

Tax Map Key No. (2) _____, containing an area of approximately _____ feet ("Property");

WHEREAS, Section 19.62.060(G), Maui County Code, states:

G. Coastal High Hazard Areas. Within coastal high hazard areas:

1. New construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to at least one foot above the base flood level. The pile or column foundation and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the simultaneous action of wind and water loads on all building components. Water loading values used for purposes of meeting this requirement shall be those associated with the base flood. Wind loading values used shall be those required by the Uniform Building Code, as amended.

2. New construction and substantial improvements shall be located on the landward side of the reach of mean high tide.

3. New construction and substantial improvements shall have the space below the lowest floor free of obstructions, or constructed with breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Such space shall not be used for human habitation, but shall be useable solely for vehicular parking, building access, limited storage, or storage. Machinery and equipment

that service the building, such as furnaces, air conditioners, heat pumps, water heaters, washers, dryers, elevator lift equipment, electrical junction and circuit boxes, and food freezers are prohibited in such spaces. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Breakaway wall collapse shall be designed to result from a water load less than that which would occur during a base flood and the elevated portion of the building shall be designed so as not to incur any structural damage from wind and water loads acting simultaneously during a base flood.

4. Fill shall not be used for structural support of buildings.

5. Manmade alteration of sand dunes shall not increase potential flood damage.

6. The director shall be provided and shall maintain the following records:

- (a) Certification by an engineer or architect that the proposed structure complies with paragraphs 1 through 5 of this subsection;
- (b) Certification by a structural engineer or surveyor of the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and information regarding whether such structures contain basements. FEMA's "elevation certificate" form, as amended, shall be used for the certification.

7. Areas of a structure below the base flood elevation may be used for parking vehicles, limited storage or storage, or access to the building, but not for human habitation. For such areas that are five feet

or more in height as measured from any point within such areas, the property owner shall enter into a "Non-conversion Agreement for Construction Within Flood Hazard Areas" with the County. The Agreement shall be in a form acceptable to the director and shall be recorded with the bureau of conveyances or land court as a deed restriction.

The director or the director's authorized representative may, upon prior notice of at least seventy-two hours, inspect any area of a structure below the base flood elevation to ensure compliance, and

WHEREAS, the Owner has applied for a permit to place a structure on the above property that is below the base flood elevation and more than five feet in height, namely _____ (describe structure) which is the subject of building permit application number _____ ("structure"), and

WHEREAS, Section 19.62.060(G), Maui County Code, requires the property owner to enter into this Agreement, and;

WHEREAS, the Department of Planning is charged with the enforcement of this Agreement;

NOW, THEREFORE, for and in consideration of the terms and conditions hereinafter contained, the owner hereby agrees as follows:

1. That the building, and all parts thereof, are and shall be held subject to the following conditions and restrictions:

- (a) At the site of the structure, the base flood elevation permit# _____ is _____ feet above the mean sea level, Local Tidal Datum and the freeboard required by Chapter 19.62, Maui County Code, is _____ foot/feet.
- (b) Enclosed areas below the base flood elevation shall be used solely for the parking of vehicles, limited

storage, storage or access to the building. All interior walls, ceilings and floors below the base flood elevation shall be unfinished or constructed of flood resistant materials. Mechanical, electrical or plumbing devices shall not be installed below the base flood elevation.

- (c) That the walls of the enclosed areas below the base flood elevation shall be equipped and remain equipped with breakaway walls as shown on the permit.
- (d) That the slabs of the enclosed areas below the base flood elevation shall be breakaway slabs.
- (e) That any alterations or changes from these conditions constitute a violation of the permit and may render the structure uninsurable or increase the cost for flood insurance. The jurisdiction issuing the permit and enforcing the ordinance may take any appropriate legal action to correct any violation.
- (f) That this Non-conversion Agreement becomes part of Permit#_____ and grants the zoning inspector the ability to inspect and enforce the provisions of this Agreement at any time.

2. That all such conditions and restrictions shall be effective as to the building from and after the recording of this Agreement with the Bureau of Conveyances of the State of Hawaii or the Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County of Maui, or any successor, personal representative, heir or assign, as the case may be of any of them; that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon

any transfer of any right, title or interest in or with respect to the Property, the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the conditions and restrictions of this Agreement; and

3. That this Agreement shall be a covenant running with the land and be binding on all present and future owners, lessees and occupants of the Property and anyone claiming under said owners, their heirs, personal representatives, successors and assigns, as owners or occupants thereof or otherwise; and

4. That where there is more than one owner, all obligations of the owner set forth herein shall be joint and severable obligations of each owner; and

5. That the subject building shall be subject to the restriction stated in this Agreement and plans (see EXHIBIT A); and

6. That this Agreement shall remain in effect as long as the building is still standing and in the same use; and

7. That the Owner shall expressly set forth the provisions of this Agreement, and the conditions as prescribed in this Agreement, Maui County Code, in any deed, lease, agreement of sale or rental agreement to the Property hereafter executed, so as to provide additional notice of said agreements; and

8. That this Agreement shall be recorded by the Owner with the State of Hawaii Bureau of Conveyances or the Land Court of the State of Hawaii, as the case may be, prior to the granting of any permit or approval sought by the Owner, with all fees to be paid by the Owner; and

9. That all present and future owners, lessees and occupants of the Property hereby grant the Department of Planning the right to enter upon the Property, at reasonable times, to inspect and ensure compliance with the provisions of this Agreement; and

10. That the terms and provisions of this Agreement shall be canceled and rendered null and void upon the demolition or destruction of the subject building; and

11. That the term "Owner" wherever used herein, and any pronoun used in place thereof, shall mean and include the singular and the plural, and the use of any general term shall mean and include all genders; and

12. That the parties hereto agree that this Agreement 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 the parties hereto, notwithstanding all the parties are not signatory to the original or the same counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
on the day and year first above written.

OWNER:

(print name above)

By _____

Name: _____

Its _____

By _____

Name: _____

Its _____

By _____

Name: _____

Its _____

By _____

Name: _____

Its _____

By _____

Name: _____

Its _____

STATE OF HAWAII)
) SS.
COUNTY OF _____)

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

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC, State of Hawaii

Print Name _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	

Notary Signature: _____	
Date: _____	[Stamp or Seal]