

NEW WATER LICENSING AGREEMENT

by and between

**Maui Land & Pineapple Company Inc.,
a Hawaii corporation**

“MLP”

and

**Hawaii Water Service Company, Inc.,
a Hawaii corporation**

“HWS”

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NEW WATER LICENSING AGREEMENT

This NEW WATER LICENSING AGREEMENT made this ____ day of _____, 2004, effective January 1, 2000, by and between Maui Land & Pineapple Company Inc. (herein "MLP"), a Hawaii corporation, whose principal place of business is at Kahului, Maui, State of Hawaii, and whose post office address is P. O. Box 187, Kahului, Maui, Hawaii 96732, and Hawaii Water Service Company, Inc. (herein "HWS"), a Hawaii corporation, whose principal place of business is at 2010 Honoapiilani Highway, Lahaina, Maui, State of Hawaii, and whose post office address is P. O. Box 13220, Lahaina, Maui, Hawaii 96761.

Background Statement

1. MLP granted Old Water Licensing Agreement to Amfac Inc. ("Amfac"), so that Amfac would be able to (a) construct the Water System, and (b) provide domestic water for the Kaanapali Beach Resort Area.
2. Amfac organized Kaanapali Water Corporation ("KWC"), as a public utility regulated by the PUC, for the purpose of providing domestic water for consumers at the Kaanapali Beach Resort Area.
3. Amfac transferred the Old Water Licensing Agreement and the Water System to KWC.
4. Aquasource Utility Inc. acquired the KWC capital stock and thereby acquired the rights of Amfac under the Old Water License Agreement.

5. California Water Service Group ("Cal Water"), a Delaware corporation, whose principal place of business is at 1720 North First Street, San Jose, California 95112-4598, acquired the KWC capital stock.

6. The name of the corporation formerly called "Kaanapali Water Corporation" has been changed to "Hawaii Water Service Company, Inc."

7. Amfac, KWC, and their successors under the Old Water Licensing Agreement, completed certain work at the Licensed Area for the construction of the Water System as contemplated by the Old Water Licensing Agreement.

8. Amfac, KWC, and their successors under the Old Water Licensing Agreement have developed Water at the Licensed Area as contemplated by the Old Water Licensing Agreement.

9. HWS holds the following Well Permits for the Wells at the Licensed Area, parts of the Water System, the same having been constructed by Amfac, KWC, and their successors under the Old Water Licensing Agreement:

<u>Well Name</u>	<u>State Well No.</u>	<u>Maximum Allowable Pumping Rate</u>	<u>Issuing Authority</u>
P-4	No. 5739-01	900 gpm	Water Resource Commission
P-5	No. 5738-01	1000 gpm	Water Resource Commission
P-6	No. 5739-02	1050 gpm	Water Resource Commission

11. By this Agreement the parties intend:

(a) To cancel the Old Water Licensing Agreement.

(b) To cancel the Letter Of Understanding.

(c) To set forth the terms and conditions upon which MLP shall grant, and HWS shall hold, a license to enter the Licensed Area to operate, maintain and improve the Water System at the Licensed Area, and to withdraw Water from the Wells, and any Additional Well, for the limited purposes set forth in this Agreement, upon the payment of the License Fees established.

NOW THEREFORE, for and in consideration of the License Fees to be paid by HWS, and the covenants, conditions and agreements herein set forth to be observed, kept and performed by HWS, MLP grants to HWS the non-exclusive right to enter the Licensed Area for the limited purpose of operating, maintaining and improving the Water System, the exclusive right to withdraw Water from the Wells, and any Additional Well, and the non-exclusive right to travel upon the Access Road for entry to the Licensed Area from the government highway, upon the following terms, covenants, conditions and agreements contained in this Agreement, which the parties do hereby mutually covenant and agree to perform and observe.

1. General Definitions.

The defined words and terms used in this Agreement, which are designated by the capitalization of the first letter thereof, shall have the following meaning.

(a) "Agreement" means this New Water Licensing Agreement.

(b) "Old Water Licensing Agreement" means that certain "Water Licensing Agreement By And Between Maui Land & Pineapple Company, Inc., and Amfac Inc.", dated September 22, 1980, as amended from time to time.

(c) "Short Form Water Licensing Agreement" means the Short Form Water Licensing Agreement, dated October 28, 1982, executed by Maui Land & Pineapple Company, Inc., and Amfac Inc., filed with the Hawaii Bureau of Conveyances at Liber 16678, Page 260, to evidence the Old Water Licensing Agreement.

(d) "Letter Of Understanding" means the "Letter Of Understanding" dated May 18, 1999, executed June 10, 1999, by Maui Pineapple Company, Ltd., and Aquasource Inc., a copy of which is attached hereto as Exhibit "A".

(e) "Settlement Agreement" means the agreement, dated June 1, 2004, between MLP, Maui Pineapple Company, Ltd., HWS, Occidental Chemical Corporation, and Occidental Petroleum Corporation.

(f) "DBCP Settlement Agreements" means the "Settlement Agreement And Partial Release Of Claims", dated September 1, 1999, and the "Settlement Agreement And Release Of All Claims", dated August 31, 1999, entered upon by MLP and other parties, to settle an action known as, Board Of Water Supply Of The County Of Maui vs. Shell Oil Co., Second Circuit Court, State of Hawaii, Civil No. 96-0370-1, and other related litigation.

(g) “Released Claims” means the claims, demands, actions, causes of action, obligations, liens, damages and liabilities released pursuant to the Settlement Agreement.

(h) “Licensed Area” means the land owned by MLP located at Mahinahina, District of Lahaina, island of Maui, State of Hawaii, as outlined and described by the map attached as Exhibit “B”.

(i) “Kaanapali Beach Resort Area” means the land located at Hanakao, District of Lahaina, island of Maui, State of Hawaii, as outlined and described by the map attached as Exhibit “C”.

(j) “Water System” means the wells, pumps, pipelines, reservoirs, tanks, and water measuring devices, including all roads, electric power lines, and the like, used in connection therewith, that have been constructed on the Licensed Area under the Old Water Licensing Agreement.

(k) “Well” or “Wells” means the well(s), shaft(s) and pump(s), parts of the Water System, that have been constructed on the Licensed Area under the Old Water Licensing Agreement.

(l) “Additional Wells” means any Well that may be constructed at the Licensed Area, after January 1, 2000, as a Water System Improvement, and made a part of the Water System.

(m) “Parts Of Well” means any shaft, casing, or the like, affixed to and made a part of a Well or an Additional Well.

- (n) “Well Permits” means the permits that have been issued by the Water Resource Commission, as shown above in the Background Statement.
- (o) “Water” means the subterranean or ground water pumped from the Wells.
- (p) “Access Road” means the unpaved road over MLP land, off the Licensed Area, that HWS, its employees, and contractors, shall use for access to the Licensed Area from the government highway as outlined and described by the map attached as Exhibit “D”.
- (q) “License” means the non-exclusive right given by MLP to HWS under this Agreement to enter the Licensed Area, with its employees, agents and independent contractors, for the purpose of maintaining, operating and improving the Water System, the exclusive right to withdraw Water from the Wells (and any Additional Well) for use in the Kaanapali Beach Resort Area, and the non-exclusive right to travel over the Access Road for access to the Licensed Area from the government highway.
- (r) “Water System Improvement” means any additional work (but not usual maintenance or repair work) that HWS proposes to construct at the Licensed Area to improve or add to the Water System.
- (s) “Design Professional” means a professional engineer licensed by the State of Hawaii, engaged by HWS to prepare the plans and specifications for the construction of any Water System Improvement, and to observe for HWS the construction of such Water System Improvement.

(t) “Water System Improvement Plans” means schematic plans and specifications for the construction of any Water System Improvement prepared by Design Professional.

(u) “Water System Improvement Working Drawings” means the detailed drawings prepared by Design Professional, consistent with the Water System Improvement Plans approved by MLP, that show the design, location, and dimensions for the construction of the Water System Improvement, including elevations, sections, schedules and diagrams.

(v) “Water System Improvement Work” means the work required (including without limitation all labor and material) to complete the construction of the Water System Improvement in accordance with the Water System Improvement Working Drawings.

(w) “Contractor” means the Contractor, who holds an appropriate license issued by the State of Hawaii, engaged by HWS to construct the Water System Improvement Work.

(x) “Construction Contract” means the written contract between HWS, and the Contractor, whereby the Contractor agrees to construct the Water System Improvement Work.

(y) “Contract Price” means the amount established under the Construction Contract to be paid by HWS to the Contractor to construct the Water System Improvement.

(z) “Completion Bond” means a completion bond executed and delivered to MLP (MLP shall be an obligee) by HWS, and by a surety (the “Completion Bond Surety”) who is authorized to act as a surety for completion bonds under the Hawaii Insurance Act, acceptable to MLP, in a penal amount equal to the Contract Price, that guarantees the completion of the Water System Improvement Work.

(aa) “Construction Bonds” means the performance and payment bonds executed and delivered by the Contractor, and by a surety who is authorized to act as a surety for contractors construction bonds under the Hawaii Insurance Act (the “Contractor Surety”), to HWS and to MLP (as an additional obligee), in a penal amount equal to the Contract Price, that provides for the full performance and complete construction of the Water System Improvement Work under the Construction Contract, the payment of all labor and material furnished in connection with the Water System Improvement Work and the satisfaction and discharge of any mechanic’s or materialman’s lien that may be filed or imposed against any MLP land as a result of such Water System Improvement Work. The Construction Bonds shall provide that Contractor and Contractor Surety shall not be exonerated, discharged or excused as to their obligations owed to MLP thereunder for any act on the part of HWS, including without limitation:

(1) Any failure to pay Contractor any payment due under the Construction Contract;

(2) Any amendment of the Construction Contract;

(3) Any release (without the consent of Contractor Surety) of any retainage withheld under the Construction Contract;

(4) Any default by HWS under the Construction Contract.

(bb) “Required Permits” means any permit, approval, or the like, required to be duly issued by any government agency before the commencement of the construction of any Water System Improvement Work.

(cc) “Water System Improvement Work Insurance Policies” means the insurance policies that HWS or Contractor shall obtain for the benefit of MLP and HWS, described by Exhibit “E” attached hereto, before the commencement of the construction of any Water System Improvement Work.

(dd) “Design Professional Final Certificate Of Completion” means a written certificate signed by Design Professional, delivered to MLP, that certifies that the construction of the Water System Improvement Work has been fully completed in accordance with the Water System Improvement Plans approved by MLP, the Water System Improvement Working Drawings, and the Required Permits.

(ee) “CPI Index” means the amount of the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics, U.S. Department of Labor, expressed as a number, for the date specified.

(ff) “PUC” means the Public Utilities Commission of the State of Hawaii.

(gg) "Health Department" means the Department Of Health, an agency of the State of Hawaii.

(hh) "Water Resource Commission" means the Commission On Water Resource Management established under the Hawaii State Water Code.

(ii) "DLNR" means the Department Of Land And Natural Resources, an agency of the State of Hawaii.

(jj) "Water Management Area Designation" means the designation of a water management area by the Water Resource Commission, pursuant to the State Water Code, for the aquifer from which Water is withdrawn.

(kk) "License Fees" means the fees to be paid by HWS to MLP for the rights granted to HWS under this Agreement as provided by this Agreement.

(ll) "Kaanapali Water System" means the water system, regulated by the PUC, that HWS owns and operates within the Kaanapali Beach Resort Area for the delivery of domestic water to consumers.

(mm) "Maui Pine" means Maui Pineapple Company, Ltd., a Hawaii corporation, and a MLP subsidiary.

2. Cancellation Of Old Water Licensing Agreement And Letter Of Understanding.

The Old Water Licensing Agreement has been cancelled effective December 31, 1999. The Letter Of Understanding shall be cancelled upon the execution of this Agreement. The terms, conditions, covenants, License Fees, and agreements set

forth in this Agreement entirely supersede the terms, conditions, covenants, License Fees, and agreements set forth in the Old Water Licensing Agreement and in the Letter Of Understanding. Notwithstanding the cancellation of the Old Water Licensing Agreement, and except as provided in the Settlement Agreement, HWS and MLP reserves to themselves any claim or chose in action that may have accrued under the Old Water License Agreement. Upon the execution of this Agreement, MLP and HWS shall execute and record with the Hawaii Bureau of Conveyances an instrument that (a) cancels the Short Form Water License Agreement and (b) evidences the execution of this Agreement in "short form", as shown by Exhibit "F" attached hereto.

3. Completion Of Construction Of GAC Treatment Plant.

On February 12, 2002, HWS completed the construction of a "GAC Treatment Plant" upon State of Hawaii land, adjacent to the Licensed Area, in accordance with plans and specifications approved by the Department Of Health for the removal of the following:

"1,2-dibromo-3-chloropropane, and all products containing said compound, including, without limitation, Dow 'Fumazone,' Occidental 'BBC' and 'DBCP,' 1, 2, 3 - Trichloropropane, Nematocide Granules 50, Nematocide 12.1 EM, Nematocide 15.1 EM, Nematocide Solution 17.1 and Shell 'Nemagon'."

from the Water.

4. Term Of Agreement.

This Agreement (and the License) shall begin on January 1, 2000, and shall end December 31, 2029, unless earlier terminated in accordance with the terms set forth herein.

5. HWS Continuous Diligent Operation Of Water System.

HWS shall continuously operate the Water System during the entire term of this Agreement with due diligence and efficiency so as to produce the maximum License Fees allowable under this Agreement. HWS shall keep and maintain the Well Permits in good standing during the entire term of this Agreement.

6. Construction Of Water System Improvement.

The following provisions shall apply if HWS proposes the construction of any Water System Improvement at the Licensed Area.

6.1. Preparation And Approval Of Water System Improvement Plans.

HWS, at HWS's cost and expense, shall have Design Professional prepare the Water System Improvement Plans. In siting any proposed Additional Well, HWS shall select a proposed location that is at low risk of producing Water that contains chemicals that requires treatment. HWS shall submit the Water System Improvement Plans to MLP for approval. MLP shall approve or reject the Water System Improvement Plans within fifteen (15) days after submission. If MLP rejects the Water System Improvement Plans, MLP shall specify in writing the basis for its rejection. When HWS submits the Water System Improvement Plans to MLP for its approval, Design

Professional shall certify to MLP (the "Design Professional Impact Statement"), whether, and, if so, to what extent and in what manner: (1) the proposed Water System Improvement increases the bulk, height or visibility of the existing improvements at the Licensed Area, and (2) the proposed Water System Improvement will increase the noise, odor or electromagnetic radiation emanating from the Licensed Area, and (3) whether the proposed Water System Improvement will result in a significant increase in the risks or other circumstances that might adversely affect the surrounding properties. If the Design Professional Impact Statement shows that (1) the proposed Water System Improvement will not increase the bulk, height or visibility of the existing improvements at the Licensed Area, and (2) the proposed Water System Improvement will not increase the noise, odor or electromagnetic radiation emanating from the Licensed Area, (3) and that the proposed Water System Improvement will not result in a significant increase in any risk or other circumstances that might adversely affect the surrounding properties (a "Negative Impact"), then MLP shall reject the Water System Improvement Plans only upon reasonable grounds (which may be based upon other matters not covered by the Design Professional Impact Statement including issues regarding the proposed siting of any Additional Well). If the Design Professional Impact Statement should not show a Negative Impact, then MLP shall have the arbitrary right to reject the Water System Improvement Plans. MLP will not review the Water System Improvement Plans to ensure conformance with government regulations, or safe and sound construction in accordance with proper construction methods. MLP shall not be liable to HWS, or to any

third person, for any design concept(s) used in the preparation of the Water System Improvement Plans, or any design defect in the Water System Improvement Plans.

6.2. Preparation And Approval Of Water System Improvement Working Drawings.

HWS shall have Design Professional prepare, at HWS's cost and expense, and submit to MLP for its approval, the Water System Improvement Working Drawings, which shall be consistent with the Water System Improvement Plans approved by MLP. MLP shall approve or reject the Water System Improvement Working Drawings within thirty (30) days after submission. If MLP rejects the Water System Improvement Working Drawings, MLP shall specify in writing the basis for its rejection. MLP shall have the arbitrary right to approve or reject the Water System Improvement Working Drawings if the same are not consistent with the Water System Improvement Plans approved by MLP. MLP will not review the Water System Improvement Working Drawings to ensure conformance with government regulations, or safe and sound construction in accordance with proper construction methods. MLP shall not be liable to HWS, or to any third person, for any design concept(s) used in the preparation of the Water System Improvement Working Drawings, or any design defect in the Water System Improvement Working Drawings.

6.3. Construction Contract.

HWS shall deliver an executed copy of the Construction Contract to MLP. The scope of the Water System Improvement Work that the Contractor shall perform

under the Construction Contract shall be consistent with the Water System Improvement Plans, and the Water System Improvement Working Drawings, approved by MLP, and the Required Permits. MLP will not supervise, or exercise any control over, Contractor's performance of the Construction Contract or the Water System Improvement Work. MLP shall not be liable to HWS, or to any third person, for any failure on the part of the Contractor to perform under the Construction Contract, or any failure on the part of Contractor to properly construct the Water System Improvement Work. HWS shall not change the Construction Contract to alter the scope of the Water System Improvement Work that the Contractor has agreed to perform, or to change the time for the completion of the Water System Improvement Work, without obtaining MLP's prior written approval.

6.4. Submission And Approval Of Completion Bond.

Within sixty (60) days after the delivery to MLP of the Construction Contract, HWS and the Completion Bond Surety shall submit the Completion Bond to MLP. MLP shall then have ten (10) days to determine whether such submitted Completion Bond is acceptable. If MLP does not accept such Completion Bond submitted by HWS, MLP shall give HWS written notice of its disapproval and its grounds for such disapproval, within ten (10) days after the submission of the same to MLP.

6.5. Submission And Approval Of Construction Bonds.

Within sixty (60) days after the delivery to MLP of the Construction Contract, HWS shall submit to MLP copies of the Construction Bonds executed by the Contractor and Contractor's Surety, together with written evidence that MLP can enforce the Construction Bonds as an additional obligee. MLP shall have ten (10) days after the receipt of the Construction Bonds to determine whether such submitted Construction Bonds are acceptable. If MLP does not accept such Construction Bonds submitted by HWS, MLP shall give HWS written notice of its disapproval, and its grounds for such disapproval, within ten (10) days after the submission of the same to MLP.

6.6. Delivery Of Water System Improvement Work Insurance Policies.

Within sixty (60) days after the delivery to MLP of the Construction Contract, HWS shall deliver to MLP written evidence, acceptable to MLP, that the Water System Improvement Work Insurance Policies have been obtained, are in force, and all premiums therefor have been paid, and that the same are enforceable by MLP as an insured thereunder.

6.7. Required Permits.

Within sixty (60) days after the delivery to MLP of the Construction Contract, HWS shall obtain and shall deliver to MLP executed copies of the Required Permits.

6.8. Commencement Of Construction Of Water System Improvement Work.

HWS shall have the right to commence the construction of Water System Improvement Work at any time ten (10) days after HWS satisfies all of the following conditions:

- (a) Design Professional submits, and MLP approves, the Water System Improvement Plans.
- (b) Design Professional submits, and MLP approves, the Water System Improvement Working Drawings.
- (c) HWS delivers to MLP an executed copy of the Construction Contract.
- (d) HWS submits and MLP approves the Completion Bond.
- (e) HWS submits and MLP accepts the Construction Bonds, together with evidence that MLP has been named as an additional obligee as required by this Agreement.
- (f) HWS submits, and MLP accepts, written evidence that the Water System Improvement Work Insurance Policies have been obtained, are in force and all premiums therefor have been paid, together with evidence that MLP has been named as an insured as required by this Agreement.
- (g) Design Professional certifies to MLP that all permits and approvals required by each government agency interested in the Water System Improvement

Work have been obtained, and that the Water System Improvement Work can lawfully begin.

Upon the commencement of the construction of the Water System Improvement Work, HWS shall inform MLP in writing of the calendar day thereof. If HWS fails to commence the construction of the Water System Improvement Work approved by MLP within eighteen (18) months after MLP's approval of the Water System Improvement Plans therefor, then MLP's approval of such Water System Improvement Plans and the related Water System Improvement Working Drawings, if any, shall be revoked, without any act on the part of MLP, and HWS shall obtain MLP's approval again for any such Water System Improvement Plans and related Water System Improvement Working Drawings. HWS and Design Professional shall ensure that Contractor undertakes and completes the Water System Improvement Work in a manner that causes MLP and Maui Pine a minimum amount of interference with and disruption to the normal activities carried on at MLP's land.

6.9. Completion Of Construction Of Water System Improvement Work.

HWS shall at its cost and expense cause Contractor to complete the construction of the Water System Improvement Work within the time specified in the Construction Contract. Upon the Completion of the construction of the Water System Improvement Work, HWS shall at its cost and expense:

(a) Have Design Professional prepare and deliver to MLP the Design Professional Certificate Of Completion.

(b) Obtain from each government agency interested in the Water System Improvement Work and deliver to MLP any post-construction approval or certificate that may be required.

(c) Complete the publication of a notice in accordance with the Hawaii Mechanic's and Materialmen's Act to show the completion of the construction of the Water System Improvement Work, and deliver to MLP a copy of the affidavit filed with the circuit court to show such publication.

7. License Fee.

7.1. Initial License Fees.

During the first two years of this Agreement, beginning January 1, 2000, and ending December 31, 2001, HWS shall pay MLP a monthly License Fee for the Water taken under this Agreement during each month at the rate of \$0.22 for each 1,000 gallons (the "Initial License Fee").

7.2. Subsequent License Fees.

Beginning January 1, 2002, and for the period beginning January 1, 2002, and ending December 31, 2003, and for each like two (2) year period during the remaining term of this Agreement (a "Two Year License Fee Period"), HWS shall pay MLP a License Fee for the Water taken under this Agreement for each month during each such Two Year License Fee Period at the following rate for each 1,000 gallons:

$$\frac{\text{CPI Index On January 1 At The Beginning Of The Two Year License Fee Period}}{\text{CPI Index On January 1, 2000}} \times \$0.22$$

7.3. Minimum License Fees.

The monthly License Fee that HWS shall pay MLP for the Water taken under this Agreement during the period beginning January 1, 2000, and ending on the last day of February 2002, shall not be less than four thousand dollars (\$4,000). The monthly License Fee that HWS shall pay MLP for the Water taken under this Agreement during the period beginning March 1, 2002, and ending December 31, 2002, shall not be less than seven thousand dollars (\$7,000). Beginning January 1, 2003, and for each year during the remaining term of this Agreement, the monthly License Fee that HWS shall pay MLP for the Water taken under this Agreement during each such year shall not be less than an amount determined as follows:

$$\frac{\text{CPI Index On The First Day Of January Of Such Year}}{\text{CPI Index On March 1, 2002}} \times \$7,000$$

7.4. Nature Of Minimum Monthly License Fees.

The minimum monthly License Fees that HWS shall pay MLP for Water under §§7.1, 7.2, and 7.3 of this Agreement shall be determined, and paid, without regard to the actual amount of Water taken by HWS during any month.

7.5. Maximum License Fees.

The monthly License Fee that HWS shall pay MLP for the Water taken under this Agreement during the period beginning January 1, 2000, and ending June 30, 2004 shall not exceed eight thousand dollars (\$8,000). From and after July 1, 2004, there shall be no maximum limit to the monthly License Fees that HWS shall pay MLP for Water taken under this Agreement

7.6. Water Measurement.

HWS shall install and maintain at each Well a continually recording, non-resettable, water measuring meter, reasonably approved by MLP, that shall record the volume and time of the Water taken by HWS from that Well under this Agreement. Such water meters shall have an accuracy standard equal to that commonly used by water utilities. For the purpose of calculating monthly License Fees, each "Month" shall begin at 0001 hours on the 15th day of each calendar month, and shall end at 2400 hours on the 14th day of such calendar month. MLP acknowledges that the water meters presently installed at the Wells are satisfactory.

7.7. Monthly Water Flow Reports.

No later than fifteen (15) days after the end of each Month (as defined in §7.6 above), HWS shall deliver to MLP a report that shows the quantity of Water taken by HWS from each Well under this Agreement during such preceding month. Such reports shall also contain any other information reasonably required by MLP for the efficient administration of this Agreement.

7.8. Additional License Fees.

HWS shall also pay MLP, as additional License Fees, the full amount of any gross income or excise tax (including without limitation the Hawaii General Excise Tax) imposed upon MLP by any taxing power in respect of the foregoing specified License Fees or in respect of any payment of charge for which MLP is liable hereunder, attributed to MLP as gross receipts.

7.9. Payment Of License Fees.

HWS shall pay MLP the monthly License Fees at MLP's principal place of business no later than thirty (30) days after the end of each Month (as defined in §7.6 above). All payments to be made by HWS hereunder shall be due and payable without notice, demand or any offset.

8. Water Use Limited To Kaanapali Beach Resort Area.

HWS will sell, use and permit the use of the Water only within the Kaanapali Beach Resort Area. HWS shall not move any of the Water out of the Kaanapali Beach Resort Area. HWS shall not make any other use of the Water without obtaining MLP's prior written consent. MLP shall have the right to unreasonably and arbitrarily refuse to give such consent.

9. Water Pumping Limits.

HWS shall not take Water under this Agreement in an amount that exceeds the limits fixed by any Well Permit or fixed by any government agency authorized to regulate the withdrawal of Water from the Wells.

10. PUC Regulation.

HWS agrees that MLP will not be acting as a public utility by allowing HWS to withdraw Water from the Wells and any Additional Well under this Agreement. The PUC exercises regulatory authority over HWS's sale of the Water to consumers. The parties have entered upon this Agreement with the understanding that the PUC does not have any regulatory authority over MLP, or the Water taken by HWS under this Agreement (except that the PUC may consider the terms of this Agreement when it establishes HWS's rates for the sale of the Water to consumers). Neither party shall attempt to have the PUC exercise such regulatory authority over MLP, or the Water taken by HWS under this Agreement. If the PUC should, nevertheless, validly exercise such regulatory authority over MLP or the Water taken under this Agreement (except in connection with the PUC's consideration of the terms of this Agreement when it establishes HWS's rates for the sale of the Water to consumers), MLP and HWS shall each have the right to rescind this Agreement and terminate the License.

11. Wells Not "Future Wells" Under DBCP Settlement Agreements.

The Wells, any Additional Well, the Licensed Area, and the Water System, are not, and shall never be deemed to be "Future Wells" under or within the meaning of the DBCP Settlement Agreements. If the Wells, any Additional Well, the Licensed Area, or the Water System, should ever become, or be deemed to be, "Future Wells" under or within the meaning of the DBCP Settlement Agreement, MLP shall have the right to rescind this Agreement and terminate the License.

12. Settlement Agreement Default.

The parties have entered into this Agreement pursuant to the terms of the Settlement Agreement, which has been approved by the Second Circuit Court of the State of Hawaii as a good faith settlement pursuant to Hawaii Revised Statutes §663-15.5. Any material default by HWS under the Settlement Agreement shall constitute a material breach of this Agreement, whereupon MLP shall have the right without further notice to rescind this Agreement and terminate the License, in addition to any other remedies to which it is entitled. Any material default by MLP or Maui Pineapple Company, Ltd., under the Settlement Agreement shall constitute a material breach of this Agreement, whereupon HWS shall have the right without further notice to rescind this Agreement and terminate the License, in addition to any other remedies to which it is entitled.

13. HWS Operation In Accordance With Government Regulations.

HWS shall operate the Wells, any Additional Well, and the Water System in accordance with the terms of the Well Permits (and any Well Permit issued for an Additional Well), and all applicable government laws and regulations. If any law or government regulation (such as, but not limited to, the Americans With Disabilities Act Of 1990, the United States Safe Drinking Water Act, the United States Clean Water Act, or the Hawaii Safe Drinking Water Act) should require the renovation or alteration of the Water System or the Licensed Area, HWS shall be responsible for such alteration or renovation and shall pay all costs and expenses required to alter or renovate the Water System or the Licensed Area, as the case may be, to conform to any such law or

government regulation. HWS shall indemnify and defend MLP, its subsidiaries, directors, officers, employees and agents against any loss suffered or liability incurred by MLP, and all actions, suits, damages or claims brought against MLP, as a result of HWS's failure to operate the Water System in accordance with any such law or government regulation. HWS shall immediately deliver to MLP any notice, summons, request, complaint, or the like, received by HWS from any government agency about the operation or the maintenance of any Well, any Additional Well, the Water System, or the Licensed Area by HWS.

14. MLP Does Not Warrant Water Quality.

MLP does not warrant the quality of the Water that HWS takes from the Wells or any Additional Well under this Agreement. HWS shall take the Water from the Wells or any Additional Well under this Agreement "as is" and "with all faults". MLP shall not be treated as a seller of goods with respect to the Water that HWS takes from the Wells or any Additional Well under this Agreement.

15. HWS Liability Insurance Policies.

Except as provided below, HWS shall purchase from a liability insurer authorized to carry on business under the Hawaii Insurance Act, maintain during the term of this Agreement, and pay all premiums for, the insurance policies described by Exhibit "G" attached, for the benefit of MLP. HWS can purchase any "excess liability" or "surplus lines" insurance policy, that may be required, from an insurer who is not an "authorized insurer" under the Hawaii Insurance Act, as and when permitted by the

Hawaii Insurance Act. All such liability insurance policies shall provide the primary insurance coverage for any claims covered.

16. Deposit Insurance Policies With MLP.

HWS shall deposit with MLP such policies of insurance or other evidence acceptable to MLP that the insurance coverage required by the preceding paragraph is in effect and that the premiums therefor have been paid. MLP shall be notified in writing no later than thirty (30) days prior to the termination, cancellation, or material change in any of the terms of such insurance coverage.

17. Indemnification For Injury From Licensed Area.

Except for the Released Claims, HWS shall defend and indemnify MLP, its subsidiaries, directors, officers, employees, and agents against any suit or claim brought, or loss suffered or liability incurred by MLP, its subsidiaries, directors, officers, employees, and agents including all reasonable attorneys fees and litigation costs and expenses, arising out of any injury (including death) to any person or property upon the Licensed Area under the License, caused by HWS's negligence, intentional acts or wrongful omissions. MLP shall defend and indemnify HWS, its subsidiaries, directors, officers, employees, and agents against any suit or claim brought or loss suffered or liability incurred by HWS, its subsidiaries, directors, officer, employees and agents including all reasonable attorneys fees and litigation costs and expenses, arising out of any injury (including death) to any person or property upon the Licensed Area under the License, caused by MLP's negligence, intentional act or wrongful omissions.

18. MLP Indemnification For Claims Arising Out Of Water.

Except for the Released Claims, HWS shall defend and indemnify MLP, its subsidiaries, directors, officers, employees, and agents against any suit or claim brought, or loss suffered or liability incurred by MLP, its subsidiaries, directors, officers, employees and agents, including all reasonable attorneys fees and litigation costs and expenses, arising out of any claim for personal injury (including death) or the loss of or damage to property, resulting from the consumption or use of the Water.

19. HWS Risk Of Loss.

Except for damage caused by MLP's negligence, intentional act or wrongful omission, HWS shall bear the risk of loss of, or damage to, any property, resulting from any cause whatsoever, brought upon the Licensed Area under this Agreement. Except as provided above, MLP shall not be liable to HWS, or to any person upon the Licensed Area under this Agreement, for any loss of, or damage to any property, resulting from any cause whatsoever, brought upon the Licensed Area under this Agreement.

20. Mechanic's/Materialmen's Liens Arising Out Of HWS Work.

HWS shall indemnify and defend MLP against any mechanic's or materialmen's lien made against the Licensed Area arising out of any HWS work. HWS further covenants to MLP that if any application or claim for such a mechanic's or materialmen's lien should be filed as to the Licensed Area, HWS shall cause the same to be discharged within thirty (30) days after the filing of the Notice Of Lien therefor with

the Circuit Court, by filing with the Circuit Court cash or a bond as provided by Haw. Rev. Stat. §507-45, or by such other means as HWS may employ to obtain such discharge within the period of time specified above.

21. Hazardous Materials.

As used herein, the term "Hazardous Material" means any hazardous, infectious or toxic substances, material or waste so designated or described by any environmental law of the United States or the State of Hawaii, or so designated or described by any government agency authorized to enforce any such environmental law. Materials that HWS adds to the Water, in accordance with Department Of Health regulations, to make the same potable for human consumption, shall not be deemed to be a Hazardous Material. Neither HWS nor MLP shall cause or permit any Hazardous Material to be brought upon, kept or used at or about the Licensed Area. If the presence of Hazardous Material at the Licensed Area caused or permitted by HWS results in the contamination of the Licensed Area, or if contamination of the Licensed Area by Hazardous Material otherwise occurs for which HWS is liable to MLP for damages resulting therefrom, then, except for the Released Claims, HWS shall indemnify and defend MLP from any and all resulting claims, judgments, damages, penalties, fines, costs and liabilities or losses (including without limitation, diminution in value of the Licensed Area, damage for the loss or restriction on use of any of the Licensed Area, attorneys fees, and expert fees). Such obligation of HWS to so indemnify MLP includes, without limitation, any liability incurred in connection with any investigation of site

conditions or any clean-up, and any remedial, removal or restoration work required, because of any Hazardous Material being present in the soil or ground water on or under the Licensed Area. Without limiting the foregoing, if the presence of any Hazardous Material at the Licensed Area caused or permitted by HWS results in any contamination of the Licensed Area, HWS shall promptly take all actions at its sole expense necessary to return the Licensed Area to the condition existing prior to the introduction of any such Hazardous Material. The criteria established by a statute, government rule or regulation, or the decision of an administrative agency which is authorized to enforce any such environmental law, shall determine whether any "contamination of the Licensed Area" has occurred. The foregoing obligations of HWS do not extend to any Hazardous Materials that may have been on, under, or about, the Licensed Area, at the commencement date of the Old Water Licensing Agreement. HWS shall immediately notify MLP in writing of (a) any enforcement, clean up, removal, remediation, or mitigation action threatened or undertaken by any government agency against HWS based upon Hazardous Materials at the Licensed Area; (b) any claim made by any person against HWS based upon the presence of Hazardous Materials at the Licensed Area or the migration of Hazardous Materials from the Licensed Area; (c) the discovery of any occurrence or condition at the Licensed Area or on any nearby property that indicates the presence of Hazardous Materials at the Licensed Area or the migration of Hazardous Materials from the Licensed Area.

22. Waste.

HWS shall not do or commit or permit or suffer to be done any willful or voluntary waste, spoil or destruction in or upon the Licensed Area, or any part thereof. HWS shall not store or abandon any goods at the Licensed Area. HWS shall not permit any trash or garbage at the Licensed Area. HWS shall use its best efforts to keep the Licensed Area clean.

23. Maintenance Of Water System.

HWS shall keep and maintain the Water System in good repair and operating condition in accordance with the terms of the Well Permits and all applicable government laws and regulations, including, but not limited to, the United States Safe Drinking Water Act, the United States Clean Water Act, and the Hawaii Safe Drinking Water Act. HWS shall promptly deliver to MLP copies of all reports submitted to the Department Of Health in regard to the quality of the Water, and the condition of the Wells, any Additional Well, and the Water System, and any other information requested by the Department Of Health. HWS shall promptly deliver to MLP copies of all reports submitted to the Water Resource Commission or DLNR in regard to the quantity or quality of the Water withdrawn from the Wells, or any Additional Well, the pumping rate for any Well, or Additional Well, during any Month, the condition of the Water System, and any other information requested by the Water Resource Commission or DLNR.

24. Taking Of Water Subject To "Public Trust" Doctrine, "Correlative Rights" Doctrine, and State Water Code.

Although HWS will have the exclusive right to withdraw Water from the Wells and any Additional Well under this Agreement, HWS acknowledges that such withdrawal of Water is (1) subject to the power and right of the State of Hawaii to control the use and disposition of all waters in the State of Hawaii under the "public trust doctrine"; and (2) subject to the "correlative water rights" of other landowners entitled to withdraw waters from the aquifer from which Water is obtained; and (3) subject to the power and authority given to the State of Hawaii, and its agencies, under the Hawaii State Water Code. In the event an agency of the State of Hawaii, the County of Maui (a political subdivision of the State of Hawaii), or a landowner entitled to withdraw waters from the aquifer from which Water is obtained, should commence an action or an administrative proceeding that might have the effect of restricting the withdrawal of Water from the Wells or any Additional Well, MLP may (but shall not be obligated to) require that HWS, at its cost and expense, represent and defend the interest of MLP and HWS in respect to the Water, to the extent that the same is the subject of such action or administrative proceeding. Any failure by HWS to appear and defend the interest of MLP and HWS in respect to the Water in any such action or administrative proceeding shall constitute a material breach of this Agreement, whereupon MLP shall have the right without further notice to rescind this Agreement and terminate the License.

Notwithstanding the foregoing, MLP may in that event elect to independently appear and

defend the interest of MLP with respect to any water that may be the subject of such an action or administrative proceeding. HWS, upon the receipt of any summons, complaint or notice that commences an action or an administrative proceeding that might have the effect of restricting the withdrawal of Water from the Wells, or any Additional Well, shall immediately send a copy of such summons, complaint or notice to MLP.

25. Real Property Taxes.

MLP shall pay all real property taxes and assessments levied against the Licensed Area, including the Water System.

26. Subordination Of License To Mortgage; Estoppel Certificate.

MLP reserves the right to mortgage the Licensed Area during the term of this Agreement. This Agreement and the interest of HWS in the Licensed Area shall be subordinated to the lien created by any such mortgage, without the execution of any further instrument by HWS to give effect to such subordination, if such mortgagee agrees to execute a "non-disturbance agreement" with HWS that includes the terms and conditions shown by Exhibit "H" attached. Thereafter, if requested by such mortgagee, HWS shall promptly execute and deliver an instrument that such mortgagee may require to confirm such subordination in accordance with such non-disturbance agreement. In the event of the foreclosure of such mortgage, this Agreement shall continue in effect for the remaining unexpired term, and HWS shall forthwith attorn to such mortgagee or the successor in interest of MLP under such foreclosure, in accordance with such non-disturbance agreement. At the request of any such mortgagee or any purchaser of the

Licensed Area from MLP, HWS shall deliver to such mortgagee or purchaser an appropriate estoppel certificate, which shall show the amount of any prepaid License Fee under this Agreement, any claims by HWS against MLP, and shall fully disclose to such mortgagee or purchaser such information with respect to this Agreement as may be requested. If HWS should fail to deliver such an estoppel certificate within ten (10) days after a written request, then MLP and any such mortgagee or purchaser shall be entitled to assume that the License and this Agreement are in full force and effect, that MLP is not in default under the License and this Agreement, and that HWS has no claims against MLP, and HWS shall be barred from taking a contrary position.

27. Condemnation Of Licensed Area.

If any authority exercising the power of eminent domain should:

(1) Condemn or take all or any part of the Licensed Area or any of the rights, easements, privileges or appurtenances thereto belonging or appertaining or held and enjoyed in connection therewith; or,

(2) Condemn or take the License, the Water System, any Well, or any Additional Well, or the rights of HWS under this Agreement;

then the following shall apply:

(a) The License, the interest of HWS in the Licensed Area, and this Agreement, shall at once terminate.

(b) MLP shall be entitled to the condemnation award, and any damages payable in respect of the Licensed Area or any rights, easements,

privileges or appurtenances appurtenant to the Licensed Area, and HWS shall not have the right to claim or recover any of the same.

(c) HWS shall not be entitled to any portion of such condemnation award, or any damages, for the loss of the License.

(d) If and to the extent that the condemnor or a court of competent jurisdiction assesses any damages as compensation for the taking of the Water System, for the relocation of any part of the Water System, or for the loss or interruption of HWS's business based upon HWS's right to take the Water, then HWS shall be entitled to the same.

(e) Each of the parties shall have the right to independently contest any issue in respect of such condemnation or taking material to it, and each shall be liable for its own costs, fees and expenses incurred as a result thereof.

In the event any authority exercising such power of eminent domain should threaten the condemnation of the Licensed Area, any right, easement, privilege or appurtenance thereto, the License, the Water System, any Well, any Additional Well, or the rights of HWS under this Agreement, MLP shall immediately give HWS notice of such threatened condemnation. If any authority exercising such power of eminent domain should commence such a condemnation action against MLP but should not join HWS as a party to such condemnation action, MLP shall (a) immediately deliver to HWS a copy of the complaint filed in such condemnation action, and (b) MLP shall not oppose an application made by HWS to intervene as a party in such condemnation action.

28. Surrender.

At the end or other sooner termination of this Agreement: (a) HWS shall surrender the License, the Licensed Area, the Wells, and any Additional Wells (including all Parts Of Wells, intact); (b) HWS shall have the right to remove any Water System equipment (but not any Parts Of Wells) whether or not affixed to the Licensed Area; (c) HWS shall deliver the Wells, any Additional Wells, including all Parts Of Well, intact, to MLP in a good working condition, taking into consideration the age and prior use of the same and fair wear and tear; (d) HWS shall transfer to MLP the Well Permits and any other government permits required for the operation of the Water System; and (e) the parties shall execute appropriate instruments to evidence the termination of the Agreement, the surrender of the License, and the expiration of HWS's right to use the Licensed Area. MLP reserves the right to elect (no later than fifteen (15) days before the date for the termination of this Agreement) that upon the end or sooner termination of this Agreement, HWS shall, at its cost and expense, promptly remove from the Licensed Area any part of the Water System affixed thereto (but not any Well or Additional Well) that MLP shall designate, and HWS shall cap and close the Wells and any Additional Well in accordance with all applicable government laws and regulations and safe and sound engineering practices. In that event, HWS shall so remove such parts of the Water System so designated by MLP, and shall close and cap the Wells and any Additional Well, within one hundred and eighty (180) days after the end or sooner termination of this Agreement. HWS shall within one hundred and eighty (180) days after the

termination of this Agreement repair any damage to the Licensed Area caused by HWS's removal of any parts of the Water System, whether such removal was permitted and at the election of HWS, or such removal was directed and required by MLP.

29. MLP Right To Use Licensed Area.

HWS's rights under the License with respect to the Licensed Area are limited to its reasonable business requirements for the withdrawal of Water from the Wells, and any Additional Well, and the operation, maintenance and improvement of the Water System pursuant to this Agreement. MLP shall continue to have and enjoy the possession of and the profits from the Licensed Area, subject only to the limited rights given to HWS under this Agreement. MLP's activities at the Licensed Area shall be consistent with, and shall not violate, all government laws, rules or regulations that govern the operation of a water system designed to deliver water for human consumption.

30. One-Time Relocation Of Pipeline.

If any pipeline that is a part of the Water System interferes with the use of the Licensed Area by MLP, then, at the written request of MLP, HWS shall relocate such pipeline to another suitable location within the Licensed Area selected by MLP. HWS shall pay all of the costs and expenses incurred to complete such pipeline relocation. HWS shall complete the relocation of such pipeline within six (6) months after the delivery of MLP's relocation request. MLP shall have the right to make one such pipeline relocation request during the term of the Agreement.

31. HWS Use Of Access Road.

HWS understands that Maui Pine needs to use the Access Road for its pineapple operations. HWS's use of the Access Road for entry to the Licensed Area shall not interfere with Maui Pine's use of the Access Road for its pineapple operations. From time to time Maui Pine shall have the right to relocate the Access Road to a different location that is reasonably sufficient for HWS's continued access to the Licensed Area. Maui Pine shall be responsible for the maintenance of the Access Road.

32. License Not Assignable.

Except as provided below, HWS shall not have the right to assign the License or this Agreement, or grant a sublicense, without the prior written consent of MLP, which consent MLP shall have the right to arbitrarily or unreasonably withhold. HWS shall have the right to assign the License and this Agreement, without obtaining such prior written consent of MLP, to any HWS affiliated entity. HWS shall also have the right to assign the License and this Agreement, without obtaining such prior written consent of MLP, to any person who acquires the Kaanapali Water System from HWS, pursuant to a PUC order that approves such transfer of the Kaanapali Water System, but only if MLP received not less than sixty (60) days prior written notice of the HWS petition to the PUC, and the hearing before the PUC, for such proposed transfer of the Kaanapali Water System. Any change in the control of HWS (a corporation) from that existing on the commencement date of this Agreement, whether as a result of the sale of assets, transfer of shares, withdrawal, merger, consolidation, spin-off, split-up,

dissolution, or otherwise, and whether by operation of law, or by any other method, manner or means, except as provided and permitted above, shall constitute an assignment of the License, and shall require the prior written consent of MLP. Any assignment of the License or this Agreement, or a sublicense, made by HWS in violation of this covenant shall be void and without legal effect and shall constitute a material breach of this Agreement which shall entitle MLP to terminate this Agreement and the License without notice to HWS. HWS shall not delegate any duties that HWS is obligated to perform under this Agreement.

33. Impossibility.

If HWS claims an excuse for the non-performance or the non-observance by HWS of any term, covenant or condition of this Agreement to be performed or observed by HWS because of the occurrence of unforeseen supervening circumstances not within the contemplation of the parties when this Agreement was executed, then MLP, at the option of MLP, shall have the right to terminate this Agreement and the License by the delivery of written notice to HWS.

34. HWS Acts Shall Not Establish "Course Of Dealing".

Each party understands and agrees that the other party may not be able (nor desire) to constantly oversee all of the acts of the other with respect to the Licensed Area and this Agreement. Neither party shall make any claim against the other, or take a position in any dispute with the other party, that any act or acts with respect to the Licensed Area or this Agreement, constitutes a "course of dealing" between them that

gives meaning to, supplements, qualifies, or establishes a basis for the interpretation of, any covenant of this Agreement to be performed or observed by either party, even though such acts or conduct have persisted over a prolonged period of time and a party knew or should have known of such acts and has acquiesced in or indulged the same and accepted License Fees and other payments during such period. Each party may require that the other party cease any such activity upon demand and thereafter require strict compliance with this Agreement.

35. Termination Of Agreement For Default.

This Agreement is made, and HWS holds the License, on the condition that if: (1) HWS should fail to pay any License Fee due hereunder, and such default shall continue for thirty (30) days after written notice given by MLP of such default; or (2) HWS should fail to cure or correct any material default with respect to any covenant, agreement, undertaking, condition or restriction herein contained, and on the part of HWS to be performed or observed, within sixty (60) days after written notice of such default given by MLP, then, in any such event, at the option of MLP, MLP may terminate this Agreement (and the License) at the date selected by MLP, without service of any additional notice or resort to any legal process. If MLP should fail to cure or correct any material default with respect to any covenant, agreement, undertaking, condition, or restriction herein contained and on the part of MLP to be performed or observed, within sixty (60) days after written notice of such default given by HWS, then in any such event,

at the option of HWS, HWS may terminate this Agreement (and the License) at the date selected by HWS, without service of any additional notice or resort to any legal process.

36. HWS Right To Rescind Agreement.

HWS shall have the right to terminate this Agreement if the Water Resource Commission should enter an order that reduces the aggregate permitted maximum rates for the withdrawal of Water from all Wells (and any Additional Well), established under the Well Permits (and any Well Permit issued for any Additional Well), by fifty percent (50%), or more. HWS shall not have the right to terminate this Agreement, as provided above, in the event of a Water Management Area Designation for the aquifer from which Water is withdrawn under this Agreement, and if, thereafter, the Water Resource Commission does not grant a water use permit application for any Well, or any Additional Well, that permits the withdrawal of Water at a rate in a maximum amount then allowed by an existing Well Permit.

37. Agreement Supersedes Prior Agreements Or Representations.

The parties understand that this Agreement is intended to include all of the terms, covenants and conditions which have been discussed by them during the course of their negotiations, except for the terms of the Settlement Agreement which remain in full force and effect. The parties agree that this Agreement constitutes the "entire contract" between them. The terms, covenants and conditions contained in this Agreement supersede any "letter of intent" (including without limitation the Letter Of Understanding) and any prior oral or written agreements or representations made by or

between the parties or anyone authorized and acting in their behalf in respect of any matter relating hereto, all of which has been merged and included in this Agreement, except for the terms of the Settlement Agreement which remain in full force and effect.

38. Attorneys Fees.

If either party commences any action against the other to enforce any of the terms of this Agreement, or for the unlawful detainer of the Licensed Area, the losing party in such action shall pay the prevailing party the reasonable attorneys fees, costs and expenses incurred.

39. No Intended Third Party Beneficiary.

MLP and HWS may each, separately, deal with other persons in connection with the Licensed Area, the Water System, or with other matters that may also relate to or be the subject of this Agreement. MLP and HWS do not intend to make any such third person with whom each of them may deal an intended third party beneficiary under this Agreement. There is no third person who is an intended third party beneficiary under this Agreement. No incidental beneficiary (whatever relationship such person may have with MLP or HWS) shall have any right to bring an action or suit, or to assert any claim against MLP or HWS under this Agreement.

40. Independent Contractors.

The parties understand and agree that each of them has entered upon this Agreement as independent contractors. The parties do not intend to create a partnership or joint venture between them by this Agreement. The parties do not intend to create a

principal and agent relationship between them by this Agreement. Neither party has any authority or power to act as the agent for the other.

41. No Party Deemed To Be Draftsman.

HWS has had an opportunity to have counsel for HWS examine this Agreement and to propose changes to clarify any ambiguities. Accordingly, in any interpretation of this Agreement an ambiguity shall not be resolved by interpreting this Agreement against MLP as the draftsman. The language of this Agreement shall be interpreted according to the fair meaning and not for or against either party.

42. Notices.

The parties shall, by certified mail or national overnight delivery service, inform each other of any change in their respective addresses during the term of this Agreement. Any notice or payment required by this Agreement, mailed or delivered to such last known address, shall be deemed to have been delivered ten days after the deposit thereof with any governmental postal service or national overnight delivery service.

43. Interpretation And Construction.

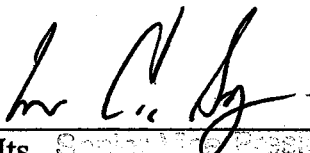
All the covenants, agreements, conditions and undertakings herein contained shall extend to and be binding upon the personal representatives, heirs, successors and permitted assigns of the respective parties as though expressly named herein. The headings for the sections of this Agreement are for convenience only, and do not define, limit or construe the contents of such sections. The use of any gender shall

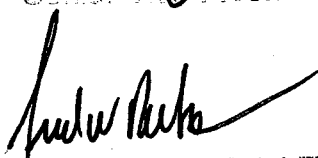
include all genders. Whenever any words are used in the singular, they shall be construed as though they were also used in the plural in all cases where they would so apply, and vice versa. No amendment of this instrument shall be effective unless the same is in writing and executed by all of the parties hereto. Any reference in this Agreement to money or to payments to be made in money shall mean legal tender of the United States. This Agreement shall be governed by, and in the event of any dispute as to the meaning or legal effect of any provision hereof, shall be interpreted with respect to the laws of the State of Hawaii.

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

MLP:

Maui Land & Pineapple Company Inc., a
Hawaii corporation

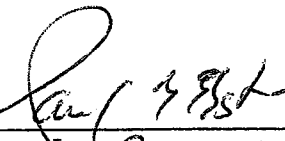
By  _____
Its Senior Vice President

By  _____
Its Vice President/Chief Financial Office

HWS:

Hawaii Water Service Company, Inc., a
Hawaii corporation

By 
Its Vice President

By 
Its Corporate Secretary