

## RENTAL AGREEMENT (version 2021.12.16)

Brandon Mullenberg  
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Cell: 206-755-1104  
Hawaii Tax ID Numbers: TA-103-459-6352-01 and GE-103-459-6352-01

Thank you for choosing our home for your vacation. We hope that you have pleasant stay. The Property is located at: Honua Kai Resort & Spa, 130 Kai Malina Parkway, Lahaina, HI 96761. Once you arrive on island, the Maui contact for my unit is: Richmond Consulting, Inc., Monty Richmond, 28 Aea Place, Lahaina HI 96761, Cell: 808-393-5787 Email: [montylr@hotmail.com](mailto:montylr@hotmail.com)

To keep the unit looking new, we ask that you please remove your shoes upon entering and please no smoking in the unit or on the lanai. This is a non-smoking unit and resort. PETS are not permitted in rental units under any conditions. Mahalo.

### **BOOK IN CONFIDENCE AND LOW PRICE GUARANTEE**

By booking direct you are ensured my lowest price. It should never happen, but I will price match if upon booking you find my unit available on a reputable third-party site for less than the total price you paid over the same booked dates.

On March 11, 2020 the World Health Organization (WHO) declared the outbreak of coronavirus, known as COVID-19, to be a global pandemic. As a result I have enacted the following guarantee to protect your vacation investment, you will receive a credit equal to the Total Rent that can be used toward the booking of a new stay up to 18 months from your original arrival date in any of my units if you have an active non-canceled reservation and any of the following occur inside the 10 days prior to your arrival:

- 1) Maui no longer offers a means to bypass the Hawaii mandatory quarantine.
- 2) The pools at Honua Kai Resort & Spa are currently all open. I guarantee they will not all be shut down.

While I want your trip to go smoothly, I understand the unexpected may happen. For that reason, if you make all your payments by the due dates and despite this if one of these things happens to you, you will receive the credit.

This book in confidence guarantee does not cover cancellations if you decide not to come for other reasons. COVID-19 related circumstances not covered include: transportation disruptions and cancellations; health advisories; travel advisories; COVID-19 case increases; changes to applicable law; shelter-in-place and quarantine requirements imposed by your place of residence; event and activity closures; and other government mandates—like mask mandates, increased restrictions, vaccination or COVID-19 testing mandates, gathering limits, and border closures. For these and any other reason, my cancellation policy will apply as usual.

### **TRAVEL INSURANCE RECOMMENDED**

If you desire more protection for your trip with a possible refund if canceling for a covered insurance reason, I highly recommend trip insurance through a third party be purchased as soon as possible. Please consider one with the optional benefit: CFAR – cancel for any reason. The CFAR benefit if desired, must be purchased within a limited time after the trip is booked. Once such place offering travel insurance can be found at: <https://www.squaremouth.com/21997>. Using this link allows you to review and receive quotes from over 20 different providers. Some as little as 2.5-3% of your trip costs.

### **STANDARD RENTAL AGREEMENT**

This RENTAL AGREEMENT (hereinafter “Agreement”) is made as of the Effective Date as defined below, between Brandon Mullenberg (hereinafter called "Owner") and the renter(s) whose name(s) appear on the reservation or whom accepted the Agreement (hereinafter called “Principal Guest”) for rental of the specific unit as it appears on your reservation (hereinafter, “Unit”) at Honua Kai Resort & Spa (“Resort”). Unit and Resort collectively may be referred to as the “Property”. The Property is governed by the Honua Kai Condo Association (“HKCA”). Owner and Principal Guest may collectively be referred to as the “Parties” or individually as a “Party”. If multiple units are under one reservation then this Agreement shall apply separately for each, as if each unit had its own separate Agreement.

### **EFFECTIVE DATE**

This Agreement is effective as of the Effective Date, which is the date this Agreement is accepted by Owner and Principal Guest and a payment toward the reservation is received. Payment on the reservation after the rental agreement has been provided to Principal Guest shall be considered acceptance of this Agreement by both parties. Until the Effective Date, the offer to rent is not guaranteed and Owner will continue to respond to inquiries, can raise or lower prices, and may offer the vacation rental to other parties for the same dates that you have requested. To guarantee your reservation it is important that you accept the terms of this

Agreement and make a payment toward the reservation as soon as possible.

### **GENERAL TERMS AND CONDITIONS OF RENTAL**

By entering into this Agreement Principal Guest on its own behalf and on behalf of all of its guests, invitees, co-occupants, agents and others under its control (herein known as "Invitees") agrees to the rental of the Subject Property on the terms and conditions herein (above and below) for use as a private vacation residence. The term "Subject Property" includes the interior of the Unit and its limited common elements, including its lanai, and garden area. Locked areas for which Principal Guest is not provided with a key, such as Owner's personal storage closet are not included within the property covered by this Agreement.

### **CHECK-IN TIME IS AFTER 4:00PM HST AND CHECKOUT IS 10:00AM HST**

Please assume no early check-in or late checkout due to turn around time. We do try to accommodate guest requests when possible but it is not guaranteed. No refund is provided for early departures or late arrivals.

### **UNIT BED CONFIGURATIONS:**

Bed sizes and configurations are subject to change if furniture is replaced. The unit bed configuration is dependent on the Unit rented. Each unit and its associated current configuration are listed below:

Konea 102: This is a three (3) bedroom Unit. The two (2) master suites have King beds (76x80), and the guest bedroom has a split hotel King with a joiner. It can be configured as a hotel King (72x80) or two (2) Twin XL beds (36x80). The living room has a pull-out Queen sofa bed (60x72). Two pack-n-plays are available to use (free).

Luana 1B: This is a three (3) bedroom Unit. The two (2) master suites have a hotel King (72x80), and the guest bedroom has a split hotel King with a joiner. It can be configured as a hotel King (72x80) or two (2) Twin XL beds (36x80). The living room has a pull-out Queen sofa bed (60x72). Two pack-n-plays are available to use (free).

Konea 103: This is a two (2) bedroom Unit. The master has a King (76x80), and the second bedroom has two (2) hotel King beds (72x80). The living room has a pull-out Queen plus size sofa bed (66x80). One pack n play is available to use (free).

Konea 104: This is a two (2) bedroom Unit.,The master has a King (76x80), and the second bedroom has a split hotel King with a joiner. It can be configured as a hotel King (72x80) or two (2) Twin XL beds (36x80). The living room has a pull-out Queen plus size sofa bed (66x80). One pack n play is available to use (free).

Konea 106: This is a two (2) bedroom Unit. The master has a King (76x80), and the second bedroom has a King (76x80). The living room has a pull-out Queen plus size sofa bed (66x80). One pack n play is available to use (free).

Owner offers rollaway beds available for rent for a fee. Availability is not guaranteed and may be limited so advanced reservations are recommended. If there is no availability and additional beds are needed, they must be rented through a third party (subject to their availability). Rental of these additional items and their expense is the sole responsibility of the Principal Guest. Please ask Owner if you need a referral. Disclaimers: Due to the size of the guest room in the 2 bed / 1 bath unit (Konea 106) the additional bed will not fit and you will need to have the additional bed located in the master, or living area. Due to the double King bed configuration in Konea 103, a rollaway bed will only fit in the master or living area.

### **MODIFICATION OF CONDO (applies to 2 bed / 1 bath units only)**

The 2 bed / 1 bath units were originally a 1 bed + 1 den / 1 bath and have been converted to a 2 bed by adding a door to the den and replacing the pull-out sofa in the den with a bed. The den converted to second bed does not have an operable window and only has one means of emergency egress via the interior door to the room.

### **USE OF THE COMMON ELEMENTS**

The common elements including but not limited to the pools, hot tubs, towel tracker machines, gym, landscaping, hallways, common area BBQs, pathways, lobby, restrooms, etc. shall be available for your non-exclusive use as a guest of the Owner, however Owner makes no guarantees as to their condition, functionality or availability and you agree to hold Owner harmless and refunds will not be given in the event that their condition, functionality or availability is impaired or unavailable.

### **TOTAL RENTAL AMOUNT**

Payment may be in full at the time of the booking or in several periodic payments. This is stated during the booking process. The total amount due under a reservation for the rental of the unit shall hereinafter be referred to as "Total Rent". Any credits or discounts applied as an off-set against amounts due are not part of the Total Rent and are non-refundable. Any third-party fees such as booking fees, service fees, or fees for optional insurance plans are not part of the Total Rent and may not be refundable. Unless otherwise specified in writing, the Total Rent is in USD.

**CANCELLATION POLICY**

Owner advertises its units for rent on multiple websites and also directly to guests. Third-party websites may have their own preset cancellation policies that are presented during their check-out and attached to the rental of the Unit through their website. This cancellation policy below shall supersede their policy if it is more favorable to the Principal Guest. If the third-party booking website cancellation policy is more favorable, then that cancellation policy shall prevail.

Any full cancellation at the request of the Principal Guest, or a cancellation by Owner as a result of the Principal Guest or its Invitees actions including but not limited to (a) delinquent payment, (b) chargeback, (c) breach of this Agreement, or (d) threatened breach of this Agreement, will be subject to the following cancellation policy:

Fully Refundable Cancellation Period. The Total Rent is 100% refundable if canceled within the first 24 hours after entering into this Agreement and canceled more than 120 days before arrival.

Cancellation Penalty. The cancellation penalty is a percent of the Total Rent and shall increase with each day that the unit is rented by Principal Guest in the Cancellation x days before arrival time period according to the following schedule:

Cancellation x days before arrival	Cancellation Penalty (Percent of Total Rent)
More than 120 days	10% + (5% / (days before arrival booked – 120) * days reserved in this time period)
91-120 days	15% + (0.33% * days reserved in this time period)
61-90 days	25% + (0.83% * days reserved in this time period)
31-60 days	50% + (0.83% * days reserved in this time period)
16-30 days	75% + (1.66% * days reserved in this time period)
15 days or less	100% - no refund.

For the avoidance of doubt on how this works, here is two examples:

Example 1. Principal Guest rents the unit 180 days before arrival, and cancels 122 days before arrival. They are in the Cancellation x days before arrival: More than 120 days period. They have had the unit reserved for a total of 58 days in this period. The formula is 10% + (5% / (180-120) \* 58) = 14.83% of Total Rent cancellation penalty.

Example 2. Principal Guest rents the unit 95 days before arrival and cancels 65 days before arrival. They canceled in the Cancellation x days before arrival: 61-90 days period. They have had the unit reserved for a total of 25 days in this period. The formula is: 25% + 0.83% per day \* 25 days = 45.75% of Total Rent cancellation penalty.

The Days Before Arrival shall be calculated per full 24-hour day remaining using the earlier of the original booked arrival date, or modified arrival date if a change is agreed upon between the Parties. Pacific Time (PT) is used to determine days prior to arrival. For example, if your arrival date is on the 4<sup>th</sup>, 1 day prior to arrival would be a cancellation received by 11:59 PM PT on the 2<sup>nd</sup>. Principal Guest acknowledges that a change to a later arrival date will not cause their Cancellation Penalty to be reduced.

Cancellation requests must be submitted on the platform where you booked your reservation. Owner will provide a cancellation number upon receiving your cancellation that is your confirmation that your cancellation request has been processed. Please do not assume your cancellation has been received after leaving a voice mail, sending an email, or other website communication. Principal Guest must receive a cancellation number as proof that your cancellation has been received by Owner and processed.

If Principal Guest books this Unit using an instant booking feature, Owner reserves the right, for any reason, to cancel the reservation and refund 100% of the Total Rent paid at any time within the first 24 hours after entering into this Agreement.

**CHANGE POLICY**

Owner reserves the right to deny any requested reservation change for any reason. Individual nights on a reservation may not be canceled separately by requesting a reservation change. The reservation is for the full time period reserved without modification.

**REFUNDS**

Refunds shall be issued in the same manner in which paid (credit card back to credit card, etc.). Any electronic or physical checks received by Owner shall be held for as long as necessary for Owner to ensure he does not receive a bounce; however, this time period shall not exceed 30 days. Instead of issuing a physical check back to Principal Guest Owner may, at its option, use direct deposit to make an electronic refund back to same bank account from which the Principal Guests check was paid from.

**DELINQUENT PAYMENTS, NSF, CHARGEBACKS:**

Principal Guest agrees to pay to Owner a five percent (5%) late fee on any reversed or returned payment, or chargeback. In addition, any delinquent amount due under this Agreement shall be subject to a late interest charge of one percent (1%) per month, or the maximum amount permitted by law, whichever is less. Owner may put any delinquent / returned or chargeback payment in collections, report it to the credit bureaus, and take any other necessary action to collect.

#### **PARKING FEES**

Currently there is a \$15 fee + GET tax (4.16%) for parking per car per night. This fee unless clearly specified in your quote is not included in the Total Rent and must be paid separately. Valet parking is optional and there may be a fee associated with its use. The valet fee is collected by association and does not go to the Owner.

HCKA establishes rules on parking. These rules may impact parking for more than 1 vehicle and and/or establish certain areas where Principal Guest may park their vehicle. Owner will use its best efforts to communicate any rules that may be in place about parking prior to the Principal Guest stay. This information will generally be found in the condo information packet sent out to Principal Guest approximately 30 days prior to arrival. If you desire a copy of this current document before booking, please ask.

Luana 1B: First car parking is in the outdoor parking stall adjacent to the unit. The garage shall remain locked and unavailable for use unless parking for a second vehicle is paid. Alternatively, a guest with less than two (2) car parking may pay \$10 plus tax per night as an additional cleaning fee surcharge for garage access.

#### **TAX ADJUSTMENT**

The Total Rent is based on the state and local taxes in place at the time of the reservation. Taxes are paid to the state of HI based on the rate in force at the time the reservation payment(s) are collected. The tax rate is subject to change. Should taxes increase or decrease, Owner shall pass along any increase or decrease to Principal Guest as an additional amount owed or a credit. The tax increase or decrease will only be re-calculated on the unpaid portion of the stay.

#### **ADDITIONAL GUESTS**

Konea 102, and Luana 1B: Unit is for up to (8) eight guests including adults and children / infants of all ages. Additional guests will be a charge of \$50 + tax per night. Under no circumstances shall more than (10) ten guests be allowed.

Konea 103, 104, and 106: Unit is for up to (6) six guests including all adults and children / infants of all ages. Additional guests will be a charge of \$50 + tax per night. Under no circumstances shall more than (8) eight guests be allowed.

This additional guest fee is subject to change and will be charged based on the rate in place at the time the additional guest is added to the reservation. The names of all adults and children / infants must be disclosed prior to your stay to be added the HKCA guest roster. Sneaking or smuggling in or intending to sneak or smuggle in additional undocumented guests is a breach of this Agreement that will result in this Agreement being terminated by Owner pursuant to the Falsified Reservation clause below.

#### **GUEST OVERSTAYS**

Principal Guest agrees that a confirmed booking is merely a license granted by the Owner to the Principal Guest to enter and use the Unit for the limited duration of the confirmed booking. Principal Guest further agrees to leave the Unit no later than the 10 AM check-out time or such other time as mutually agreed upon in writing between the Owner and Principal Guest. If the Principal Guest and/or Principal Guest's Invitees stays past the agreed upon check-out time without the Owner consent, they no longer have a license to stay in the Unit and the Owner is entitled to make the Principal Guest and/or Principal Guest's Invitees leave. In addition to any legal fees, costs and expenses incurred to force eviction, Principal Guest agrees to pay Owner \$50.00 plus tax in rent (\$100.00 plus tax if from Dec 15-Jan 10<sup>th</sup>) for each 30-minute period that Principal Guest and/or Principal Guest's Invitees stays past the check-out time without Owner consent which shall continue to accrue until actual check-out. Both Principal Guest and Owner agree that this charge is reasonable considering the impacts on the next guest, and those that manage and clean the unit, and the possibility of lost rent, and additional expenses that could result due to the over-stay.

#### **EXCEPTIONS TO CANCELLATION POLICY DUE TO UNFORSEEN EVENTS**

Owner rents to guests from all over the globe, including Maui locals, so we do not refund for events when the unit remains available for occupancy but you are unable to travel or travel is delayed, including but not limited to events such as: work related issues; job or income loss; fear; death; family emergencies; health issues; epidemics; pandemics; natural disasters; bad weather; acts of god; protests; riots; war; terrorism; transportation disruptions and cancellations; travel advisories and restrictions; health advisories and quarantines; changes to applicable law; government mandates; and state, county, or national emergencies; etc.

Unless otherwise guaranteed in this Agreement, exceptions to the cancellation policy granting full or partial refunds will not be issued unless a mandatory evacuation is issued on Maui that effects the area of the Unit. If a mandatory evacuation is issued on

Maui that effects the area of the Unit, Principal Guest shall be entitled to a refund of pro rata portion of the un-used nightly rental rate payable hereunder and in which the unit is unoccupied by Principal Guest.

#### **FORCE MAJEURE / UNFORSEEN CIRCUMSTANCES LEADING TO UNIT UNAVAILABILITY**

There may be circumstances beyond our control and contemplation in which the Unit might not be available for your occupancy or may become unavailable mid-stay. In the event of one of these unforeseen circumstances, we will do our best to make alternative comparable arrangements for you when possible. If we cannot, or if the alternative arrangements are not acceptable to you we will issue you a refund as follows. If the Unit becomes unavailable prior to your arrival, Owner will refund all monies paid. If the Unit becomes unavailable mid-stay Principal Guest shall be entitled to a refund of a pro rata portion of the un-used nightly rental rate payable hereunder. The refund is our full extent of our liability to you. We will not be responsible for any other costs or losses.

#### **CAR RENTAL OPTION**

Owner may make available a car rental add-on option to Principal Guest for a fee. The following terms shall govern this optional add-on to the reservation: The pickup and drop-off location shall be Kahului International Airport (OGG). Additional fees shall apply at the car rental pickup location for any changes made or upgrades selected including but not limited to: car upgrades, alternate pickup or drop off locations, under age (less than 25) driver, additional drivers, insurance, roadside assistance, gas, optional accessories (GPS, car seats), etc. Owner may place the car rental reservation through any rental car company. The car rental must be picked up and returned on time, without damage, and with a full tank of gas to avoid additional charges. The primary driver must present a valid major credit card and a valid driver license with no restrictions to the rental car company agent to rent the vehicle. Owner makes no guarantee as to availability of a certain car class and vehicle classes may be sold-out. Principal Guest agrees that if the primary driver does not accept the terms and conditions of the rental car company related to the booking they will not be able to rent the vehicle and no refunds will be provided. Primary Driver will pay for any additional charges that apply directly to the rental car company. Unless canceled by Principal Guest more than seven (7) days prior to arrival (time period - subject to change), if for any reason beyond Owners control that the vehicle is unable to be rented, then no compensation, refund, or credit will be given. Besides placing the car reservation with the 3<sup>rd</sup> party rental car company, Owner provides no assurances or guarantees of anything related to the rental car vehicle or road / traffic events or conditions. Principal Guest agrees to release, hold harmless, indemnify and defend Owner, its insurance and its agents from any and all claims, delays, liabilities, damages, actions, injuries, death, losses, costs and expenses (including reasonable attorney's fees) arising in connection with the rental car.

#### **TELEPHONE / EMERGENCY SERVICES**

Principal Guest acknowledges and understands that this Unit does not have a telephone. Principal Guest represents and warrants to Owner that they have considered these things and Principal Guest and its Invitees have alternate means, such as a cell phone, by which they can access emergency services if necessary.

#### **INCLUDED SERVICES**

Included in the Total Rent are the following services:

**POOLSIDE TOWEL SERVICE.** Resort poolside towel service is available for Principal Guest to use via the towel tracker program. Towels will be tracked to your reservation. Non-returned towels may be subject to a non-return towel fee as posted. This program is made available by HKCA and this unit has opted-in to this paid program. The programs availability is subject to change based on changes made by HKCA. If at any time this program ceases, Owner will provide pool / beach towels in the unit.

**INTERNET ACCESS AND CABLE TELEVISION.** The Unit has Wi-Fi Connections for Internet, which guests may use during occupancy. During the period of occupancy, the Owner is not responsible for poor quality television service, poor quality Internet access, data loss or distortion or any interruption or loss of Internet access. HKCA provides Resort WIFI and Owner makes no guarantees as to its availability, connection, coverage area, or speed. There will be no refund or reduction in the Total Rent for direct or indirect damages due to interruption, loss or quality of service mentioned herein.

**UTILITIES.** Including, without limitation, electricity, plumbing, gas, water, air conditioning, sewage system.

**SUPPLIES.** We supply a starter size and quantity of essentials including but not limited to toilet paper, paper towels, shampoo, conditioner, soaps, dish soap, laundry detergent, dishwasher detergent, etc. Once the initially supply runs out, Principal Guest and/or its Invitees shall purchase any additional needed for their own use. Depending on the trip length and use, the starter amount may not be enough for the full duration of your stay. We do not supply personal use items such as tooth paste, tooth brushes, combs, Q-tips, make-up, etc. When in doubt, please pack it with you.

#### **EXCLUDED SERVICES**

Unless specifically included in this Agreement as included services, Principal Guest acknowledges that all other services are excluded. Specifically; dry cleaning and/or laundry service, food and beverages (both alcoholic and non-alcoholic) are not

included as part of the Total Rent. In addition, all Resort recreational and amenity charges incurred by Principal Guest and its Invitees; i.e. restaurants, rental cars, spa charges, pool side cabana rentals, etc. are excluded and the payment for such services, and amenities is the responsibility of the Principal Guest. As of the time of this booking, also excluded is the following:

**NO DAILY MAID SERVICE.** Cleaning is pre-scheduled prior to your arrival and at post-check out only. While an initial supply of linens and bath towels are included in the Unit rental and Total Rent, daily maid service is not. Any other housekeeping services during your stay must be arranged through Owner or Owners Agent at Principal Guest expense.

#### **EXTRA SERVICES (provided by Honua Kai's Concierge and not by Owner)**

At the option and additional expense of the Principal Guest, the following are extra services provided by Honua Kai's Concierge Service (phone: 808-662-2822) and not by the Owner. If used, Principal Guest authorizes the party selling the service to bill all charges for these items directly to the Principal Guest's credit card. These include items such as: Pre-arrival grocery shopping (please provide shopping list), Child care needs - rental (please indicate crib, stroller, high chair, toddler bed, etc.), Dry cleaning: pick-up and delivery to Property, Errand running, and Business Services, copying and mailing services. Please note: A Pack-n-Play and booster seat with table is available in the room for your use at no charge.

#### **HOUSE RULES**

The Principal Guest shall comply, and will cause all of its Invitees to comply, with all Resort rules and regulations. HKCA has adopted house rules which are listed at the following URL: <http://govisitmaui.com/hkca-house-rules/>. Failure to abide by these house rules could lead to eviction, penalties, fines, or other actions are taken for a violation of these rules. Principal Guest shall be responsible for the payment of any penalty or fine assessed on the Owner. No refunds shall be given for evictions, etc. All rules described in this Section are a part of this Agreement and incorporated by reference. The house rules may be updated from time to time. Guest is responsible for abiding by the house rules that are posted to the URL above at the time of their stay.

#### **RESTRICTIONS ON USE AND OCCUPANCY**

The Property shall be used solely for personal quiet vacation purposes. The Property shall not be used in any manner for commercial or other purposes, including, without limitation, conducting recordings, filming, hosting events, parties, events, luaus, weddings or receptions unless such activities have been specifically approved in writing by the Owner and the Resort.

#### **MAINTENANCE**

Principal Guest is required to report any deficiency or damage in the Unit immediately after checking in (within 24 hours). Principal Guest may be held responsible for not reporting any issues in a timely manner. Principal Guest may be held responsible for neglecting to operate appliances in the proper manner and use for which they are intended. Principal Guest shall inspect and be familiar with proper use and application of all items of personal property in the Unit prior to using them. Owner will do everything possible to keep all equipment in satisfactory working condition; however, it is impossible to guarantee that all equipment will be in working order 100% of the time. Any deficiencies will be corrected as soon as humanly possible. Refunds or discounts will not be provided for any maintenance issues that occur in the Unit.

#### **PROPERTY DAMAGE, THEFT**

The Unit is individually owned and decorated. Please do not remove linens, dishes or other items from the Unit. Guests are liable for additional charges resulting from any damage, lost items or excessive check out cleaning. Principal Guest is responsible for ensuring that the Unit is left upon departure in the same (or better) condition and repair as it was on the Check in Date. Principal Guest agrees to be responsible for all damages and theft to the Property caused in any part by the Principal Guest and/or Principal Guest's Invitees. Principal Guest agrees to be responsible for the repair or replacement cost (at Owner's option) of all damage done to the Subject Property during the occupancy of the Subject Property, including and without limitations; walls, carpet, doors, windows, floor and window coverings, furniture, cabinets, plumbing, furnishings, appliances, equipment, decorations, personal property and fixtures, lanai finishes and furnishings, etc. Ordinary wear and tear of the Subject Property, which does not include staining, chipping, scratching and marking up the walls or floors, is excluded. Principal Guest hereby specifically acknowledges and agrees that Owner, and its agents each have the right to take legal action against Principal Guest, and/or Principal Guest's Invitees for all damages to the Property, or for any portion of unpaid resort fees, resort services, parking or unpaid Total Rent.

Owner may require the purchase of either a Property Damage Protection Insurance Plan ("PDP") or a refundable damage deposit ("Damage Deposit"). One is not included unless specified. If no Damage Deposit, or PDP, is in place, or the damage amount exceeds the Damage Deposit, or if the damage is not covered by or exceeds the coverage of the PDP purchased; Principal Guest agrees to promptly remit payment to Owner. PDP covers accidental damage of items such as broken lamps, lost keys, lost in-unit towels, windows and glass; damaged doors, walls and furniture, stained bedding or linens and more. If you did not purchase a plan prior to arrival and desire to after booking please inquire with Owner. For a full list of inclusions / exclusions please review the plans coverage documents. To the extent that PDP reimburses owner, Principal Guest shall not be liable.

**NO SMOKING; NO UNAUTHORIZED ANIMALS; NO PETS**

The Property, is designated as a non-smoking area and smoking, vaping, cigars, marijuana, etc. are prohibited at all times. Pets, other than those assisting disabled persons or needed for legitimate medical purposes, are not allowed. Regardless of the purpose, all animals must be pre-approved by Owner in writing prior to booking. Principal Guest agrees to these policies. Principal Guest further agrees that if a violation is found to have occurred during their stay to immediately cease the violation and to be charged \$500 plus tax for additional cleaning, etc. Any permanent damages or fines received that result from the violation are not included in this amount and shall be billed separately. If a Damage Deposit has been provided, Owner may take from the Damage Deposit this amount. If upon arrival, Principal Guest or its Invitees' have an animal that has not been pre-approved, your check-in may be delayed while we verify paperwork or you will not be allowed to check-in until an alternate home is found for the animal for the duration of your stay. Proof of alternate accommodation for the animal may be required prior to check-in. No refunds will be provided if you are evicted, or not allowed to check-in timely due to a violation related to this paragraph.

**ENTRY OF PREMISES**

During business hours, Owner or its agents may enter the Unit with or without permission to investigate disturbances, check occupancy, check or restock supplies, check damages, make repairs, alterations, improvements, and otherwise enforce the terms of this Agreement. In emergency cases, Owner or its agents may enter at any time without permission of the Principal Guest.

**PERSONAL PROPERTIES**

Principal Guest assumes full responsibility for Principal Guests' and its Invitees' personal properties and vehicles during occupancy and acknowledges and agrees that Owner and its agents are not responsible for its personal properties and vehicles and does not provide insurance for any loss of or damage to Principal Guest's or its Invitees' personal properties or vehicles. Principal Guest is responsible to lock the doors and windows of the Subject Property when not present in the Unit. Owner, and its agents assume no responsibility for any damage or loss of Principal Guest's or its Invitees' personal properties left in the Unit during or after occupancy. Valuables should not be left unattended at any time. Principal Guest and its Invitees' should make arrangement for the safekeeping of their valuables during occupancy of Unit. Owner has no responsibility for providing any security services and Principal Guest, on behalf of itself and its Invitees assumes all risks in that regard.

**CONSTRUCTION ACTIVITIES**

Principal Guest acknowledges that construction activities and/or outside ground maintenance such as pool maintenance and cleaning, lawn cutting, raking, pruning may be in progress and may occur during occupancy, and acknowledges and agrees that Owner and its agents shall not be responsible for any construction noise or any related inconvenience that may occur during occupancy. No refund or reduction in the Total Rent will be made in connection with any such matters.

**ILLEGALLY PARKED VEHICLES**

Illegally parked vehicles may be towed; applicable fines/towing fees are the sole responsibility of the vehicle owner or renter.

**POOL / SPA / TIKI TORCHES / LANAI / BUNK BED / ROLLAWAY BED**

Principal Guest, on behalf of itself and its Invitees, acknowledges that in and around the pond, lanai, bunk bed (if applicable), rollaway bed (if applicable), pool, and spa areas requires special care be taken to avoid injury. In particular, children and elderly persons should be accompanied at all times when using the pools and/or spas or near the koi ponds. The Units' interior tile and lanai may have been treated with non-slip treatment, however tile is not slip proof and precautions should still be taken when wet or when returning from a wet surface. If the unit has a bunk bed, to prevent serious or fatal injuries from entrapment or falls never allow a child under 6 years on the upper bunk. The bunk bed manufacture states the bed can support up to 2 people, each weighing 250 lbs. If the unit has been equipped with a rollaway bed provided by Owner, only an adult should fold / unfold the rollaway bed. Children should not be left to play on or around the rollaway bed. The rollaway bed manufacture specifies a weight capacity limit of 300 lbs. Tiki torches, if any, must not be lit by Principal Guest or its Invitees on or within the Property or Resort area.

**GAS GRILL (BBQ) - AREA SAFETY**

Principal Guest, on behalf of itself and its Invitees, acknowledges that there are gas barbeque grills available for your use, and to avoid injury and damages that the gas grills must be operated using standard grill safety tips such as: Do not use a gas grill when you have been consuming alcohol as this can impair best judgement and your senses. When lighting a gas grill, always keep the lid open. Do not lean over the gas grill when igniting or cooking. If the gas grill burner does not ignite immediately, turn off the gas and keep the grill open and wait 5 minutes before trying again. If the burners go out during operation, turn all gas valves to OFF, open the lid, and wait 5 minutes before attempting to re-light. Children should never use the gas grills and must be supervised when they are in-use as all parts of the grill including the exterior can be very hot during and after use.

**NON-LIABILITY / INDEMNITY / ASSUMPTION OF RISK**

Principal Guest hereby specifically acknowledges and agrees that Owner, its insurance, its agents, and HKCA, are not and will not be liable to Principal Guest or its Invitees for any injuries, sickness, death, damages and/or losses occasioned by or from the use of

Property, or any excluded area on the land or in the Property, or due to any design, code violation, mechanical or construction defects, if any, of the Property, or due to any property or service provided or made available by Owner or its agents under this Agreement or by any utility service including, without limitation, electricity, plumbing, gas, water, air conditioning, sewage system, fire sprinklers, or the loss, interruption or stoppage thereof, or by the bursting, leaking, overflowing or running over of any tank, sink, washstand, appliance, fire sprinklers, waste or other pipes in or on the Property, or for any injury or damage caused by water coming into the Property from any source whatsoever, or for any damage or injury arising from any acts or neglect of the other occupants of, or any other persons in, on or adjacent to the Unit or Property or of any adjacent Unit or Property occupants, or of the public unless, and then only to the extent that such damage or loss results from a wanton and willful act of Owner or Owner's gross negligence. Any swimming or other recreational activity (including but not limited to boogie boarding) shall be solely at the risk of the Principal Guest or Invitees of the Principal Guest. Principal Guest, on behalf of its self and its Invitees, expressly waives and releases Owner, its insurance, its agents, and HKCA from liability for all such claims. In the event Owner or its insurance, or any of its agents, or HKCA, is made a party to a claim or a suit, Principal Guest agrees to release, hold harmless, indemnify and defend Owner, its insurance, its agents, and HKCA from all claims, liabilities, damages, actions, losses, costs and expenses (including reasonable attorney's fees) arising out of such matters. **PRINCIPAL GUEST, ON BEHALF OF ITSELF AND ITS INVITEES, AGREES AND ACKNOWLEDGES THAT UNDER NO CIRCUMSTANCES SHALL OWNER'S, ITS INSURANCE, ITS AGENTS', OR HKCA LIABILITY IN CONNECTION WITH THIS AGREEMENT OR ANY CLAIM ARISING IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL RENT. PRINCIPAL GUEST EXPRESSLY WAIVES ALL CLAIMS IN EXCESS OF, AND AGREES THAT ANY RECOVERY SHALL NOT EXCEED THIS AMOUNT.**

#### **ASSIGNMENT AND SUBLETTING**

Unless permitted in a signed writing by Owner, this Agreement may not be assumed, assigned, or transferred by Principal Guest and Principal Guest shall not re-let or sublet all or any part of the Unit. This Agreement may be transferred or assigned by Owner in whole or in part in the event of a sale or transfer of the Unit or if the Owner enters into a property management contract or arrangement for the Unit and they agree to honor the reservation. This Agreement shall be binding upon both Parties and their respective heirs, executors, administrators, successors, transferees, assigns, agents and attorneys.

#### **FALSIFIED RESERVATIONS**

Any reservation obtained under false pretense will be subject to forfeiture of the Total Rent and the Principal Guest will not be permitted to check in or if already checked-in, will be evicted.

#### **TERMINATION OF RENTAL DUE TO VIOLATION OF TERMS**

If Principal Guest or its Invitees violates any of the terms of this Agreement or violates restrictions contained in the House Rules, Owner may terminate this Agreement and, upon such termination, Principal Guest and its Invitees shall vacate the Unit immediately and shall forfeit all monies paid to Owner.

Threatening a returned payment or chargeback, or threatening to leave a negative review prior to your arrival date or threatening a negative review related in any way to a refund, credit, or reservation change request is a breach of this Agreement and may, at the Owners option, result in cancellation of this agreement by Owner for a breach by Principal Guest.

#### **PEST CONTROL, PESTS AND BED BUGS**

Insects and rodents are pests. HKCA schedules pest control of the Property to prevent infestations. Despite HKCA best efforts, pests are prevalent on Maui and may be seen in the Unit or around the Property. Principal Guest understands this and agrees that they shall not be entitled to a refund as a result of pests. However, Bed Bugs are a serious issue. In the event of an alleged bed bug infestation, Principal Guest shall first allow Owner to have the Unit inspected. If a bed bug infestation is discovered, the foregoing Force Majeure / unforeseen circumstances leading to unit unavailability clause shall apply and Principal Guest shall be entitled to a refund. Principal Guest agrees to cooperate with pest control efforts. Should Principal Guest deny entry and/or refuse the treatment, Principal Guest agrees to reimburse Owner for any additional expenses related to re-scheduling.

#### **CLEANLINESS OF THE CONDO**

The Unit is cleaned between each guest stay by professional cleaners. They are people, so undeniably, from time to time, something may be missed. While unacceptable, it happens. The level of cleanliness is in the eye of the beholder. Principal Guest agrees that if the Unit is not up to their standard of cleanliness it is not a breach of this Agreement and shall not entitle them to a refund or termination of this Agreement. If you feel that the Unit is not up to your standards, please let us know and we will have the issues specifically addressed, including a full second cleaning of the unit if necessary.

#### **NOTICE AND OPPORTUNITY TO CURE DEFAULT**

Before a refund or termination of this Agreement by default of Owner, Principal Guest shall give the Owner written notice stating with specificity (i) a statement they are alleging a breach of this Agreement by the Owner, and (ii) the reason for the termination ("breach"). If such breach is capable of cure or remedy, Owner will have a period of ten (10) days after the notice is given to

remedy the breach. Notwithstanding the foregoing, if the alleged breach occurs during Principal Guest occupancy, time shall be of the essence and the right to cure period shall be shortened to 48 hours.

#### **DISPUTES; ARBITRATION**

If you have a dispute that arises from or relates to this Agreement and/or the Property you agree to submit all unresolved disputes, controversies, or claims (together, the "Claims") to binding arbitration. Arbitration shall be conducted before a single arbitrator chosen by the Parties, rather than in court, except either party may assert Claims on an individual basis in small claims court if they qualify. Any and all proceedings to resolve Claims will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a Claim proceeds in court rather than in arbitration the Parties each waive any right to a jury trial. The arbitrator may award reasonable attorneys' fees and costs to the prevailing party.

Arbitrations will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA Arbitration Consumer Rules (together, the "AAA Rules"). Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. By agreeing to arbitration under the AAA Rules, the parties agree, among other things, that the arbitrator, and not any federal, state, or local court or agency, shall have the exclusive power to rule on any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any Claim or counterclaim.

Unless otherwise mutually agreed to by the parties the jurisdiction and governing law and place of arbitration shall be the county of King County, State of Washington. If consented by all parties, the arbitration may be conducted virtually. An arbitration decision may be confirmed by any court with competent jurisdiction.

To begin an arbitration, a party must send a letter to the other party requesting arbitration and describing the Claim via email or written notice by mail. The AAA's rules and filing instructions are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879.

#### **ENTIRE AGREEMENT; INTEGRATION; AMENDMENT**

This Agreement and the documents incorporated herein by reference constitute the entire agreement between the parties with regard to the subject matter hereof, and supersede all previous agreements between the parties. There are no representations, warranties or agreements between the parties other than those in, or incorporated into, this Agreement. There are no dealings, statements, verbal or other agreements which add to, affect or modify the terms of this Agreement. This Agreement may not be modified or amended except by written agreement signed by Owner and Principal Guest.

#### **WAIVER OF TERMS**

No waiver or any breach of any of the terms, covenants and conditions of this Agreement shall be taken or construed to be a waiver of any other term, covenant or condition of this Agreement.

#### **SEVERABILITY**

If any clause or any other portion of this Agreement shall be determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other clause or portion of this Agreement, all of which shall remain in full force and effect.

#### **COUNTERPARTS; VALID SIGNATURE METHODS**

This Agreement may be executed in counterparts, all of which shall constitute one and the same instrument. Facsimile, photocopied, and electronically transmitted signatures or electronic acceptance is equivalent to original signatures for all purposes of this Agreement and shall be binding upon all Parties.

#### **EXECUTION OF RENTAL AGREEMENT**

As of the Effective Date, Principal Guest, jointly and severally, and Owner agree to all of the terms and conditions of this Agreement. Owner and Principal Guest each for itself agrees that, (a) it had a full and fair opportunity to consult with its independent legal advisor; (b) it has read, considered and understands this Agreement; and (c) that each person has the right and all authority necessary to execute this Agreement.