OFFICE OF THE ASSISTANT REGISTRAR, LAND COURT STATE OF HAWAII (Bureau of Conveyances)

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FIRST AMENDMENT TO DECLARATION OF COMMUNITY COVENANTS FOR KOA RIDGE

THIS FIRST AMENDMENT TO DECLARATION OF COMMUNITY COVENANTS FOR KOA RIDGE ("*Amendment*") is made this <u>17th</u> day of <u>July</u>, 2020, by CASTLE & COOKE HOMES HAWAII, INC., a Hawaii corporation ("*Declarant*").

Recitals:

A. Declarant executed and is the Declarant under that certain Declaration of Community Covenants for Koa Ridge dated June 8, 2020, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T-11118135, and noted on Transfer Certificate of Title No. 468,718, and also recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-74660352 (the "*Declaration*"). Capitalized terms used in this Amendment without being defined shall have the same meanings as in the Declaration.

B. Section 20.2 of the Declaration provides that Declarant may unilaterally and in its discretion amend the Declaration for any purpose during the Declarant Control Period, subject to any limitations imposed by Hawaii law.

C. The Declarant Control Period has not yet terminated.

D. As of the date of this Amendment, three Parcels have been annexed to the Declaration: (i) the Nanea at Koa Ridge - Phase I Parcel, as described in Exhibit A-1 to the Declaration; (ii) the Nanea at Koa Ridge - Phase II Parcel, as described in Exhibit A-1 to the Declaration; and (iii) the Luana at Koa Ridge - Phase I Parcel, as described in that certain Supplemental Declaration Annexing Property (Luana at Koa Ridge – Phase I Parcel) dated July 13, 2020, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-75030379.

E. Declarant, as Developer, has submitted each of the Nanea at Koa Ridge -Phase I Parcel, the Nanea at Koa Ridge - Phase II Parcel, and the Luana at Koa Ridge - Phase I Parcel to separate condominium property regimes (the "*Annexed Condo Projects*").

F. Declarant remains the sole Sub-Unit Owner of each of the Sub-Units within the Annexed Condo Projects (the "*Annexed Sub-Units*").

G. Declarant desires to amend the Declaration as provided in this Amendment.

NOW THEREFORE, Declarant does hereby amend the Declaration as follows:

1. Exhibit "D" to the Declaration is hereby deleted in its entirety and replaced with the Exhibit "D" attached to this Amendment.

2. Except as amended hereby, the Declaration is hereby ratified and confirmed and shall continue in full force and effect.

3. Declarant, in its capacity as owner of all of the Annexed Sub-Units and as developer of each of the Annexed Condo Projects does hereby ratify and confirm that each of the Annexed Units and Annexed Condo Projects are subject to the Declaration, as amended by this Amendment.

[SIGNATURES ON FOLLOWING PAGE]

The undersigned has executed these presents as of the date first set forth above.

DECLARANT:

CASTLE & COOKE HOMES HAWAII, INC.,

a Hawaii corporation

By

Name: Garret Matsunami Its: Vice President - Residential Operations

By

Name: Lauralei Tanaka Its: V.P., Controller & Asst. Treasurer

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

On this <u>17th</u> day of <u>July</u>, <u>2020</u>, before me personally appeared <u>GARRET</u> <u>MATSUNAMI and LAURALEI TANAKA</u>, to me personally known, who being by me duly sworn, did say that they are the <u>Vice President of Residential Operations</u> and <u>Vice President</u>, <u>Controller & Assistant Treasurer</u>, respectively, of CASTLE & COOKE HOMES HAWAII, INC., a Hawaii Corporation; that this <u>12</u>-page <u>FIRST AMENDMENT TO DECLARATION OF</u> <u>COMMUNITY COVENANTS FOR KOA RIDGE</u> dated <u>July 17, 2020</u> was signed on behalf of said corporation by authority of its Board of Directors; and the said officers acknowledged said instrument to be the free act and deed of said corporation. Said corporation does not have a corporate seal.

Notary Public, State of Hawaii First Judicial Circuit

Rhonda Biffle Printed Name of Notary

My commission expires: August 3, 2020



EXHIBIT "D" Allocating Liability for Assessments and Allocating Votes Among Parcels and Sub-Units

1. <u>Assignment of Equivalent Units</u>. For purposes of (a) allocating Common Expenses among Parcels and Sub-Units, (b) determining the amount of the Owners Association's lien for assessments levied against each Parcel and/or Sub-Unit, (c) allocating Special Benefited Area Expenses among Parcels and Sub-Units, (d) allocating votes in the Association among Parcels and Sub-Units, and (e) other purposes specified in the Governing Documents, each Parcel and Sub-Unit shall be assigned equivalent units ("**Equivalent Units**") as set forth in this Exhibit "D". All defined terms used in this Exhibit "D" without being defined shall have the same meanings as in the Declaration of Community Covenants to which this Exhibit is attached.

(a) **Assignment of Equivalent Units to Parcels**. Except as otherwise provided in this Exhibit "D", the number of Equivalent Units for each Parcel is determined in accordance with the table set forth below, based on that Parcel's Use Designation (and in certain cases the uses being made upon that Parcel).

(b) Assignment of Equivalent Units to Sub-Units. If a Parcel contains Sub-Units, the Equivalent Units allocated to that Parcel shall be further allocated amongst the Sub-Units within the Parcel as follows.

(i) Allocation to Sub-Units within Civic Parcels and Community Support Parcels. If the Parcel is a Civic Parcel or Community Support Parcel, the Equivalent Units assigned to that Parcel shall be allocated to the Sub-Units within the Parcel in accordance with the table set forth below.

(ii) Allocation to Sub-Units within Parcels other than Civic Parcels and Community Support Parcels. Except in the case of Civic Parcels and Community Support Parcels, the Equivalent Units assigned to that Parcel shall first be allocated to the Residential Sub-Units within the Parcel in accordance with the table set forth below. The balance of Equivalent Units allocated to that Parcel shall then be allocated among the Non-Residential Sub-Units within the Parcel as follows:

(A) If all of the Non-Residential Sub-Units within the Parcel consist of condominium units existing under the same condominium regime, then the remaining Equivalent Units shall be allocated amongst the Non-Residential Sub-Units, pro rata, in accordance with the allocation of common interests in the condominium regime.

(B) If the Non-Residential Sub-Units within the Parcel do not consist of condominium units existing under the same condominium regime, then the remaining Equivalent Units shall be allocated among the Non-Residential Sub-Units, pro rata, in accordance with their size measured in square feet. For purposes of determining the size of each such Sub-Unit, (X) a Sub-Unit consisting of a subdivided lot shall be deemed to have the size shown in the subdivision map creating such subdivided lot, without deduction for easements or other limitations

on use, and (Y) a Sub-Unit consisting of a condominium unit shall be deemed to have the size stated in the condominium declaration for such condominium unit, plus the size(s) of any limited common elements designated for the exclusive use of such condominium unit as set forth in such condominium declaration.

(c) Special Provisions Regarding Assignment of Equivalent Units in Matters Pertaining to Special Use Areas and Special Benefited Areas. With respect to any matter pertaining to a Special Benefited Area (including any matter pertaining to the allocation of Special Benefited Area Assessments and any matter pertaining to a Special Use Area assigned to any such Special Benefited Area), each Parcel and Sub-Unit within the Special Benefited Area shall be assigned Equivalent Units in accordance with paragraphs (a) and (b) above.

(d) **Multiple Use Designations.** In the event that a Parcel or Sub-Unit consists of two or more areas bearing different Use Designations, then (i) such Parcel or Sub-Unit shall be considered as having multiple Use Designations, but as to each only to the extent of that particular Use Designation, and (ii) the number of Equivalent Units assigned to such Parcel or Sub-Unit shall be the sum of the Equivalent Units assigned to all of the multiple areas within such Parcel or Sub-Unit.

Non-Residential Use	
Designations	
Commercial Parcels,	FIRST: Until the total number of Equivalent Units assigned to
Industrial Parcels, and Health	General Commercial Parcels equals or exceeds 875 Equivalent
Care Parcels (the "General	Units (the "General Commercial Allocation"), (a) each
Commercial Parcels ")	General Commercial Parcel shall be assigned Equivalent Units
	equal to one (1) Equivalent Unit per 3,300 square feet of area
and	within the Parcel ^{**} , rounded to the nearest whole number, and (b) each Mixed Use Parcel containing Commercial Uses shall
Commercial Uses on Mixed	be assigned Equivalent Units equal to one (1) Equivalent Unit
Use Parcels	per 3,300 square feet of area devoted to such Commercial Uses,
	rounded to the nearest whole number.
	SECOND: After the total number of Equivalent Units assigned
	to all General Commercial Parcels and all Mixed Use Parcels
	containing Commercial Uses exceeds the General Commercial
	Allocation, each applicable Parcel shall be assigned a
	proportionate share of the General Commercial Allocation
	based upon the ratio that the number of Equivalent Units
	assigned to such Parcel (calculated as described in Item First
	above without regard to the General Commercial Allocation)
	bears to the total number of Equivalent Units assigned to all
	such Parcels (also calculated as described in Item First above without regard to the General Commercial Allocation)
	without regard to the General Commercial Allocation).
Community Support Parcels,	Each Community Support Parcel and/or Community Support
unless exempted pursuant to	Sub-Unit shall be assigned Equivalent Units equal to one (1)
Section 12.9	Equivalent Unit per 6,600 square feet of area within the Parcel
	or Sub-Unit, rounded to the nearest whole number.**
Exempt Uses	
Civic Parcels	None
and	
and	
Uses, Parcels and Sub-Units	
exempt from assessments (as	
provided in Section 12.9)	
Other Uses	Other Equivalent Units***

* A dwelling unit shall be the structure or structures or the portions of a structure or structures designed for occupancy by a single household (e.g., a free standing single family home, a townhouse unit, a condominium unit or a single rental apartment unit), together, if permitted by a Supplement, with accessory occupancies. Accessory or "ohana" dwelling units or other accessory occupancy shall not be considered a separate dwelling unit, but instead shall be

treated as part of the principal dwelling to which it is attached or appurtenant. A dwelling unit shall be considered completed upon the earliest of (i) the date a certificate of occupancy is issued for the dwelling unit, or (ii) the date upon which the residential use commences, or (iii) the date that the Reviewer determines that the dwelling unit is sufficiently completed to be occupied.

** The area in square feet of each Parcel or Sub-Unit, as applicable, shall be determined as follows: (A) each Parcel or Sub-Unit consisting of one or more subdivided lots shall be deemed to have the size shown in the subdivision map(s) creating such subdivided lot(s), without deduction for easements or other limitations on use, and (B) each Parcel or Sub-Unit consisting of one or more condominium units shall be deemed to have the size stated in the condominium declaration(s) for such condominium unit(s), plus the size of any limited common elements designated for the exclusive use of such condominium unit(s) as set forth in such condominium declaration(s), (C) the size of any Parcel or Sub-Unit consisting of a portion of a subdivided lot or a portion of a condominium unit shall be determined by the Declarant during the Development and Sale Period and thereafter by the Board, and (D) in the case of any Parcel or Sub-Unit consisting of any combination of the items described in (A), (B) and (C), the size of such Parcel or Sub-Unit shall be the sum of the calculations derived from the application of (A), (B) and (C).

*** During the Development and Sale Period, Declarant unilaterally may amend this Exhibit "D" to create additional Use Categories and to assign Equivalent Units to such new use.

2. <u>Calculation of Base Assessments</u>.

(a) **General Common Expense Assessments**. General Common Expenses shall be allocated as follows:

(i) <u>General Common Expenses allocated to Residential Parcels and Sub-Units</u>. Eighty percent (80%) of the General Common Expenses shall be allocated to the Residential Parcels and Residential Sub-Units. The amount so allocated shall be assessed by the Owners Association against the Residential Parcels and Residential Sub-Units in the manner provided below for the allocation and assessment of Universal Residential Common Expenses.

(ii) <u>General Common Expenses allocated to Non-Residential Parcels and Sub-Units</u>. Twenty percent (20%) of the General Common Expenses shall be allocated to the Non-Residential Parcels and Non-Residential Sub-Units. The amount so allocated shall be assessed by the Owners Association against the Non-Residential Parcels and Non-Residential Sub-Units in the manner provided below for the allocation and assessment of Non-Residential Common Expenses.

(b) **Residential Common Expense Assessments**. Residential Common Expenses shall be allocated as follows:

(i) Universal Residential Common Expenses. The share of any Universal Residential Common Expense to be assessed by the Owners Association against a Residential Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel and the denominator of which is the total number of Equivalent Units assigned to (a) all Residential Parcels subject to such assessment, (b) the Residential Uses and residential improvements on all Mixed Use Parcels subject to such assessment, and (c) the Residential Uses (including all Restricted Residential Projects and any General Residential Uses) on all Restricted Residential Parcels subject to such assessment (the "Total Residential Equivalent Units"). The share of any Universal Residential Common Expense to be assessed by the Owners Association against a Mixed Use Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel based on Residential Uses and residential improvements, and the denominator of which is the Total Residential Equivalent Units. The share of any Universal Residential Common Expense to be assessed by the Owners Association against a Restricted Residential Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel based on Residential Uses (including all Restricted Residential Projects and any General Residential Uses) upon such Parcel, and the denominator of which is the Total Residential Equivalent Units. Such fraction, as applicable, shall be multiplied by the total dollar amount of the Universal Residential Common Expense assigned to all Parcels subject to such assessment in order to determine the dollar amount of the assessment to be levied against the particular Parcel. The resulting dollar amount levied against the entire Parcel shall then be allocated among

the Sub-Units within such Parcel as set forth in this Exhibit "D" and Section 12.2(b) of the Declaration of Community Covenants.

(ii) <u>Standard Residential Common Expenses</u>. The share of any Standard Residential Common Expense to be assessed by the Owners Association against a Residential Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel and the denominator of which is the total number of Equivalent Units assigned to (a) all Residential Parcels subject to such assessment, and (b) the Residential Uses and residential improvements on all Mixed-Use Parcels subject to such assessment (the "Standard Residential Equivalent Units"), subject to adjustment as provided below. The share of any Standard Residential Common Expense to be assessed by the Owners Association against a Mixed Use Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel based on Residential Uses and residential improvements, and the denominator of which is the total Standard Residential Equivalent Units, subject to adjustment as provided below. Such fraction, as applicable, shall be multiplied by the total dollar amount of the Standard Residential Common Expense assigned to all Parcels subject to such assessment in order to determine the dollar amount of the assessment to be levied against the particular Parcel. The resulting dollar amount levied against the entire Parcel shall then be allocated among the Sub-Units within such Parcel as set forth in this Exhibit "D" and Section 12.2(b) of the Declaration of Community Covenants.

Standard Residential Common Expenses shall not be allocated to any Restricted Residential Parcel based on Restricted Residential Uses. However, if a Restricted Residential Parcel is used for Residential Uses other than Restricted Residential Projects, (a) such use shall be considered a General Residential Use, and the number of Standard Residential Equivalent Units shall be adjusted upwards to include the number of Equivalent Units assigned to the Restricted Residential Parcel based upon such General Residential Use, and (b) the Owners Association shall allocate and assess a share of the Standard Residential Common Expenses against such Restricted Residential Parcel in an amount equal to the total Standard Residential Common Expenses multiplied by a fraction, the numerator of which is the number of Equivalent Units assigned to such Parcel based upon such General Residential Use and the denominator of which is equal to the total number of Standard Residential Equivalent Units as so adjusted. The resulting dollar amount levied against the entire Parcel shall then be allocated among the Sub-Units within such Parcel as set forth in this Exhibit "D" and Section 12.2(b) of the Declaration of Community Covenants.

(c) **Non-Residential Common Expense Assessments**. The share of any Non-Residential Common Expense to be assessed by the Owners Association against a Non-Residential Parcel shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel and the denominator of which is the total number of Equivalent Units assigned to (a) all Non-Residential Parcels subject to such assessment, and (b) the Non-Residential Uses and non-residential improvements on all Mixed Use Parcels subject to such assessment (the "Total Non-Residential Equivalent Units"). The share of any Non-Residential Common Expense to be assessed by the Owners Association against a Mixed Use Parcel shall be

represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel based on actual Non-Residential Uses and non-residential improvements, and the denominator of which is the Total Non-Residential Equivalent Units. Such fraction, as applicable, shall be multiplied by the total dollar amount of the Non-Residential Common Expense assigned to all Parcels subject to such assessment in order to determine the dollar amount of the assessment to be levied against the particular Parcel. The resulting dollar amount levied against the entire Parcel shall then be allocated among the Sub-Units within such Parcel as set forth in this Exhibit "D" and Section 12.2(b) of the Declaration of Community Covenants.

3. <u>Calculation of Special Benefited Area Assessments</u>. The share of any Special Benefited Area Expenses to be assessed by the Owners Association against a Parcel or Sub-Unit within a Special Benefited Area shall be represented by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Parcel or Sub-Unit and the denominator of which is the total number of Equivalent Units assigned to all Parcels and Sub-Units subject to such assessment. Such fraction shall be multiplied by the total dollar amount of the Special Benefited Area Expense budget for the Special Benefited Area in order to determine the dollar amount of Special Benefited Area Assessment to be levied against the particular Parcel or Sub-Unit.

4. <u>Computation and Determinations</u>. The Declarant shall make all determinations of the number of Equivalent Units assigned to each Parcel and Sub-Unit during the Development and Sale Period. Thereafter, the Board shall determine the number of Equivalent Units assigned to each Parcel and Sub-Unit. The number of Equivalent Units assigned to each Parcel and Sub-Unit, and the share of assessments to be levied on each Parcel or Sub-Unit subject to assessment, shall be computed annually, except that Declarant during the Development and Sale Period, and thereafter the Board, shall have the right in their discretion to redetermine the number of Equivalent Units and share of assessments assigned to each Parcel and Sub-Unit more frequently. If a Use Designation, size of any Parcel or Sub-Unit (or portion of a Parcel or Sub-Unit) subject to a Use Designation changes after such determinations are made, the Declarant or the Board, as applicable, shall be authorized to adjust the assessment against the Parcel or Sub-Unit effective as of the date of such change, but assessments against other Parcels or Sub-Units shall not be reallocated to take into account such change until the next annual budget. Notice of the share for each Parcel and the Sub-Units with such Parcel (including a summary of the computations) shall be sent to each Parcel Owner together with the notice of the assessment. Notice to a Parcel Association shall constitute effective notice to all Sub-Unit Owners within that Parcel Association.

In the event that additional real property is made subject to the Declaration of Community Covenants during the Owners Association's fiscal year, all Member voting and approval rights shall thereafter take into account the Equivalent Units assigned to such additional real property, and the Parcels and Sub-Units within such additional property shall thereafter be subject to assessment obligations as set forth in the Declaration of Community Covenants and this Exhibit "D", but no adjustments shall be made in any assessments payable by other Parcels and Sub-Units until the next annual budget is prepared.

END OF EXHIBIT "D"