

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail  Pickup  To:

TITLE OF DOCUMENT:

UNIT DEED WITH COVENANTS

PARTIES TO DOCUMENT:

GRANTOR: THE COLLECTION LLC, a Hawaii limited liability company

GRANTEE:

TAX MAP KEY(S): Oahu 2-1-055-041; CPR No. \_\_\_\_\_; Unit No. \_\_\_\_\_

(This document consists of \_\_\_ pages.)

UNIT DEED WITH COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

That on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, THE COLLECTION LLC, a Hawaii limited liability company, hereinafter called the "Grantor", for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to the Grantor paid by \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter called the "Grantee", the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the Grantee all of that certain real property more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"), subject to the encumbrances noted therein.

TOGETHER WITH all the rights, easements, privileges and appurtenances thereunto belonging or appertaining.

TO HAVE AND TO HOLD the same unto the Grantee, as \_\_\_\_\_ [insert tenancy] \_\_\_\_\_, in fee simple, forever.

AND the Grantor does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of the Property and that the Property is free and clear of all encumbrances made or suffered by Grantor except as aforesaid, and except for assessments for real property taxes not yet by law required to be paid. And the Grantor further covenants and agrees that the Grantor has good right to sell and convey the Property in the manner aforesaid; that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons claiming through or under Grantor, except as aforesaid.

AND the Grantee does hereby covenant and agree to and with the Grantor that the Grantee's interest under this Deed shall be subject to, and the Grantee will observe, perform, comply with and abide by, the Amended and Restated Declaration of Condominium Property Regime of The Collection dated June 20, 2013, recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document Nos. A-49201356A through A-49201356B, as amended by that certain First Amendment to the Amended and Restated Declaration of Condominium Property Regime of The Collection (Creation of the Midrise Phase) dated June 19, 2014, recorded in the Bureau as Document Nos. A-52870771A through A-52870771B (the "Declaration"), the Bylaws of the Association of the Association of Unit Owners of The Collection dated May 21, 2013 and recorded in the Bureau as Document No. A-48910796A through A-48910796B, and the Community Charter for Kaiaulu 'O Kaka'ako dated \_\_\_\_\_ and recorded in the Bureau as Document No. \_\_\_\_\_ (the "Charter"), described in Exhibit A, all as they may have been or may hereafter be amended.

AND Grantor and Grantee further agree as follows:

1. Voluntary Acceptance Development Impacts. Grantee acknowledges that the Property is a part of a condominium project established by and described in the Declaration (the "Project") that may include one or more additional phases, and that other lands owned by Grantor, affiliates of Grantor or others in the vicinity of the Project may be developed and redeveloped from time to time, all of which may result in noise, dust, vibrations, light, traffic, changes in views and other nuisances and impacts. Grantee hereby knowingly and voluntarily assumes complete risk of, and forever releases the Grantor, from all claims for injury or damages (including, but not limited to, consequential, special, exemplary and punitive damages) and nuisances and impacts affecting Grantee or the Property as a result of such development or redevelopment of future phases of the Project or other lands.

2. Limitation on Warranties. Except for the agreements expressly set forth in the Sales Contract and Receipt between Grantor, as Seller, and Grantee, as Purchaser, Grantor makes no warranties, express or implied, with respect to the Property, the Project, or any appliance, fixture, furnishing or other product or material installed in the Property, including but not limited to any implied warranty of habitability, merchantability, workmanlike construction or fitness for a particular purpose. Grantee acknowledges and agrees that except as expressly set forth in this Deed and in said Sales Contract and Receipt, the Property is conveyed to Grantee in its "as is" condition.

3. Hawaii Community Development Authority Development Agreement and District-Wide Improvement District Assessment Program. Grantee acknowledges and agrees that the Property is subject to the Hawaii Community Development Authority ("HCDA") Development Agreement dated January 29, 2014, and recorded in the Bureau as Document No. A-51480917A through A-51480917B, the terms and conditions of which run with the land described in the Declaration and the Property, and which shall bind and constitute notice to Grantee and to all subsequent grantees, lessees, assignees, mortgagees, lienors, and any other persons who shall claim an interest in said land or the Property, and the HCDA shall have the right to enforce said Agreement by appropriate action at law or suit in equity against Grantee and all such persons. Grantee further acknowledges and agrees that the Project subject to HCDA's District-Wide Improvement District Assessment Program and may be assessed for the cost of improvements made in the vicinity of the Project, and that if any such assessments are made, Grantee shall be responsible for and pay its share of any such Improvement District Assessment based on Grantee's common interest in the Project.

4. Grantor's Reserved Rights. Grantee acknowledges and agrees that under the terms of the Declaration, Grantor reserved certain rights and powers, including without limitation those set forth in Article 18 of the Declaration (the "Development Rights"). Grantee irrevocably consents to the exercise of the Development Rights by Grantor and Grantor's successors and assigns, and Grantee irrevocably appoints Grantor as Grantee's attorney-in-fact to do all things reasonably

necessary or convenient to effectuate Grantor's exercise of the Development Rights. This power-of-attorney is coupled with interest and is irrevocable. Notwithstanding such appointment, Grantee shall promptly upon Grantor's request and for no additional consideration, join in and execute such documents and instruments to effectuate Grantor's exercise of the Development Rights.

5. Mediation & Arbitration. Grantee acknowledges and agrees that any dispute with Grantor arising out of or incident to this deed, Grantee's purchase of the Property, the development or management of the condominium project in which the Property is located, or any other aspect of the relationship between Grantor and Grantee that is raised or otherwise asserted after the recording of this deed shall be submitted to initial mediation through Dispute Prevention & Resolution, Inc., of Honolulu, Hawaii ("DPRI"), or such other dispute resolution agency as the parties may mutually select, in accordance with DPRI's Mediation Rules, Procedures and Protocol currently in effect as set forth in more detail in Section 22.6 of the Declaration. If necessary, claims not resolved by mediation shall be decided by arbitration through DPRI, or such other dispute resolution agency as the parties may mutually select, which, unless the parties mutually agree otherwise, shall be in accordance with DPRI's Arbitration Rules, Procedures & Protocol currently in effect. Any person that desires to submit any issue or dispute to arbitration shall promptly so notify the other party in writing. The demand for arbitration shall be filed in writing with the other party to the dispute and with DPRI or another mutually-acceptable dispute resolution organization. All proper costs and expenses of such arbitration including, without limitation, witness fees, attorney's fees and the fees of the arbitrators shall be charged to the party or parties in such amounts as the arbitrator or arbitrators shall determine at the time of the award. An award so rendered shall be binding in all aspects and shall be subject to the provisions of Chapter 658A, Hawaii Revised Statutes, as the same may be amended from time to time. In the resolution of any dispute or controversy as set forth in this paragraph, Grantor and Grantee each hereby irrevocably waive any right and claim to exemplary or punitive damages in any jurisdiction. Grantee further agrees that any documents of assignment, lease or conveyance of the Property by Grantee shall contain a provision substantially in the form of this paragraph requiring the assignee, lessee or grantee to mediate and arbitrate any and all disputes with Grantor concerning the Property, provided that the failure to include such a provision in any such instrument shall not relieve the assignee, lessee or grantee thereunder from compliance with this requirement. Any arbitration proceedings under this paragraph will be submitted to arbitration in the City & County of Honolulu, Hawaii. In the event of any conflict between this paragraph and Article 22 of the Declaration, Article 22 shall control.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee", as and when used hereinabove or hereinbelow shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more grantors,

or by two or more grantees, all covenants of such parties shall be and for all purposes deemed to be joint and several.

The covenants and agreements of the Grantee shall run with the Property described in Exhibit "A" attached hereto, shall be binding upon the Grantee and the Grantee's successors and assigns, and shall run in favor of and inure to the benefit of the Grantor and the Grantor's successors and assigns.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed these presents as of the day and year first above written.

THE COLLECTION LLC  
By A & B Properties, Inc.  
Its Manager

By \_\_\_\_\_  
Its

By \_\_\_\_\_  
Its

Grantor

\_\_\_\_\_  
Grantee

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free acts and deeds of such persons, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

\_\_\_\_\_  
Name:

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

(Official Stamp or Seal)

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description: _____ _____	
Doc. Date: _____ or <input type="checkbox"/> Undated at time of notarization.	
No. of Pages: _____ Jurisdiction: First Circuit	
_____ Signature of Notary	_____ Date of Notarization and Certification Statement
_____ Printed Name of Notary	(Official Stamp or Seal)



## EXHIBIT A

FIRST: Unit No. \_\_\_\_\_ of that certain condominium project known as "The Collection", as established by Amended and Restated Declaration of Condominium Property Regime of The Collection (the "Declaration") dated June 20, 2013, recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document Nos. A-49201356A through A-49201356B, as amended by that certain First Amendment to the Amended and Restated Declaration of Condominium Property Regime of The Collection (Creation of the Midrise Phase) dated June 19, 2014, recorded in the Bureau as Document Nos. A-52870771A through A-52870771B, and as shown on Condominium Map No. 5177.

Together with appurtenant easements as follows:

(a) Non-exclusive easement in the common elements designed for such purposes for ingress to, egress from, utility services for and support of said unit; in the other common elements for use according to their respective purposes.

(b) Easements to use other limited common elements appurtenant thereto designated for its use by the Declaration.

SECOND: An undivided \_\_\_\_\_ percent (\_\_\_\_\_% ) interest in all common elements of the project and in the land on which said project is located, as established for said unit by the declaration, or such other percentage interest as hereinafter established for said unit by any amendment of the declaration, as tenant in common with the other owners and tenants thereof.

SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Setback (8' Master Plan setback line) along Auahi Street as shown on subdivision map prepared by G. Podmore, Land Surveyor, dated January 22, 1959, approved on January 29, 1959 by the City and County of Honolulu Planning Department
3. Terms, provisions, covenants, conditions and reservations contained in Agreement dated December 31, 1997, recorded in said Bureau as Document No. 98-036649, by and between Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii ("HCDA"), COMPUSA Inc., a Delaware corporation ("CompUSA"), and Trustees of the Estate of Bernice Pauahi Bishop ("KSBE").
4. Unrecorded Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit dated September 2, 2009, by and between the

Trustees of the Estate of Bernice Pauahi Bishop, "KS", and Hawaii Community Development Authority, State of Hawaii, "HCDA".

A Memorandum of Master Plan Permit for the Kaiaulu `O Kaka`Ako Master Plan is dated October 27, 2009, recorded in said Bureau as Document No. 2010-012595.

5. Unrecorded Master Plan Development Agreement dated October 6, 2009, by and between the Trustees of the Estate of Bernice Pauahi Bishop, "KS", and Hawaii Community Development Authority, State of Hawaii, "HCDA" and unrecorded Supplement No. 1 to Master Plan Development Agreement dated June 20, 2011.

A Memorandum of Master Plan Development Agreement for the Kaiaulu `O Kaka`Ako Master Plan is dated October 27, 2009, recorded in said Bureau as Document No. 2010-012596.

6. Encroachments and other matters as shown on survey map prepared by Robert K.Y. Lee, Land Surveyor, with Towill Shigeoka & Associates, Inc., dated March 26, 2012, revised September 17, 2012.

7. Terms, provisions, covenants, conditions and reservations contained in Unrecorded Option and Purchase and Sale Agreement dated December 2, 2011, by and between Trustees of the Estate of Bernice Pauahi Bishop and A & B Properties, Inc., a Hawaii corporation, regarding an option to acquire which expires on December 31, 2014, as amended.

a. Memorandum of Option dated December 7, 2011 is recorded in said Bureau as Document No. A-44150881.

b. Assignment and Assumption of Option and Purchase and Sale Agreement dated April 3, 2013, recorded in said Bureau as Document Nos. A-48550936A thru A-48550936B.

8. Condominium Map No. 5177, filed in said Bureau.

9. Terms, provisions, covenants, conditions and reservations contained in Amended and Restated Declaration of Condominium Property Regime of The Collection condominium dated June 20, 2013, recorded in said Bureau as Document Nos. A-49201356A through A-49201356B, as amended by instruments dated June 19, 2014, recorded as Document Nos. A-52870771A through A-52870771B and dated July 22, 2014, recorded as Document Nos. A-53170859A through A-53170859B.

10. Bylaws of the Association of Unit Owners of The Tower at The Collection Condominium dated May 21, 2013, recorded in said Bureau as Document Nos. A-48910796A through A-48910796B.

11. Hawaii Community Development Authority ("HCDA") Development Agreement dated January 29, 2014, recorded in said Bureau as Document Nos. A-51480917A through A-51480917B.

12. Declaration of Covenants Running with the Land (Declaration No. 1: Land Blocks E and C), dated September 3, 2013, recorded in said Bureau as Document No. A-49970687.

13. Designation of Easement "2" for vehicular access and utility, shown on subdivision map prepared by Robert K. Y. Lee, Licensed Professional Land Surveyor with TOWILL SHIGEOKA & ASSOCIATES, INC., dated May 12, 2014, approved by the Department of Planning and Permitting of the City and County of Honolulu on May 23, 2014 (File Number 2013/SUB-154).

14. Designation of Easement "3" for vehicular and pedestrian access, shown on subdivision map prepared by Robert K. Y. Lee, Licensed Professional Land Surveyor with TOWILL SHIGEOKA & ASSOCIATES, INC., dated May 12, 2014, approved by the Department of Planning and Permitting of the City and County of Honolulu on May 23, 2014 (File Number 2013/SUB-154).

15. Setback for future road widening along Auahi Street and Keawe Street, shown on subdivision map prepared by Robert K. Y. Lee, Licensed Professional Land Surveyor, with TOWILL SHIGEOKA & ASSOCIATES, INC., dated May 12, 2014, approved by the Department of Planning and Permitting of the City and County of Honolulu on May 23, 2014 (File Number 2013/SUB-154).

16. Setback for future road widening along South Street and Ala Moana Boulevard, shown on subdivision map prepared by Robert K. Y. Lee, Licensed Professional Land Surveyor, with TOWILL SHIGEOKA & ASSOCIATES, INC., dated May 12, 2014, approved by the Department of Planning and Permitting of the City and County of Honolulu on May 23, 2014 (File Number 2013/SUB-154).

Tax Map Key No. (1) 2-1-055-041; CPR No. \_\_\_\_\_; Unit No. \_\_\_\_\_