

MEMORANDUM OF UNDERSTANDING

BETWEEN

LANIHAIU PROPERTIES, LLC

AND

**U.S. DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE**

RECEIVED

MAY 16 2014

**U.S. FISH & WILDLIFE SVC
PACIFIC ISLANDS FWO
HONOLULU, HI 96850**

WHEREAS the United States Fish and Wildlife Service ("Service") is the federal agency charged with the authority to conserve fish and wildlife nationwide, and to enforce compliance with the Endangered Species Act of 1973 ("ESA"); and

WHEREAS Lanihau Properties, LLC, a Hawai'i limited liability company ("Lanihau Properties"), and its affiliates Palani Ranch Company and Kaumalumalu, LLC (collectively with Lanihau Properties, the "Lanihau Group") manage certain lands in the District of North Kona, County and State of Hawai'i; and

WHEREAS by proposed rule published on October 17, 2012, in the Federal Register (77 FR 63928), the Service proposed designating portions of Lanihau Properties' lands as critical habitat for three plant species: wahine noho kula (*Isodendron pyriformis*), ko'oko'olau (*Bidens micrantha* ssp. *ctenophylla*), and uhiuhi (*Mezoneuron kawaiense*) in the lowland dry ecosystem, which have all now been listed as endangered species under the ESA (77 FR 64637); and

WHEREAS the Service and Lanihau Properties desire to enter into this Memorandum of Understanding ("MOU") and work together to contribute to the conservation and recovery of the three (3) listed plant species – wahine noho kula, ko'oko'olau, and uhiuhi and their lowland dry ecosystem. Relative to other species of their lowland dry ecosystem that may be listed, already or in the future and which may require designated or revised critical habitat, and which may or may not currently be present on this property, this MOU is intended to also contribute to their conservation and recovery as well. All species, including the three aforementioned and other listed ESA species, and potential ESA candidate species to include *Capparis sandwichiana* and *Polyscias (Reynoldsia) sandwicensis*, intended to benefit from this MOU will be herein collectively referred to as "Protected Species"; and

WHEREAS the intention of Lanihau Properties is that the Service will consider the benefits of the Lanihau Properties' conservation measures, including this MOU, in weighing the benefits of designating portions of the Lanihau Group's property as part of the critical habitat for Protected Species versus the benefits of not including the property in the designation, in accordance with Section 4(b)(2) of the ESA; and

Exhibit 17

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WHEREAS the terms of this new MOU continues a long-term cooperative relationship between the Service and Lanikai Properties and, in accordance with the ESA, the Service will consider the benefits and outcomes of this MOU when considering future designations of, or revisions to, critical habitat affecting the lands of the Lanikai Group; and

WHEREAS the United States Secretary of the Interior ("Secretary") may consider the existence of conservation agreements, other land management plans and voluntary partnerships with Federal, private, State, and tribal entities when making decisions regarding critical habitat under Section 4(b)(2) of the ESA;

NOW, THEREFORE, the Service and Lanikai Properties enter into this MOU to address the conservation of the Protected Species.

1.0 AUTHORITY

The Service enters into this MOU pursuant to the authority provided in Section 1 of the Fish and Wildlife Coordination Act ("FWCA"), 16 U.S.C. 661, and the Fish and Wildlife Act of 1956 ("FWA"), 16 U.S.C. 742a-k. FWCA and FWA grant the Service broad statutory authority to enter into voluntary agreements with non-federal entities, including private landowners, to restore and enhance habitat for federal trust fish, wildlife, and plant resources.

2.0 TERM OF MOU

This MOU will become effective upon the date of the last signature and will expire December 31, 2033 ("Termination Date"), or sooner if terminated by either party pursuant to Section 6.0.

3.0 SPECIFIC OBLIGATIONS OF EACH PARTY

3.1 Obligations of Lanikai Properties.

3.1.1 No Development Area. Lanikai Properties agrees it will not construct or permit the construction of buildings or other improvements, or undertake or permit any other land disturbance activities, on its high quality native Hawaiian dry forest habitat in the portions of Tax Map Keys (3) 7-4-008:005 and 081 that are described in this paragraph and are adjacent to the Ane Keohokalole Highway, Kailua-Kona, Hawai'i (aka. the "No Development Area"). During the term of this MOU, the No Development Area will therefore be available for the conservation and recovery of the Protected Species and their lowland dry ecosystem. Separated into two sections by the mid-level road, this No Development Area was delineated on April 1, 2014, by the Service and Lanikai Properties walking the ground and delineating the edge of the lava flow habitat with a Trimble GPS submeter GNSS (GeoXT/GeoXH) unit. To facilitate installation of a perimeter fence with a buffer zone inside and outside of it, the lava flow habitat was then buffered by at least seven (7) meters in all locations. Comprised of 7.012 acre makai and 8.851 acre mauka parcels, the total area of the No Development Area is 15.86 acres and is depicted on the map attached as Exhibit A. The access area granted by Lanikai Properties per this MOU is restricted to the No Development Area from the Ane Keohokalole Highway.

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3.1.2 Activities in No Development Area. Lanikai Properties will allow entry access and work by the Service to conduct conservation measures in the No Development Area to benefit the Protected Species and their lowland dry ecosystem. Conservation measures that the Service may undertake include fencing to exclude ungulates, control of non-native plant species, outplanting of Protected Species and other native plant species, provision of supplemental water to outplanted individuals, and other actions pre-approved by Lanikai Properties (e.g. mulching and fertilizing, predator control, and pest management using techniques, methods, and materials pre-approved by Lanikai Properties). Small-scale land disturbance activities for the express purpose of implementing ecosystem conservation measures as described above are allowed. The Service acknowledges and agrees that Lanikai Properties is not obligated to provide any funding, improvements, water or water credits, infrastructure, or other support for such activities. Access for such activities shall be directly off of Ane Kiohokalole Highway and does not include access from the rock quarry (see Exhibit A).

Under the terms stated herein, Lanikai Properties will allow work by the Service (or entities working under a contract, grant, or cooperative agreement with the Service) to perform these conservation activities in the No Development Area, provided that the following condition is met: The Service agrees and acknowledges that the United States is liable for the negligent or wrongful acts or omissions of its agents and employees while acting within the scope of their Federal employment, to the extent permitted by the Federal Tort Claims Act. The Service further agrees that it will insert in every cooperative agreement, grant, or contract to perform work under this MOU a clause requiring the cooperator, grantee, or contractor to obtain a right-of-entry agreement from Lanikai Properties (Exhibit B), in which Lanikai Properties may negotiate a provision by which the cooperator, grantee, or contractor agrees to indemnify, save and hold harmless, and defend Lanikai Properties against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, an act or omission of the cooperator, grantee, or contractor, its officers, employees, or representatives arising out of or in any way connected to activities authorized pursuant to its agreement with the Service.

3.1.3. Funding. Lanikai Properties will not be obligated to fund or perform any conservation measures for the protection of Protected Species in the No Development Area.

3.1.4 Lanikai Properties' Reserved Uses. Notwithstanding Section 3.1.1, Lanikai Properties reserves the right to designate and use the No Development Area for open space, preservation, natural drainage course, passive park, and other uses that do not adversely impact the Protected Species or materially interfere with the Service's permitted activities under Section 3.1.2. In addition, Lanikai Properties further reserves the right to grant one or more conservation or preservation easements affecting the No Development Area. The Service will be given the opportunity by Lanikai Properties to review and approve each proposed use or easement for land within the No Development Area for consistency with the terms and intent of this MOU.

3.2. Obligations of the Service.

3.2.1 Work in the No Development Area. The Service shall at all times designate a Service employee to act as contact person under this MOU. Service will develop a work plan describing the activities that will take place in the No Development Area and will submit the draft

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work plan to Lanihau Properties 60 days prior to commencement of activities taking place in the No Development Area. The work plan shall include the schedule of planned activities, list of authorized individuals, and a point of contact. Prior to finalizing the work plan, the Service shall take into account any reasonable concerns or recommendations raised by Lanihau Properties.

3.2.2 Access Notification. The Service shall submit a request for access onto the No Development Area via email or in writing 48 hours prior to the desired access. All persons entering onto Lanihau Properties' lands, other than Service employees, must sign Lanihau Properties' standard right of entry and liability waiver prior to entry, the current form of which is attached as Exhibit B.

3.2.3 Reporting. The Service will submit an annual report to Lanihau Properties summarizing the activities completed and a work plan for the upcoming year.

3.2.4 Protection of Lanihau Properties. The Service or the responsible party conducting work pursuant to a cooperative agreement, grant agreement, or contract with the Service shall ensure that all applicable laws and rules are complied with, including but not limited to ensuring that any necessary permits, especially for work with ESA species, are obtained for work the Service undertakes or funds. Furthermore, Lanihau Properties will have the right to review and approve the scope of work for each cooperative agreement, grant, or contract.

4.0 MODIFICATIONS

Modifications to this MOU may be proposed by either party and shall become effective upon the written concurrence of both parties.

5.0 DISPUTE RESOLUTION

5.1 Dispute Resolution. The parties recognize that disputes concerning implementation of, compliance with, or termination of this MOU may arise from time to time. The parties agree to work together in good faith to resolve such disputes, using the informal dispute resolution procedures set forth in this section, or such other procedures upon which the parties may later agree, subject to Section 5.3.

5.2 Informal and Non-Mandatory Dispute Resolution Process. Unless the parties agree upon another dispute resolution process, the parties may use the following process to attempt to resolve disputes:

- (a) The aggrieved party will notify the other party of the provision that may have been violated, the basis for contending that a violation has occurred, and the remedies it proposes to correct the alleged violation.
- (b) The party alleged to be in violation will have 30 days, or such other time as may be agreed, to respond. During this time it may seek clarification of the information provided in the initial notice. The aggrieved party will use its best efforts to provide any information then available to it that may be responsive to such inquiries.

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- (c) Within 30 days after such response was provided or was due, individual representatives of the parties who have authority to resolve the dispute will meet and negotiate in good faith toward a solution satisfactory to all parties, or will establish a specific process and timetable to seek such a solution.
- (d) If any issues cannot be resolved through such negotiations, the parties will consider non-binding mediation and other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good faith efforts to resolve all remaining issues through that process.

5.3 Notwithstanding the foregoing provisions of this Section, in case of threat of imminent breach of this agreement, emergency, other imminent harm, or if the parties are unable to reach agreement on a dispute resolution process as described above, the parties shall each be entitled to pursue any and all remedies available at law or in equity.

6.0 TERMINATION

This MOU may be terminated by either party following 90 days written notification to the other party.

7.0 MISCELLANEOUS PROVISIONS

7.1 Temporary Prevention of Performance. In the event that Lanikai Properties is wholly or partially prevented from performing obligations under this MOU because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Lanikai Properties, including, but not limited to third party actions, sudden actions of the elements not identified as changed circumstances, or actions of a non-participating federal agency, state agencies, or local jurisdictions, Lanikai Properties shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, provided that:

- (a) The suspension of performance is of no greater scope and no longer duration than is required by the unforeseeable cause;
- (b) Within 45 days after the occurrence of the unforeseeable cause, Lanikai Properties shall give the Service written notice describing the condition, an estimate of how long Lanikai Properties expects it to persist, and how Lanikai Properties plans to remedy the effects of the temporary suspension of performance;
- (c) Lanikai Properties shall use its best efforts to remedy its inability to perform (however, this paragraph shall not require Lanikai Properties to incur extraordinary expenses or settlement of any strike, walk-out, lock-out, or other labor dispute on terms which in the sole judgment of Lanikai Properties is contrary to its interest); and
- (d) When Lanikai Properties is able to resume performance of its obligations, Lanikai Properties shall give the Service written notice to that effect.

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7.2 No Partnership. This MOU shall not make or be deemed to make any party to this MOU the agent for or the partner of any other party.

7.3 Notices. Any notice permitted or required by this MOU shall be in writing, delivered personally or by overnight or certified mail, to the persons listed below, or shall be deemed given five (5) business days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or at such other address as either party may from time to time specify to the other party in writing. Notices may be delivered by facsimile or other electronic means, provided that they are also delivered personally or by overnight or certified mail. Notices shall be transmitted so that they are received within the specified deadlines.

Field Supervisor
United States Fish and Wildlife Service
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Suite 3-122
Honolulu, Hawai'i 96850
Telephone: 808-792-9400
Facsimile: 808-792-9580

President
Lanikai Properties, LLC
P.O. Box 9032
Kailua-Kona, Hawai'i 96745
Telephone: 808-329-5858
Facsimile: 808-329-8044

7.4 No Federal Contract. Notwithstanding any language to the contrary in this MOU, this MOU is not intended to create, and shall not be construed to create, an enforceable contract between the parties.

7.5 Duplicate Originals. This MOU may be executed in any number of duplicate originals. A complete original of this MOU shall be maintained in the official records of each of the parties hereto.

7.6 No Third-Party Beneficiaries. Without limiting the applicability of rights granted to the public pursuant to the ESA or other federal or state laws, this MOU shall not create any right or interest in the public, or any member thereof, as a third-party beneficiary hereof, nor shall it authorize anyone not a party to this MOU to maintain a suit for personal injuries or damages pursuant to the provisions of this MOU. The duties, obligations, and responsibilities of the parties to this MOU with respect to third parties shall remain as imposed under existing law.

7.7 Relationship to the Endangered Species Act (ESA) and Other Authorities. The terms of this MOU shall be construed in accordance with the ESA and other applicable federal and state laws. In particular, nothing in this MOU is intended to limit the authority of the Service to seek penalties or otherwise fulfill its responsibilities under the ESA. Moreover, nothing in this MOU is intended to limit or diminish the legal obligations and responsibilities of the Service as an

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agency of the federal government. In addition, nothing in this MOU will limit the right or obligation of any federal agency to engage in consultation required under Section 7 of the ESA or other federal laws.

7.8 Availability of Funds. Implementation of this MOU by the Service is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this MOU will be construed by the parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The parties acknowledge that the Service will not be required under this MOU to expend any federal agency's appropriated funds, unless and until an authorized official of the agency affirmatively acts to commit to such expenditures as evidenced in writing.

7.9 References to Regulations. Any reference in this MOU to any regulation or rule of the Service shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

7.10 Applicable Laws. All activities undertaken pursuant to this MOU must be in compliance with all applicable state and federal laws and regulations.

7.11 Successors and Assigns. The intention of the parties is that this MOU shall apply to their respective successors and assigns.

7.12 No Commitment to Exclude; No Waiver. Nothing in this MOU shall be construed as a commitment to exclude the Lanihau Group's property from critical habitat designation. However, as set forth above, in recognition of the long-term cooperative relationship between the Service and Lanihau Properties and in accordance with the ESA the Service will consider the benefits and outcomes of this MOU when considering future designations of, or revisions to, critical habitat affecting the lands of the Lanihau Group.

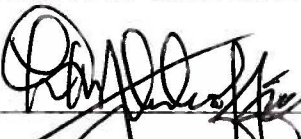
IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Memorandum of Understanding to be in effect as of the date of the last signature executed below:

U.S. DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

By: _____

Title: _____

Date: _____

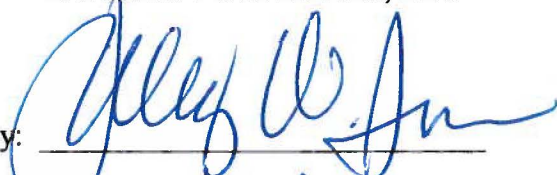

Field Supervisor, PFWO
5/20/2014

LANIHAU PROPERTIES, LLC

By: _____

Title: _____

Date: _____

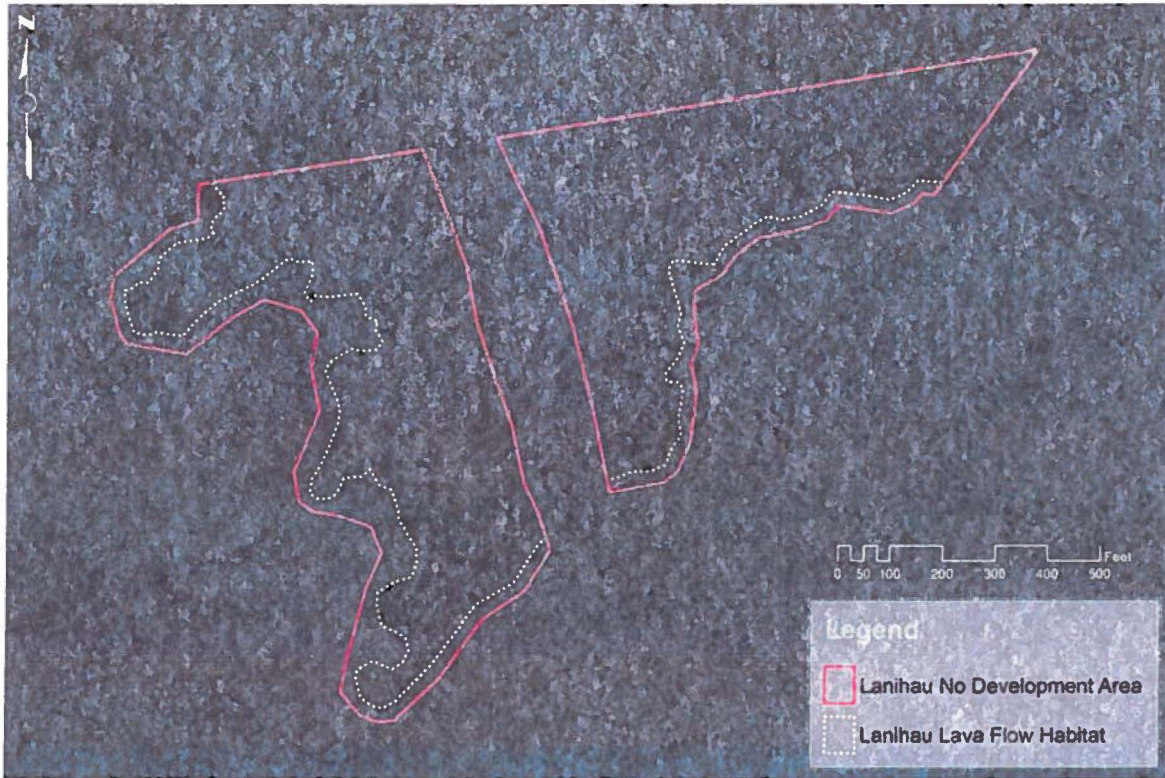

PRESIDENT
5/14/14

Attachments:

Exhibit A – Map of Granted Access Area and No Development Area

Exhibit B – Entry Agreement for Lanihau Properties, LLC

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MAP OF GRANTED ACCESS AREA AND NO DEVELOPMENT AREA

Lanihau Properties agrees it will not construct or permit the construction of buildings or other improvements, or undertake or permit any other land disturbance activities, on its high quality native Hawaiian dry forest habitat in the portions of Tax Map Keys (3) 7-4-008:005 and 081 that are described in this paragraph and are adjacent to the Ane Keohokalole Highway, Kailua-Kona, Hawai'i (aka. the "No Development Area"). Separated into two sections by the mid-level road, this No Development Area was delineated on April 1, 2014, by the Service and Lanihau Properties walking the ground and delineating the edge of the lava flow habitat with a Trimble GPS submeter GNSS (GeoXT/GeoXH) unit. To facilitate installation of a perimeter fence with a buffer zone inside and outside of it, the lava flow habitat was then buffered by at least seven (7) meters in all locations. Comprised of 7.012 acre makai and 8.851 acre mauka parcels, the total area of the Lanihau No Development Area is 15.86 acres. The access area granted by Lanihau Properties per this MOU is restricted to this No Development Area from Ane Keohokalole Highway.

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EXHIBIT B

ENTRY AGREEMENT FOR LANIHAU PROPERTIES, LLC

I am executing this Entry Agreement (this "**Agreement**") for myself and on behalf of my heirs, children and next of kin, personal representatives and assigns (together called "**Entrant**") in connection with Entrant's entry on to certain real properties described below. If this Agreement is signed by more than one person, the term "Entrant" will include all signatories.

1. **Definitions.** As used in this Agreement:

"**Owners**" means Lanihau Properties, LLC; West Hawai'i Business Park, LLC; Palani Ranch Company, Inc.; the Trustees of the J.M.G. Irrevocable Trust dated December 22, 1989, the L.R.G Irrevocable Trust I Agreement dated December 22, 1989, and the L.R.G. Irrevocable Trust II Agreement dated January 15, 1999; the Trustee of the David R. Greenwell Revocable Living Trust Agreement dated July 7, 1992; Anthony B. Craven, Jr.; and each of their respective heirs, personal representatives, successors in trust, successors and assigns.

"**Properties**" means the real properties owned or leased by Owners that are situated on the Island and County of Hawai'i, State of Hawai'i in the areas known as Honokohau, Holualoa, Pahoeohoe, Kaumalumalu, Kahaluu, Keauhou, Pua'a, Kealahake, Keahuolu and South Kona, together with any other lands hereafter owned or leased and made the subject of this Agreement.

"**Benefitted Parties**" means the parties benefitting from Entrant's acknowledgments and promises in this Agreement, including Owners and their respective trustees, officers, directors, employees and agents.

2. **Purpose(s) of Entrant's Entry on to Properties; Term.** Entrant has requested and received permission from Owners to enter on a portion of the Properties for one or more of the following purpose s [check what is applicable]:

- | | |
|--|--|
| <input type="checkbox"/> hunting | <input type="checkbox"/> research |
| <input type="checkbox"/> recreation and hiking | <input type="checkbox"/> gathering rock or timber |
| <input type="checkbox"/> service to the Owners | <input type="checkbox"/> transit to other neighboring properties |
| <input type="checkbox"/> other (describe): _____ | |

Unauthorized hunting on Owners' Properties without Owners' permission is illegal, and violators will be prosecuted under Hawai'i Penal Code Section 708-813(2) (relating to criminal trespass in the first degree).

The term of this Agreement shall commence at _____ .m. on _____, 20____, and expire at _____ .m. on _____, 20____ (the "**Term**"). However, if any term, condition or obligation contained in this Agreement is not performed to Owners' reasonable satisfaction (each a "**Default**"), then Owner may immediately terminate this Agreement. Owner has no obligation to extend the Term.

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3. WARNINGS OF RISKS AND DANGERS; Archaeological Conditions; Entrant's Acknowledgment.

a. Some of the Properties are being used for the operation of a ranch and this use presents certain risks and dangers to Entrant that could lead to serious personal injury, disability or death while on the ranch Properties. These risks include, without limitation, attacks or injury by tamed and untamed livestock, horses and other animals, and certain dangers posed by sheds, fencing, vehicles, machinery and equipment used in ranch operations.

b. Portions of the Properties are at upper elevations and are undeveloped. The natural condition of the Properties includes unmarked caves, lava tubes and lava blisters, as well as uneven and unimproved ground. Many roads are unpaved and only four-wheel drive vehicles can be used on these roads. Many trails are old, worn and have not been maintained. Vehicles should be driven only on designated roads and trails. All drivers should not speed, and they should use extreme care to minimize erosion or damage to the roads and property.

c. At times, severe wind, brush fires, flooding, lightning and other weather phenomena can affect the Properties.

d. A portion of the land in Honokohau has been used as a rock quarry, and the topography of the land has been altered as a result of various quarry and industrial related activities on the property. There is loose rock, and there are also high cliff areas that should be avoided.

e. There are archaeological conditions (including artifacts) located in different portions of the Properties. Some of them have been culturally surveyed, and some have not. Entrant must not disturb any archaeological conditions, whether marked or unmarked, or remove any stones or artifacts from the Properties.

f. There are 'inherent risks and dangers' associated with certain recreational activities (for example, hunting and hiking) on the Properties, and the Owners cannot be held responsible for eliminating or preventing these risks and dangers.

g. Owners have not made efforts to determine the full extent of the risks and dangers on the Properties and to remedy all hazards on the Properties.

h. Entrant fully understands and acknowledges the nature, scope and extent of the risks and dangers involved with Entrant's entry on to the Properties. Entrant further understands that certain risks may be caused by Entrant's own actions or inaction, and the action or inaction of the Benefitted Parties or others participating in Entrant's own activities on the Properties.

Entrant's Initials Confirming Receipt of Warnings: _____

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4. **Entrant's Voluntary Assumption of Risks and Dangers.** By signing this Agreement, Entrant voluntarily assumes all risk of serious personal injury, permanent disability, paralysis, death, property damages and all other losses, costs and damages that Entrant may sustain while on the Properties. There may be other potential risks that are not known to Owners and the Benefitted Parties or that are not readily foreseeable at this time, and this Agreement is intended to cover all of these risks.

Entrant's Initials Confirming Agreement: _____

5. **WAIVER, RELEASE AND DISCHARGE FROM LIABILITY.**

a. **Entrant hereby fully waives, releases and forever discharges the Benefitted Parties from any and all liability and claims for losses and damages, including all personal and bodily injuries, death or property damage, incurred while engaged in general transit and doing things on Owners' Properties or facilities.**

b. **Entrant understands and agrees that some injuries, losses and damages may not be immediately known and anticipated, and this Agreement covers, and is intended to cover, any and all liabilities and claims for losses and damages, whether or not known or anticipated.** Entrant further agrees that this waiver, release and discharge of liability includes, without limitation, liabilities and claims for losses and damages for personal and bodily injuries, death or property damage caused by the negligence of Owners and other Benefitted Parties, as well as claims against Owners and other Benefitted Parties arising from strict product liability.

c. **Entrant agrees and understands that this Agreement is intended to be a complete and unconditional release of Owners and other Benefitted Parties from any and all liability to the greatest extent allowed by law.**

Entrant's Initials Confirming Agreement: _____

6. **Covenant Not To Sue Owners.** Entrant promises not to make any claim or file any lawsuit or action against Owners, and also promises not to help in making any claim or filing any lawsuit or action, which the Entrant or any other person, entity or organization may have because of any personal injury, death or property damage arising (or to arise) from general transit and related activities while on Owners' Properties or facilities. **If married**, the Entrant agrees to execute this Agreement on behalf of him/herself and his/her spouse.

Entrant's Initials Confirming Agreement: _____

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7. **Indemnity Agreement.** Entrant promises to indemnify, save and hold **Benefitted Parties harmless WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, or loss or damage to person or property and from any and all liabilities, claims, demands, actions, and causes of action, however denominated, that may be initiated by Entrant and/or any other person, entity or organization now or at any time in the future arising (or to arise) from or associated with Entrant's presence or participation in any and all of the activities and actions contemplated by this Agreement, WHETHER ARISING FROM THE NEGLIGENCE OF THE BENEFITTED PARTIES OR OTHERWISE, to the fullest extent of the law.** Entrant agrees that this indemnity includes reimbursement for all legal costs, including reasonable attorneys' fees, incurred by Owners in the defense of all such claims and causes of action.

Entrant's Initials Confirming Agreement: _____

8. **Continuance of Obligations.** All of the terms and conditions of this Agreement shall continue in full force and effect at all times, now and in the future, and shall be binding upon Entrant's heirs, personal representatives, assigns, successors, and successors in interest.

9. **Disclaimers.** Entrant understands and agrees that **Owners will not provide any medical or liability insurance for Entrant covering any incident that may occur while Entrant is on or using Owners' Properties or facilities or while Entrant is engaging in general transit and doing things on Owners' Properties.**

10. **Damages to Owners' Property.** The Entrant promises to **pay for all damage to Owners' property, equipment, facilities, animals or livestock resulting from the negligence, gross negligence or intentional acts of Entrant in the activities contemplated by this Agreement.**

Entrant's Initials Confirming Agreement: _____

11. **Governing Law.** This Agreement shall be construed and governed by, and interpreted in accordance with, the laws of the State of Hawai'i.

12. **Miscellaneous Provisions.**

a. **This Agreement is a binding and enforceable contract that has legal consequences.** This Agreement supersedes all prior agreements between Entrant and Owners, and may not be modified except in writing and with the express consent of all parties hereto.

b. The titles before each section of this Agreement are solely for convenience purposes, and do not modify, limit or expand the contractual terms provided in this Agreement.

c. If a Hawai'i court finds one or more of the contractual terms stated in this Agreement to be illegal or otherwise unenforceable, the validity and enforceability of the remaining terms shall not be impaired thereby.

d. Entrant represents that he/she is an adult, 18 years of age or older, and that Entrant is competent to review, understand and execute this Agreement.

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c. Entrant represents that he/she has carefully read all of this Agreement, and that he/she fully understands and agrees to all of its terms. Entrant also represents that he/she has placed his/her initials and signed this Agreement of his/her own free will, without any inducement or compulsion.

Entrant's Initials Confirming Agreement and Representations: _____

13. Use of Keys.

- a. Absolutely no duplicate keys are to be made.
- b. Absolutely no loaning or lending of keys to other persons.
- c. Any person responsible for signing out keys and not abiding by this Agreement will be subject to prosecution.
- d. Keys must be returned to the main Lanihau Properties, LLC office or the main Palani Ranch office before 4:30 p.m. daily unless prior arrangements have been made for extension of possession.

Entrant's Initials Confirming Agreement: _____

14. Special Provisions.

a. **Prohibited Use of Photos; Written Transfer of Copyrights.** Taking photographs and videos on the Properties is not prohibited, but the posting on the Internet (including social networks like Facebook) of hunting photographs and videos taken on the Properties is absolutely prohibited. This is intended to prevent the use of Entrant's hunting photographs and videos in animal rights and other campaigns against hunting for game or otherwise defaming Owners' involvement with hunting activities on the Properties. Entrant also agrees that Owners will be the owners of the copyrights for any hunting photographs or videos taken by Entrant on the Properties. Entrant has the right to use the photographs and videos for his or her personal use and enjoyment, but not for use on Facebook or other social media, or otherwise for posting on the Internet, or for any commercial purposes. This Agreement constitutes a written assignment of the copyrights for such hunting photographs and videos taken on the Properties. Upon request, Entrant will cooperate with Owners in removing the posting of any hunting photographs and videos posted on the Internet.

b. **For Parents/Guardians of Entrants of Minority Age (Under age 18 at time of registration).** If applicable, I certify that I, as the parent/guardian with legal responsibility for the minor Entrant(s) listed below, do consent and hereby give permission for my child (children) to participate in wild game hunting and weapons firing and related activities on the Owners' Properties. I also consent and agree to his/her release as provided above of all the Benefitted Parties, and for myself, and on behalf of my children, heirs, next of kin, personal representatives, assigns, successors and successors in interest, I release and agree to indemnify and hold harmless the Benefitted Parties from any and all liabilities incident to my minor child's involvement or participation in these activities as provided above, EVEN IF ARISING FROM THE NEGLIGENCE OF THE BENEFITTED PARTIES, to the fullest extent permitted by law. I further understand that all terms of this Agreement shall also apply to my child (children).

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c. **Other Provisions** [Fill in below, if applicable, and leave blank if inapplicable]:

Names and ages of minors (if applicable):

_____	_____	_____	_____
Minors Name	Age	Minors Name	Age
_____	_____	_____	_____
Minors Name	Age	Minors Name	Age

I have executed this Agreement on _____, 20____.

_____	_____
(Print Name)	(Print Name)

_____	_____
Signature	Signature

_____	_____
Address	Address

_____	_____	_____	_____	_____	_____
City	State	Zip	City	State	Zip

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