

# KOHALA RANCH Amendment 9

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L-420

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/s/ S. FURUKAWA  
ASSISTANT REGISTRAR

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REGULAR SYSTEM

CARLSMITH BALL VICHMAN  
MURRAY CASE & ICHIKI  
1001 Bishop Street  
Pacific Tower, Suite 2200  
Honolulu, Hawaii 96813

Attention: Robert E. Strand, Esq.  
Telephone: 523-2500

EJV-1  
01-4412-001

NINTH AMENDMENT OF  
KOHALA RANCH  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
AND CONSENTS AND SUBORDINATION OF MORTGAGE

WHEREAS, KOHALA JOINT VENTURE, a Hawaii registered joint venture, whose principal place of business and post office address is 737 Bishop Street, Suite 2775, Honolulu, Hawaii 96813, is the Declarant under that certain Kohala Ranch Declaration of Covenants, Conditions and Restrictions dated October 4, 1985, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document

19-112121

No. 1327679 and originally noted on Transfer Certificates of Title Nos. 272,298 and 281,352 (the "Declaration"); and

WHEREAS, Declarant previously amended and restated the Declaration pursuant to instruments dated January 8, 1986, filed as aforesaid as Land Court Document No. 1345901, March 17, 1986, filed as aforesaid as Land Court Document No. 1361562, April 9, 1987, filed as aforesaid as Land Court Document No. 1464649, May 6, 1988, filed as aforesaid as Land Court Document No. 1549027, June 15, 1988, filed as aforesaid as Land Court Document No. 1557978, December 30, 1988, filed as aforesaid as Land Court Document No. 1605945, and September 10, 1990, filed as aforesaid as Land Court Document No. 1763788, and October 31, 1991, filed as aforesaid as Land Court Document No. 1864316, said amendments being noted on Transfer Certificates of Title Nos. 272,298, 281,352, 312,065 and 356,594; and

WHEREAS, under Section 8.02 of the Declaration, the Declaration may be amended by the Kohala Ranch Community Association (the "Association") at a meeting called for that purpose; and

WHEREAS, the amendment of the Declaration as set forth herein was approved at a meeting of the Association held on May 27, 1994, and the Declarant and the Association wish to memorialize said amendments in this instrument;

NOW, THEREFORE, the Kohala Ranch Declaration of Covenants, Conditions and Restrictions is hereby further amended effective May 27, 1994 as follows:

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2.

1. A new Section 7.16, entitled "Condominium and Other Prohibitions", reading as follows is hereby added to the Kohala Ranch Declaration of Covenants, Conditions and Restrictions:

7.16 Condominium and Other Prohibition. No Owner of a Lot in Kohala Ranch Projects I, II or III, including Declarant, shall submit his Lot to a condominium property regime, cooperative, planned unit development, joint development agreement or any other legal vehicle which will have the effect of allowing more than one (1) Dwelling on a Lot. The term "Dwelling" shall mean and refer to a building or a part thereof designed for or used for residential occupancy and containing one or more rooms designed for or containing or used as the complete facilities for the cooking, sleeping and living area of a single family only and occupied by no more than one family. The foregoing prohibition shall not restrict the construction of an "Ohana Dwelling" or a "Guest House" on the Lot. The term "Ohana Dwelling" means a second Dwelling on a Lot permitted by the provisions of Section 25-270 et seq. of the Hawaii County Code. The term "Guest House" shall mean and refer to an accessory building used as sleeping quarters for guests of the occupants of the main Dwelling on a noncommercial basis and having no cooking facilities.

2. Section 1.01(q) of the Kohala Ranch Declaration of Covenants, Conditions and Restrictions is amended in its entirety to read as follows:

(q) "Lot" shall mean and refer to any subdivided parcel of the Property intended for conveyance for consideration by Declarant to a transferee for use by such transferee for agricultural, residential or other use permitted under the applicable zoning regulations not for further subdivision and reconveyance. In the event that any Lot has been submitted to a condominium property regime, cooperative, planned unit development, joint development agreement or other legal vehicle which has the effect of allowing a second Dwelling on

the Lot, each such Dwelling shall be considered a "Lot" for purposes of voting rights and assessments under this Declaration. The term "Dwelling" shall mean and refer to a building or a part thereof designed for or used for residential occupancy and containing one or more rooms designed for or containing or used as the complete facilities for the cooking, sleeping and living areas of a single family only and occupied by no more than one family. The foregoing prohibition shall not restrict the construction of an "Ohana Dwelling" or a "Guest House" on the Lot. The term "Ohana Dwelling" means a second Dwelling on a Lot permitted by the provisions of Section 25-270 et seq. of the Hawaii County Code. The term "Guest House" shall mean and refer to an accessory building used as sleeping quarters for guests or the occupants of the main Dwelling on a noncommercial basis and having no cooking facilities.

3. In all other respects the Declaration, as heretofore and hereby amended, shall remain unchanged and in full force and effect.

AND KOHALA RANCH COMMUNITY ASSOCIATION, a Hawaii non-profit corporation, does hereby certify pursuant to Section 8.02(c) of the Declaration that the agreement of the required percentage of owners and all other parties necessary to adopt the foregoing amendments has been lawfully obtained.

AND HUDSON GENERAL CORPORATION and HUDSON KOHALA, INC., both Delaware corporations, the Mortgagees under that certain Mortgage (herein, "Hudson Mortgage") made by Kohala Joint Venture, as Mortgagor, dated as of April 29, 1981, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1093665, and noted on Transfer Certificate of Title Nos. 272,298 and 256,596, with

Consent and Modification of Mortgage dated October 9, 1985, filed as aforesaid as Document No. 1327689 and noted on said Certificates of Title, in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration paid to them by said Kohala Joint Venture, the legal sufficiency and receipt whereof are hereby acknowledged; do hereby consent to the foregoing Amendment and further agree that said Hudson Mortgage shall be subordinate to the Declaration, as amended; provided, however, that this subordination shall not in any way affect the lien and operation of said Hudson Mortgage on any other lands described therein and not herein specifically subordinated to the foregoing Declaration, as amended.

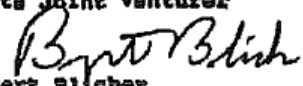
IN WITNESS WHEREOF, said Kohala Joint Venture, the Association and said Mortgagees have executed this instrument on the 27<sup>th</sup> day of June, 1994, but effective on the 27th day of May, 1994.

KOHALA JOINT VENTURE

By HUDSON KOHALA, INC.,  
Its Joint Venturer

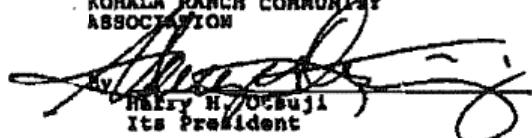
By   
Jay Langley  
Its President

By OXFORD KOHALA, INC.,  
Its Joint Venturer

By   
Bert Blicher  
Its President

Declarant

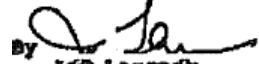
KOHALA RANCH COMMUNITY  
ASSOCIATION

  
By Harry H. Otsuji  
Its President

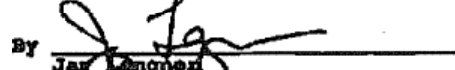
  
By Judy Baletta  
Its Secretary

Association

HUDSON GENERAL CORPORATION

  
By Jay Langner  
Its President

HUDSON KOHALA, INC.

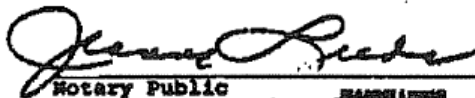
  
By Jay Langner  
Its President

Mortgagees

STATE OF NEW YORK  
COUNTY OF NASSAU

} SS.

On this 20<sup>th</sup> day of June, 1994, before me appeared JAY LANGNER, to me personally known, who, being by me duly sworn, did say that he is the President of HUDSON KOHALA, INC., a Joint Venturer of KOHALA JOINT VENTURE, a registered Hawaii joint venture, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation as a Joint Venturer in KOHALA JOINT VENTURE.



Notary Public  
State of New York  
My commission expires June 30, 1994

10614304



STATE OF PENNSYLVANIA  
COUNTY OF MONTGOMERY

}  
} SS.  
}

On this 21<sup>st</sup> day of June, 1994, before me appeared BERT BLIENER, to me personally known, who, being by me duly sworn, did say that he is the President of OXFORD KOHALA, INC., a Joint Venturer of KOHALA JOINT VENTURE, a registered Hawaii joint venture, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation as a Joint Venturer in KOHALA JOINT VENTURE.

Kelly A. Deetto  
Notary Public  
State of Pennsylvania

My commission expires:



29410204

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

On this 24th day of June, 1994, before me personally appeared HARRY H. OTSUJI and JUDY HALETTA, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of KOHALA RANCH COMMUNITY ASSOCIATION, a Hawaii non-profit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors; and the said HARRY H. OTSUJI and JUDY HALETTA acknowledged said instrument to be the free act and deed of said corporation and that the corporation has no corporate seal.

*Margie von Burg*  
Notary Public  
State of Hawaii  
My commission expires: 3/20/96

STATE OF NEW YORK )  
COUNTY OF NASSAU ) SS.

On this 2<sup>nd</sup> day of June, 1994, before me appeared JAY LANGHER, to me personally known, who, being by me duly sworn, did say that he is the President of HUDSON GENERAL CORPORATION, and that he seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said JAY LANGHER acknowledged said instrument to be the free act and deed of said corporation.

  
Notary Public  
State of New York

My commission expires

JAMES LUNDY  
NOTARY PUBLIC - State of New York  
No. 41-25174  
Qualified in Nassau County  
Commission Expires June 24, 1996

STATE OF NEW YORK }  
COUNTY OF NASSAU } SS.

On this 27<sup>th</sup> day of June, 1994, before me appeared JAY LANGNER, to me personally known, who, being by me duly sworn, did say that he is the President of HUDSON KHALA, INC., and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said JAY LANGNER acknowledged said instrument to be the free act and deed of said corporation.



Notary Public  
State of New York

My commission expires

JAMES J. LEARY  
Notary Public - State of New York  
No. 11-8184  
Commission Expires June 30, 1995

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