## KA MALANAI AT KAILUA AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT DESIGNATED TOWNHOME CONDOMINIUM UNIT

[X] Chronological System [] Lottery System

We, the undersigned "owner-occupants", on this day of	,
20, do hereby declare that it is our intention to purchase and reside in a designation	ated
townhouse condominium unit designated for an "owner-occupant" in Ka Malanai at Ka	ailua
condominium community ("Community") proposed by D.R. Horton - Schuler Homes, LLG	C, a
Delaware limited liability company, dba D.R. Horton-Schuler Division ("Developer").	

We understand, affirm, represent and agree by signing this Affidavit that:

- 1. It is our intent to reserve and purchase an owner-occupant designated residential unit ("designated residential unit") pursuant to Section 514B-96 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated residential unit as our principal unit for 365 consecutive days.
- 2. The term "owner-occupant" as used herein is defined in section 514B-95 of the Owner-Occupant Law as:
  - "...any individual in whose name <u>sole or joint legal title</u> is held in a residential unit that, simultaneous to such ownership, serves as the individual's <u>principal residence</u>, as defined by the department of taxation, for a period of <u>not less than three hundred and sixty-five consecutive days</u>; provided that the individual shall retain complete possessory control of the premises of the residential unit during this period. An individual shall <u>not</u> be deemed to have complete possessory control of the premises if the individual <u>rents</u>, leases, or assigns the premises for <u>any period of time</u> to any other person in whose name legal title is not held; except that an individual shall be deemed to have complete possessory control even when the individual conveys or transfers the unit into a trust for estate planning purposes and continues in the use of the premises as the individual's principal residence during this period." (Emphasis added).
- 3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated residential unit, only one owner-occupant's name shall be placed on the reservation list for either the chronological system or the lottery system.
- 4. Should we require financing from a financial institution to purchase the designated residential unit, the financing shall be an owner-occupant mortgage loan. The financial institution is required to take all reasonable steps necessary to determine whether the borrower intends to become an owner-occupant.
- 5. At any time after obtaining adequate financing or a commitment for adequate financing up until the expiration of this Affidavit (365 days after recordation of the instrument conveying the designated residential unit to us), we shall notify the Real Estate Commission

immediately upon any decision to cease being an owner-occupant of the designated residential unit.

- 6. At closing of escrow, we shall file a claim for and secure an owner-occupant property tax exemption with the appropriate county office for the designated residential unit.
- 7. We have personally executed this Affidavit and we are all of the prospective owner-occupants for the designated residential unit. This Affidavit shall not be executed by an attorney-in-fact.
- 8. We shall not sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, convey or otherwise transfer any interest in the designated residential unit until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated residential unit to us. Furthermore, we understand that we have the burden of proving our compliance with the law. We affirm that we will notify the Real Estate Commission immediately upon any decision to cease being an owner occupant.
- 9. We understand that it is the affirmative duty of any developer, employee or agent of a developer, and real estate licensee, to report immediately to the Real Estate Commission any person who violates or attempts to violate the Owner-Occupant Law. No developer, employee or agent of a developer, or real estate licensee shall violate or aid any person in violating the Owner-Occupant Law.
- 10. The Real Estate Commission may require verification of our owner-occupant status and if we fail to submit such verification, we may be subject to a fine in an amount equal to the profit made from the sale, assignment or transfer of the designated residential unit.
- 11. Any false statement in this Affidavit or violation of the Owner-Occupant Law shall subject us to a misdemeanor charge with a fine not to exceed \$2,000, or by imprisonment of up to a year or both. We further understand that if we violate or fail to comply with the Owner-Occupant Law, we shall be subject to a civil penalty of up to \$10,000, or fifty per cent of the net proceeds received or to be received from the sale, lease, rental, assignment or other transfer of the designated residential unit, whichever is greater.
- 12. When required by context, each pronoun reference shall include all numbers (singular or plural) and each gender shall include all genders.

By signing this affidavit we represent and affirm that we have read, understand and agree to the above statements. **This affidavit may not be signed by an Attorney-in-Fact.** 

1)		
Purchaser's signature	Print Name	Date
2)		
Purchaser's signature	Print Name	Date
3)		
Purchaser's signature	Print Name	Date
4)		
Purchaser's signature	Print Name	Date

STATE OF HAWAII		)	
CITY AND COUNTY	Y OF HONOLULU	) SS. )	
On this	day of	, 20	_, before me personally appeared
executed the forego	ing instrument as the fr	ree act and deed of	med, did say that such person(s) such person(s), and if applicable, execute such instrument in such
		Type or print name Notary Public, Sta My commission ex	te of Hawaii.
Date of Doc:		# Pages:	
Name of Notary:		Notes:	
Doc. Description:			
			(stamp or seal)
Notary Signature		Date	
	First Circuit, State of Hawa	aii	
NOTARY	CERTIFICATION		