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STATE OF HAWAII
BUREAU OF CONVEYANCES
DAT Doc 2010-124022
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LAND COURT SYSTEM

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Return by Mail Pickup To:

Kiefer & Garneau LLC
Attention: Richard Kiefer, Esq.
444 Hana Hwy., Ste. 204
Kahului, Maui, Hawaii 96732
Telephone: (808) 871-6016

TITLE OF DOCUMENT:

**FIFTH AMENDMENT TO THE DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF THE BREAKERS**

PARTIES TO DOCUMENT:

DOUGLAS E. MYERS, Trustee of The Douglas E. Myers
Revocable Trust dated June 8, 2005

3702 LOWER HONOAPIILANI, LLC, a Colorado limited liability
company

TAX MAP KEY(S): (2) 4-3-006:069; CPR Nos. 1 through 114

CONDOMINIUM MAP NO. 813

(This document consists of 8 pages.)

**FIFTH AMENDMENT TO THE DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF THE BREAKERS**

THIS FIFTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF THE BREAKERS is made on August 18, 2010, by DOUGLAS E. MYERS, Trustee of The Douglas E. Myers Revocable Trust dated June 8, 2005, with full powers to sell, lease, mortgage, exchange, or otherwise dispose of, or deal with any property of said Trust ("Developer") and 3702 LOWER HONOAPIILANI, LLC, a Colorado limited liability company ("LLC") (Developer and LLC are hereinafter collectively referred to as "Declarant").

RECITALS

A. Declarant executed the Declaration of Condominium Property Regime of The West Maui Breakers ("Declaration") on February 25, 2005 and recorded the Declaration in the State of Hawaii Bureau of Conveyances ("Bureau") as Document Number 2005-069181. Concurrently therewith Declarant recorded Condominium Map No. 813 in the Bureau (the "Condominium Map"). The Declaration and the Condominium Map established the West Maui Breakers condominium project (the "Project"). The Declaration has since been amended by the First Amendment dated January 22, 2007, recorded in the Bureau as Document Number 2007-020183, Second Amendment dated March 22, 2007, recorded in the Bureau as Document No. 2007-078772, Third Amendment dated June 1, 2007, recorded in the Bureau as Document No. 2007-111924 and Fourth Amendment dated September 24, 2009, recorded in the Bureau as Document No. 2009-148543.

B. Developer and LLC are the Owners of more than seventy-five percent of the Common Interest appurtenant to the Apartments in the condominium project established by the Declaration.

C. As set forth in Sections N.5 and O of the Declaration, Declarant may amend the Declaration unilaterally and without the joinder or consent of any other Owner to file the "as built" verified statement (with plans, if applicable) regarding the Project's Condominium Map pursuant to Section 514A-12 of the Act, and the Declaration may otherwise be amended by affirmative vote of Owners of Apartments to which seventy-five percent of the Common Interest is appurtenant.

D. Pursuant to Sections N.5 and O of the Declaration, Declarant desires to file the "as built" verified statement regarding Building F of the Condominium as set forth below.

NOW THEREFORE, pursuant to Sections N.5 and O of the Declaration, the Declaration is hereby amended as follows:

1. As Built Certificate. Filed in the Bureau herewith is the verified statement of James S. Hillhouse, licensed architect for the Project (License No. AR-10985), certifying that the Condominium Map Floor Plans and Elevations for Building F (Condominium Map Sheet Numbers A6.1 and A6.2 filed in the Bureau), fully and

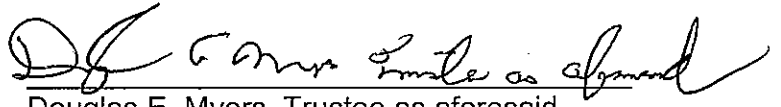
accurately depict the layout, location, and dimensions of Building F and the Apartments therein as built.

2. Pursuant to Section N.8(b)(4) of the Declaration, by virtue of the completion of Building F the Common Interest assignments for the Apartments in the Project are now as set forth in Schedule B-2 of the Fourth Amendment to the Declaration of Condominium Property Regime of The Breakers dated September 24, 2009, recorded in the Bureau as Document No. 2009-148543.

3. No Other Amendments; Execution. Except as provided above, the Declaration, as heretofore amended, remains in full force and effect. This Amendment may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. Duplicated unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Signature Page Follows]

IN WITNESS WHEREOF, the Declarant has executed this Amendment to
as of the date first set forth above.


Douglas E. Myers, Trustee as aforesaid

3702 Lower Honoapiilani, LLC
By Gemini Capital, LLC
Its Manager

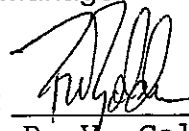
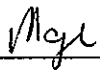
By: _____

Its:

IN WITNESS WHEREOF, the Declarant has executed this Amendment to
as of the date first set forth above.

Douglas E. Myers, Trustee as aforesaid

3702 Lower Honoapiilani, LLC
By Gemini Capital, LLC
Its Manager

By:  

R. V. Golden
Its: *MANAGER*

STATE OF Colorado)
COUNTY OF Boulder) ss.

On this 18th day of August, 2010, before me personally appeared DOUGLAS E. MYERS to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, 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.



Paul M Draper
Name:

Notary Public, State of Colorado

My commission expires: 9-27-2011

STATE OF Colorado)
)
COUNTY OF Boulder) ss.

On this 25 day of July, ²⁰¹⁰~~2009~~, before me personally appeared P.V. Gorden to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, 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.

TARA GARCIA
NOTARY PUBLIC
STATE OF COLORADO
MY COMMISSION EXPIRES 07/17/2014

Tara Garcia
Name: Tara Garcia

Notary Public, State of Colorado

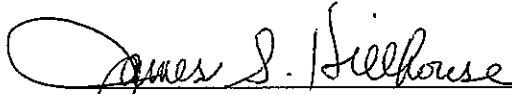
My commission expires: 7/17/2010

THE BREAKERS – CONDOMINIUM MAP NO. 813

ARCHITECT'S CERTIFICATE

I, JAMES S. HILLHOUSE, hereby certify that (a) I am a registered professional architect (License No. 10985) in Hawaii, (b) the plans heretofore filed in the Bureau of Conveyances of the State of Hawaii as Condominium Map No. 813 consisting of Sheet Nos. A6.1 and A6.2, are to the best of my knowledge accurate copies of portions of the plans of Building "F" in the condominium project known as "The Breakers" as filed with and approved by the County of Maui officer having jurisdiction over the issuance of permits for the construction of said building, and (c) to the best of my knowledge said plans fully and accurately depict the layout, location, and dimensions of the apartments in Building "F" in this project that are shown on said Sheets as built.

DATED: 8/4/10.


Name: JAMES S. HILLHOUSE
License No.: 10985

Subscribed and sworn to before me this
8th day of August, 2010

Mary L. Thomas
Name:

Notary Public, State of Colorado

My commission expires: 2-8-2014

MARY L. THOMAS
Notary Public
State of Colorado

My Commission Expires: 02-08-2014