

LAND COURT

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**LIMITED WARRANTY DEED
WITH RESERVATIONS**

PARTIES TO DOCUMENT:

SELLER: **327 KONA LLC, a Delaware limited liability company,** whose mailing address is

BUYER: _____, whose mailing address is _____

TAX MAP KEY (3) 7- (por.)
Kona View Estates Subdivision, LOT

4825-2827-2385/8-30-06

LIMITED WARRANTY DEED WITH RESERVATIONS

PARTIES:

SELLER: 327 Kona LLC, a Delaware limited liability company, whose mailing address is 4054 McKinney Avenue, Dallas Texas 75204 (hereinafter referred to as the ("Seller").

BUYER: _____, whose mailing address is _____
(hereinafter referred to as the ("Buyer").

DESCRIPTION OF PROPERTY:

The property covered by this Limited Warranty Deed is described in Exhibit "A" attached to this document.

SALE AND TRANSFER OF PROPERTY:

In return for Buyer's payment of the purchase price as agreed between Seller and Buyer, Seller sells and transfers the property described in Exhibit "A" to Buyer.

SALE AND TRANSFER OF OTHER RIGHTS:

Seller also sells and transfers to Buyer the following:

- (A) All improvements located on the property;
- (B) All rights Seller has in other property because of Seller's ownership of the property being sold (these rights are known as "easements and appurtenances");
- (C) All rents or royalties from the property;
- (D) Any mineral and metallic rights owned by Seller in the property; and
- (E) All other rights or privileges that Seller owns because of Seller's ownership of the property.

BUYER'S TENANCY:

Buyer will take and own the property as [TENANCY], in fee simple forever. Buyer will also own the other rights described above in the same tenancy.

SELLER'S WARRANTIES:

By signing this Limited Warranty Deed, Seller gives Buyer a limited warranty of title. This means that Seller only guarantees:

(A) That Seller has the right to transfer and convey the property and other rights described in Exhibit "A" and this Limited Warranty Deed;

(B) That during Seller's ownership of the property and the other rights being transferred and conveyed by this Limited Warranty Deed, no liens, claims or encumbrances created by Seller attached to or arose against the property or the other rights unless those liens, claims or encumbrances are described in this Limited Warranty Deed or in Exhibit "A" under the title "SUBJECT TO"; and

(C) That Seller will defend Buyer's ownership against any liens, claims or encumbrances created by Seller that arose during Seller's ownership of the property and the other rights being transferred and conveyed by this Limited Warranty Deed unless those liens, claims or encumbrances are described in this Limited Warranty Deed or in Exhibit "A".

SELLER'S RESERVATION OF CERTAIN RIGHTS:

In addition to the rights and privileges reserved by Seller as described in Exhibit "A," Seller and Buyer specifically acknowledge and agree:

1. That notwithstanding the sale and transfer of the property as described in this Limited Warranty Deed, Seller, its designees, and Seller's agents, employees, contractors, licensees, successors and assigns, shall have and retain the right to re-enter upon and temporarily occupy the property for the purpose of surveying, constructing, reconstructing, installing, repairing and maintaining subdivision easements and/or improvements for, and performing other similar or related work, including, without limiting the generality of the foregoing, the construction and installation of roadways, culverts, dry wells, sidewalks, underground pipelines, utility fixtures, fire hydrants, meters, transformer vaults, switching vaults, pull boxes, handholes, underground and/or overhead power lines, drainage culverts, swales and ditches and other related appurtenant facilities and equipment and drainage structures, provided, however, that upon the completion of the construction and installation of the easements and/or improvements described in this paragraph 1, Seller shall make such reasonable efforts as may be necessary to restore the contour and grade of the property to as near as practicable to that which existed prior to the

commencement of the construction and installation of the easements and/or improvements described in this paragraph 1, or as otherwise depicted on the County-approved Subdivision engineering plans.

2. That the County of Hawaii may later determine that additional easements and/or improvements are required of Seller across, on, over or under portions of the property being purchased by Buyer and Seller, and its successors, designees and assigns, therefore reserves the right to create, establish, construct, maintain and dedicate or convey to the County of Hawaii any such additional easements and/or improvements on the property being purchased by Buyer after the transfer of the property to Buyer, all as provided in paragraph 1 above. If such additional easements and improvements are required of Seller by the County of Hawaii, Buyer covenants and agrees to join with Seller in the granting, delivery and/or dedication of any such easements and/or improvements to the County of Hawaii and to execute any instruments or documents necessary or appropriate thereto. Buyer further agrees that by signing and accepting this Limited Warranty Deed, Buyer waives and releases any and all rights or claims Buyer might otherwise have against Seller, whether in law or equity, on account of such additional easements and/or improvements, including, but not limited to, any rights Buyer might otherwise have as to a rescission of this Limited Warranty Deed or a recovery of all or a portion of the purchase price for the property.

3. That Seller, and its successors, designees and assigns, until the dedication thereof to the State or County of Hawaii or other governmental authority or quasi-governmental agency, shall have the right to grant easements for access and other purposes over, under and across the Road Lots or roadways described in the Subdivision Maps to other persons upon such terms and conditions as Seller shall deem necessary and/or appropriate.

4. That Seller reserves the right unto itself, and its successors and assigns, to delete, relocate, realign and grant to other persons all easements and rights-of-ways over, under and on the property being purchased by Buyer which Seller shall determine to be necessary or desirable, including, but not limited to, easements and/or rights-of-ways for utilities such as water, telephone, gas and electricity, lighting, cable television, and landscaping and walkways; provided that such easements and/or rights-of-way shall not be located on or within any areas in which any buildings are or may be constructed on the property and shall not be exercised so as to unreasonably disturb, impair or interfere with the normal use and enjoyment of the property

being purchased by Buyer. Buyer hereby consents to any such deletion, relocation, realignment and grant of easements and/or rights-of-ways as provided above and agrees to execute and deliver such documents and instruments and do such other things as may be necessary or convenient to effect the same.

5. Seller's rights and privileges as reserved in this Limited Warranty Deed shall constitute a burden on and a covenant running with the property and any person who succeeds to Buyer's rights and interest in the property prior to that time shall be bound by and observe Seller's rights and privileges reserved in this Limited Warranty Deed.

BUYER'S PROMISES:

By signing and accepting this Limited Warranty Deed, Buyer acknowledges and agrees as follows:

1. That Buyer has read, understands and accepts all of the terms and conditions of this Limited Warranty Deed, the Exhibits attached to this Limited Warranty Deed, and the Declaration of Covenants, Conditions and Restrictions for Kona View Estates, described in Exhibit "A", as the same may be amended from time to time, all of which are incorporated herein by reference.

2. That the property Buyer is purchasing which is described in Exhibit "A" is a portion of the subdivision known as "Kona View Estates", and that Buyer's use and possession of the property is subject to and governed by the Declaration of Covenants, Conditions and Restrictions for Kona View Estates described in Exhibit "A", as the same may be amended, both of which are incorporated herein by reference.

3. That by signing and accepting this Limited Warranty Deed, Buyer is agreeing to abide by and be bound by the terms and provisions of the:

(a) Declaration of Covenants, Conditions and Restrictions For Kona View Estates Subdivision dated _____, ("Declaration") and recorded in Bureau of Conveyances of the State of Hawaii as Document No. _____, as may be amended from time to time;

(b) Articles and Bylaws for the Kona View Estates Association, as may be amended from time to time; and

(c) Design Guidelines for the Kona View Estates Subdivision as authorized by the Declaration, as may be amended from time to time.

4. That by signing and accepting this Limited Warranty Deed, Buyer is (a) agreeing to join in, execute and deliver any dedication or grants as described in this Limited Warranty Deed, and (b) agreeing with Seller and with all other "Owners" of property within Kona View Estates to perform, comply with, and discharge each and all of the responsibilities, duties and obligations imposed upon Buyer by the Declaration of Covenants, Conditions and Restrictions for Kona View Estates and abide by all of the covenants, conditions, restrictions, and provisions contained in said Declaration, as the same may hereafter be amended from time to time, including without limitation, the prohibition against the construction of Ohana dwellings on the premises as provided in the Declaration. The foregoing covenant of the Buyer shall be a covenant running with the land.

5. That Seller's reservation of certain rights, Buyer's promises and agreements and the Declaration of Covenants, Conditions and Restrictions for Kona View Estates described in this Limited Warranty Deed and Exhibit "A" are covenants running with the property and any document of conveyance by which Buyer sells or transfers any interest in the property shall be subject to and describe said reservations, promises and agreements and the Declaration of Covenants, Conditions and Restrictions for Kona View Estates.

6. Buyer further acknowledges that Seller has reserved various rights, including those enumerated in the foregoing paragraphs, and that by signing below Buyer does hereby agree to promptly execute any and all documents and to do all other things as may be necessary or convenient to confirm or implement the foregoing covenants by Buyer and reservations by Seller, and Buyer does also hereby specifically and irrevocably appoint Seller to act on Buyer's behalf for such purposes as the attorney-in-fact on behalf of Buyer, in Buyer's capacity as the owner of the Property and any other lots in the Subdivision. The foregoing powers vested in the Seller are irrevocable, are intended to be a "power given as security" and a "power coupled with an interest" and shall survive the recordation of this Limited Warranty Deed.

DEFINITIONS:

The word "person" includes natural persons, business organizations and any other entity the law allows to own property or conduct business;

The words "Seller" and "Buyer" include the persons named in this Limited Warranty Deed and those who take over or succeed to that person's rights or interests, whether by purchase, inheritance, operation of law or otherwise.

COUNTERPART LANGUAGE:

The parties hereto 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 agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory 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 intentionally left blank - Signatures follow on the next page.)

DATE:

This Limited Warranty Deed is dated this _____ day of _____,
2006.

327 KONA LLC, a Delaware limited liability
company

By: _____
Its: _____

SELLER

BUYER

APPROVED AS TO FORM
CARLSMITH BALL LLP

BY Robert D. Triantos
8-30-06

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this day of _____ day of _____ 2006, before me _____
_____, Notary Public, appeared **THOMAS M. SMITH**, to me
personally known, who being by me duly sworn, did say that he is a Manager of 327 KONA,
LLC, a Delaware limited liability company, and that the instrument was signed and sealed on
behalf of the company by authority of its board of directors, and said **THOMAS M. SMITH**
acknowledged said instrument to be the free act and deed of the company.

Name: _____
Notary Public
State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this _____ day of _____, 2006, before me personally appeared _____, to me known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public
State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this _____ day of _____, 2006, before me personally appeared _____, to me known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public
State of Hawaii

My commission expires: _____

INVOICE
CARLSMITH BALL LLP
P. O. BOX 1720
Kailua-Kona, HI 96745-1720
Telephone: (808) 329-6464
Fax: (808) 329-9450

**TITLE GUARANTY ESCROW
SERVICES, INC.**

75-170 Hualalai Road, Suite C-210
Kailua-Kona, HI 96740
ATTN: JANET LUM WON

August 30, 2006
INVOICE NO.:

ESCROW NO.
327 KONA LLC /
Tax Map Key (3)7-

For legal services rendered in the
preparation of the following documents:

LIMITED WARRANTY DEED	\$150.00
4.16% State Tax	<u>6.24</u>
TOTAL AMOUNT DUE:	\$156.24

CASE #029999-00058

CARLSMITH BALL LLP
P. O. Box 1720
Kailua-Kona, HI 96745-1720
Telephone: (808) 329-6464

SUBJECT: ESCROW NO.
327 KONA LLC /
TMK (3)7-

DATE: August 30, 2006

Forwarded herewith are the following:

1 Original and 0 **WARRANTY DEED**

0+1 Our invoice K for preparation of the above, \$156.24.

NOTE:

You should note the following to your parties:

1. There are blank spaces in the document(s) which must be filled in.
2. The document(s) were prepared based on your request, verbal information (if any), and the material(s) forwarded to us. We disclaim any responsibility for the accuracy or completeness of such material(s). As is the practice in Hawaii, we disclaim any responsibility for the state of title, including encumbrances. If there are any questions, we will be pleased to answer them.
3. The provisions of the document(s) forwarded herewith, including the property description, if any, should be carefully read by all parties involved to ensure that such provisions comport with their understanding.
4. The document(s) were prepared in accordance with your request to document the real property transaction as contemplated and described by you. Accordingly, we disclaim any responsibility for other legal considerations and consequences which may result from the transaction, including specifically but not limited to tax considerations and tax consequences, filing and withholding requirements; therefore, you may wish to have the parties consult their legal and tax counsel or accountant before you consummate the transaction. The document(s) may also contain certain standard provisions not specifically noted in your request.
5. OTHER:

Robert D. Triantos

RECEIVED BY: TITLE GUARANTY ESCROW SERVICES, INC. - Attn: JANET LUM WON

DATE: _____ TIME: _____