

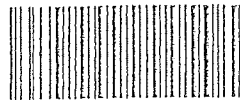
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STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

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B-33033228

/s/ LESLIE T. KOBATA
REGISTRAR

Return by Mail (X) Pickup () To: Land Court () Regular (X) Double ()

Dickson C.H. Lee
Takushi Wong Lee & Yee - ALC
841 Bishop Street, Suite 925
Honolulu, Hawaii 96813

Total pages _____

TYPE OF DOCUMENT: DECLARATION OF RESTRICTIVE COVENANTS
(AGRICULTURAL USES)

PARTIES TO DOCUMENT:

Declarant: A Charitable Foundation

PROPERTY DESCRIPTION	DOCUMENT NO.
	DOCUMENT NO. TRANSFER CERTIFICATE OF TITLE NO:

TAX MAP KEY NO. (1)

DECLARATION OF RESTRICTIVE COVENANTS
(AGRICULTURAL USES)

This Declaration made this 17th day of July, 2017, by A CHARITABLE FOUNDATION, a Nevada nonprofit corporation, whose mailing address is P.O. Box 909, Haleiwa, Hawaii 96712, hereinafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, as the owner and pursuant to a subdivision application, which was approved by the Department of Planning and Permitting of the City and County of Honolulu, Declarant consolidated and re-subdivided two large lots situate at Pupukea, Koolauloa, City and County of Honolulu, State of Hawaii, into four lots, which are identified as Lot "A", Lot "B", Lot "C" and Lot "D";

WHEREAS, Declarant intends that Lot "A", 79.031 acres, which is designated for preservation use and is in the Land Use District Boundary "Conservation", be a nature preserve, which Declarant plans to convey to the State of Hawaii;

WHEREAS, Lot "B", Lot "C" and Lot "D", which are more particularly described in the exhibits identified below, attached hereto, and incorporated herein by reference, and have the areas, uses and State land use district boundary designations set forth below, shall be collectively referred to herein as the "agricultural subdivision":

<u>Ex. No.</u>	<u>Lot No.</u>	<u>Area</u>	<u>Designated Use</u>	<u>Land Use District</u>
A-1	"B"	9.237 ac	Agricultural Purposes	Agriculture
A-2	"C"	5.691 ac	Agricultural Purposes	Agriculture
A-3	"D"	0.216 ac	50-foot wide right of way for Maulukua Road turnaround	Agriculture

WHEREAS, Chapter 205 of the Hawaii Revised Statutes, as amended, requires that

subdivisions within the Agricultural district having soil classified by the Land Study Bureau's Detailed Land Classification as Overall Productivity Rating Class "A" or "B" shall be restricted to uses primarily in pursuit of an agricultural activity, and further, that any deed, lease, agreement of sale, mortgage or other instrument of conveyance covering any land within the agricultural subdivision shall expressly contain the restriction on uses and the conditions as prescribed in said Chapter and shall be encumbrances running with the land; and

WHEREAS, Declarant, as owner, desires to establish restrictive covenants relating to the use of the agricultural subdivision comprised of Lot "B", Lot "C" and Lot "D" in accord with Chapter 205, Hawaii Revised Statutes;

NOW, THEREFORE, Declarant hereby declares and agrees that an agricultural subdivision be created and comprised of Lot "B", Lot "C" and Lot "D" which are described in Exhibits "A-1", "A-2" and "A-3" hereto. Said agricultural subdivision is and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the following declarations, which declarations shall constitute covenants running with the land for Lot "B", Lot "C" and Lot "D" and shall be binding on and for the benefit of Declarant, its successors and assigns, and all subsequent owners, lessees or occupants of any agricultural lot or any part of the agricultural subdivision and their respective heirs, executors, administrators, successors, and assigns:

1. USE. The agricultural subdivision shall be subject to the restrictions of permissible uses as prescribed in Chapter 205-4.5, Hawaii Revised Statutes, and any deed, lease agreement of sale, mortgage, or other instrument or conveyance covering any land or portion thereof within the agricultural subdivision shall expressly contain the restriction of uses and the conditions as prescribed in the statute, which restriction and condition shall be encumbrances

running with the land.

Lot "B", Lot "C" and Lot "D" shall be subject to the provisions of Section 205-4.5(a) and (b) of the Hawaii Revised Statutes, as amended, where the soil of the land is classified Overall (Master) Productivity Rating Class "A" or "B" under the Detailed Land Classification of the Land Study Bureau of the State of Hawaii, which provisions include the following:

- 1 The condition that with the exception of Lot A which is State land use conservation, the land shall be used primarily in and for the pursuit of an agricultural activity;
- 2 The restriction of the use thereof to those uses specified in Section 205-4.5(a);
- 3 The restriction and condition above mentioned shall be encumbrances running with the land for Lots B, C and D until such time that the land is reclassified to a land use district other than agricultural district; and
- 4 Any deed, lease, agreement of sale, mortgage or other instrument of conveyance of the land shall expressly contain the restriction on uses and the conditions above mentioned.

2. NO RESTRICTIONS ON AGRICULTURAL USE. Lot "B", Lot "C" and Lot "D" shall additionally be subject to the provisions of HRS Section 205-4.6, which prohibits restrictions on agricultural uses and activities by any private agreement contained in a deed, agreement of sale, or other conveyance document, such as easements, covenants, and servitudes; provided that restrictions taken to protect environmental or cultural resources, agricultural leases (leases where the land is primarily used for purposes set forth in HRS Section 205-4.5(a)), utility easements, and access easements shall not be subject to such prohibition.

3. DURATION. The covenants, conditions and restrictions herein contained shall run with the land for Lot "B", Lot "C" and Lot "D" and shall be binding on all parties and all persons claiming under or through them.

4. VIOLATIONS. An owner of Lot "B", Lot "C" and Lot "D", or any part thereof or interest therein, violating any provisions hereof, shall be subject to the violation and penalty clause of applicable State and City laws and regulations. Failure by Declarant, any successor owner or owners of Lot "B", Lot "C" and Lot "D", or their representatives, heirs, successors or assigns, or said City and County of Honolulu to enforce any of the covenants, restrictions, reservations, easements or charges herein contained shall, in no event, be deemed a waiver of the right to do so thereafter, unless otherwise herein provided.

5. AMENDMENTS. It is specifically agreed by Declarant that this Declaration shall continue in full force and effect and shall not be repealed, amended or altered in any way, except with the written consent of the Director of the Department of Planning and Permitting of the City and County of Honolulu or his and/or its successor.

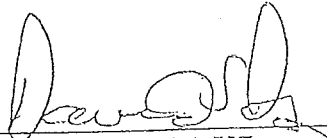
6. COUNTERPARTS. This Declaration may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding all of the parties hereto, notwithstanding that all of the parties may not have executed the same counterpart. 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.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first herein above written.

[signature appear on subsequent page]

Declaration of Restrictive Covenants
(Agriculture Uses)

A CHARITABLE FOUNDATION
a Nevada nonprofit corporation

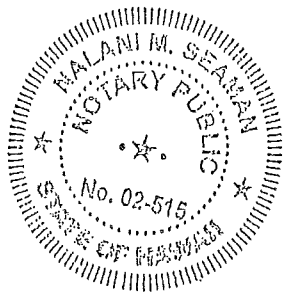
By: 
DAVID S. DRUZ
Its: Director

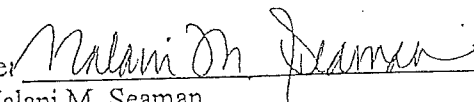
“Declarant”

ACKNOWLEDGMENT/NOTARY CERTIFICATION

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

On this July 17, 2017, in the First Circuit of the State of Hawaii, before me personally appeared DAVID S. DRUZ, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed this 12-page Declaration of Restrictive Covenants (Agricultural Uses) dated July 17, 2017, 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.



Signature: 
Name: Nalani M. Seaman
Notary Public, State of Hawaii
My commission expires: October 20, 2018

8. 272° 16' 188.70 feet along Lot 174 of "Pupukea Highlands" Subdivision (FILE PLAN 860);
9. 258° 38' 30" 168.84 feet along Lot 175 of "Pupukea Highlands" Subdivision (FILE PLAN 860);
10. 254° 58' 20" 211.24 feet along Lot 176 of "Pupukea Highlands" Subdivision (FILE PLAN 860);
11. 284° 15' 208.49 feet along Lot 177 of "Pupukea Highlands" Subdivision (FILE PLAN 860);
12. 289° 50' 30" 165.94 feet along Lot 178 of "Pupukea Highlands" Subdivision (FILE PLAN 860), to the point of beginning and containing an area of 9.237 Acres, more or less.

EXHIBIT "A-2"

LOT C

Being a portion of the Consolidation and Resubdivision
of Lot 179 of Pupukea Highlands (File Plan 860)
and Lot 1-B-2 of Land Court Application 561 (Map 8)

Being also a portion of Grant 5236 to Earl K. Ellsworth

Situated at Pupukea, Koolauloa, Oahu, Hawaii

Beginning at the Southeast corner of this parcel of land, being also the Southwest corner of Lot 13 of "North Shore Heights" Subdivision (FILE PLAN 1049), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUPUKEA" being 7,160.43 feet South and 3,313.74 feet East, and thence running by azimuths measured clockwise from True South:

1. 50° 00' 190.00 feet along Lot 12 of Land Court Application 561 (Map 11);
2. 90° 00' 420.00 feet along the same;
3. 80° 08' 06" 543.29 feet along the same;
4. 84° 08' 14" 222.57 feet along the same;
5. 128° 32' 339.91 feet along Lot A, being a portion of the consolidation and resubdivision of Lot 179 of "Pupukea Highlands" Subdivision (FILE PLAN 860) and Lot 1-B-2 of Land Court Application 561 (Map 8);
6. 268° 21' 1118.17 feet along Lot B, being a portion of the consolidation and resubdivision of Lot 179 of "Pupukea Highlands" Subdivision (FILE PLAN 860) and Lot 1-B-2 of Land Court Application 561 (Map 8);
7. 258° 10' 30" 400.05 feet along the same;

8. Thence along Roadway Lot D, being a portion of the consolidation and resubdivision of Lot 179 of "Pupukea Highlands" Subdivision (FILE PLAN 860) and Lot 1-B-2 of Land Court Application 561 (Map 8), on a curve to the left with a radius of 43.00 feet, the chord azimuth and distance being:
265° 57' 45" 85.21 feet;
9. 3° 45' 94.18 feet along Lot 13 of "North Shore Heights" Subdivision (File Plan 1049), to the point of beginning and containing an area of 5.691 Acres, more or less.

EXHIBIT "A-3"

LOT D

ROADWAY LOT

Being a portion of the Consolidation and Resubdivision
of Lot 179 of Pupukea Highlands (File Plan 860)
and Lot 1-B-2 of Land Court Application 561 (Map 8)

Being also a portion of Grant 5236 to Earl K. Ellsworth

Situated at Pupukea, Koolauloa, Oahu, Hawaii

Beginning at the Northwest corner of this parcel of land, being also the Southeast corner of Lot 178 of "Pupukea Highlands" Subdivision (FILE PLAN 860), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUPUKEA" being 6,958.04 feet South and 3,276.92 feet East, and thence running by azimuths measured clockwise from True South:

1. 273° 45' 50.00 feet along the South end of Maulukua Road;
2. 3° 45' 105.37 feet along Lot 13 of "North Shore Heights" Subdivision
(FILE PLAN 1049);
3. Thence along Lot C, being a portion of the consolidation and resubdivision of
 Lot 179 of "Pupukea Highlands" Subdivision (FILE
 PLAN 860) and Lot 1-B-2 of Land Court Application 561
 (Map 8), on a curve to the right with a radius of 43.00
 feet, the chord azimuth and distance being:
 85° 57' 45" 85.21 feet;
4. Thence along Lot B, being a portion of the consolidation and resubdivision of
 Lot 179 of "Pupukea Highlands" Subdivision (FILE
 PLAN 860) and Lot 1-B-2 of Land Court Application 561
 (Map 8), on a curve to the right with a radius of 43.00
 feet, the chord azimuth and distance being:
 205° 18' 15" 51.91 feet;
5. Thence along the same, on a curve to the left with a radius of 32.00 feet, the
 chord azimuth and distance being:
 213° 05' 30" 31.36 feet;

6. 183° 45' 41.30 feet along the same, to the point of beginning and containing an area of 0.216 Acres, more or less.