

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL ( ) PICK UP ( )

Tax Map Key No. (2) 3-9-045:014  
Unit No. \_\_\_\_; CPR No. \_\_\_\_

Total Pages: \_\_\_\_\_

**LIMITED WARRANTY UNIT DEED, ENCUMBRANCES AND  
RESERVATION OF RIGHTS WITH POWER OF ATTORNEY  
KIHEI COMMERCIAL CONDOMINIUM II**

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **JS MCA KIHEI LLC**, a Nevada limited liability company, whose address is c/o MCA Realty, Inc. 18818 Teller Avenue, Suite 250, Irvine, California 92612, hereinafter called "Grantor," and \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter called "Grantee."

**WITNESSETH:**

That Grantor, in consideration of the sum of TEN AND NO/100 UNITED STATES DOLLARS (U.S. \$10.00) and other good and valuable consideration to Grantor paid by Grantee, receipt whereof is hereby acknowledged, and of the promises and covenants hereinafter set forth and on the part of Grantee to be faithfully observed and performed, does hereby grant, bargain, sell and convey unto Grantee, as \_\_\_\_\_, the following described real property (the "Property"), and the reversions, remainders, rents, issues and profits thereof and all of the estate, title and interest of Grantor, both at law and in equity, therein and thereto;

The Property hereby conveyed comprises a portion of the KIHEI COMMERCIAL CONDOMINIUM II condominium project (the "Project"), as established by that certain Declaration of Condominium Property Regime of Kihei Commercial Condominium II dated May 9, 2001, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2001-095548, as may be amended from time to time (the "Declaration"). The Project consists of that certain land situate at Waiakoa, Kihei, (Kula), Island of Maui, State of Hawaii, and more particularly described in Exhibit "A" attached hereto and the Declaration, which description is 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 and to the By-Laws of the Association of Apartment Owners of Kihei Commercial Condominium II as described in said Exhibit "A" (the "Bylaws"), and the covenants, conditions and restrictions in the Declaration and Bylaws 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 hereby covenants and agrees, for the benefit of the 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 and the Bylaws, as any of the same exist or may hereafter be amended in accordance with law and does hereby accept and approve the Declaration and the Bylaws, and Grantee will indemnify and save harmless Grantor from any failure to observe and perform any such terms, covenants, conditions, agreements, obligations and restrictions for so long as the Declaration and Bylaws 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 Condominium Map, the Project escrow agreement and the public report issued for the Project by the Real Estate Commission of the State of Hawaii. In addition, Grantee hereby agrees and acknowledges that each of the acknowledgments and agreements made by Grantee in the Kihei Commercial Condominium II Sales Contract covering the Property, including all supplements, addenda and amendments thereto, shall survive the recordation of this Deed.

Grantee hereby acknowledges and accepts those certain rights set forth in the Declaration 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 does hereby further consent to the recording of any and all documents necessary to effect Grantor's exercise of said reserved rights in said Office, including, without limitation, any amendment or amendments to the Declaration, Bylaws and Condominium Map, 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 will be considered automatically granted anew by any such person or entity upon such transfer of any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

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.

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.

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.

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 their and each of their respective heirs, devisees, personal representatives, successors, successors-in-trust and assigns, according to the context thereof. All other capitalized terms used herein shall have the meanings given to such terms in the Declaration, unless otherwise defined herein.

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.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, Grantor and Grantee have executed these presents on the day and year first above written.

JS MCA KIHEI LLC,  
a Nevada limited liability company

By \_\_\_\_\_  
Name:  
Title:

"Grantor"

\_\_\_\_\_  
[GRANTEE]

\_\_\_\_\_  
[GRANTEE]

[GRANTEE, state of formation and type of entity]

By \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_  
Name:  
Title:

"Grantee"

STATE OF \_\_\_\_\_

SS:

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, to me personally known, who being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

Notary Public of and for said State

My commission expires: \_\_\_\_\_

(Official Stamp or Seal)

**NOTARY CERTIFICATION STATEMENT**

Document Identification or Description: LIMITED WARRANTY UNIT DEED,  
ENCUMBRANCES, RESERVATION OF RIGHTS WITH POWER OF ATTORNEY  
KIHEI COMMERCIAL CONDOMINIUM II  
Unit No. \_\_\_\_\_

Document Date: \_\_\_\_\_ or  Undated at time of notarization

No. of Pages: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_ Circuit  
(in which notarial act is performed)

Signature of Notary

Date of Notarization and  
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

Notary Public of and for said State

My commission expires: \_\_\_\_\_

(Official Stamp or Seal)

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\_\_\_\_\_  
Signature of Notary Date of Notarization and Certification Statement

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Printed Name of Notary

(Official Stamp or Seal)

**EXHIBIT "A"**