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TMK No. (2) 4-3-10-2 CPR No.: ___

ID NO. _____

Shared Ownership at the Sands of Kahana

WARRANTY DEED AND ASSIGNMENT OF SUBLEASE

The Sands of Kahana Condominium

This document takes effect on the _____ day of _____, 19_____.
It is made by and is binding on:

"**Seller**" - Fractional Ownership, Inc., a Hawaii corporation.

"**You**" -

1. TRANSFER OF OWNERSHIP. In return for your promises in this document and for money or other valuable things received from you, the seller transfers (or, in legal terms, "sells, assigns and conveys") the following property (the "Property") to you:

(i) _____ (___) fractional share(s) in apartment _____ (the "Apartment") of the Sands of Kahana Condominium (the "condominium"), which

fractional share(s) are described in Exhibit "A" which is attached to and part of this document; (ii) all rights and privileges that pertain to or otherwise go with the fractional share(s); and (iii) all rights of the seller in the fractional share(s).

The interest in the lease described in Exhibit "A" (the "lease") is yours to keep until the lease ends. Everything else is yours to keep forever.

The Property is transferred to you subject to the obligations to pay the lease rent called for in the lease and to perform the duties of the tenant under the lease. The Property is also subject to the documents which created and govern (i) the condominium project (the "condominium documents") and (ii) the *Shared Ownership at the Sands of Kahana* fractional ownership program (the "program documents"). In this deed, the condominium documents and the program documents are called the "governing documents."

2. YOUR TITLE. There are various ways for co-owners of property to share the ownership or "title" to it. You have chosen to hold the Property as:

3. RIGHTS NOT TRANSFERRED. Only the fractional share(s) described in Exhibit "A" are transferred to you. All other fractional shares belong to the seller or to someone to whom the seller has transferred them. Those people have the right to use the Apartment, its common furnishings, and the common elements of the condominium during the remainder of the year with one exception: The Sands of Kahana Fractional Share Owners Association (the "association") has the right to use the Apartment during "service periods" as that term is defined in the program documents. (Note: The term "common elements" generally means all parts of the condominium other than the apartments.).

4. THE PROGRAM DOCUMENTS ARE BINDING AND ARE A LIEN ON THE PROPERTY. You agree for the benefit of the seller and the owners of other fractional shares in the program that the program documents are "covenants running with the land", "equitable servitudes" and "liens" on the Property and on the other fractional shares in the Apartment. This means that they will be binding on you and on anyone who later receives your fractional share or any interest in it. They will also be binding on the present and all later owners of other fractional shares in the Apartment or in the fractional ownership program.

As provided in the program documents, the seller: (i) gives you liens, and (ii) reserves liens upon the Property. The liens are for the benefit of the association and the owners of other fractional shares in the fractional ownership program. This means that the Property is put up as collateral to insure that you do everything required by the program documents. If you do not, the lien permits the Property to be taken from you and sold.

5. USE OF THE PROPERTY. The Property may be used for any purpose permitted by law and by the governing documents. This includes but is not limited to use in the fractional ownership program.

6. SELLER'S PROMISES TO YOU. Seller promises you that: (i) seller now owns the Property; (ii) the lease is in full force and effect, and it is not in default; (iii) seller has the right and authority to sell the Property to you; and (iv) except as stated in this document or in Exhibit "A", no one else has any rights or interests in the Property which would reduce its value or disturb your use and enjoyment of it.

Seller agrees that it will **WARRANT** and **DEFEND** seller's title to the Property. This means that if the seller's promises in this paragraph 6 turn out to be untrue, seller will: (a) defend seller's title against any lawful claim by someone else; and (b) pay any damages you suffer from the loss of the Property or any interest in it if seller does not defeat the claim.

Seller makes no other warranties, express or implied, about your fractional share, the Apartment, the condominium, or anything installed or contained in them. This includes but is not limited to warranties of merchantability, habitability, workmanlike construction, fitness for a particular use or sufficiency of design. *Everything is being sold "as is" and with all defects, visible or hidden.* This means, among other things, that seller does not have to correct or fix any defect no matter what causes it or when it is discovered. You also give up (or, in legal terms, "release") all claims against the seller for defects or negligence. This means that the seller will not be liable for any injury or damage to people or things as a result of any defect.

7. YOUR PROMISES AND AGREEMENTS.

A. Approval of Condominium Documents. You approve and accept the condominium documents. You agree to obey them and to perform your duties as an owner and to pay all amounts charged to you under them. You are making these promises for the benefit of the seller, the association, the Association of Apartment Owners of the Sands of Kahana Condominium (the "condominium association"), and the other owners of apartments in the condominium (which also includes the owners of other fractional shares).

B. Approval of Program Documents. You also approve and accept the program documents. You agree to obey them and to perform your duties as an owner and to pay all amounts charged to you under them. You are making these promises for the benefit of the seller, the association, the landlord, and the members of the association.

C. Liens. You agree that the Property is and always will be subject to liens to the extent provided in the program documents and by law. Among other things, this means that the Property may be taken from you and sold if, for example, you fail to pay amounts charged to you under the program documents. The lien covers not just the Property but also all money received on account of the Property (in legal terms, the "proceeds"). The liens will be treated as a mortgage with a private power of sale. The Association may foreclose it in any legal way and your fractional share may be sold at a public auction with or without first obtaining a court order.

D. Rental Pool. For the benefit of the seller, you promise not to enter into a "rental pool" or similar arrangement before December 31, 2010. A rental pool or similar arrangement is any arrangement where:

- rent from the Property is combined or "pooled" with rent from other owners fractional shares; or

- expenses are shared in a manner which is not proportional to each owner's rental of his or her fractional share.

E. Agreements For the Benefit of the Landlord. For the benefit of the landlord you agree to obey the lease and to pay the lease rent as part of the program expenses. The fractional ownership program was created by the seller alone. The landlord did not sign or approve the fractional ownership program or the program documents. The landlord is not a partner of the seller. The landlord makes no promises, express or implied, about the fractional ownership program or your fractional share. You agree not to sue the landlord for claims you may have arising from the fractional ownership program or your fractional share.

Only the land beneath the condominium is leased by the lease; the landlord does not own the buildings or other improvements on the land. Paragraph 25 of the lease provides that you give up (or, in legal terms, "waive") any claims you might have or bring against the landlord. This includes but is not limited to claims arising from the condition of the buildings or other improvements on the land, faulty or improper construction, hidden defects in the buildings or improvements, code violations, and other things. By signing this document, you acknowledge and accept paragraph 25 and agree that it is binding on you.

The landlord needs to keep a complete list of the owners of fractional shares in each vacation unit. To make sure that this happens, you must obtain the landlord's consent in order to transfer the Property to someone else. Otherwise, the transfer will not be effective as against the landlord. The consent must be in substantially the same form as the consent attached to this document. The landlord will be entitled to a fee of \$100 to defray the cost to the landlord of signing, notarizing, and delivering the consent and also to defray any administrative expenses to the landlord (such as added record-keeping). This fee must be paid at the time that the consent is presented to the landlord for signing or, if an escrow is established, then out of the proceeds at closing. You must send to the landlord the proposed form of warranty deed and assignment of sublease along with the consent form. The landlord must sign and return the notarized document within fourteen (14) days after it is presented for signature. If the landlord does not do so on time, then no consent will be necessary unless (i) the form of the consent, or the warranty deed and assignment of sublease, is incorrect or incomplete and (ii) the landlord sends you, within the fourteen day period, a list detailing each thing wrong with the form.

F. Seller's Buy-Back Option. If less than all six fractional shares in the Apartment are sold and closed within one (1) year after this document is recorded, then the seller has the option, but no obligation, to buy the Property back from you. If seller decides to do so, it will send you written notice and will open an escrow account. Within thirty (30) days after seller sends the notice, you must deliver to the escrow agent a signed and notarized deed and assignment of sublease transferring the Property to the seller subject only to the things described in Exhibit "A", this document, and any mortgage for a loan you used to buy the Property. The escrow agent will record that document when (i) it determines that title is clear, and (ii) seller delivers to the escrow agent funds equal to your full purchase price, any closing costs you paid, all Association assessments you paid, and any interest you paid on a purchase money loan obtained solely to finance your purchase. The escrow agent will pay off your purchase money loan first and will pay the rest of the money to you. If you do not keep your promises in this paragraph, the seller can ask a court to sell the entire Apartment, and you will receive a portion of the sales price, which may be less than a full refund. For each every-year fractional share you own in the Apartment, you will receive one-sixth (1/6th) of the sales

price. For each every-other-year fractional share you own in the Apartment you will receive one-twelfth (1/12th) of the sales price. The seller may bid on and buy the Apartment at the partition sale.

8. RESERVATION OF RIGHTS. No matter what else this document says, the seller here and now reserves certain special rights as the "developer" under the program documents. These rights are described in more detail in the program documents. They include, but are not limited to: (1) the right to add apartments into and remove apartments from the fractional ownership program; and (2) the right to change the program documents in certain circumstances. This document does not transfer to you the seller's rights as the "developer" program documents.

9. SPECIAL POWER OF ATTORNEY.

A. Appointment. You appoint the seller and the Association as your attorney-in-fact to sign, deliver and record all documents and to do all things on your behalf as described in the program documents. This means that the seller or the Association can act in your place and do anything you could do, and you ratify, accept and confirm anything that the seller or the Association does using this power of attorney. This is a "special power of attorney." This means that the seller and the Association have the power to do only the things described in the program documents. This includes, however, the power to do anything else which the seller or the Association decides is necessary or useful to accomplish the stated or intended goals. Close questions must be resolved in favor of giving, not denying, the power to act to the seller or to the Association. This power of attorney appointment is permanent. (In legal terms, it is coupled with an interest, is irrevocable, is a durable power of attorney, and will not be affected by your disability.) It includes "full power of substitution" which means that the seller or the Association may substitute someone else to act in their place as your attorney-in-fact.

B. Confirming the Special Power of Attorney. You agree that if the seller or the Association asks, you will promptly sign (before a notary) and deliver a special power of attorney in the form attached as Exhibit "E" to the Program Declaration. You also agree that if you mortgage or otherwise transfer any interest in the Property to anyone other than the seller, you or the person receiving the transfer (the "transferee") will promptly deliver to the seller or the Association a signed and notarized special power of attorney in the form attached as Exhibit "E" to the Program Declaration. In this paragraph, "promptly" means within 21 calendar days after the seller or the Association sends a request for it to you by registered or certified mail at the last address which the seller or the Association has for you, whether or not you accept the envelope containing the request. If you or the transferee fail to keep this promise, then in addition to paying all losses, damages, costs and expenses, including legal fees, which seller or the Association pays or incurs (see paragraph 11), you also agree that the seller or the Association may take the Property back free of your interests and the interests of any transferee (but subject to the interest of anyone who has signed and delivered to the seller or the Association a special power of attorney in the form attached as Exhibit "E" to the Program Declaration).

10. BINDING NATURE OF YOUR PROMISES. Each agreement and promise you make in this document is a "covenant running with the land," an "equitable servitude" and a "lien". This means that your agreements and promises in this document are binding on (i) you; and (ii) anyone who later owns the Property or any interest in it (such as a mortgage lender). Your promises and agreements can be enforced by (i) the seller;

and (ii) anyone else intended to benefit from them (the "third parties"); and (iii) anyone who later owns the interest of the seller or the third parties.

11. YOUR INDEMNITY AGREEMENT. You agree to defend the seller and the third parties from any claim or lawsuit threatened or made against any of them because you fail to keep your promises and agreements. You also agree to pay all losses, damages, costs and expenses, including legal fees, they pay or incur because you fail to keep your promises or agreements.

12. THE EXTENT OF OUR OBLIGATIONS. Both you and the seller are bound by and are intended to benefit from each other's promises and agreements in this document. The words "seller", "you," and "landlord" (and any pronouns used in their place) are used in this document to mean and include (i) males and females; (ii) one or more (or a combination of) real people, companies, or corporations, and (ii) anyone else who, by law or by agreement, stands in the place of the landlord, the seller, or you. (Such people are called, in technical legal terms, "heirs", "personal representatives", "successors", and "assigns".) Each person who is one of "you" is jointly and severally (which means both independently and together as a group) obligated to keep his or her promises and agreements in this document.

13. DEFINITIONS. In this document, "record", "recorded" and "recording" refer to recording in the Bureau of Conveyances of the State of Hawaii. "Landlord" means the landlord under the lease.

14. COUNTERPARTS. You and the seller agree that this document may be signed in counterparts. This means that you and the seller need not sign the same copy of this document. Instead, you may sign separate copies from those signed by seller so long as the content of the documents signed is identical. If so, each of the signed copies will be treated as an original and all of the signed copies will constitute one and the same agreement binding on both you and the seller even though you did not sign the same copy. The escrow agent may then combine the copies signed by you or by the seller and throw away any duplicate pages which are not signed or notarized. The escrow agent may do this for all purposes such as, for example, recording, filing and delivering this document.

BY SIGNING THIS DOCUMENT you and the seller agree to all of the things written above.

Fractional Ownership, Inc.

By _____
Its "Seller"

"You"

STATE OF HAWAII)
) ss:
COUNTY OF MAUI)

On this ____ day of _____, ____, before me personally appeared _____, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public, State of _____

My Commission expires: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On this ____ day of _____, ____, before me personally appeared _____, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public, State of _____

My Commission expires: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On this ____ day of _____, ____, before me personally appeared _____, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public, State of _____

My Commission expires: _____

EXHIBIT A

SECTION I:

THE PROPERTY CONSISTS OF THE FOLLOWING:

FIRST:

For each use period identified in the next paragraph, an undivided [one-sixth (1/6th)][one-twelfth (1/12th)] interest (as *tenants in common* with the holders of other undivided interests) in and to the property conveyed and demised by that certain Apartment Deed and Sublease more particularly described in SECTION II, below and consisting of (i) that certain apartment designated below in the Sands Of Kahana condominium (the "Apartment"); (ii) its appurtenant undivided interest in the common elements of the condominium (except the land); and (iii) its appurtenant undivided subleasehold interest in the land of the condominium;

SECOND:

The exclusive right [each year] [in each year which ends in an even number (e.g., 1998, 2000, etc.)] [in each year which ends in an odd number (e.g., 1999, 2001, etc.)] to occupy and use the Apartment and its common furnishings and the rights and easements appurtenant to that apartment and the non-exclusive right to use and enjoy the common elements of the condominium during these use period(s):

| ID No. | Use Right | Use Period Name | Check-In Date | Check-Out Date |
|--------|-----------|-----------------|---------------|----------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

as each of these use period(s) is defined in the Program Declaration, subject to change in the Check-In Date and Check-Out Date as provided in Exhibit "D" to the Program Declaration; RESERVING, HOWEVER, to the Sands of Kahana Fractional Share Owners Association the right to use the Apartment during Service Periods; AND RESERVING to the seller and its successors and assigns (such as other persons to whom the seller conveys fractional shares) the right to use and occupy the Apartment at all other times;

THIRD:

A membership in the Sands of Kahana Fractional Share Owners Association.

TOGETHER WITH AND SUBJECT TO, as to **FIRST, SECOND AND THIRD**, all easements, encumbrances, restrictions, covenants, agreements, obligations, conditions, exceptions, reservations, and other provisions set forth in that certain Declaration of Covenants, Conditions and Restrictions for Shared Ownership at the Sands of Kahana , dated May 12, 1999, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-083151, (herein with any amendments called the "Program Declaration") and the Bylaws of the Sands of Kahana Fractional Share Owners Association attached to the Program Declaration, and any rules and regulations promulgated thereunder, as any of the same may be amended from time to time. The terms "Use Period", "Service Period", "Check-In Date" and "Check-Out Date" are defined in the Program Declaration. Those definitions are incorporated herein by this reference.

SECTION II:

The apartment and its appurtenant undivided interest in the common elements (other than the land) and its undivided subleasehold interest in the land are more particularly described as follows:

That certain APARTMENT DEED AND SUBLEASE, dated September 29, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in book _____ at page _____, made by and between West Maui Shores Investors, a Hawaii limited partnership, as "Grantor", and Myron A Resnick, unmarried, as "Sublessor", and West Maui Shores Investors, a Hawaii limited partnership, as "Apartment Owner" (grantee/sublessee), the property conveyed and demised by said APARTMENT DEED AND SUBLEASE being more particularly described as follows:

FIRST:

A. That certain APARTMENT NO. _____ of the condominium property regime known as the "Sands Of Kahana" (herein called the "condominium") as described in and established by that certain "Declaration Of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, The Sands Of Kahana", dated October 14, 1980, and recorded in the Bureau of Conveyances of the State of Hawaii in Book 15060 at page 527, (herein with any amendments called the "Declaration"), and as shown on Condominium Map No. 763, (herein with any amendments called the "Condominium Map") filed in said Bureau of Conveyances;

TOGETHER WITH the nonexclusive right to use a parking stall in the condominium (there being no parking stalls exclusively assigned to specific apartments) and nonexclusive easements for ingress and egress and support of said apartment through the common elements of the condominium and for repair of said apartment through all other apartments and through the common elements of the condominium.

B. An undivided ____% interest, as tenant in common with West Maui Shores Investors, a Hawaii limited partnership, its successors and assigns, in and to the common elements of the condominium (exclusive of the land) as described in the Declaration, subject as to said common elements to nonexclusive easements appurtenant to all apartments for ingress, egress, support and repair.

SECOND:

An undivided percentage SUBLEASEHOLD interest in and to the land of the condominium equal to the common interest appurtenant to the apartment as set forth in said Declaration, as amended from time to time, or as set forth in any replacement declaration covering the land of the condominium, or if the land is removed from the Horizontal Property Regime, then as set forth in the declaration immediately preceding such removal, as tenants in common with the other lessees of the land of the condominium, said lease being at the rents and on the conditions therein set forth. The land of the condominium is described in said Declaration, which description is hereby incorporated herein by this reference.

TOGETHER WITH appurtenant easements described in said Apartment Deed and Sublease, or in said Declaration, and SUBJECT TO the encumbrances, restrictions, covenants, agreements, obligations, conditions and other provisions set forth in said Apartment Deed and Sublease, and said Declaration, the By-Laws attached thereto, and the above-mentioned Condominium Map, to which reference is hereby made.

SUBJECT, FURTHER, without limitation to the generality of the foregoing, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. As to the portion of the land of the condominium bordering on the ocean: (i) The effect of Sections 205-31 to 205-37, inclusive, Hawaii Revised Statutes, as now or hereafter amended, pertaining to shoreline setbacks; and (ii) Any adverse claim of the State of Hawaii based upon the contention that some portion of the land of the condominium lies seaward of the line of vegetation, pursuant to the ruling of County vs. Sotomura (1973) 55 H. 176, 517 P. 2d 57.
3. Lease dated June 16, 1971, recorded as aforesaid in Book 7836 at Page 275, as amended.
4. Section IVG Agreement for West Maui Areas dated November 13, 1979, recorded in Book 14221 at Page 609, by and between the County of Maui, Department of Water Supply, and Kahana Developers, Ltd., a Hawaii corporation, the authorized general partner of West Maui Shore Investors, a Hawaii limited partnership.
5. Declaration of Covenants, Conditions and Restrictions dated July 7, 1980, recorded in Book 14852 at Page 218, as supplemented by instrument dated June 19, 1981, recorded in Book 15693 at Page 254.
6. The restrictions, covenants, agreements, easements, obligations, conditions, reservations, and other provisions set forth in said Declaration of Horizontal Property Regime and said By-Laws, and any amendments to and restatements of either of them;

7. Grant in favor of Maui Electric Company, Limited dated June 19, 1981, recorded in Book 15716 at Page 670, as amended by instrument dated January 15, 1982, recorded in Book 16238 at Page 699.

8. The terms, easements, restrictions, agreements, reservations, covenants, conditions and provisions contained in said apartment deed and sublease.

9. Hold Harmless Agreement acknowledged June 14 and June 16, 1995, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 95-084525.

10. The Declaration of Covenants, Conditions and Restrictions for Shared Ownership at the Sands Of Kahana, dated May 12, 1999, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-083151, and any amendments thereto.

11. All other encumbrances of record which do not render title unmarketable, all of which are listed herein by this reference, including those described in the Condominium Declaration or in the Apartment Deed and Sublease.

END OF EXHIBIT A

