

**KIHEI COMMERCIAL PLAZA
DEPOSIT RECEIPT AND SALES CONTRACT**

Unit No. Parking Stall No(s).

(the "**Unit**")

Buyer: (Name of person(s) in whom title is
to be vested)

Building No.:
☐ Building 1
☐ Building 2
☐ Building 3
☐ Building 4

(1) _____
Name in Full (no initials)

☐ Single ☐ Married

Approx. Net
Area: _____
Sq. Ft.

Address

Percentage Common Interest: _____

Bus. Phone Res. Phone

Total Purchase Price
of Unit: \$ _____

Soc. Sec. No. _____

Payment A - \$5,000.00

Spouse's Name (if not included above)

Payment B - \$ _____

(2) _____
Name in Full (no initials)

Payment C - \$ _____

Additional Sums Due at Closing:
approximately \$3,000.00

☐ Single ☐ Married

(representing a non-refundable project start-
up fee, a deposit to the maintenance reserve
fund, estimated property taxes, closing costs
and prorations)

Address

Bus. Phone Res. Phone

Ownership:
☐ Severalty
☐ Tenants in Common
☐ Tenants by the Entirety
☐ Joint Tenants
☐ To be determined

Soc. Sec. No. _____

Spouse's Name (if not included above)

Public Report Issued:

Developer's Fourth Supplementary Public
Report effective as of _____, 2014.

Buyer acknowledges receipt of the Hawaii
Real Estate Branch's Developer's Fourth
Supplementary Public Report for Kihei
Commercial Plaza

Registration No. 5551, issued _____,
2014.

Buyer's Initials

Date: _____

Building 1 Unit Door Options:

- ☐ Center Glass Double Door (A1-Aa)
- ☐ Side Glass Double Door (A1-Ab)
- ☐ Rollup w/ Glass Double Door (A1-B)
- ☐ Rollup w/ Glass Personnel Door
(A1-Ca)
- ☐ Rollup w/ Metal Personnel Door
(A1-Cb)

Note: See Exhibit "A" for list of allowable
door options for specific Building 1 units
and door elevation drawings.

(3) _____
Name in Full (no initials)

☐ Single ☐ Married

Address

Bus. Phone Res. Phone

Soc. Sec. No. _____

Spouse's Name (if not included above)

(4) _____
Name in Full (no initials)

☐ Single ☐ Married

Address

Bus. Phone Res. Phone

Soc. Sec. No. _____

Spouse's Name (if not included above)

(Legal Entity Buyers: use full name of the legal entity as registered in its state of registration; provide name of authorized signatories as shown in its constituent documents and resolutions; and provide Federal ID No.)

NAME OF LEGAL ENTITY: _____

Federal ID No.

NAME(S) AND TITLE(S) OF AUTHORIZED SIGNATORIES: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE: _____

NAME OF CONTACT PERSON: _____

THIS DEPOSIT RECEIPT AND SALES CONTRACT (the "**Agreement**") is made by and between KCCC, LLC, a Hawaii limited liability company, whose principal place of business and post office address is at 99-1324 Koaha Place, Aiea, Hawaii 96701 ("**Seller**"), and the above-named buyer(s) ("**Buyer**").

W I T N E S S E T H:

WHEREAS, Seller has constructed a commercial condominium project containing seventy-three (73) commercial units known as the "**KIHEI COMMERCIAL PLAZA**" (the "**Project**");

WHEREAS, Seller wishes to convey its interest in the unit designated above (the "**Unit**") and the common elements appurtenant thereto, including the fee simple land underlying the Project (the "**Land**") constituting a part of the Project;

WHEREAS, Seller has entered into a Condominium Escrow Agreement ("**Escrow Agreement**") with Title Guaranty Escrow Services, Inc. ("**Escrow Agent**"), providing for the payment of all monies due hereunder to be paid into and disbursed by Escrow Agent in accordance with the terms and conditions thereof; and

WHEREAS, Buyer desires to purchase from Seller the Unit and common elements appertaining thereto, and an undivided percentage interest in the Land from Seller, all in accordance with the terms, covenants and conditions of this Agreement and said Escrow Agreement;

NOW, THEREFORE, Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller the Unit for the total purchase price designated above and subject to the following terms and conditions:

1. **Sale of Unit.**

Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller all of Seller's right, title and interest in and to the following:

The Unit described above in the Project located at Kihei, Maui, Hawaii, said Unit containing the approximate net area set forth above, all as more particularly described in that certain Declaration of Condominium Property Regime Kihei Commercial Plaza recorded in the Bureau of Conveyances of the State of Hawaii or to be recorded, as the same may be amended from time to time (the "**Declaration**").

TOGETHER WITH the undivided percentage interest set forth above; such percentage interest being declared and established in said Declaration in the common elements of the Project, as tenant in common with the holders from time to time of other undivided interests in said common elements.

The interest of Buyer in the Unit shall be subject to all of the applicable terms, covenants, conditions, easements, rights, agreements and other provisions mentioned or contained in the warranty deed (the "**Deed**"), and in said Declaration and the By-Laws of the Association of Unit Owners of Kihei Commercial Plaza, recorded or to be recorded as aforesaid (the "**By-Laws**"), which By-Laws Buyer acknowledges as having been examined and accepted by Buyer and having been filed in the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (the "**REB**").

2. **Purchase Price.** Buyer agrees to pay for the Unit the total purchase price set forth above, to be paid to said Escrow Agent as follows:

PAYMENT A, in the amount set forth above, including any reservation deposit, shall be payable on the execution hereof;

PAYMENT B, in the amount set forth above (which amount, together with Payment A shall be equal to ten percent (10%) of the total purchase price of the Unit), shall be payable within seven (7) days after notice to Buyer of the approval of the Project building permit and receipt and acknowledgement by Buyer of the Final Public Report and Third Supplementary Public Report for the Project;

PAYMENT C, being the sum of (i) the amount of the mortgage proceeds (or, in the case of a cash buyer, the unpaid balance of the purchase price), and (ii) the remaining balance of the purchase price of the Unit not funded by Payment A, Payment B and the mortgage proceeds, shall be payable upon the Closing Date, as is herein defined.

In addition to such other remedies available to Seller pursuant to Paragraph 16 below, Seller may impose a late charge of one percent (1%) per month on the amount of any payment due under this Agreement which is not paid in the manner specified herein. Such late charge shall accrue commencing on the date said payment is due and payable as provided herein. Buyer acknowledges that Seller's acceptance of any payments or late charges shall not be deemed to be a waiver by Seller of any term of this Agreement to be performed or observed by Buyer, nor a waiver of Seller's right to cancel this Agreement pursuant to Paragraph 16 hereof.

3. **Financing of Purchase.**

a. **Qualifying for Loan.** If Buyer requires financing, as set forth above, Buyer shall, within ten (10) days after receiving notice of Seller's execution of this Agreement, apply for such loan to one (1) or more lending institutions of Buyer's choice, for loan eligibility and credit approval necessary therefor. Buyer shall, within thirty (30) days following the date of Seller's execution of this Agreement, provide Seller with evidence reasonably satisfactory to Seller of Buyer's prequalification for a loan in an amount, which together with Buyer's own funds, will be sufficient to enable Buyer to purchase the Unit. Seller shall have no obligation to arrange for Buyer's mortgage financing. Buyer shall promptly sign and deliver all documents and diligently take all steps necessary to obtain such loan. An executed copy of any mortgage commitment obtained by Buyer shall be delivered to Seller and if, notwithstanding Buyer's good faith efforts, such a

commitment is not received by Seller within thirty (30) days after application, or if, notwithstanding Buyer's good faith efforts, such commitment is subsequently withdrawn, then Seller may, at Seller's option, terminate this Agreement, and upon such termination, Seller shall cause Escrow Agent to refund to Buyer the amounts already deposited, together with interest accrued thereon, less any escrow cancellation fee and other costs actually incurred by Seller or Buyer's lending institution in processing the loan application. Obtaining a mortgage commitment shall be Buyer's responsibility, and Buyer shall not be relieved of Buyer's obligations hereunder if such commitment is subsequently canceled or withdrawn.

b. **Cash Purchase.** If Buyer does not require financing, Buyer shall, within ten (10) days after receiving notice of Seller's execution of this Agreement, submit to Seller a financial statement certified by Buyer to be true and accurate in form and content sufficient to disclose fully Buyer's financial circumstances as of such date, and any other form reasonably required by Seller. Seller shall have thirty (30) days after receipt of such financial statement either to accept said statement or rescind and terminate this Agreement at Seller's sole discretion and, upon such termination, Seller shall cause Escrow Agent to refund to Buyer any amounts already deposited, together with interest accrued thereon, and less the cost of any credit report, the escrow cancellation fee and other costs actually incurred in reviewing such financial statement.

4. **Financial and Credit Data.** Buyer represents that the personal financial data, if any, submitted in connection with this Agreement is true and substantially accurate. Failure on the part of Buyer to notify Seller to the contrary shall constitute a representation by Buyer that said financial data shall not have materially changed as of the time of closing. Seller has the right to cancel this Agreement forthwith if any material discrepancies between the financial information furnished and the actual facts of the matter are discovered. Buyer agrees that by executing this Agreement, Seller or a proposed mortgagee is authorized to make credit inquiries about Buyer.

5. **Use of Escrow Funds.** Except as otherwise provided in this Agreement or in the Escrow Agreement, Seller agrees and Buyer acknowledges that the funds deposited by Buyer with Escrow Agent for the Unit shall not be released or disbursed by Escrow Agent until the conditions set forth in Paragraph 6 of the Escrow Agreement have been satisfied, including recordation of Buyer's Deed. Seller agrees and Buyer acknowledges that any interest derived from such deposits shall accrue to the benefit of Buyer.

6. **Permitted Uses of Unit.** Buyer acknowledges that Buyer's Unit may be used only for office, retail sales, warehousing, research, food processing, light industrial, light manufacturing, and wholesale distribution purposes, as permitted by the State of Hawaii statutes and rules and regulations and County of Maui's ordinances, and subject to such limitations as may be contained herein and in the By-Laws and Project Rules and Regulations which may be adopted from time to time governing the use of the Units. Specifically prohibited uses include the following:

- a. any use which creates an unsafe, obnoxious or offensive impact on other occupants within the Project by reason of the emission of odor, dust, fumes, smoke, noise, noxious substances, vibration, refuse matter, water-carried waste or

similar irritants unless appropriate mitigating measures to control such emissions are in full operation and effect, as approved by the Board;

- b. dumping, storage, disposal, incineration, treatment, processing or reduction of the following: garbage, dead animals, hazardous or toxic substances, or refuse;
- c. bars, nightclubs, taverns, and business engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers;
- d. explosives and firearms;
- e. any use that is subject to the sewer surcharge under Section 14.31.030 of the Maui County Code; provided, however, that such use will be permitted if it is connected to its own separate County of Maui Department of Water Supply water meter;
- f. residential use;
- g. automobile body shops;
- h. bath houses;
- i. bed and breakfast homes;
- j. dancehalls;
- k. mortuaries or crematoriums;
- l. sanitariums;
- m. commercial recycling; and
- n. restaurants.

7. **Buyer's Acknowledgments; Subordination.**

a. Buyer does hereby acknowledge that Buyer has examined and does hereby approve the form of the Deed, the Declaration and any amendments thereto, the By-Laws, the Project Rules and Regulations and any amendments thereto, the Amendment and Restatement of Declaration of Protective Covenants, Conditions and Restrictions for Kihei Commercial Roadways Association (the "**Roadways Declaration**"), the Escrow Agreement, the Public Reports issued by the REB, as set forth, and the Condominium Map, true copies of these documents being on file in the office of the REB. Buyer acknowledges that the Condominium Map is intended to show only the layout, location, unit numbers and dimensions of the units and the same is not intended by Seller to

contain or to be any other representation or warranty. Buyer further acknowledges that the Land is subject to the Roadways Declaration. Accordingly, the Land's share of the Share of Costs (as such term is defined in the Roadways Declaration) payable to the Kihei Commercial Roadways Association (the "**Roadways Association**") shall be a common expense and included as part of Buyer's monthly fees and that the Association of Unit Owners of Kihei Commercial Plaza (the "**Association**"), acting through its officers and its Board of Directors, shall be the exclusive representative of all unit owners and shall have the right to cast all votes for the owner of the Land at all meetings of the Roadways Association. Buyer further acknowledges and agrees that Buyer accepts the terms and conditions of the Escrow Agreement which terms and conditions are incorporated into and made a part of this Agreement. Without limiting the generality of the foregoing, Buyer agrees to indemnify and hold Escrow Agent harmless as provided for in paragraph 10 of said Escrow Agreement.

b. Buyer acknowledges Seller's reservation of the right, for a period of seven (7) years from the date of recordation of the Declaration, for itself and its agents, to do the following:

(i) To grant to any public or governmental authority easements for sewer, drainage, water and other facilities over, under along, across and through said Land, all under the usual terms and conditions required by the grantee for such easement rights; to grant to any other person or entity any easements for ingress, egress or roadway purposes over, under, along, across or through said Land (provided, however, that such easement rights shall be granted and exercised in such manner as not to unreasonably damage the buildings of the Project or unreasonably interfere with the use of said Land by the unit owners and their successors and assigns); and to quitclaim any easements in favor of the Project which are not required for the Project. Each unit owner agrees that such unit owner, and any person claiming an interest in said Land by, through or under such unit owner, shall, upon request, join in and execute any and all documents designating, granting and quitclaiming any such easements;

(ii) To amend the Declaration, the Condominium Map and the By-Laws consistent with any grant of rights by the Seller under this subparagraph;

(iii) Until the sale of the last unit in the Project, to maintain development facilities and conduct sales of units on and at the Project, including, but not limited to, maintaining model units, operating a sales office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales; provided, however, that in exercising such right, Seller shall not, unless otherwise agreed to by the unit owner affected, interfere with the rights of any unit owner to the use of, or access to, his unit or any of the common elements or limited common elements appurtenant thereto;

(iv) Grant an easement over and upon the Project as may be reasonably necessary for the completion of improvements to and corrections of defects in the Project; and

(v) To effect such modifications to units and common elements in the Project and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as

well as the Bylaws and Project Rules and Regulations, as may be necessary or required to effect compliance by the Project, the Association, or Seller, with laws which apply to the Project, including, without limitation, the Americans With Disabilities Act, as amended, 42 U.S.C. §§12101 et seq., including any and all rules and regulations promulgated thereunder (the "**ADA**"). For instance, Seller will have the right to re-stripe parking stalls and reconfigure parking stalls to meet the requirements of the ADA.

(vi) Buyer acknowledges that Seller may enter into an agreement with one or more responsible financial institutions (the "**Lender**") pursuant to which the Lender may loan an aggregate of up to EIGHTEEN MILLION AND NO/100 DOLLARS (\$18,000,000.00) at an interest rate not to exceed twelve percent (12%) per annum for a period of not more than fifteen (15) years for construction and other associated costs of the Project. To secure this loan, Seller may grant to the Lender security interests covering Seller's interests in the Project, including this Agreement and the property covered by this Agreement. Buyer acknowledges and agrees that all security interests obtained by the Lender, in connection with such loan as well as any extensions, renewals or modifications thereof, shall be and remain at all times a lien or charge on the Project, including the Agreement and the property covered by this Agreement, prior and superior to any and all liens and charges on the Project arising from this Agreement or any prior reservation agreement. Buyer hereby intentionally waives, relinquishes and subordinates the priority or superiority of any lien under this Agreement and Buyer's rights hereunder or under any prior reservation agreement, in favor of the lien or charge on the Project of the security interests and the rights of the Lender. Buyer further undertakes and agrees to execute any such further documents as might be reasonably required by the Lender to effectuate such subordination.

8. **Possession.** Buyer expressly understands and agrees that Buyer shall in no event take possession of or enter the Unit, prior to the Closing Date and full compliance by Buyer with the terms of this Agreement. Violation of this provision shall be deemed a material breach of this Agreement, and Buyer agrees that Seller shall have the right to remove Buyer from the Unit by any lawful means.

9. **Actual Possession.** Delivery of actual possession of the Unit to Buyer under this Agreement shall be made on or after the Closing Date, subject to the right of Seller to delay Buyer's moving-in for a reasonable time to promote the orderly occupation of the Project. Buyer acknowledges that Buyer has been informed that Buyer may not receive actual possession of the Unit, until Buyer has made all the aforementioned deposits, and until after Buyer has commenced to pay maintenance fees, real property taxes and monthly payments with respect to Buyer's mortgage, if any. The delivery of actual possession shall, at Seller's option, be made to unit purchasers in the order of and according to the dates on which the unit purchasers executed their respective sales contracts. If Buyer fails to confirm the date of delivery of actual possession within five (5) days after notification thereof, Seller, at Seller's sole election, may assign the date for Buyer's taking actual possession to the purchaser next in order of preference.

10. **Completion of Unit.** Unless otherwise described in an addendum to this Agreement, Buyer acknowledges and agrees that the Unit being purchased by Buyer hereunder consists of unimproved "loft space" in the Project, and that Buyer shall be responsible for installing,

at Buyer's sole cost and expense, all improvements and all furniture, fixtures and equipment required to put the Unit in a finished condition suitable for use and occupancy by Buyer. Such improvements, furniture, fixtures and equipment shall be subject to the review and approval of Seller's designated representative, and shall comply in all respects with the requirements of applicable law and the terms and conditions of the Deed. Buyer shall construct and install, at Buyer's sole expense, the improvements listed in Part I of Exhibit "B" attached hereto and hereby made a part hereof for all purposes. Seller shall provide the items listed in Part II of Exhibit "B". Seller hereby informs Buyer that **no air conditioning system shall be provided by Seller for units in Building 2.**

11. **Risk of Loss and Condemnation.** Risk of loss to the Unit and percentage interest in the common elements shall be borne by Seller, until the sooner of the Closing Date or the date Buyer takes possession, and thereafter, such risk of loss shall be borne by Buyer. No taking by eminent domain of an easement or other limited right, or of a portion of the common elements which does not substantially interfere with the use and enjoyment of the Unit, the easements, rights or common elements appurtenant thereto, shall be deemed grounds for cancellation hereof.

12. **Maintenance Costs and Managing Agent.** Buyer has examined and approved the estimate of monthly maintenance fees set forth in Seller's Disclosure Abstract, a copy of which has been furnished to Buyer; and Buyer agrees that Seller has arranged for a managing agent for the management, operation and maintenance of the Project. Seller's Disclosure Abstract includes an estimate of monthly maintenance fees for the Unit, which estimate was prepared in accordance with generally accepted accounting principles. Buyer acknowledges and agrees that such estimate is only an estimate and is not intended to be and do not constitute any representation or warranty by Seller, including but not limited to any representation or warranty as to the accuracy of such estimate.

13. **Changes in Documents and Units.** Seller shall have, and hereby reserves, the right to modify all documents related to the Project, including the Declaration, the By-Laws, the Condominium Map, the Deed, the Project Rules and Regulations, the estimate of maintenance fees, and any exhibits to any such document, to make alterations of the Project (and to modify any of said documents accordingly) to change the configurations of, or to alter the number of rooms of or to decrease or increase the size of, or to change the location of any Unit in accordance with complete plans and specifications therefor prepared by a licensed architect or engineer, and to make other changes in the Unit and other units and in the common elements, and prior to the execution by Seller of a binding contract for the sale of the same, to increase or decrease the purchase price of the Unit or any other units in the Project. Seller shall disclose to Buyer all material changes in the Project which directly, substantially and adversely affect the use or value of the units or the common elements. If there is a material change in the Project as described in subparagraph 17.a. hereinbelow, Buyer shall have the right to rescind the sale and to receive a refund of monies paid as provided in Paragraph 17 hereinbelow.

14. **Reservation Agreement.** Anything herein to the contrary notwithstanding, it is expressly understood and agreed that this Agreement shall not become a binding sales contract unless and until:

(1) A true copy of the REB's Fourth Supplementary Public Report on the Project have been delivered to Buyer, either personally or by certified mail with return receipt requested;

(2) Buyer has been given an opportunity to read the aforementioned report;

(3) Two (2) copies of the form of the receipt and notice set forth in Section 514A-62 of the Hawaii Revised Statutes, as amended, have been delivered to Buyer and Buyer (i) executes the receipt and notice, and (ii) waives Buyer's right to cancel; provided, however, that if Buyer does not execute and return the receipt and notice within thirty (30) days from the date of delivery of such reports, or if the Unit is conveyed to Buyer prior to the expiration of such thirty-day period, Buyer shall be deemed to have receipted for the reports and to have waived Buyer's right to cancel.

Prior to the time this Agreement becomes a binding sales contract, this Agreement may be terminated at any time, with or without cause, at the option of either party, by written notice of such termination delivered to the other party.

In the event of such termination, Seller shall cause Escrow Agent to refund all payments previously made by Buyer, together with accrued interest thereon, and neither party shall have any other or further liability hereunder or with respect to the Project. Seller shall pay the escrow cancellation fee and any costs.

15. **Default.**

a. Time is of the essence of this Agreement; and if Buyer shall default in any payment or fail to perform any other obligations required of Buyer hereunder and shall fail to cure such default within ten (10) days after receipt of written notice thereof from Seller, Seller may, at Seller's option, terminate this Agreement by written notice to Buyer. In the event of such default, the parties hereto understand and agree that in view of (i) Seller's financial commitments with respect to the Project, (ii) the connection between sales, cancellation or default with respect to one (1) unit and the sale, cancellation or default with respect to other units in the Project, and (iii) the nature of the real estate market in Hawaii, the injury to Seller will be uncertain as to nature and amount and difficult to ascertain. As a reasonable estimate of Seller's damages resulting from such default, the parties agree that the sums deposited by Buyer hereunder prior to such default together with interest accrued thereon, if any, shall belong to Seller as liquidated damages. At Seller's option, Seller may also pursue any other remedy at law or in equity for specific performance, damages or otherwise. All costs, including reasonable attorneys' fees, incurred by reason of default by Buyer, shall be borne by Buyer.

b. If Seller shall default in the performance of any obligation required of Seller hereunder, Buyer shall be entitled to specific performance of this Agreement or Buyer shall have the right to cancel and terminate this Agreement. In the event of such cancellation and termination, Seller shall return to Buyer all sums deposited by Buyer to Seller or Escrow Agent

pursuant to the provisions hereof, together with interest accrued thereon, and, in addition, Seller shall pay Buyer ONE HUNDRED AND NO/100 DOLLARS (\$100.00) as liquidated damages for Seller's default. Buyer expressly waives any right or remedy against Seller which now exists or which hereafter may exist for the default of Seller under this Agreement, except for the foregoing right (i) to specific performance or (ii) to cancel and terminate this Agreement, and to receive all sums paid to Seller and Escrow Agent together with interest accrued thereon, if any, and the sum of ONE HUNDRED AND NO/100 DOLLARS (\$100.00).

16. **Seller's Cancellation Rights.** In addition to any other rights of cancellation or termination reserved to Seller herein, if (a) Buyer's initial deposit check is returned for insufficient funds, (b) Buyer (or any one (1) of them if Buyer is more than one (1) person) should die prior to closing, (c) Buyer fails to communicate accurately the status of Buyer's loan application, if applicable, or (d) Buyer makes any misrepresentation to Seller hereunder; **THEN**, in any such event, Seller reserves the right to instruct Escrow Agent to return Buyer's check or deposits, together with interest accrued thereon, if any, and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of this Agreement. Until Seller so elects to cancel this Agreement, this Agreement shall remain in full force and effect.

In addition to the foregoing, notwithstanding anything herein to the contrary, this Agreement is conditioned and contingent upon and shall not be binding upon Seller unless and until Seller holds, under confirmed and binding sales contracts, commitments by qualified buyers to purchase not less than thirty-five (35) units in the Project. As used in the preceding sentence, "qualified buyer" shall mean a buyer of a unit in the Project who has entered into a sales contract with Seller, substantially in the form of this Agreement; has submitted all necessary loan applications and other information required by Seller under such buyer's contract; has performed all other obligations to be performed under such buyer's contract; has qualified for all approvals required to be obtained under such buyer's contract, including, without limitation, any purchase money financing loan approval; and has either waived or has allowed all applicable time periods to expire without exercising all of such buyer's rights to rescind or cancel such buyer's contract. If Seller shall fail to obtain the above stated number of confirmed and binding sales contracts by qualified buyers prior to the expiration of one hundred eighty (180) days from the date on which the first buyer signs a sales contract for the purchase of a unit in the Project, Seller, at Seller's option may, but shall not be obligated to, cancel this Agreement by written notice, given to Buyer within seven (7) days after such period; and in the event of such cancellation, Seller shall return all deposits and other payments theretofore paid to Seller or to Escrow Agent by Buyer, together with interest accrued thereon, if any. This paragraph is intended for the sole benefit of Seller, and shall not be construed as giving Buyer any right to rescind, terminate, or otherwise cancel this Agreement.

17. **Buyer's Right to Rescind.** Notwithstanding anything contained in Paragraph 16 above:

a. Except for any additions, deletions, modifications and reservations made pursuant to the terms of the Declaration, if there is a material change in the Project which directly, substantially and adversely affects the use or value of (1) Buyer's Unit or appurtenant limited common elements, or (2) those amenities of the Project available for Buyer's use, Buyer shall

have the right to rescind the sale made under this Agreement and to receive a prompt and full refund of any monies paid or deposited, including any accrued interest.

b. Buyer's right of rescission under Paragraph 17.a. above shall be waived upon (1) delivery to Buyer, either personally or by registered or certified mail, return receipt requested, of a disclosure document which describes the material change and contains a provision for Buyer's written approval or acceptance of such change, and (2) Buyer's written approval or acceptance of the material change, or the lapse of ninety (90) days since Buyer has accepted the Unit or the occupancy of the Unit by Buyer; provided, however, that if Buyer does not rescind this Agreement or execute and return the written approval or acceptance of such change as provided in the disclosure document within thirty (30) days from the date of delivery of such disclosure document in the aforementioned manner, Buyer shall be deemed to have approved and accepted such change; provided, further, that the deemed approval and acceptance shall be effective only if at the time of delivery of the disclosure document, Buyer is notified in writing of the fact that Buyer will be deemed to have approved and accepted the change upon Buyer's failure to act within the thirty (30) day period; provided, further, that if, prior to delivery of such disclosure document, ninety (90) days have lapsed since Buyer has accepted the Unit or Buyer has occupied the Unit, then Buyer's right of rescission under Paragraph 17.a. above shall not be waived unless Buyer shall execute the written approval or acceptance of such change as provided in the disclosure document within thirty (30) days from the date of delivery of such disclosure document or Buyer is deemed to have approved and accepted such change as set forth above. A copy of the form of disclosure document shall be delivered to the REB prior to delivery to Buyer.

18. **Preclosing.** Buyer hereby acknowledges that Seller intends to preclose, by having all documents necessary for closing executed prior thereto and deposited with Escrow Agent. At any time after the date of this Agreement, and within five (5) days after receiving written notice from Seller, Buyer's mortgagee (if any) or Escrow Agent, Buyer agrees to execute the Deed and such other documents as are required to effect transfer of title and to complete financing arrangements (if any) including execution of a note and mortgage; and Buyer hereby authorizes Seller, Buyer's mortgagee (if any) or Escrow Agent to date such other documents as of the effective date thereof.

19. **Closing Date.** Buyer shall not be entitled to possession of the Unit until Buyer is notified in writing by Seller of the "**Closing Date**", which date shall be a date specified by Seller in a written notice given to Buyer; provided, however, that Seller agrees to give Buyer at least five (5) days prior written notice of the Closing Date. Upon the Closing Date, Buyer must complete all payments set forth above, and execute all documents not already executed which are necessary to close, prior to taking actual possession of the Unit. Keys will not be issued to Buyer and Buyer shall not occupy, rent or lease the Unit until these conditions are fulfilled. In addition to any other remedy Seller may have, if Buyer shall fail to make PAYMENT C as provided herein, Buyer shall be liable for the cost of maintenance, real property taxes and the one percent (1%) per month late charge described herein as of the Closing Date, notwithstanding that closing has not occurred.

20. **Closing Documents; Closing Costs.** Seller agrees to deliver to Buyer, upon payment of the full purchase price into escrow, a warranty deed conveying to Buyer the Unit in fee simple, its appurtenant easements, rights and undivided interest in the common elements of the

Project (exclusive of the Land), and an undivided interest in the Land underlying the Project, subject to the applicable terms and conditions of the Declaration and the Deed. Buyer shall, at the time of closing, pay the cost of drafting the warranty deed, all of the escrow fees, recording fees, the cost of Buyer's policy of title insurance, Buyer's notary, and all costs incurred in connection with Buyer's financing. Seller shall, at the time of closing, pay the conveyance tax on the sale of the Unit, and Seller's notary fees. Property taxes, insurance and maintenance expenses shall be prorated as of the Closing Date or the date of actual possession, whichever sooner occurs.

21. **Pre-Paid Items.** Buyer acknowledges that Buyer will be required to prepay: (a) maintenance fees for a period of two (2) months, which amount shall constitute a non-refundable start-up fee to be transferred to the Association for use in paying the initial operating costs of the Project; (b) maintenance fees for a period of two (2) months, which amount shall constitute a contribution to the maintenance reserve fund for the Project pursuant to the Declaration; (c) real property taxes for a period of six (6) months; and (d) insurance premiums to the extent required by any first mortgage lender. Real property taxes, insurance and maintenance expenses shall be prorated by Escrow Agent as of the Closing Date or the date of actual possession, whichever sooner occurs. Buyer further agrees that all insurance, maintenance, assessments and other expenses shall also be prorated between Seller and Buyer as of such proration date for real property taxes. Buyer understands and agrees that any amount to be paid by Buyer under this Paragraph 21 is in addition to, and is not part of the total purchase price set forth hereinabove. Escrow Agent shall pay the amounts collected from the Buyer on account of items (a) and (b) above directly to the managing agent of the Project on the Closing Date.

22. **Additional Water Fixtures/Wastewater.** Seller hereby discloses to Buyer that Buyer may be required to pay an assessment to the County of Maui for its projected wastewater flow calculations, if the total wastewater usage for the Building that the Unit is in exceeds the assessment originally required of the Developer by Maui County. Seller further discloses to Buyer that Buyer may not be able to install additional water fixtures above the Allotted Fixtures of one (1) flush tank water closet and one (1) lavatory provided by Seller as stated in Paragraph 10 above (which together amounts to four (4) water fixture units), if the Building's water meter is at full capacity. Buyer acknowledges and agrees that if Buyer shall require water fixture units above and beyond the Allotted Fixtures, Buyer must submit to the Association a written request for its water fixture units. Said request shall include the following: (a) the amount of additional water fixture units requested (a list of common water fixture types and the amount of water fixture units associated with such water fixture(s) is attached hereto as Exhibit "E"); (b) a description of the projected use for additional water fixture units; and (c) the calculation by a certified mechanical engineer of Buyer's predicted water fixture unit requirements. The Association shall, in its sole and absolute discretion, approve or disapprove of requests for more water fixture units, and such approval shall be subject to approval by the County of Maui. Additionally, Buyer acknowledges and agrees that upon any approval of a request by Buyer for additional water fixture units, Buyer shall, at Buyer's sole expense, install a water sub-meter in Buyer's Unit in accordance with Part I of Exhibit "B" attached hereto. This Paragraph 22 shall survive the closing of the purchase of the Unit by Buyer.

23. **Warranties.** Buyer acknowledges that Seller has made no warranties, express or implied, with respect to the Project or any common element or anything installed

therein. At Seller's option, an inspection program may be instituted and, if so, Buyer agrees to inspect the Unit on a date and at a time to be specified by Seller; and upon completion of such inspection, to sign an inspection sheet in the form attached hereto as Exhibit "C" and made a part hereof for all purposes, which shall list all defects or damages to the Unit, if any. Seller will cooperate with and assist Buyer in having repaired any such defects or damages, within a reasonable time thereafter, by the general contractor or other warrantor. This guarantee shall survive the closing. If Buyer fails to sign such inspection sheet, Buyer agrees to accept possession of the Unit, despite the existence of such defects or damages regardless of extent, so long as the defects or damages do not render the Unit uninhabitable. Buyer hereby waives all rights of inspection and the right to Seller's cooperation and assistance with the general contractor or other warrantors, if Buyer fails to inspect the Unit on the date and time specified by Seller; and Buyer acknowledges that such waiver shall not in any way affect Buyer's obligations hereunder, including without limitation, the making of PAYMENT C and performance of Buyer's closing obligations. Buyer agrees to indemnify Seller for any damages or losses, including interest and attorneys' fees, resulting from any refusal to make such inspection, to sign such inspection sheet or to accept possession of the Unit, upon request by Seller; and if Buyer shall so refuse, Buyer shall be deemed to be in default under this Agreement and Seller at its option shall be entitled to cancel this Agreement, and keep all payments made hereunder (including all accrued interest thereon) as liquidated damages.

24. **Disclaimer.** Neither Seller nor its agents have made any representation regarding either economic benefits to be derived from rentals or tax treatment of any purchaser of a unit. The tax treatment and economic benefits may vary with individual circumstances; and Seller, and its agents, recommend that Buyer consult Buyer's own attorney, accountant or other tax counsel for advice regarding appropriate tax treatment.

Buyer hereby acknowledges receipt of written notice that Seller has not authorized any agents, salesmen or brokers for the Project to make any representations as to rentals of a unit, income from a unit or any other economic benefit to be derived from the rental of a unit in said Project, and if any such representations are made, they are hereby expressly disclaimed by Seller.

25. **RESPA Disclosure.** Pursuant to the Real Estate Settlement Procedures Act of 1974, Buyer acknowledges that Seller has not directly or indirectly required Buyer, as a condition of sale, to purchase either a fee owner's or mortgagee's title insurance policy from any particular title company. Seller has advised Buyer that it will obtain for Buyer, at Buyer's cost and expense, a fee owner's title insurance policy from Title Guaranty of Hawaii, Inc. Seller has also advised Buyer that if Buyer does not want Seller to obtain such title insurance policy on behalf of Buyer from said company, Buyer may elect to obtain such insurance from a company of Buyer's choice and Buyer shall pay the title insurance premium for such policy.

26. **Notice to Buyer.** Pursuant to the requirements of the Hawaii Revised Statutes, Seller hereby notifies Buyer as follows:

CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO

DESIGNED, REPAIRED, OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

27. **Subdivision Approval.** Seller hereby notifies Buyer that the land underlying the Project received final subdivision approval from the County of Maui. Exhibit "D" attached hereto shows the boundaries of each lot in the subdivision and the footprint of each building upon such lot.

28. **Miscellaneous.**

a. This Agreement constitutes the entire agreement between the parties hereto and supersedes and cancels all prior negotiations, representations, understandings and agreements, both written or oral, of the parties hereto, and their representatives. No variation of this Agreement shall be valid or enforceable unless approved by Seller in writing.

b. Buyer understands and agrees that until such time as the first conveyance of a unit of the Project to a party other than Seller, Seller reserves the right to exercise all of the powers of the Association and of Buyer as a member thereof, including voting, and to exercise all of the powers of the Board of Directors and officers of the Association.

c. The term "Buyer" herein, or any pronoun used in place thereof, shall mean and include the masculine and the feminine, the singular or the plural number and jointly and severally, individuals, firms or corporations, and their and each of their respective successors, heirs, legal representatives and permitted assigns according to the context hereof. Subject to the provisions of Paragraph 14. herein and Paragraph 28.h. hereinbelow, this Agreement shall be equally binding upon, and inure to the benefit of, the parties hereto and their legal representatives, successors and assigns.

d. Except as otherwise provided herein, notices hereunder to Buyer may be delivered personally or deposited in the United States mail, postage prepaid, addressed to Buyer at the address set forth above, and shall be deemed to be given when delivered personally (or to any one of them if Buyer shall be more than one (1) person) or deposited in the United States mail, as aforesaid.

e. The captions of the paragraphs hereof are for convenience only and do not amplify or limit in any way the provisions hereof.

f. Every provision hereof which imposes an obligation upon either Buyer or Seller or invests an option, power or right in the other shall be deemed a covenant of the one in

favor of the other, the time of observance and performance of every one of which is of the essence hereof. Every such covenant shall be a condition hereof.

g. Anything to the contrary herein notwithstanding, it is understood and agreed by the parties hereto that the delivery of the Deed to Escrow Agent, and the tender of notice by Seller that the Unit is available for occupancy as herein defined, shall constitute full compliance by Seller with the terms of this Agreement.

h. Notwithstanding anything herein to the contrary, this Agreement shall not be binding unless executed by Seller; and upon execution by Seller this Agreement shall be automatically binding in accordance with its terms. If executed by Seller, this Agreement shall nevertheless not be construed as a present transfer of any interest in the Unit, but rather as an agreement to transfer the Unit and its undivided appurtenant common interest in the common elements, free and clear of liens except as described by said Declaration. Buyer specifically understands and agrees that prior to such date, Seller shall have the right (i) to mortgage its interest in the Land and improvements to secure repayment of a loan for the construction of the Project and/or any other purpose and that such mortgage or mortgages shall have priority over any and all interests whatsoever that Buyer may have acquired by this Agreement; and (ii) to insure the work in progress for its own account.

i. This Agreement shall not be assignable by Buyer without the prior written consent of Seller, which may be withheld for any reason or granted upon such terms and conditions (including the imposition of a consent fee) as Seller may in its discretion determine. Any unauthorized assignment by Buyer shall be void and of no force and effect.

j. Seller's disclaimers and Buyer's acknowledgments and agreements contained herein shall survive the execution of this Agreement and closing hereunder.

k. At the request of Seller, the Lender or Escrow Agent, Buyer shall promptly submit to the requesting party the following: (i) if Buyer is a corporation, the corporate resolutions authorizing purchase of the Unit by Buyer and designating the person or persons authorized to execute this Agreement, the Deed, the note and mortgage, if any, and other closing documents on Buyer's behalf; (ii) if Buyer is a partnership, a certified copy of the partnership agreement, partnership certificate or other evidence of the partnership's authority to purchase the Unit and showing the person or persons authorized to execute and deliver this Agreement, the Deed, the note and mortgage, if any, and other closing documents; (iii) if Buyer is a limited liability company, a certified copy of the operating agreement, certificate or other evidence of the limited liability company's authority to purchase the Unit and showing the person or persons authorized to execute and deliver this Agreement, the Deed, the note and mortgage, if any, and other closing documents; (iv) evidence that Buyer is registered to do business in the State of Hawaii; and (v) such other information which may reasonably be requested by Seller, the Lender or Escrow Agent.

29. **AGENCY DISCLOSURE.** Seller's Broker (as shown on the signature page below (the "**Broker**")), and all licensees employed by or associated with the Broker, represent Seller.

Buyer acknowledges that oral or written disclosure of such representation was provided to Buyer prior to the execution hereof. In the event that Buyer is represented by a cooperating broker or salesperson, Buyer agrees and acknowledges that the Broker is not an agent or sub-agent of Buyer's cooperating broker or salesperson. In no event shall Broker's sharing of a commission with a cooperating broker or salesperson create a sub-agency with the cooperating broker or salesperson, and all cooperating brokers and salespersons shall be deemed agents of the Buyer, and not of Seller.

Seller hereby discloses that Pacific Commercial Realty Corp., a Hawaii corporation, one of the brokers representing Seller, is an affiliate of Seller. Shares of Pacific Commercial Realty Corp. are owned by Valentine Peroff, Jr. or related entities. Valentine Peroff, Jr. is a principal in and the manager of Seller.

- The remainder of this page is intentionally left blank; the next page is the signature page -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of Seller's execution and acceptance set forth below.

Buyer

KCCC, LLC,
a Hawaii limited liability company

Buyer

By: _____
Valentine Peroff, Jr.
Its Manager
Seller

Buyer

Date of Execution and
Acceptance by Seller: _____

Buyer

By: _____
Its

By: _____
Its

Date of Execution by Buyer:

Receipt of PAYMENT A is
hereby acknowledged this
_____ day of _____, _____.

By: _____
Broker

Seller's Broker:

Company Name

Address

Bus. Phone

Salesperson: _____
Commission: _____% of the Total Purchase Price

Cooperating Broker:

Company Name

Address

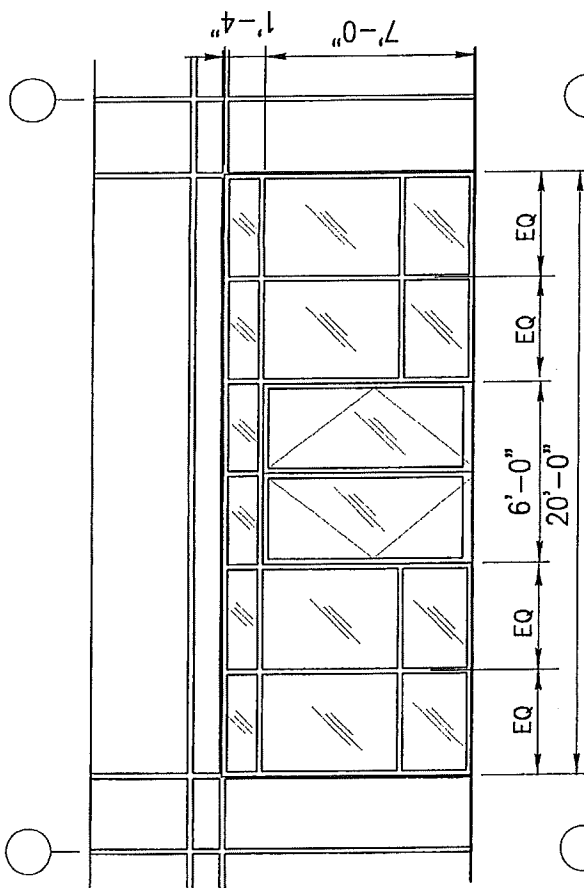
Bus. Phone

Salesperson: _____
Commission: _____% of the Total Purchase Price

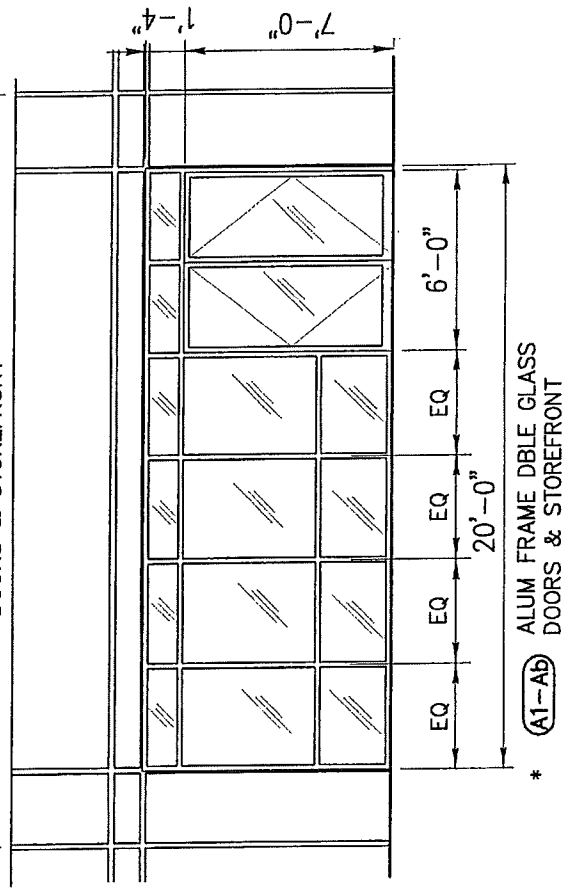
EXHIBIT "A"
to Kihei Commercial Plaza Deposit Receipt and Sales Contract

ALLOWABLE BUILDING 1 DOOR OPTIONS

Unit No.	Type A1-Aa	Type A1-Ab	Type A1-B	Type A1-Ca	Type A1-Cb
101	X	X	X	X	X
102	X	X	X	X	X
103	X	X		X	X
104	X				
105		X			
106	X	X			
107	X	X		X	X
108	X	X		X	X
109	X	X	X	X	X
110	X	X	X	X	X
111	X	X	X	X	X
112	X	X	X	X	X
113	X	X	X	X	X
114	X	X		X	X
115	X	X		X	X
116	X	X	X	X	X
117	X	X	X	X	X
118	X	X		X	X
119	X	X		X	X
120	X	X			
121	X	X	X	X	X
122	X	X	X	X	X



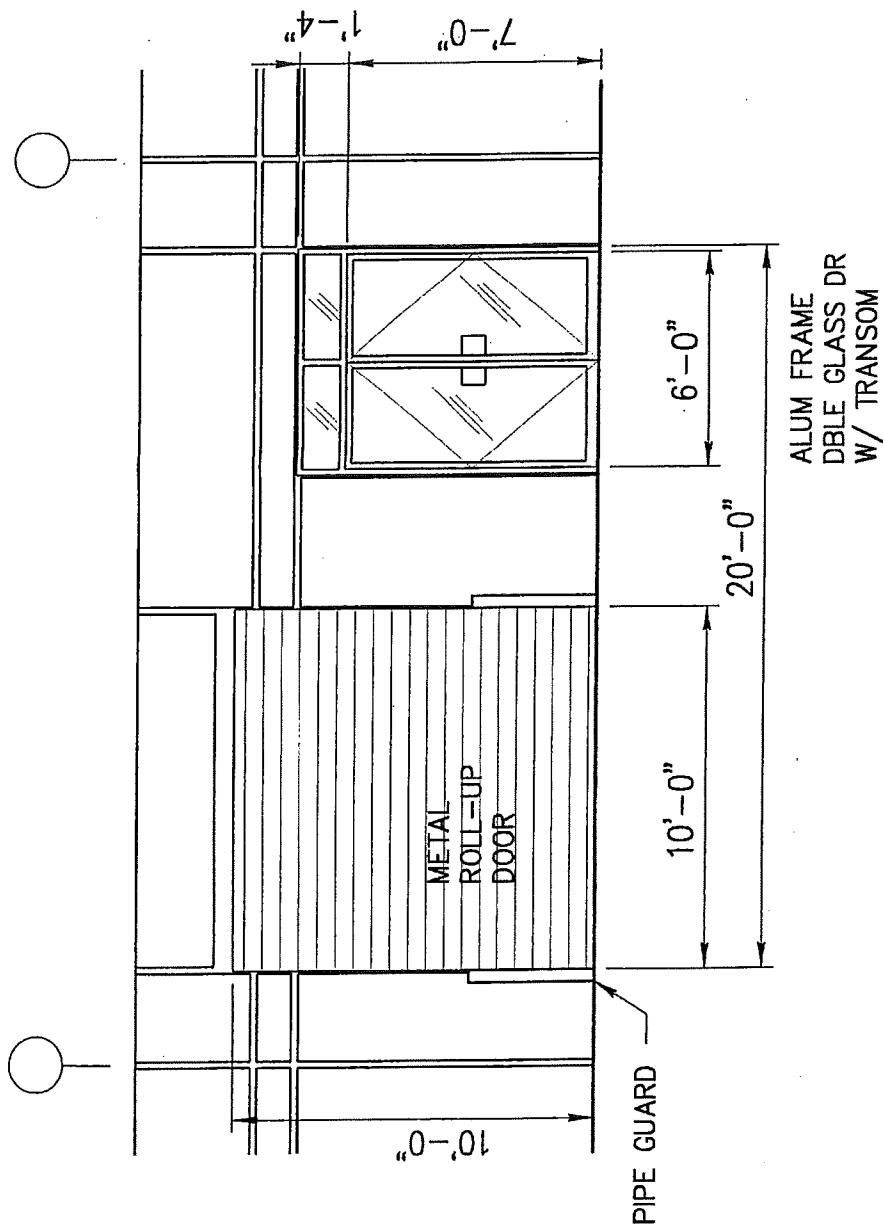
(A1-Aa) ALUM FRAME DBLE GLASS
DOORS & STOREFRONT



(A1-Ab) ALUM FRAME DBLE GLASS
DOORS & STOREFRONT

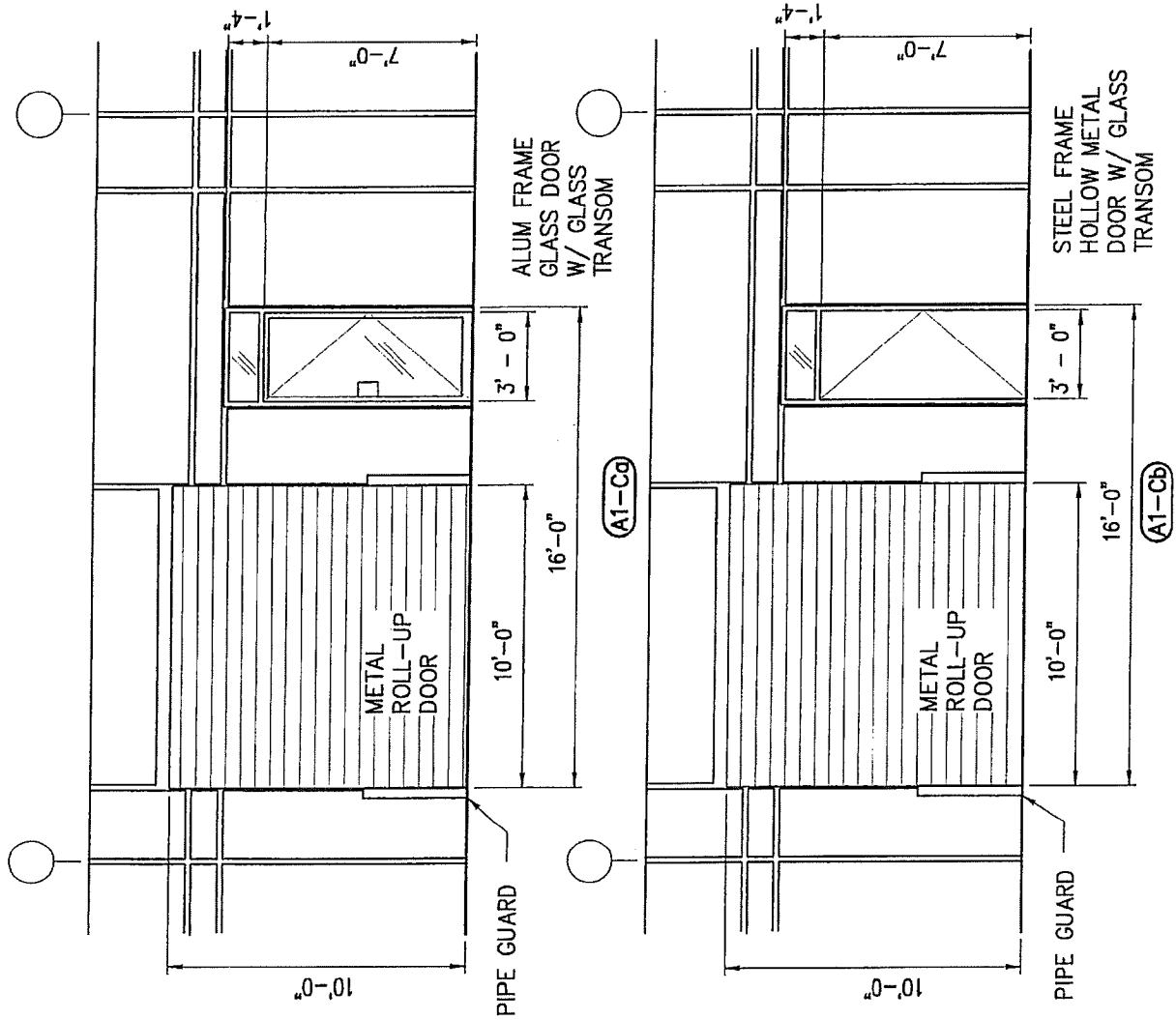
(A1-A)

* A1-Ab REQUIRED AT
UNITS # 105. OPTIONAL
AT OTHER UNITS.
3/16"=1'-0"



A1-B

SC: 3/16"=1'-0"



NOTE:
ALUMINUM DOOR AND
METAL DOOR ARE
INTERCHANGEABLE

(A1-C)

SC: 3/16" = 1'-0"

EXHIBIT "B"
to Kihei Commercial Plaza Deposit Receipt and Sales Contract

PART I: Improvements to be Constructed by Buyer

All improvements and all furniture, fixtures and equipment required to put the Unit in a finished condition suitable for use and occupancy by Buyer. As to units in Buildings 1, 3 and 4, all hook-ups, interior wiring, unit owner's utility hookup costs, fixtures and other electrical requirements required by Buyer and for the exclusive use by Buyer shall be installed by Buyer at Buyer's sole cost and expense. In no event shall Seller be liable for interruption or failure in the supply of any such utilities to the Unit. All costs and expenses associated with the installation of telephone or CATV service or systems shall be at Buyer's sole cost and expense.

Any approved request for additional water fixture units by Buyer shall require Buyer, at Buyer's sole cost and expense, to install a water sub-meter within the interior of the Unit; which water sub-meter shall be of the model type and size as required by either Seller or the Association. Any Buyer who installs a water sub-meter pursuant to the foregoing shall connect such water sub-meter to the building's water meter only upon the review and approval of the plans and specifications for the installation of said water sub-meter by Seller or the Association.

PART II: Items to be Provided by Seller

Demising Walls of the Unit.

Units in Building 1 will have a choice of five (5) different front door composition options. Elevation drawings of the different options are attached hereto and made a part hereof. Buyer must choose one of the five options and note the choice on page 2 of the Sales Contract. Units in Building 1 will be conveyed to Buyer with plumbing fixtures and partition dividers at each restroom.

Units in Building 2 will have a roll up door with a side metal personnel door and a rear metal personnel door that leads to a fenced rear yard area. Units in Building 2 will be conveyed to Buyer with mechanical, electrical and plumbing fixtures and partition dividers at each restroom.

Units in Buildings 3 and 4 shall be delivered in approximately the same configuration. All units will have double glass door entries. Units in Buildings 3 and 4 will be conveyed to Buyer with plumbing fixtures and partition dividers at each restroom.

Each of the four (4) buildings will have a separate two inch (2") water meter to provide and measure water usage for each building. Owners of units shall be billed for water usage in proportion to their common interests for the units in their respective building

unless Buyer has installed a water sub-meter as contemplated above in connection with a request for additional water fixture units. If such water sub-meter has been installed within Buyer's Unit, Buyer shall be billed additionally for any water usage above the average water usage for units in Buyer's respective building.

The following improvements as specified for Buildings 1, 2, 3, and 4:

ELECTRICAL:

Typical electrical supply and equipment will be provided to each Building and unit as follows:

BUILDING 1:

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

BUILDING 1 - COMMON AREA:

1. 100 amp rated, common-area house meter and panelboard wired for common area loads.
2. Fluorescent light fixtures shall be provided as either drop in or canopy mounted lights. All light fixtures shall be provided in accordance with Seller's electrical consultant's drawings.

BUILDING 2:

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. One (1) exterior light located above the rear door of each unit. Switch, wired to panel, to be located at rear door exit.
6. All hook-ups, service feeder, panelboards, unit owner's utility connections, interior wiring, fixtures and other electrical requirements required for standard interior improvements shall be installed by Seller. Buyer shall install, at Buyer's sole cost and expense, any additional electrical fixtures or other electrical service required by Buyer. In no event shall Seller be liable for interruption or failure in the supply of any such utilities to the unit.

BUILDING 2 - COMMON AREA:

1. 100 amp rated, common-area house meter and panelboard wired for common area loads.
2. Wall mounted fluorescent light fixtures shall be provided at the front of the Building in accordance with Seller's electrical consultant's drawings.

BUILDING 3:

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

BUILDING 3 - COMMON AREA:

1. 125 amp rated, common-area house meter and panelboard wired for common area loads.
2. High pressure sodium canopy and fluorescent wall mounted lights installed in accordance with Seller's electrical consultant's drawings.
3. Pole lights as necessary for the parking lot area(s) furthest from the building.
4. Power/lights for the common-area elevators, stairways and corridors in accordance with Seller's electrical consultant's drawings.

BUILDING 4:

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

BUILDING 4 - COMMON AREA:

1. 125 amp rated, common-area house meter and panelboard wired for common area loads.
2. High pressure sodium canopy and fluorescent wall mounted lights installed in accordance with Seller's electrical consultant's drawings.
3. Pole lights as necessary for the parking lot area(s) furthest from the building.
4. Power/lights for the common-area elevators, stairways and corridors in accordance with Seller's electrical consultant's drawings.

The information herein provided by Seller's electrical engineer or other consultants is based on historical and working knowledge and does not constitute a conclusive analysis, specific to Buyer's need, on which Buyer can or should rely.

MECHANICAL – AIR CONDITIONING AND VENTILATION, PLUMBING AND FIRE SPRINKLER SYSTEM:

Typical air conditioning and ventilation, plumbing and fire sprinkler system will be provided to each building and unit as provided hereafter:

BUILDING 1:

1. Air Conditioning and Ventilation:

- (i) Each unit shall be provided with a dedicated single packaged unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated 2 feet into the space. Control conduit into space/control wiring from unit thermostat provided by Seller.
- (ii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space.
- (iii) Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.
- (ii) Hose bibs shall be provided on the exterior of the building. A total of six (6) hose bibs shall be located along the exterior of the building with two (2) hose bibs located on the roof.
- (iii) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (iv) A drywell shall be provided for the gang condensate drain serving the package air conditioning units.
- (v) A shut-off valve shall be provided for each cluster of toilets.

- (vi) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.

BUILDING 2:

1. Ventilation:

- (i) **No air conditioning system shall be provided for this building.**
- (ii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space.
- (iii) Outside air shall be provided by louvers above front personnel door and at restroom wall.
- (iv) A combination vented skylight approximately 4' x 8'.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.
- (ii) Hose bibs shall be provided on the exterior of the building. Four (4) hose bibs shall be located on the front side of the building.
- (iii) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (iv) A shut-off valve shall be provided for each cluster of toilets.
- (v) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.

BUILDING 3:

1. Air Conditioning and Ventilation:

- (i) Each first floor unit shall be provided with a dedicated air cooled condensing unit located on the roof and supported on metal frames. Refrigerant piping shall be provided from the condensing unit through the roof and terminated two (2) feet into the space. A matching fan coil unit shall be provided for each unit for connection to the refrigerant piping stub-outs. Installation of the fan coil unit shall be made by the unit owner. Condensate drain piping from the fan coil unit shall be provided by the unit owner and shall be terminated in the funnel drain provided by Seller. The funnel drain shall be terminated in a drywell. Control conduit into space/control wiring by unit thermostat provided by Seller.
- (ii) Each second floor unit shall be provided with a dedicated single package unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated two (2) feet into the space. Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.
- (iii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space. Ductwork from two exhaust fans shall be terminated thru the roof with a single duct cap.
- (iv) Six inch (6") studs shall be provided at the restroom area (only) on the 1st and 2nd floors. Outside air duct stub-out shall be provided for ground floor units only.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.

- (ii) A drywell shall be provided for the condensate drain of the packaged air conditioning units and fan coil units.
- (iii) Hose bibs shall be provided on the exterior of the building. Three (3) hose bibs shall be located on the exterior of the building with one (1) hose bib on the roof.
- (iv) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (v) Spill containment for elevator hydraulic fluid/alarm system shall be provided.
- (vi) A shut-off valve shall be provided for each cluster of toilets.
- (vii) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.
- (iii) Fire sprinkler system shall be provided for the elevator shaft, pit and elevator machine rooms.

BUILDING 4:

1. Air Conditioning and Ventilation:

- (i) Each first floor unit shall be provided with a dedicated air cooled condensing unit located on the roof and supported on metal frames. Refrigerant piping shall be provided from the condensing unit through the roof and terminated two (2) feet into the space. A matching fan coil unit shall be provided for each unit for connection to the refrigerant piping stub-outs. Installation of the fan coil unit shall be made by the unit owner. Condensate drain piping from the fan coil unit shall be provided by the unit owner and shall be terminated in the funnel drain provided by Seller. The funnel drain shall be terminated in a drywell. Control conduit into space/control wiring by unit thermostat provided by Seller.

- (ii) Each second floor unit shall be provided with a dedicated single package unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated two (2) feet into the space. Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.
- (iii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space. Ductwork from two exhaust fans shall be terminated thru the roof with a single duct cap.
- (iv) Six inch (6") studs shall be provided at the restroom area (only) on the 1st and 2nd floors. Outside air duct stub-out shall be provided for ground floor units only.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.
- (ii) A drywell shall be provided for the condensate drain of the packaged air conditioning units and fan coil units.
- (iii) Hose bibs shall be provided on the exterior of the building. Three (3) hose bibs shall be located on the exterior of the building with one (1) hose bib on the roof.
- (iv) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (v) Spill containment for elevator hydraulic fluid/alarm system shall be provided.
- (vi) A shut-off valve shall be provided for each cluster of toilets.
- (vii) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be

responsible for modifying any piping.

- (iii) Fire sprinkler system shall be provided for the elevator shaft, pit and elevator machine rooms.

The information herein provided by Seller's mechanical engineer or other consultants is based on historical and working knowledge and does not constitute a conclusive analysis, specific to Buyer's need, on which Buyer can or should rely.

EXHIBIT "C"
to Kihei Commercial Plaza Deposit Receipt and Sales Contract

INSPECTION SHEET AND AUTHORIZATION

The undersigned, being the buyer(s) (the "Buyer") of Unit No. _____ (the "Unit") in the KIHEI COMMERCIAL PLAZA (the "Project") located at Kihei, Maui, Hawaii, or Buyer's agent designated hereinbelow (the "Agent") on behalf of Buyer, has inspected the Unit and the limited common elements appurtenant thereto as designated in the Declaration of Condominium Property Regime for the Project and accepts possession of the Unit subject to the "punch list" items, if any, listed on Schedule "1" attached hereto. Buyer understands that Seller will cooperate with and assist Buyer in having such items repaired by the general contractor or other warrantor within a reasonable time.

DATED: _____, ____.

Buyer

Buyer hereby appoints _____ as Buyer's Agent for the purpose of conducting the aforesaid inspection of the Unit and the limited common elements appurtenant thereto and for purposes of listing all defects and damages to the Unit or said limited common elements, if any. Buyer hereby further agrees to be bound by and liable for the acts of Agent in Agent's conduct of said inspection and listing of any defects and damages to the Unit.

DATED: _____, ____.

Buyer

SCHEDULE "1"

"Punch List" Items

[To Be Attached]

EXHIBIT "D"
to Kihei Commercial Plaza Deposit Receipt and Sales Contract
LOT BOUNDARIES AND BUILDING FOOTPRINTS

EXHIBIT "E"
to Kihei Commercial Plaza Deposit Receipt and Sales Contract

LIST OF COMMON WATER FIXTURES
AND CORRESPONDING WATER FIXTURE UNITS

Fixture (PR = Private Fixture PU = Public Fixture)	Low-Flow / Non Low-Flow
Sink-Bar (PR)	0.6 / 1.0
Sink-Bar (PU)	1.2 / 2.0
Sink (PR)	1.6 / 2.0
Sink (PU)	3.2 / 4.0
Sink-3 Comp. (PR) 2 faucets	3.2 / 4.0
Sink-3 Comp. (PU) 2 faucets	6.4 / 8.0
Soda Machine (PR)	1.0
Soda Machine (PU)	1.0
Urinal (PR)	1.7 / 3.0
Urinal (PU)	2.8 / 5.0
Water Closet-FT (PR)	1.7 / 3.0
Water Closet-FT (PU)	2.8 / 5.0
Water Closet-FV (PR)	3.4 / 6.0
Water Closet-FV (PU)	5.6 / 10.0
Bathtub/Shower (PR)	1.6 / 2.0
Bathtub/Shower (PU)	3.2 / 4.0
Bidet (PR)	2.0
Bidet (PU)	4.0
Clothes Washer (PR)	2.0
Clothes Washer (PU)	4.0
Dishwasher (PR)	2.0
Dishwasher (PU)	4.0
Dental Unit (PR)	1.0
Dental Unit (PU)	1.0
Drinking Fountain (PR)	1.0
Drinking Fountain (PU)	1.0
Hose Bibb (PR)	3.0
Hose Bibb (PU)	5.0
Ice Machine (PR)	1.0
Ice Machine (PU)	1.0
Laundry Tub (PR)	1.6 / 2.0
Laundry Tub (PU)	3.2 / 4.0
Lavatory (PR)	0.6 / 1.0
Lavatory (PU)	1.2 / 2.0