-071 CPR 0211
(Ke Kilohana Development)

Dear Ms. Doi:

This is a request in writing to opt out of the 2005 Reserved Housing Rules and wish to opt into the new 2018 Reserved Housing Rules. I am currently in the process of transferring my ownership in the above-stated property into my Revocable Living Trust.

Should you have any questions or concerns, please feel free to contact me or my attorney, George Nam at (808) 487-9455.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Michele Michiko Chong', written over a horizontal line.

Michele Michiko Chong

cc: George N. Nam

LAW OFFICES OF GEORGE N. NAM	
PEARLRIDGE OFFICE (Main Office):	ALA MOANA OFFICE:
98-211 Pali Momi Street, Suite 811	1441 Kapiolani Boulevard, Suite 1711
Aiea, Hawaii 96701	Honolulu, Hawaii 96814
Tel: (808) 487-WILL (9455)	Tel: (808) 943-1711
Fax: (808) 487-9406	Fax: (808) 487-9406

MICHELE MICHIKO CHONG
DISCLOSURE OF TRUST

Name of this Trust:	MICHELE MICHIKO CHONG TRUST
Type of Trust:	Revocable Living Trust
Grantor:	MICHELE M. CHONG also known as MICHELE MICHIKO CHONG
Date of this Trust:	<u>JUN 25 2019</u>
Initial Trustee:	MICHELE M. CHONG also known as MICHELE MICHIKO CHONG
Successor Trustee:	ELIZABETH IM SUN TAKARA
Second Successor Trustee:	JAIME K. K. C. J. CHONG
Beneficiary:	MICHELE M. CHONG also known as MICHELE MICHIKO CHONG

Powers to the Trustee:

1. Grant. The Grantor grants to the Trustee discretion and complete power to administer the Trust Estate. In addition to those powers now or subsequently conferred by common law and statute, these powers shall include specifically all powers enumerated in the Uniform Trustee's Powers Act, Hawaii Revised Statutes, Chapter 554A, and without limitation the following powers:
2. Real Estate. To purchase, sell, convey, exchange, lease, mortgage, encumber, repair and subdivide any real estate owned by the Trust in its sole discretion;
3. Financial Assets. To invest, reinvest or divest any financial assets owned by the Trust in its sole discretion;
4. Business. To continue, conduct and operate any business owned by the Trust in its sole discretion;
5. Indebtedness. With respect to any indebtedness owed to the Trust, secured or unsecured:
 - i) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as the trustee deems advisable;
 - ii) To foreclose any security for such indebtedness, to purchase any property securing such indebtedness and to acquire any property by conveyance from the debtor in lieu of foreclosure;
6. Contracts. To enter into contracts which are reasonably incident to the administration of the Trust;
7. Agreements. To carry out the terms of any valid agreement which the Grantor may have entered into during the Grantor's lifetime concerning property owned by the Trust;
8. Execute Instruments. To execute, acknowledge and deliver all instruments necessary or appropriate for the administration of the Trust, including delegatory powers through a Trustee Power of Attorney;
9. Insurance. To carry insurance against such hazards, including public liability, in either stock or mutual companies and to purchase annuity policies or life insurance on the life of any Beneficiary or other person in whom any of the Beneficiaries have an insurance interest, naming as Beneficiary of any such policy either the Trust itself or the Beneficiary on whom or with respect to whom the policy was taken out; to pay premiums, assessments and proper charges on any such policy as beneficial distributions, charging the same to income or principal as permitted by the distributive provisions of this agreement relating to the Beneficiary on whom or with respect to whom the policy was taken out; and to exercise all or any rights granted under such policy;

10. Deal With Fiduciaries. To purchase from, borrow from, sell to and generally to deal with the Trustee, individually and as a fiduciary, or with partnerships, corporations and financial or business organizations in which the Trustee may have an interest;

11. Deposit and Withdraw. To deposit and withdraw funds, including opening and closing accounts of the Trust in one or more banks, savings and loans and credit unions including the banking department of a corporate trustee;

12. Borrow. To borrow money from any source, for any purpose, including an individual trustee or the commercial department of a corporate trustee, with any such indebtedness being repayable solely from the Trust Estate, or a part of it and to pledge or encumber the Trust Estate, or a part of it, as security for such loans;

13. Employ Agents and Delegate. To employ and compensate out of the principal or income, or both, of the Trust Estate, agents, accountants, brokers, attorneys in fact, attorneys at law, tax specialists, realtors, investment counsel and other assistants and advisors, and to delegate powers and duties to other persons, partnerships or corporations, and to employ and delegate as so provided without liability for any neglect, omission, misconduct or default of any such agent, provided such agent was selected and retained with reasonable care; provided, however, that if, and so long as a bank or trust company shall act as Trustee, no payments shall be made by the trustee out of the Trust Estate for bookkeeping, clerical, custodian or investment counsel services unless such payment shall be first approved by the Grantor, or after the Grantor's death, by a majority of the adult beneficiaries then entitled to receive income;

14. Take Legal Action. To prosecute or defend judicial and administrative proceedings for the protection of the Trust Estate, or for the protection of the Trustee in the performance of its duties;

15. Establish Reserves. To establish reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation and cost recovery, depletion, obsolescence and general maintenance of buildings, and other property, and for the equalization of payments to or for the beneficiaries entitled to receive income out of the rents, profits or other income received;

16. Settle Claims. To pay, contest or otherwise settle claims by or against the Trust Estate, including taxes, assessments and expenses by litigation, compromise, arbitration or otherwise;

17. Exercise Rights. To sell or exercise stock subscription rights, participate in foreclosures, reorganizations, recapitalizations, consolidations, mergers, liquidations or other corporate adjustments, to enter into voting trust agreements or other similar arrangements and to consent to the corporate sales, leases or encumbrances; to deposit stocks or other securities which are part of the Trust Estate with any protective or other similar committee, or with voting trustees;

18. Distribute in Kind. To make distributions in kind, in money, or partly in each, without requiring pro rata distribution of specific assets, at fair market value as determined by the Trustee on the effective date of distribution;

19. Release of Powers. To release by an instrument in writing, any power expressly or impliedly conferred in this Trust;

20. Taxes. To compute, file and amend any Federal or State Tax Returns and to deal with, negotiate and enter agreements with the Internal Revenue Service and State Revenue agents; including claims for refund and all other reports, applications and petitions required or permitted by government;

21. Deferred Income Plan. To deal with Pension Plans, Retirement Plans, IRA Accounts and make decisions as to withdrawals and rollovers;

22. Gifts. To make gifts to any donee, including any beneficiaries not named in this Trust and including an Attorney in Fact, for any purpose and by any means, including through a Power of Attorney;

23. Benefits. To deal with the Social Security Administration and State Department of Human Services;

24. Life Insurance. To purchase, renew, extend and cancel life insurance, whether term or whole life, including long term disability insurance, casualty insurance, catastrophic illness insurance;

25. Living Trusts. To create, amend, authorize, execute and fund living trusts whether revocable or irrevocable including any amendments thereto;

26. Advance Health Care Directive. To create, authorize and execute Advance Health Care Directives;

27. Assets in other Jurisdictions. The Trustee may appoint a person or corporation in writing and signed by the Trustee to act as Trustee with respect to assets in other jurisdictions, with full powers and discretion;

28. Establish Margin Accounts. To buy, sell and trade in securities, commodities, stocks, bonds, options, futures, options on futures or any derivative instrument of the foregoing, of any nature, including short sales, on margin, and for such purposes may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by it with such brokers as security for loans and advances made to the Trustee;

29. Terminate Trusts. To terminate this Trust when the fair market value of the Trust Estate has declined below \$50,000 and the Trustee decides that it would be uneconomical, imprudent or unwise to continue to retain the Trust;

30. Safe Deposit Boxes. To open, have access to, add to, and remove the contents from one or more safe deposit boxes in the name of the Trust;

31. Voting. To vote, in person or by proxy, shares of stock or other securities owned by the Trust in its sole discretion;

32. Accounting. To determine principal and income, depreciation and depletion, in accordance with generally accepted accounting principles, methods and formulas. No annual accounting shall be required of the Initial Trustee. The Successor Trustee shall provide an annual accounting to each adult Beneficiary;

33. Liability of the Trustee. To rely upon any writing believed to be genuine in its sole discretion. The Trustee shall incur no liability for any distribution, investments, votes, or decisions made in good faith and without knowledge of a changed condition or status affecting the interest of a beneficiary;

34. Tax Deferred Investments. The Trustee shall have the power to rollover or reinvest Qualified Plan or IRA proceeds on behalf of the Beneficiaries A) in order to avoid income tax to the Trust or Beneficiaries except for amounts actually paid to the Beneficiaries and/or B) in order to fund or maintain the marital deduction.

35. Access to Digital Assets. The Trustee may exercise all powers that an absolute owner would have and any other powers appropriate to achieve the proper investment, management, and distribution of: (1) any kind of computing device of a Grantor; (2) any kind of storage device or medium of a Grantor; (3) any electronically stored information of a Grantor; (4) any user account of a Grantor; and (5) any domain name of a Grantor. The Trustee may obtain copies of any electronically stored information of a Grantor from any individual or entity that possesses, custodies, or controls that information. Grantors hereby authorize any individual or entity that possesses, custodies, or controls any electronically stored information of a Grantor or that provides to a Grantor an electronic communication service or remote computing service, whether public or private, to divulge to the Trustee: (1) any electronically stored information of a Grantor; (2) the contents of any communication that is in electronic storage by that service or that is carried or maintained by that service; and (3) any record or other information pertaining to a Grantor with respect to that service. This authorization is to be construed to be Grantors' lawful consent under the Revised Uniform Fiduciary Access to Digital Assets Act; the Electronic Communications Privacy Act of 1986, as amended; the Computer Fraud and Abuse Act of 1986, as amended; and any other applicable Federal or state data privacy law or criminal law. The Trustee may employ any consultants or agents to advise or assist the Trustee in decrypting any encrypted electronically stored information of a Grantor or in bypassing, resetting, or recovering any password or other kind of authentication or authorization, and the Grantors hereby authorize the Trustee to take any actions to access: (1) any kind of computing device of a Grantor; (2) any kind of data storage device or medium of a Grantor; (3) any electronically stored information of a Grantor; and (4) any user account of a Grantor. The terms used in this paragraph are to be construed as liberally as possible, and the term "user account" includes without limitation an established relationship between a user and a computing device or between a user and a provider of Internet or other network access, electronic communications services, or remote computing services, whether public or private.

36. Compensation of Trustee. The Trustee shall be entitled to reasonable compensation for its services, as determined by the Trustee and reimbursement for expenses necessarily incurred in the administration of the Trust Estate;

37. Resignation and Acceptance of Trustees. Subject to paragraph 38 and 39, the Initial Trustee shall administer the Trust Estate until resignation or death. The Initial Trustee may resign at any time without court approval provided that said resignation be in writing, signed by said Initial Trustee and notarized. Upon the death, resignation or cessation of Trustee powers of the Initial Trustee, the remaining Initial Trustee, if any, shall administer the Trust Estate. Upon the death, resignation or cessation of Trustee powers of the remaining Initial Trustee, the Successor Trustee shall administer the Trust Estate until its death, resignation or cessation of powers. Said succession of Trustees shall continue until no qualified named Trustees remain, in which event, the oldest Contingent Beneficiary shall succeed as Trustee and administer the Trust Estate. If no Contingent Beneficiary is qualified to act or accept as Trustee, a qualified Individual Trustee or Corporate Trustee shall be appointed by the Court having jurisdiction over this Trust.

38. Termination of Trustee: Medical. Upon a written determination by a physician, psychiatrist or clinical psychologist duly licensed in the jurisdiction where the Trustee resides, who has examined and tested the Trustee, that said Trustee is incompetent to manage its own financial affairs, all of said Trustee's powers shall cease.


39. Termination of Trustee: Legal. Upon a legal judicial determination where the trustee resides that said Trustee is entitled to a guardian ad litem, guardian of the person or guardian of the property, all of said Trustee's powers shall cease.

40. Amendment and Revocation. This Trust may be amended, revoked or terminated at any time provided that it be in writing, signed by the Grantor, under notary, and delivered to the Trustee. Upon receipt of any notice of revocation of Trust, the Trustee shall transfer to the Grantor any property held by the Trustee. Notwithstanding anything herein to the contrary, the Trustee may complete or ratify the acts of the Grantor.

41. Power of Attorney. I give unto my attorney-in-fact the full powers as listed in said Power of Attorney to transact any and all affairs with respect to this Trust just as if my attorney-in-fact had been named as the Trustee of said Trust, hereby ratifying and confirming all that my attorney-in-fact shall lawfully do or cause to be done by virtue of these presents and on my behalf as Trustee of said Trust.

THE REST OF THIS PAGE IS
INTENTIONALLY LEFT BLANK

The Grantor and Trustee by signatures below, execute, acknowledge and signify the acceptance of this Trust effective the Date of this Trust.


MICHELE M. CHONG also known as
MICHELE MICHIKO CHONG

"Grantor"


MICHELE M. CHONG also known as
MICHELE MICHIKO CHONG

"Trustee"

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On JUN 25 2019, before me personally appeared MICHELE M. CHONG also known as MICHELE MICHIKO CHONG, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed this 7 page *MICHELE MICHIKO CHONG DISCLOSURE OF TRUST* dated JUN 25 2019, in the First Circuit of the State of Hawaii, as such person's free act and deed, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.




George N. Nam

Notary Public, State of Hawaii
My commission expires: 5/2/2020

After Recordation Return By: Mail (X) Pick Up () To:

Ms. Michele M. Chong

988 Halekauwila Street, Apt. #2405

Honolulu, Hawaii 96814

Total: _____ Pages

(“988 HALEKAUWILA”, Apt. 2405)

TMK: (1) 2-1-050-071 CPR 0211

APARTMENT DEED

Name of this Document:

APARTMENT DEED

Date of this Document:

Grantor(s):

MICHELE MICHICO CHONG, unmarried, of the
City and County of Honolulu, State of Hawaii.

Grantee(s):

MICHELE M. CHONG also known as MICHELE
MICHICO CHONG, Trustee of the MICHELE
MICHICO CHONG TRUST, an unrecorded
Revocable Living Trust dated _____,
as to an undivided ONE HUNDRED PERCENT
(100%) interest.

Grantee(s) address:

988 Halekauwila Street, Apt. #2405, Honolulu,
Hawaii 96814.

Consideration: Ten Dollars (\$10.00)

Real Estate Transferred: Exhibit "A", attached hereto and made a part hereof.

Trust Powers: Said Trustee having all powers under the above dated Trust, including full power to sell, convey, exchange, mortgage, lease, assigns, subdivide or otherwise deal with and dispose of all of the trust estate.

Grantor grants, bargains, sells, quitclaims and conveys all of the right, title and interest, that being an undivided **ONE HUNDRED PERCENT (100%) interest**, to the Grantee, as **Tenant in Severalty, her successors in Trust and Assigns**, in and to **APARTMENT NO. "2405"** of the **"988 HALEKAUWILA"** Condominium Project, all as more fully described in Exhibit "A", attached hereto and made a part hereof.

The Property hereby conveyed comprises a portion of the 988 HALEKAU WILA condominium project (the "Project"), as established by that certain Declaration of Condominium Property Regime of 988 Halekauwila dated February 18, 2016, recorded at the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. A-59140771, as the same may be amended from time to time (the "Declaration"). The Project consists of those certain lands situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, and more particularly described in the Exhibit "A" attached hereto and incorporated herein by this reference, together with the improvements located thereon, as more particularly described in and subject to the Declaration. The portion of the Project consisting of the Property hereby conveyed is more particularly described in said Exhibit "A".

To HAVE AND To HOLD the same unto Grantee, according to the tenancy and estate hereinabove set forth, in fee simple, absolutely and forever, subject as aforesaid, and subject also to the Declaration, the Bylaws of the Association of Unit Owners of 988 Halekauwila dated February 18, 2016 and recorded at said Bureau as Document No. A-59140772, as the same may be amended from time to time (the "Bylaws"), that certain Community Covenant for Ward Village dated September 13, 2013 and recorded at said Bureau as Document No. A-50040794 (the "Master Declaration"), as the same may be amended from time to time, and the Rules and Regulations of the Association of Unit Owners of 988 Halekauwila (the "House Rules"), and the covenants, conditions and restrictions in the Declaration, the Bylaws, the Master Declaration and the House Rules contained, as the same may have been or may hereafter be amended, all of which are incorporated herein by reference and made a part hereof.

The Property shall at all times be used only for the purposes described in the Declaration.

Grantor hereby covenants and agrees with Grantee that Grantor is lawfully seized in fee simple of the Property and the rights granted, bargained, sold and conveyed as herein mentioned; and Grantor has good right to grant, bargain, sell and convey the same in the manner set forth herein; and that the same are free and clear of and from all encumbrances created or suffered by Grantor,

except for the encumbrances set forth in said Exhibit "A", and except for the lien of real property taxes not yet by law required to be paid; and Grantor shall WARRANT AND DEFEND the same unto Grantee, forever, against the lawful claims and demands of all persons claiming through Grantor, except as herein set forth.

GRANTEE'S COVENANTS

In consideration of the foregoing conveyance, Grantee does hereby covenant and agree to and with Grantor and its successor and assigns, as follows:

A. Observance and Examination of Declaration, Bylaws, Master Declaration, and Other Project Documents. Grantee hereby covenants and agrees, for the benefit of the Unit Owners from time to time of all other units in the Project, to at all times observe, perform, comply with and abide by all of the terms, covenants, conditions, agreements, obligations and restrictions set forth in the Declaration, the Bylaws, the Master Declaration and the House Rules, as any of the same exist or may hereafter be amended in accordance with law, and does hereby accept and approve the Declaration, the Master Declaration, the Bylaws, and the House Rules, and Grantee will indemnify and save harmless Grantor for any failure to observe and perform any such terms, covenants, conditions, agreements, obligations and restrictions for so long as the Declaration, Master Declaration, Bylaws and the House Rules exist and are in effect.

Grantee further acknowledges and agrees that Grantee has examined (or waived such examination), and has approved the following Project documents (and any and all supplements, addenda and amendments to said documents): the Declaration, the Bylaws, the Master Declaration, the Condominium Map for the Project ("**Condominium Map**"), the House Rules, the Project escrow agreement and the developer's public report with an effective date issued by the Real Estate Commission of the State of Hawaii for the Project. In addition, Grantee hereby agrees and acknowledges that each of the acknowledgments and agreements made by Grantee in the 988 Halekauwila Purchase Agreement and Deposit Receipt covering the Property, including all supplements, addenda and amendments thereto, shall survive the recordation of this Deed.

B. Reserved Housing Unit. Grantee hereby understands, accepts and agrees that the Property conveyed by this Deed is designated as a "Reserved Housing Unit" in accordance with the terms, conditions and requirements of Subchapter 7 ("Sale and Rental of Reserved Housing Units") of the Kaka'ako Community Development District Mauka Area Rules, Title 15, Subtitle 4, Chapter 22 of the Hawaii Administrative Rules (the "**Mauka Area Rules**"), as administered by the Hawaii Community Development Authority ("**HCDA**"), and that certain Planned Development Permit dated July 17, 2013, Ref. No. KAK 13-038, as amended. Grantee does hereby covenant and agree that the Property shall be subject to certain restrictions on the use, occupancy and transfer pertaining to Reserved Housing Units pursuant to the Mauka Area Rules. Without limiting the generality of the foregoing, Grantee does hereby covenant and agree that:

- 1) The Unit is affordable to qualified persons with adjusted household incomes equal to one hundred twenty-two percent (122%) of median income;

- 2) The Unit is subject to a Regulated Term of two (2) years, as more particularly described in Exhibit "B" attached hereto and made a part hereof;
- 3) The Unit is subject to certain "Equity Sharing Requirements," as more particularly described in Exhibit "B"; and
- 4) Grantee shall occupy the Unit as Grantee's primary residence and use the Unit in accordance with all applicable provisions of the Mauka Area Rules, as more particularly described in Exhibit "B"; and
- 5) Grantee shall execute a Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit ("Unilateral Declaration") for the Unit on a form approved by the HCDA, which shall be recorded in said Bureau substantially concurrently with this Deed.

By accepting this Deed, Grantee expressly covenants and agrees that Grantee shall observe, perform and comply with all of the covenants, conditions and restrictions pertaining to the ownership, use and transfer of the Unit set forth in the Mauka Area Rules and in Exhibit "B". Upon release of the Unilateral Declaration, the terms of this Paragraph B and Exhibit "B" shall be of no further force or effect and shall no longer bind or encumber the Unit or Grantee or Grantee's successors in interest and assigns. Following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of the terms, conditions, and restriction set forth in the Paragraph B and in Exhibit "B".

C. Grantor's Reserved Rights; Power of Attorney. Grantee hereby acknowledges, consents to and agrees with those certain rights set forth in the Declaration, including, but not limited to, the rights set forth in Articles XX through XXXIV thereof, the Master Declaration, the Bylaws, and the House Rules as being reserved unto Grantor for the periods described therein and agrees and consents to Grantor's exercise of such reserved rights in connection with the Project. Grantee hereby further consents to the recording of any and all documents necessary to effect Grantor's exercise of said reserved rights at said Bureau, including without limitation, any amendment or amendments of the Declaration, Bylaws, Condominium Map, and the House Rules, as appropriate; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints Grantor and its assigns as Grantee's attorney-in-fact with full power of substitution to execute, deliver, and record such documents and instruments and to do such things on Grantee's behalf to effect such reserved rights, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties, and which means that the grant of such power will be binding upon any person or entity to which Grantee transfers the Property, and shall be deemed to be automatically granted anew by any such person or entity upon such transfer of any Unit or any interest therein, whether by deed, mortgage, or any other instrument of conveyance. Grantee further acknowledges, consents and agrees that, notwithstanding anything stated herein to the contrary, pursuant to the Declaration, the rights reserved to Grantor in the Declaration shall be fully and freely assignable by Grantor in whole or in part. Without limitation to the generality of the rights reserved unto Grantor as set forth in the

Declaration and as permitted by law, Grantor will have the right to execute, deliver and record any amendment to the Condominium Documents, any easement instrument, any deed, any amendment to a Deed, assignment of rights or interest, or such other document, instrument or agreement that may be necessary or appropriate to permit Grantor to exercise its reserved rights pursuant to the provisions of the Declaration.

D. Binding Effect. The rights and obligations of Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. All obligations undertaken by two (2) or more persons shall be deemed to be joint and several unless a contrary intention shall be clearly expressed elsewhere herein. Without limiting the generality of the foregoing, each and every acknowledgment, acceptance, appointment, agreement and covenant of Grantee herein shall run with the land and constitute an equitable servitude and lien, and is made by Grantee for Grantee and on behalf of Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust and assigns. Each and every person hereafter acquiring from Grantee or Grantee's estate, heirs, devisees, personal representatives, successors, successors-in-trust or assigns, an interest in the Property hereby conveyed, by such acquisition, makes said acknowledgments, acceptances, appointments, agreements and covenants for such person and for such person's estate, heirs, devisees, personal representatives, successors, successors-in-trust and assigns.

The conveyance herein set forth and the warranties of Grantor concerning the same are expressly declared to be in favor of Grantee, Grantee's heirs, devisees, personal representatives, successors, successors-in-trust and assigns.

E. Severability. In the event that any provision of this instrument is illegal, void or unenforceable for any reason, the remaining terms of this instrument shall remain in full force and effect.

F. "Grantor" and "Grantee". The terms "Grantor" and "Grantee" as and when used herein or any pronouns used in place thereof, shall mean and include the masculine, feminine and neuter, the singular and plural number, individuals, trustees, partnerships, companies or corporations, and each of their respective heirs, devisees, personal representatives, successors, successors-in-trust and assigns, according to the context thereof. All capitalized terms not defined herein shall have the meanings ascribed to such terms in the Declaration.

G. Counterparts. Grantor and Grantee agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatories to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

EXHIBIT "A"

FIRST: Unit No. 2405 (the "Unit") located in that certain condominium project known as "988 HALEKAUWILA" (the "Project"), as described in that certain Declaration of Condominium Property Regime dated February 18, 2016, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. A-59140771, as the same may be amended from time to time (the "Declaration"), and shown on the plans thereof filed as aforesaid as **Condominium Map No. 5514** (the "Condominium Map").

TOGETHER WITH those easements appurtenant to the Unit as set forth in the Declaration, which may include the following:

- a) Exclusive easements in the Limited Common Elements of the Project which are described in the Declaration as being appurtenant to the Unit.
- b) Nonexclusive easements in the Common Elements, including the Limited Common Elements, designed for such purposes as ingress to, egress from, utility services for, and support, maintenance, and repair of the Unit; in the other Common Elements for use according to their respective purposes, subject always to the exclusive use of the Limited Common Elements as provided in the Declaration; and in the other Units in the building in which the Unit is located for support; subject to the provisions of Section 514B-38 of the Act.
- c) If any part of the Common Elements now or hereafter encroaches upon any unit or Limited Common Element, or if any unit encroaches upon the Common Elements or upon any other unit, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event that a unit shall be partially or totally destroyed and then rebuilt or in the event of any shifting, settlement, or movement of any part of the Project, encroachments of any part of the Common Elements, Units or Limited Common Elements due to such construction, shifting, settlement, or movement shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist for so long as such encroachment continues.
- d) Nonexclusive easements for access throughout the Parking Structure, all roadways, driveways, access lanes, ramps, landscaped areas, sidewalks, walkways, hallways, and grounds of the Project that is/are part of the Commercial Limited Common Elements or Residential Limited Common Elements, as depicted on the Condominium Map to the extent that such easements are necessary for ingress to and egress from, the Unit and to and from any Limited Common Element areas appurtenant to the Unit or the Residential Limited Common Elements or Commercial Limited Common Elements. The Unit shall have pedestrian and vehicular easements for access through Level 1 to access the Residential Limited Common Elements and/or Commercial Limited Common Elements located on Level 1 at all times.

EXCEPTING AND RESERVING AND SUBJECT TO all easements as provided in the Declaration, including, but not limited to, (i) easements for encroachments appurtenant to other Units or the Common Elements as they arise in the manner set forth above, now or hereafter existing thereon; (ii) easements for access to the Unit or any Limited Common Element appurtenant thereto from time to time during reasonable hours as may be appropriate for the operation or maintenance of the Project or for the inspection, repair, painting, resurfacing, maintenance, installation or replacement of any Common Elements, or for any other purpose reasonably related to the exercise of the rights and obligations under the Declaration, or, without notice, at any time for (a) making emergency repairs therein necessary to prevent damage to any unit or Limited Common Element, (b) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity, (c) protecting the property rights of any Owner, or (d) preventing death or serious bodily injury to any Owner or other occupant therein; (iii) easements affecting Common Elements; (iv) easements through adjacent lands; (v) easements necessary to complete the Project, for noise and dust, to conduct sales activities at the Project, and to install and operate central telecommunication receiving and distribution systems and services; and (vi) easements necessary pursuant to the exercise of any reserved rights set forth in the Declaration, all as provided in the Declaration.

SECOND: An undivided 0.234000% interest in all Common Elements of the Project as established by the Declaration, including the land described in the Declaration, or such other interest as hereafter established for the Unit by any amendment of the Declaration, as tenant in common with the holders of other undivided interests in and to said Common Elements.

ALL TOGETHER WITH AND SUBJECT TO as to FIRST and SECOND the covenants, agreements, easements, obligations, conditions, exceptions, reservations and other matters and provisions of the Master Declaration, the Declaration and the Bylaws, all of which are incorporated herein by this reference and which constitute covenants running with the land, equitable servitudes and liens to the extent set forth therein and provided by law.

The lands upon which the Project is located are described as follows:

ITEM I:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560 recorded at said Bureau as Document No. A-46240645, described as follows:

LOTS: 13, Block 2, area 5,000.00 square feet, more or less,
14, Block 2, area 5,000.00 square feet, more or less, and
15, Block 2, area 5,000.00 square feet, more or less, as

shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court, Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

Page 2 of EXHIBIT "A"

ITEM II:

PARCEL FIRST: All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560 recorded at said Bureau as Document No. A-46240645, described as follows:

LOTS: 18, Block 2, area 5,000 square feet, more or less,
20, Block 2, area 3,561 square feet, more or less,
21, Block 2, area 5,217 square feet, more or less, as shown on Map 1, and
19-A, Block 2, area 4,874 square feet, more or less, and
22-A, Block 2, area 5,656 square feet, more or less,

as shown on Map 29, filed in said Office with Land Court, Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

PARCEL SECOND: BLOCK B, being a portion of Royal Patent 5716, Land Commission Award Number 10605, Apana 7 to Piikoi area 2,816 square feet, as shown on Consolidation Map prepared by Walter P. Thompson, dated August 11, 1996.

ITEM III:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560, recorded at said Bureau as Document No. A-46240645, described as follows:

LOT 16, BLOCK 2, area 5,000 square feet, more or less, as shown on Map 1, and
LOT 17-A, BLOCK 2, area 4,644 square feet, more or less, as shown on Map 29,

filed in said Office with Land Court, Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

Being all of the property conveyed to MICHELE MICHICO CHONG, unmarried, as to an undivided One Hundred Percent (100%) interest, as Tenant in Severalty, by Limited Warranty Unit Deed, Encumbrances and Reservation of Rights with Power of Attorney dated April 19, 2019, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. _____.

SUBJECT, HOWEVER, to any mortgages, liens, covenants, conditions, easements, reservations, restriction and/or encumbrances that may be filed of record, if any.

Page 3 and END OF EXHIBIT "A"

EXHIBIT "B"

REQUIREMENTS FOR RESERVED HOUSING UNITS UNDER THE MAUKA AREA RULES

I. MAUKA AREA RULES AND PLANNED DEVELOPMENT PERMIT

The Unit described in this Deed and being transferred hereby is designated as a "Reserved Housing Unit" in accordance with the terms, conditions and requirements of Subchapter 7 ("Sale and Rental of Reserved Housing Units") of the Kaka'ako Community Development District Mauka Area Rules, Title 15, Subtitle 4, Chapter 22 of the Hawaii Administrative Rules (the "Mauka Area Rules"), as administered by the Hawaii Community Development Authority of the State of Hawaii ("HCDA"). Accordingly, title to the Unit is being transferred to Grantee by this Deed subject to the terms, conditions, provisions and restrictions for Reserved Housing Units set forth in the Mauka Area Rules, as more specifically implemented in that certain Planned Development Permit dated July 17, 2013, Ref. No. KAK 13-038, as amended (the "Planned Development Permit").

II. REQUIREMENTS FOR THE UNIT

A. Regulated Term

The transfer of a Reserved Housing Unit shall be regulated for a minimum number of years following the original sale of the Unit as prescribed in Section 15-22-186(b) of the Mauka Area Rules (the "Regulated Term"). During the Regulated Term, HCDA has, among other things, the first option to purchase the Unit from the Grantee at a specified sales price.

The Unit is affordable to qualified persons with adjusted household incomes equal to one hundred twenty-two percent (122%) of median income.

The Regulated Term for this Unit shall be for a period of two (2) years commencing on the date of recordation in the Bureau of this Deed transferring title to the Unit to Grantee.

B. Equity Sharing Requirements

The Unit is subject to "Equity Sharing Requirements" that requires Grantee to make a payment to HCDA upon transfer of the deed to the Unit to a third party. The calculation of payment is determined by, among other things, the Unit's original fair market value and original sales contract price.

C. Occupancy

The Unit is subject to "Occupancy Requirements" that requires Grantee or other "Qualified Households" to occupy the Unit. Grantee shall occupy the Unit during the Regulated Term.

III. SELECTED PROVISIONS OF THE MAUKA AREA RULES

The Mauka Area Rules include, but are not limited to, the following terms, conditions, provisions and restrictions:

A. The Unit is subject to the terms of Section 15-22-186 of the Mauka Area Rules ("Conditions on transfer of reserved housing units"), which section is hereby expressly incorporated into this Deed by this reference. Section 15-22-186 of the Mauka Area Rules provides, in its entirety, as follows:

§15-22-186 Conditions on transfer of reserved housing units. (a) The transfer of reserved housing units shall be regulated in accordance with the conditions set forth in subsection (c) of this

section for a minimum number of years following the original sale of the unit as prescribed in subsection (b) below. The authority may elect to extend the period on a case-by-case basis.

(b) The regulated term for reserved housing units shall be established based on unit affordability. Unit affordability, expressed as a percentage of median income, shall be determined based on the standard household sizes established in §15-22-185 and affordability criteria set forth in §15-22-185.1. Reserved housing units affordable to qualified persons with adjusted household incomes:

- (1) Less than one hundred per cent of median income shall be regulated for ten years;
 - (2) One hundred to one hundred nineteen per cent of median income shall be regulated for five years; and
 - (3) One hundred twenty to one hundred forty per cent of median income shall be regulated for two years.
- (c) The conditions for transferring reserved housing units during the regulated term are as follows:

- (1) If an owner wishes to transfer title to the reserved housing unit, the authority or a governmental agency approved by the authority shall have the first option to purchase the unit at a sales price based on the lower of:
 - (A) The current fair market value of the reserved housing unit less the authority's share of the equity in the unit as determined by section 15-22-187 of this chapter; or
 - (B) The original sales price of the reserved housing unit adjusted proportionately to the change in median income computed from the date of the purchase to the date of the sale.
- (2) If the owner is purchasing another reserved housing unit as provided in section 15-22-182(c), the owner shall sell the reserved unit to the authority, prior to or upon the closing of the sale of the larger reserved unit, at a sales price based on the lower of:
 - (A) The current fair market value of the reserved housing unit less the authority's share of the equity in the unit as determined by section 15-22-187 of this chapter; or
 - (B) The original sales price of the reserved unit plus one per cent simple interest per year of said sales price computed from the date of the purchase to the date of sale.
- (3) The owner shall notify the authority in writing of the intent to transfer title to the reserved housing unit and the property or the lease. The authority shall respond to the owner's notification by either waiving its option to purchase the unit, or by agreeing to buy the unit or providing a substitute buyer for the unit at the price calculated in subsection (c)(1) or (2). The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification.
- (4) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner.
- (5) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined herein and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

(d) After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in §15-22-187 of this chapter.

(e) The conditions prescribed in subsection (c) above shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder becomes the owner of a reserved housing unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering a reserved housing unit and land or leasehold interest subject to the transfer restrictions of the authority shall, prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record. The person in default shall be entitled to any amount remaining provided the amount shall not exceed the lower of the amounts computed in subsection (c)(1) above.

(f) The provisions of this section shall be incorporated in any deed, lease, mortgage, agreement of sale, or other instrument of conveyance for reserved housing units. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 8/4/95, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-186 is based substantially upon §15-17-306 [Eff 4/6/85; R 9/8/86]

B. The Unit is subject to the terms of Section 15-22-187 of the Mauka Area Rules ("Equity Sharing Requirements"), which section is hereby expressly incorporated into this Deed by this reference. Section 15-22-187 of the Mauka Area Rules provides, in its entirety, as follows:

§15-22-187 Equity sharing requirements. (a) The authority's share of the equity in the reserved housing unit shall become due upon:

- (1) Waiver of the authority's first option to purchase the reserved housing unit; or
 - (2) Resale of the reserved housing unit after the expiration of the period during which the authority has the first option to purchase the unit.
- (b) The authority's share of the equity in the reserved housing unit shall be the higher of:
- (1) An amount equivalent to the difference between the original fair market value of the unit and its original sales contract price, not to exceed the difference between the resale fair market value and the original sales contract price; or
 - (2) An amount equivalent to the authority's percentage share of net appreciation calculated as the difference between the original fair market value of the unit and its original sales contract price, divided by the original fair market value of the unit. As used herein, "net appreciation" means resale fair market value less original sales contract price and actual sales costs incurred, if any.

The authority shall determine the fair market value of the unit at the time of the initial sale and at the time of resale.

(c) The price and terms on the resale of units shall be approved by the authority. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7).

Historical note: §15-22-187 is based substantially upon §15-17-307. [Eff 4/6/85; R 9/8/86]

C. The Unit is subject to the terms of Section 15-22-190 of the Mauka Area Rules ("Occupancy"), which section is hereby expressly incorporated into this Deed by this reference. Section 15-22-190 of the Mauka Area Rules provides, in its entirety, as follows:

§15-22-190 Occupancy. (a) A reserved housing unit purchased or rented under this chapter shall be occupied by the purchaser or renter at all times.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in 15-22-186 of this chapter or evict the renter from the unit, as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

(d) The restriction prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-190 is based substantially upon §15-17-310. [Eff 4/6/85; R 9/8/86]

D. The Unit is subject to the terms of Section 15-22-191 of the Mauka Area Rules ("Restrictions or conditions on use and sale of a reserved housing unit; effects of amendment or repeal"), which section is hereby expressly incorporated into this Deed by this reference. Section 15-22-191 of the Mauka Area Rules provides, in its entirety, as follows:

§15-22-191 Restrictions or conditions on use and sale of a reserved housing unit; effects of amendment or repeal. (a) Restrictions or conditions on the use, sale and transfer of reserved housing units shall be made as uniform as possible in application to purchasers of all units, and restrictions shall be conformed with agreement of the owner to reflect change or repeal made by any subsequent legislative act, ordinance, rule or regulation. Reserved housing unit owners shall be permitted at their election to sell or transfer units subject to restrictions in effect at the time of their sale or transfer.

(b) The authority, any other department of the State, or any county housing agency maintaining restrictions or conditions, through contract, deed, other instrument, or by rule or regulation, shall notify all owners of any change made by law, ordinance, rule or regulation not more than one hundred eighty (180) days after the change, as the case may be, and such notice shall clearly state the enacted or proposed new provisions, the date upon which they are to be effective and offer to each owner of reserved housing units constructed and sold prior to the effective date, an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions.

(c) No dwelling unit owner shall be entitled to modify the restrictions or conditions on use, transfer, or sale of the reserved housing unit, without the written permission of the holder of a duly-recorded first mortgage on the unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first mortgage or the owner is an agency of the State or its political subdivisions.

(d) This section shall apply to all reserved housing units developed, constructed and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale or transfer of interest in the reserved housing unit purchased.

(e) The provisions of this section shall be incorporated in any deed, lease, instrument, rule or regulation relating to restrictions or conditions on use, sale or transfer of reserved housing units.

[Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-191 is based substantially upon §15-17-311. [Eff 4/6/85; R 9/8/86]

END OF EXHIBIT "B"

After Recordation Return By: Mail (☒) Pick Up () To:
Ms. Michele M. Chong
988 Halekauwila Street, Apt. #2405
Honolulu, Hawaii 96814 Total: _____ Pages _____

("988 HALEKAUWILA", Apt. 2405)
TMK: (1) 2-1-050-071 CPR 0211

**UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS FOR
UNIT DESIGNATED AS RESERVED HOUSING UNIT IN THE
988 HALEKAUWILA CONDOMINIUM PROJECT**

This UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS FOR UNIT DESIGNATED AS RESERVED HOUSING UNIT is made on _____, by **MICHELE M. CHONG** also known as **MICHELE MICHIKO CHONG**, Trustee of the **MICHELE MICHIKO CHONG TRUST**, an unrecorded Revocable Living Trust dated June 25, 2019, whose address is 988 Halekauwila Street, Apt. #2405, Honolulu, Hawaii 96814 ("Declarant"), to confirm that Declarant's ownership and use of the real property described herein is restricted for the duration of this Declaration as more particularly set forth herein.

I. BACKGROUND:

- A) Declarant is the current owner of that certain residential condominium unit (the "Unit") described in Exhibit A attached hereto and made a part hereof in the 988 Halekauwila condominium project (the "Project") established by that certain Declaration of Condominium Property Regime of 988 Halekauwila dated February 18, 2016, recorded at the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. A-59140771, as the same may be amended from time to time, and as shown on Condominium Map No. 5514 filed at said Bureau, as the same may be amended from time to time.

- B) The Project is located within the Kaka'ako Community Development District (the "KCDD") and is subject to the jurisdiction of the Hawaii Community Development Authority ("HCDA"), an agency of the State of Hawaii, and the terms of the Kaka'ako Community Development District Mauka Area Rules for the KCDD established pursuant to Chapter 206E of the Hawaii Revised Statutes (Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, HCDA; Chapter 22 of the Hawaii Administrative Rules) and administered by HCDA (the "Mauka Area Rules"). The Project was developed subject to and in accordance with the terms of various permits and agreements, including that certain Planned Development Permit No. KAK-13-038 issued by HCDA on July 17, 2013, as the same may have been amended from time to time (the "Development Permit").
- C) In accordance with the terms of the Development Permit, 988 Halekauwila, LLC ("Developer") has designated certain residential units in the Project as "Reserved Housing Units" available to persons or families who meet certain eligibility, income and asset requirements and limitations as set forth in the Mauka Area Rules.
- D) The Unit was designated by Developer as a Reserved Housing Unit in the Project.
- E) Each Reserved Housing Unit, including the Unit, is subject to certain restrictions, including, but not limited to, transfer and equity sharing restrictions more particularly set forth in the Mauka Area Rules, the Development Permit, and the Limited Warranty Unit Deed, Encumbrances, and Reservation of Rights with Power of Attorney for the Unit (the "Deed").
- F) Pursuant to the Deed, Declarant now makes the following declarations to confirm certain restrictions affecting the Unit as more particularly set forth herein below, and declares that such restrictions are encumbrances on title to the Unit for so long as this Declaration remains in full force and effect.

II. DECLARATIONS:

Declarant hereby unilaterally declares, acknowledges and agrees as follows:

- A) Regulated Term. As specified in Paragraph B and Exhibit "B" of the Deed, the Unit is subject to the "Regulated Term" of two (2) years commencing on the date of recordation in the Bureau of the Deed transferring title to the Unit to Declarant.
 - 1. If, during the Regulated Term, Declarant wishes to sell the Unit, HCDA, or a governmental agency approved by HCDA, shall have the

first option to purchase the Unit from Declarant at a purchase price calculated in accordance with the Mauka Area Rules.

2. If, during the Regulated Term, Declarant wishes to purchase a larger Reserved Housing Unit pursuant to Section 15-22-182(c) of the Mauka Area Rules, Declarant shall sell the Unit to HCDA at a purchase price calculated in accordance with the Mauka Area Rules.
3. After the end of the Regulated Term, Declarant may sell the Unit without transfer or price restrictions; provided that Declarant shall be subject to the equity sharing requirements set forth in the Mauka Area Rules (the "**Equity Sharing Requirements**"). Declarant may also elect to rent the Unit during the Regulated Term in accordance with the applicable provisions of the Mauka Area Rules, as more particularly described in Paragraph II. C. below.

B) **Equity Sharing Requirements.** As specified in Paragraph B of the Deed, Declarant and the Unit are subject to certain Equity Sharing Requirements set forth in the Mauka Area Rules. For purposes of determining Declarant's equity sharing payment to HCDA, the original fair market value of the Unit and the original sales contract price of the Unit are as follows:

Original Fair Market Value	=	\$599,000.00
Original Sales Contract Price	=	\$501,612.00
Equity Sharing Amount	=	\$ 97,388.00

1. Declarant's equity sharing payment to HCDA shall become due:
 - a) During the Regulated Term, if HCDA waives its right of first option to purchase the Unit (as described in Subparagraph II.A.(1) above), and Declarant sells the Unit; or
 - b) After the end of the Regulated Term, if Declarant sells the Unit (as described in Subparagraph II.A.(3) above).
2. The amount of Declarant's equity sharing payment to HCDA shall be determined in accordance with the Mauka Area Rules. The price and terms of the sale of the Unit shall first be approved by HCDA.

C) **Occupancy During Regulated Period; Future Rental to Qualified Households.** As specified in Paragraph B and Exhibit "B" of the Deed, Declarant shall personally occupy the Unit during the Regulated Term as Declarant's primary residence.

1. During the Regulated Term, Declarant may elect, subject to the prior review and approval of HCDA, to convert the Unit to a rental unit to "Qualified Households" at "Monthly Rents". If Declarant elects to convert

the Unit to a rental unit, Declarant may only rent the Unit to Qualified Households and charge Monthly Rents therefor in accordance with the Mauka Area Rules. Declarant shall be required to certify to HCDA that the Qualified Household and Monthly Rent are in compliance with the Mauka Area Rules and submit such certification to HCDA for each Qualified Household that so rents and occupies the Unit.

2. Pursuant to Section 15-22-186(d) of the Mauka Area Rules, after the end of the Regulated Term, Declarant may sell the Unit or assign the property free from any transfer or price restrictions except for applicable Equity Sharing Requirements as set forth in Section 15-22-187 of the Mauka Area Rules.
3. Pursuant to Section 15-22-190(d) of the Mauka Area Rules, the Unit shall not be subject to the occupancy requirements provided in Section 15-22-190(a) of the Mauka Area Rules if HCDA waives its option to purchase the Unit pursuant to Section 15-22-186(c)(1) or after the end of the Regulated Term.

- D) **Compliance With All Reserved Housing Requirements.** As specified in Paragraph B and Exhibit "B" of the Deed, Declarant is subject to the Reserved Housing Requirements of the Mauka Area Rules, including all applicable requirements not specifically covered in this Declaration.
- E) **Mortgagee Protection.** As specified in Paragraph B and Exhibit "B" of the Deed, Section 15-22-186 of the Mauka Area Rules provides certain protections to mortgagees holding mortgages secured by a Reserved Housing Unit. Reference is hereby made to said section of the Mauka Area Rules, which includes, among other provisions, (1) an obligation on the part of HCDA, if exercising its first option to purchase during the Regulated Term, to either assume any existing mortgage created for the purpose of enabling Declarant to purchase the Reserved Housing Unit or otherwise consented to by HCDA or to arrange to pay-off such mortgage(s), or (2) subject to certain prior notice and other conditions, the extinguishment of the conditions on transfer upon subsequent transfers when a mortgage holder becomes the owner of a Reserved Housing Unit pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced.
- F) **Release.** The Unit is a Reserved Housing Unit until this Declaration is released. This Declaration shall be released only by written instrument executed by HCDA and recorded in the Bureau. Upon release of this Declaration, Paragraph B and Exhibit "B" to the Deed will be of no further force or effect and will no longer bind or encumber the Unit or Declarant or Declarant's successors in interest and assigns; and following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of this Declaration and the terms, conditions, and restrictions set forth in Paragraph B and Exhibit "B" to the Deed.

EXHIBIT "A"

-FIRST:-

Unit No. 2405 (the "Unit") located in that certain condominium project known as "988 HALEKAUWILA" (the "Project"), as described in that certain Declaration of Condominium Property Regime dated February 18, 2016, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. A-59140771, as the same may be amended from time to time (the "Declaration"), and shown on the plans thereof filed as aforesaid as Condominium Map No. 5514 (the "Condominium Map").

TOGETHER WITH those easements appurtenant to the Unit as set forth in the Declaration, which may include the following:

- (a) Exclusive easements in the Limited Common Elements of the Project which are described in the Declaration as being appurtenant to the Unit.
- (b) Nonexclusive easements in the Common Elements, including the Limited Common Elements, designed for such purposes as ingress to, egress from, utility services for, and support, maintenance, and repair of the Unit; in the other Common Elements for use according to their respective purposes, subject always to the exclusive use of the Limited Common Elements as provided in the Declaration; and in the other Units in the building in which the Unit is located for support; subject to the provisions of Section 514B-38 of the Act.
- (c) If any part of the Common Elements now or hereafter encroaches upon any unit or Limited Common Element, or if any unit encroaches upon the Common Elements or upon any other unit, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event that a unit shall be partially or totally destroyed and then rebuilt, or in the event of any shifting, settlement, or movement of any part of the Project, encroachments of any part of the Common Elements, Units or Limited Common Elements due to such construction, shifting, settlement, or movement shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist for so long as such encroachment continues.
- (d) Nonexclusive easements for access throughout the Parking Structure, all roadways, driveways, access lanes, ramps, landscaped areas, sidewalks, walkways, hallways, and grounds of the Project that is/are part of the Commercial Limited Common Elements or Residential Limited Common Elements, as depicted on the Condominium Map to the extent that such easements are necessary for ingress to and egress from, the Unit and to and from any Limited Common Element areas appurtenant to the Unit or the Residential Limited Common Elements or Commercial Limited Common Elements. The Unit shall have pedestrian and vehicular easements for access through Level 1 to access the Residential Limited Common Elements and/or Commercial Limited Common Elements located on Level 1 at all times.

EXCEPTING AND RESERVING AND SUBJECT TO all easements as provided in the Declaration, including, but not limited to, (i) easements for encroachments appurtenant to other Units or the Common Elements as they arise in the manner set forth above, now or hereafter existing thereon; (ii) easements for access to the Unit or any Limited Common Element appurtenant thereto from time to time during reasonable hours as may be appropriate for the operation or maintenance of the Project or for the inspection, repair, painting, resurfacing, maintenance, installation or replacement of any Common Elements, or for any other purpose reasonably related to the exercise of the rights and obligations under the Declaration, or, without notice, at any time for (a) making emergency repairs therein necessary to prevent damage to any unit or Limited Common Element, (b) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity, (c) protecting the property rights of any Owner, or (d) preventing death or serious bodily injury to any Owner or other occupant therein; (iii) easements affecting Common Elements; (iv) easements through adjacent lands; (v) easements necessary to complete the Project, for noise and dust, to conduct sales activities at the Project, and to install and operate central telecommunication receiving and distribution systems and services; and (vi) easements necessary pursuant to the exercise of any reserved rights set forth in the Declaration, all as provided in the Declaration.

-SECOND:-

An undivided 0.234000% interest in all Common Elements of the Project as established by the Declaration, including the land described in the Declaration, or such other interest as hereafter established for the Unit by any amendment of the Declaration, as tenant in common with the holders of other undivided interests in and to said Common Elements.

ALL TOGETHER WITH AND SUBJECT TO as to FIRST and SECOND the covenants, agreements, easements, obligations, conditions, exceptions, reservations and other matters and provisions of the Master Declaration, the Declaration and the Bylaws, all of which are incorporated herein by this reference and which constitute and shall constitute covenants running with the land, equitable servitudes and liens to the extent set forth therein and provided by law.

The lands upon which the Project is located are described as follows:

ITEM I:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560 recorded at said Bureau as Document No. A-46240645, described as follows:

LOTS: 13, Block 2, area, 5,000.00, square feet, more or less,
14, Block 2, area, 5,000.00, square feet, more or less, and
15, Block 2, area, 5,000.00 square feet, more or less, as

shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

ITEM II:

-PARCEL FIRST:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560 recorded at said Bureau as Document No. A-46240645, described as follows:

LOTS: 18, Block 2, area 5,000 square feet, more or less,
20, Block 2, area 3,561 square feet, more or less,
21, Block 2, area 5,217 square feet, more or less, as shown on Map 1, and
19-A, Block 2, area 4,874 square feet, more or less, and
22-A, Block 2, area 5,656 square feet, more or less,

as shown on Map 29, filed in said Office with Land Court Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

-PARCEL SECOND:-

BLOCK B, being a portion of Royal Patent 5716, Land Commission Award Number 10605, Apana 7 to Piikoi area 2,816 square feet, as shown on Consolidation Map prepared by Walter P. Thompson, dated August 11, 1966.

ITEM III:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being the land(s) described in deregistered Transfer Certificate of Title No. 630,560, recorded at said Bureau as Document No. A-46240645, described as follows:

LOT 16, BLOCK 2, area 5,000 square feet, more or less, as shown on Map 1, and
LOT 17-A, BLOCK 2, area 4,644 square feet, more or less, as shown on Map 29,

filed in said Office with Land Court Land Court Application No. 670 of Victoria Ward, Limited, which lot has been deregistered from the Land Court System pursuant to Hawaii Revised Statutes Section 501-261.

Being the property conveyed to Declarant herein by that certain 988 HALEKAUWILA LIMITED WARRANTY UNIT DEED, ENCUMBRANCES AND RESERVATION OF RIGHTS WITH POWER OF ATTORNEY recorded concurrently herewith.

END OF EXHIBIT "A"