



R-744

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
AUG 23, 2004 08:02 AM

Doc No(s) 2004-172382



Is/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$1050.00

20 3/3 22

LAND COURT SYSTEM

REGULAR SYSTEM

UPON RECORDATION, RETURN BY: MAIL PICK UP

Foti Alae Property LLC
c/o T. G. Super Exchange Corp.
235 Queen Street
Honolulu, HI 96813
Attn: Mae Nakagawa
File No. 4-1477114-lh

THIS DOCUMENT CONTAINS 12 PAGES

TAX MAP KEY: (3) 8-7-005:010, :011, :013, :014, :015 and :016

TYPE OF DOCUMENT: LIMITED WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: HAKALAU PROPERTIES, LLC, a Hawaii limited liability company,
with its mailing address at 688 Kinoole Street, Suite 120, Hilo, Hawaii
96720

GRANTEE: FOTI ALAE PROPERTY LLC, a Hawaii limited liability company, with
its mailing address at 235 Queen Street, Honolulu, Hawaii 96813

PKK/FATCO2004.DED/8-18-04

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LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **HAKALAU PROPERTIES, LLC**, a Hawaii limited liability company, with its mailing address at **688 Kinoole Street, Suite 120, Hilo, Hawaii 96720**, hereinafter called the "Grantor", for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration to the Grantor paid as part of an IRC Section 1031 tax deferred exchange (buyer's reverse exchange) on behalf of **FOTI ALAE PROPERTY LLC**, a Hawaii limited liability company, with its mailing address at **235 Queen Street, Honolulu, Hawaii 96813**, hereinafter called the "Grantee", the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee all of that certain real property designated on the tax maps of the Third Taxation Division, State of Hawaii, as Tax Map Key **8-7-005:010, :011, :013, :014, :015 and :016**, more particularly described in Exhibit A attached hereto and made a part hereof, subject to the encumbrances noted therein.

TOGETHER WITH ALL and singular the buildings, improvements, rights, tenements, hereditaments, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith.

TO HAVE AND TO HOLD the same unto the Grantee, and the Grantee's successors and assigns, in fee simple forever.

SUBJECT, HOWEVER, to: (i) existing county, state and federal laws, rules and regulations, including zoning ordinances and other land use regulations and restrictions applicable to the Property; (ii) claims, if any, to the Property arising out of rights customarily and traditionally exercised for subsistence, cultural, religious, access or gathering purposes, and such claims or rights, including access, use and/or occupancy rights, as may be attendant or ancillary to kuleana claims, or claims relating to, on or affecting the Property; (iii) encroachments, easements and other rights or facts which may or would be disclosed by a correct boundary and improvement survey or archaeological study of the Property, including, without limitation, trails, rights-of-way, historic property, burial sites and other items of historical, archaeological or religious significance; and (iv) all encumbrances, exceptions, reservations, easements and other items set forth in this Deed.

The Grantee confirms and agrees that the Grantee has inspected the Property and that the Property is being conveyed to the Grantee in "AS IS" and "WHERE IS" condition, and without any representations or warranties of any kind with respect to the Property, except as expressly provided in this Deed.

The Grantee understands and agrees that the conveyance of the Subject Property is being made without a survey or modern metes and bounds description. The Grantee acknowledges and agrees that the discounted sale price is sufficient and valuable consideration for the Grantee's acceptance of such matters which would be revealed by such survey or metes and bounds description. Such matters include, without limitation, a variance of actual boundaries from those shown on the map describing the property, and a variance of actual acreage from the approximate acreage stated in Exhibit "A". The Grantee waives any and all claims against Grantor, Grantor's broker, and Grantee's broker which would be revealed by such survey and metes and bounds description. The Grantee may at the Grantee's own expense, have the Subject Property surveyed to determine the correct boundaries of the property herein conveyed, without recourse or liability to Grantor.

The Grantee assumes all liability for damage to persons or property caused by any interference with the natural pattern and flow of drainage from, over, through or across the Property in connection with the Grantee's activities on all or any part of the Property, and agrees to and shall indemnify, defend and hold harmless the Grantor from and against any liability, claim, demand, action or suit arising out of or in connection with any such interference with drainage.

AND THE SAID GRANTOR does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of said granted premises and that the said premises are free and clear of all encumbrances made or suffered by Grantor, except as aforesaid, and except for assessments for real property taxes not yet due. And the said Grantor further covenants and agrees that the Grantor has good right to sell and convey the said premises in the manner aforesaid; that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

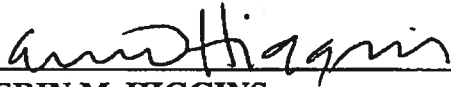
IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee", as and when used hereinabove or hereinbelow shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their

respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more grantors, or by two or more grantees, all covenants of such parties shall be and for all purposes deemed to be their joint and several covenants.

The parties agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same instrument, binding all parties notwithstanding that all of the parties are not signatory to 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.

IN WITNESS WHEREOF, this instrument has been executed by the undersigned on this 13th day of August, 2004.

HAKALAU PROPERTIES, LLC, a Hawaii limited liability company

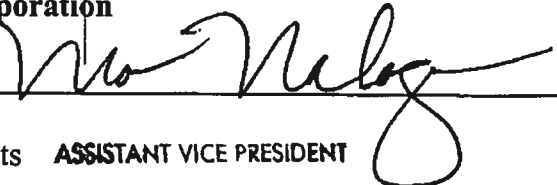
By 
ERIN M. HIGGINS
Its Attorney-in-Fact

GRANTOR

FOTI ALAE PROPERTY LLC, a Hawaii limited liability company *FS*

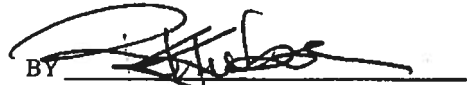
By Its Manager

T. G. SUPER EXCHANGE CORP., a Hawaii corporation

By 
Its **ASSISTANT VICE PRESIDENT**

John

APPROVED AS TO FORM
PETER K. KUBOTA
ATTORNEY AT LAW

BY 
8-11-04

GRANTEE

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

On this 13th day of August, 2004, before me personally appeared **ERIN M. HIGGINS, as Attorney-in-Fact for HAKALAU PROPERTIES, LLC, a Hawaii limited liability company**, pursuant to the Special Power of Attorney dated August 6, 2004, to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, as Attorney-in-Fact for **HAKALAU PROPERTIES, LLC**, and acknowledged to me that she executed the same as the free act and deed of said **HAKALAU PROPERTIES, LLC**.

Julia Loa
Name: Julia Loa
Notary Public, State of Hawaii

My commission expires: 4/19/07

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

On this _____ day of AUG 17 2004, 2004, before me personally appeared
MAE NAKAGAWA, to me personally known, who, being by me duly sworn,
did say that he/she is the ASSISTANT VICE PRESIDENT of **T. G. SUPER EXCHANGE CORP.**, a Hawaii
corporation, which is the manager of **FOTI ALAE PROPERTY LLC**, a Hawaii limited liability
company, that the foregoing instrument was signed in the name of and on behalf of said limited
liability company, and said MAE NAKAGAWA, acknowledged that he/she executed
the same as his/her free act and deed and as the free act and deed of said corporation as the manager
of **FOTI ALAE PROPERTY, LLC**.



Keith S.T.
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

KEITH S. TAIRA
Expiration Date: July 6, 2007

EXHIBIT "A"

PARCEL FIRST: (3) 8-7-005-010-0000 -> EXHIBIT "E" IN JOB FOLDER

ALL OF THAT CERTAIN PARCEL OF LAND BEING LAND COMMISSION AWARD 8776 APANA 2, SITUATED IN SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, CONTAINING AN AREA OF 18,307 SQUARE FEET, AND MORE PARTICULARLY DESIGNATED BY TMK: (3) 8-7-005-010-0000.

PARCEL SECOND: (3) 8-7-005-011-0000

ALL OF THAT CERTAIN PARCEL OF LAND (BEING A PORTION OF GRANT 2036 TO BENIAMINA), SITUATED ON THE WESTERLY SIDE OF SOUTH KONA BELT ROAD AT ALAE 1ST AND 2ND, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, CONTAINING AN AREA OF 15.00 ACRES, AND MORE PARTICULARLY DESIGNATED BY TMK: (3) 8-7-005-011-0000.

PARCEL THIRD: (3) 8-7-005-013-0000

ALL OF THAT CERTAIN PARCEL OF LAND (BEING A PORTION OF GRANT 2036 TO BENIAMINA), SITUATED ON THE WESTERLY SIDE OF SOUTH KONA BELT ROAD AT ALAE 1ST AND 2ND, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, CONTAINING AN AREA OF 8.965 ACRES, AND MORE PARTICULARLY DESIGNATED BY TMK: (3) 8-7-005-013-0000.

PARCEL FOURTH: (3) 8-7-005-014-0000

ALL OF THAT CERTAIN PARCEL OF LAND (BEING A PORTION OF GRANT 2036 TO BENIAMINA), SITUATED ON THE WESTERLY SIDE OF SOUTH KONA BELT ROAD AT ALAE 1ST AND 2ND, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, CONTAINING AN AREA OF 31.00 ACRES, AND MORE PARTICULARLY DESIGNATED BY TMK: (3) 8-7-005-014-0000.

PARCEL FIFTH: (3) 8-7-005-015-0000

ALL OF THAT CERTAIN PARCEL OF LAND SITUATED AT ALAE 1 AND 2, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, BEING R.P. 8014, L. C. AW. 9699-D TO KAHIAMOE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THIS PARCEL OF LAND, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "WAIKAKUU 4", BEING 5848.30 FEET NORTH AND 4717.26 FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 4° 06' 64.27 FEET ALONG GRANT 2036 TO BENIAMINA;
2. 105° 45' 30" 99.29 FEET ALONG GRANT 2036 TO BENIAMINA;
3. 185° 14' 30" 44.22 FEET ALONG GRANT 2036 TO BENIAMINA;
4. 274° 06' 96.36 FEET ALONG GRANT 2036 TO BENIAMINA TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 5,255 SQUARE FEET, OR 0.121 ACRE.

PARCEL SIXTH: (3) 8-7-005-016-0000

ALL OF THAT CERTAIN PARCEL OF LAND (BEING R. P. 5939, L. C. AW. 8158, APANA 2 TO HOLAU), SITUATED AT ALAE 1 AND 2, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THIS PARCEL OF LAND, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "WAIKAKUU 4", BEING 5914.84 FEET NORTH AND 4470.68 FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 13° 00' 88.63 FEET ALONG GRANT 2036 TO BENIAMINA;
2. 125° 00' 75.58 FEET ALONG GRANT 2036 TO BENIAMINA;
3. 212° 00' 49.57 FEET ALONG GRANT 2036 TO BENIAMINA;
4. 269° 00' 55.59 FEET ALONG GRANT 2036 TO BENIAMINA TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 4,261 SQUARE FEET, OR 0.098 ACRE.

PARCEL SEVENTH:

ALL OF THAT CERTAIN PARCEL OF LAND (BEING THE SAME LAND DESCRIBED IN AND COVERED BY LAND PATENT (GRANT) NO. S-15,664) SITUATE AT ALAE 1 AND 2, SOUTH KONA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, BEING PORTIONS OF OLD GOVERNMENT ROAD AND BEING ABANDONED ROAD REMNANTS, MORE FULLY DESCRIBED AS FOLLOWS:

ABANDONED ROAD REMNANT
PARCEL 1 (PORTION TMK: (3) 8-7-005-014-0000)

ALAE 1 AND 2, SOUTH KONA, ISLAND AND COUNTY OF HAWAII
STATE OF HAWAII
BEING A PORTION OF OLD GOVERNMENT ROAD.

BEGINNING AT THE NORTH CORNER OF THIS PARCEL OF LAND AND ON THE WEST SIDE OF SOUTH KONA BELT ROAD (MAMALAHOA HIGHWAY), THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "WAIKAKUU-4" BEING 7131.06 FEET NORTH AND 701.19 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 347° 31' 193.93 FEET ALONG THE WEST SIDE OF SOUTH KONA BELT ROAD (MAMALAHOA HIGHWAY);
2. 158° 17' 42.78 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
3. 159° 11' 29.27 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
4. 162° 25' 19.30 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
5. 167° 38' 23.80 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
6. 174° 41' 36.00 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
7. 178° 10' 40" 44.77 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 1,498 SQUARE FEET.

ABANDONED ROAD REMNANT
PARCEL 2 (PORTION TMK: (3) 8-7-005-011-0000)

ALAE 1 AND 2, SOUTH KONA, ISLAND AND COUNTY OF HAWAII
STATE OF HAWAII
BEING A PORTION OF OLD GOVERNMENT ROAD.

BEGINNING AT THE SOUTH CORNER OF THIS PARCEL OF LAND AND ON THE WEST SIDE OF SOUTH KONA BELT ROAD (MAMALAHOA HIGHWAY), THE COORDINATES OF

SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "WAIKAKUU 4" BEING 6791.83 FEET NORTH AND 776.29 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 156° 36' 12.64 FEET ALONG GRANT 2036 TO BENIAMINA;
2. 167° 33' 30" 76.22 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
3. 170° 05' 15.72 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
4. 172° 56' 17.32 FEET ALONG EAST SIDE OF STONEWALL, ALONG GRANT 2036 TO BENIAMINA;
5. 347° 31' 121.57 FEET ALONG THE WEST SIDE OF SOUTH KONA BELT ROAD (MAMALAHOA HIGHWAY) TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 240 SQUARE FEET.

TOGETHER WITH, A PERPETUAL NON-EXCLUSIVE 50 FOOT WIDE ACCESS EASEMENT, AND A PERPETUAL NON-EXCLUSIVE BEACH ACCESS EASEMENT, GRANTED BY DECLARATION OF EASEMENTS RECORDED JUNE 21, 2002 AS REGULAR SYSTEM DOCUMENT NO. 2002-108388 OF OFFICIAL RECORDS.

BEING THE PREMISES CONVEYED BY WARRANTY DEED RECORDED OCTOBER 29, 2002 AS REGULAR SYSTEM DOCUMENT NO. 2002-193393 OF OFFICIAL RECORDS.

GRANTOR: LAUPAHOEHOE PROPERTIES, LLC, A HAWAII LIMITED LIABILITY COMPANY

GRANTEE: HAKALAU PROPERTIES, LLC, A HAWAII LIMITED LIABILITY COMPANY

TMK(S): (3) 8-7-005-010-0000, 8-7-005-011-0000, 8-7-005-013-0000, 8-7-005-014-0000, 8-7-005-015-0000 and 8-7-005-016-0000

SUBJECT, HOWEVER, to the following:

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. Rights of Native Tenants.
3. AS TO PARCELS THIRD AND FOURTH:

Shoreline setback lines as they may be established by the State Land Use Commission or by the various Counties pursuant to the Hawaii Revised Statutes.

4. AS TO PARCEL THIRD:

Ancient trail as shown on Tax Map (3) 8-7-005.

5. The following, as shown on survey map prepared by Nobuchika Santo, Registered Land Surveyor, dated March, 1979, to-wit:

- a. Stone wall and remains of old wall.
- b. Existing gravel road.

6. Reservations, terms, conditions and covenants as contained in said Land Patent (Grant) No. S-15,664 to-wit:

- a. All minerals as hereinafter defines, in, on or under the land and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "mineral" shall not include sand, gravel, rock, or other material suitable for use and used in general construction in furtherance of the Patentee's permitted activities on the land and not for sale to others.
- b. All surface and ground waters appurtenant to the said land and the right on its own behalf or through persons authorized by its, to capture, divert or impound the same and to occupy and use so much of said land as may be required in the exercise of this right reserved.
- c. All prehistoric and historic remains found in, on or under said land.
- d. Covenant Against Discrimination. That the use and enjoyment of the land herein granted shall not be in support, of any policy which discriminates against anyone base upon race, creed, color, sex, national origin or a physical handicap.
- e. Consolidation of Remnant: That the remnant shall be consolidated with its abutting property and the use or subdivision thereof whether in combination, consolidation or otherwise with other land, shall be in accordance with the appropriate zoning and subdivision laws and ordinances of the State of Hawaii, County of Hawaii.
- f. Compliance with Laws. That the Patentee shall comply with all requirements of municipal, state and federal authorities and observe all municipal ordinances in regards to said premises, now in force or which may hereinafter be in force.

- g. Non-warranty. The State of Hawaii does not warranty the condition of the remnant roadway and the same is granted "as is".
7. Stone walls as shown on Maps attached to Land Patent No. S-15,664.
 8. Approval of the consolidation of Road Remnant Parcels 1 and 2 with the abutting property, by the State of Hawaii and/or County of Hawaii in accordance with appropriate zoning and subdivision laws or ordinances, as set forth by Land Patent Grant No. S-15,664.
 9. Any and all trails, archeological sites, burial cave(s) and/or burial grounds that may be shown by an accurate on the ground survey.
 10. Rights of the State of Hawaii in and to any and all trails, roads, archeological sites, burial ground(s) or cave(s), prehistoric and historic remains, all surface and ground waters appurtenant to said land and the right to capture, divert or impound the same and to occupy and use so much of the land as may be required in the exercise of this right reserved.
 11. All customary and traditional rights, of native Hawaiians as provided for by law, for subsistence, cultural and religious purposes, which rights may involve access to the subject property.
 12. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
 13. A document entitled "Declaration of Easements", recorded June 21, 2002 as Regular System Document No. 2002-108388 of Official Records.
 14. 50 foot wide road and utility easement as set forth in Warranty Deed recorded October 29, 2002 as Regular System Document No. 2002-193393 of Official Records.
 15. Terms and conditions as set forth in that certain unrecorded Development Agreement, as amended, as described in Memorandum of Joint Development Agreement recorded as Regular System Document No. 2004-112781 of Official Records.

END OF EXHIBIT "A"