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/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

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LAND COURT SYSTEM : REGULAR SYSTEM
Return by Mail (X) Pickup () To:

PUNA FORESTRY, LLC
505 KILAUEA AVENUE
HILO, HAWAII 96720

This document contains 8 pages

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TITLE OF DOCUMENT:

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF KOPUA FARMLOTS SUBDIVISION**

PARTIES TO DOCUMENT:

DECLARANT: PUNA FORESTRY, LLC, a Hawaii limited liability company, whose mailing address is
at 505 Kilauea Avenue, Hilo, Hawaii 96720

TAX MAP KEY (3) 1-1-100:001 through :007, 1-1-100:009 through :040, 1-1-100:045 through :051,
1-1-101:001 through :064 PKK/7-16-98

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF KOPUA FARMLOTS SUBDIVISION

During the period commencing with the date of recordation of this instrument until December 31, 2020, and thereafter for successive terms as herein provided, the properties referenced herein shall be subject to the following covenants, conditions and restrictions:

1. Definitions.

(a) Declarant. Puna Forestry, LLC, a Hawaii limited liability company, which is the owner of all lots within the Kopua Farmlots Subdivision.

(b) Lot Owner. The owner of a lot within the Kopua Farmlots Subdivision, as indicated in records on file at the Land Court of the State of Hawaii.

(c) Owner's Association. The Kopua Farmlots Association, a Hawaii non-profit corporation, to be formed by the Declarant, or such other successor entity of said corporation, formed for the purposes of administering the subdivision, collection of fees for administration and maintenance of association property, including the subdivision roads, and collective representation of the Lot Owners.

(d) Subdivision. The Kopua Farmlots Subdivision, being 109 lots, situate at Keaau, Puna, Island and County of Hawaii, being portions of Tax Map Key Plats (3) 1-1 Plats 100 and 101, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

2. Subdivision Roadways. The roadways within the Subdivision will be conveyed to the Owner's Association, reserving the right unto the Declarant to grant easements for road and utility purposes to the Lot Owners or to governmental or private organizations. No Lot Owner or person or entity acting on behalf of a Lot Owner shall install any improvements within or upon Subdivision roadway lots without first obtaining the written consent of the Owner's Association. All Lot Owners shall be obligated to pay a pro-rata share of maintenance fees for Subdivision roadways together with other Association fees, as provided for herein.

3. Temporary Structures, Completion of Construction. No shack, tent, or other temporary structure shall be erected or placed upon any subdivision lot within sight from subdivision roadways. No building shall be occupied prior to final inspection and issuance of a certificate of occupancy or similar consent from the County government.

4. Offensive Uses, Animals. No pet animal shall be permitted to roam in the subdivision unaccompanied by a person fully responsible for the pet animal. For purposes of these covenants, trespass of animals onto other lots shall be deemed to be an unreasonable annoyance or nuisance prohibited by these covenants.

5. Sanitation and Lot Maintenance. No subdivision lot shall be used or maintained as

a dumping ground or storage for discarded or old vehicles, hazardous materials, rubbish or trash. If any Lot Owner neglects to maintain same, the Owner's Association may clean said premises and charge the said owner for all expenses incurred as a special assessment fee, including without limitation, interest at the rate of 12% per year, and reasonable attorney's fees. Any unpaid special assessment fees shall result in liens being placed against the affected subdivision lot.

6. Enforcement. Jurisdiction may be taken by the Declarant, its successors and assigns, the Owner's Association or any Lot Owner to restrict or prevent by injunction, mandatory or restraining, any violation or threatened violation of any of these covenants, conditions and restrictions without prejudice to the right of the Declarant or its successors and assigns or any other Lot Owner, to adopt or pursue any other remedy thereafter for the same breach or failure, or for any subsequent breach or failure, or to adopt or pursue suitable process to recover damages for any such breach or failure. The Declarant shall retain its rights to enforce these covenants for so long as the Declarant retains any ownership interest or any security interest in any lot in the subdivision. The Declarant shall have no legal obligation to enforce these covenants, conditions and restrictions and shall not be responsible for any claims resulting from its failure to enforce any covenants, conditions and restrictions.

7. Attorney's Fees, Liquidated Damages. Should any Lot Owner in an action for equitable relief or damages be found by any court to have violated these covenants, conditions and restrictions, said offending Lot Owner shall pay all costs of the action and reasonable attorney's fees to the prevailing party in the action. Any Lot Owner who violates these covenants shall be liable for liquidated damages or \$20.00 per day (not to exceed \$5,000.00) for each day of the violation.

8. Compliance with Laws and Ordinances. The Lot Owners will comply with all Federal, State and County laws, statutes and ordinances with respect to the construction of improvements or use of the property. Failure to comply with any such law, statute or ordinance shall be considered a violation and breach of these covenants.

9. Owner's Association.

(a) Membership. The Owner's Association has been or will be created as a nonprofit corporation formed pursuant to the laws of the State of Hawaii. Every Lot Owner in the Subdivision, including any new increments, if any are developed, shall become a member of the Owner's Association at such time as the lot owner obtains a legal or equitable interest in the real property.

(b) Voting. There shall be one vote for each lot within the Subdivision. Where a lot is owned by more than one person, the vote may be made by any one of the Lot Owners of said lot on behalf of its owners. If there is a dispute among the several owners of any one lot, each owner shall be entitled to a vote equal to the percentage interest owned in the lot, with a total of one vote per lot. Voting decisions shall be based upon a majority of the Lot Owners, except where a supermajority is required herein.

(c) Enforcement of Covenants and Restrictions. The Owner's Association shall have

the power and standing to enforce these covenants by action brought in the name of the Association. This right to enforce the covenants, however, is not an exclusive right to the Association, and each Lot Owner shall retain the right to enforce the covenants by action brought in the name of the Lot Owner. The Declarant is not responsible for enforcement of these covenants, but may seek enforcement of these covenants.

(d) Owner's Association Fees. In addition to all its other powers, the Association may levy a uniform annual fee against each lot in the Subdivision which fee will be used exclusively for the authorized purposes of the association, including without limitation, the care, maintenance, repair and improvement of the roadways and other property owned or maintained by the Association, and for carrying out the functions and duties of the Association, such as the enforcement of these covenants, conduct of meetings, costs of mailing, and fees for legal, accounting, and other professional services. The annual fee will be assessed against each Lot Owner at the time when the annual fee, or any installment of the annual fee, falls due. The Owner's Association shall keep its books of account on a calendar year basis and the annual fee, unless otherwise specified by the board of directors, will be due in advance on the first day of each calendar year. The responsibility for payment will be the responsibility of the Lot Owner at the time the installment falls due. Nothing herein shall prevent the proration of Association fees between the buyer and seller of a subdivision lot.

The board of directors of the Association, pursuant to the bylaws of the association, shall have the power to increase or decrease the fee from time to time to carry out the purposes of the Association. The Owner's Association may assess a special assessment against any lot or lot owner where the Owner's Association expends money to make any particular lot conform to these covenants; provided that the owner is given written notice and a period of time not less than 30 days to remedy the deficiency prior to corrective action by the Association. This special assessment shall be enforced in the same manner as the regular Owner's Association fee. All unpaid Owner's Association fees and special assessments shall bear interest at the rate of 12% per annum commencing 30 days after the date payment is due. Any Lot Owner in default of payment of annual fees or special assessments shall also pay to the Association, all costs of enforcement, including reasonable attorney's fees.

(e) Notices. All notices of the Owner's Association shall be given in writing to each member of the Association at either the last address given by the Lot Owner to the Association or if not applicable, at the address used by the State of Hawaii as the address of the Lot Owner for purposes of assessing real property taxes. Notices of meetings shall be given in accordance with Hawaii Revised Statutes.

(f) Association Fee and Special Assessment to be a Lien. Any Owner's Association fee and special assessments levied against any lot or lot owner or any installment thereof, if not paid when due, shall become a lien upon the said lot and shall remain a lien until paid in full. The lien may be enforced by action brought in the Third Circuit Court for foreclosure of the lien in the manner of foreclosure of mortgages on real property. In the event of such a foreclosure, the Association will be entitled to recover all costs of the action, interest on the amount owing at the rate of 12% per annum and reasonable attorney's fees. All unpaid charges which become a lien against

any lot in the subdivision shall remain a lien and bind the Lot Owner, and the Lot Owner's heirs, administrators, successors and assigns.

(g) Estoppel Certificate. Provided that a written request is made to the association describing the lot in the subdivision, the Owner's Association will provide any Lot Owner or lien holder with a statement as to whether or not there are any unpaid fees of the Association.

(h) Suspension of Privilege of Membership. The board of directors may suspend the voting privileges and any other privileges of any member for any period during which any association fee and special assessment remains unpaid and during any period of continuing violation of provisions of the restrictive covenants as determined by the board of directors.

10. Successive Terms and Amendment. The foregoing covenants, conditions and restrictions shall continue in force and effect and shall bind the Lot Owners and their respective heirs, personal representatives, successors and assigns, during successive ten-year periods following December 31, 2020, except to the extent that the same shall be rescinded prior to commencement of any such ten-year period by agreement of two-thirds of the Lot Owners. The covenants, conditions and restrictions may be amended by a vote of two-thirds of the Lot Owners. The amendment of these covenants, conditions and restrictions shall not take effect until a declaration amending the same is filed with the Land Court by the Owner's Association stating that such amendment(s) were adopted by agreement of at least two-thirds of the Lot Owners.

11. Covenants to Run with Land. All of the foregoing restrictive covenants shall run with the land and any Deed, Mortgage, Agreement of Sale or Lease shall state that the land described in any such document is subject to these restrictive covenants, as they may be amended from time to time.

IN WITNESS WHEREOF, this Declaration has been executed on July 21st, 1988.

PUNA FORESTRY, LLC
a Hawaii limited liability company

By J. Barron Strother
J BARRON STROTHER
Its Managing Member

By Jerre A. Henderson
JERRE A. HENDERSON
Its Managing Member

STATE OF ALABAMA)
) ss.
COUNTY OF PIKE)

On this 21st day of July, 1998, before me personally appeared **J. BARRON STROTHER**, to me personally known, who, being by me duly sworn, did say that he is a Member of **PUNA FORESTRY, LLC, a Hawaii limited liability company**, that the foregoing instrument was signed in the name of and on behalf of said limited liability company, and acknowledged that he executed the same as his free act and deed and as the free act and deed of said company.

Leah R Prescott
Notary Public, State of Alabama
My commission expires: 6-12-02

STATE OF ALABAMA)
) ss.
COUNTY OF PIKE)

On this 21st day of July, 1998, before me personally appeared **JERE A. HENDERSON**, to me personally known, who, being by me duly sworn, did say that he is a Member of **PUNA FORESTRY, LLC, a Hawaii limited liability company**, that the foregoing instrument was signed in the name of and on behalf of said limited liability company, and acknowledged that he executed the same as his free act and deed and as the free act and deed of said company.

Leah R Prescott
Notary Public, State of Alabama
My commission expires: 6-12-02

EXHIBIT "A"

All of that certain parcels of land situate at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, described as follows:

FIRST:

LOT 8469, area 20.001 acres
LOT 8470, area 20.001 acres
LOT 8471, area 20.001 acres
LOT 8472, area 20.001 acres
LOT 8473, area 20.001 acres
LOT 8474, area 20.001 acres
LOT 8475, area 20.001 acres
LOT 8476, area 20.001 acres
LOT 8477, area 20.001 acres
LOT 8478, area 20.001 acres
LOT 8479, area 20.001 acres
LOT 8480, area 20.001 acres
LOT 8481, area 20.001 acres
LOT 8482, area 20.001 acres
LOT 8483, area 20.001 acres
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LOT 8497, area 20.001 acres
LOT 8498, area 20.001 acres
LOT 8499, area 20.001 acres
LOT 8500, area 20.001 acres
LOT 8501, area 20.001 acres
LOT 8502, area 20.001 acres
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LOT 8510, area 20.001 acres
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LOT 8565, area 20.001 acres
LOT 8566, area 20.001 acres
LOT 8567, area 20.001 acres
LOT 8568, area 20.001 acres
LOT 8569, area 20.001 acres
LOT 8570, area 20.001 acres
LOT 8571, area 20.001 acres
LOT 8572, area 20.001 acres
LOT 8573, area 20.001 acres
LOT 8574, area 20.001 acres
LOT 8575, area 20.001 acres
LOT 8576, area 20.001 acres

LOT 8577, area 17.198 acres, more or less, as shown on Map 103, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1053 (amended) of W. H. Shipman, Limited;

Being the properties conveyed to the Declarant herein by deed dated July 21, 1988, filed in the Land Court of the State of Hawaii as Document No. _____, and described in Transfer Certificate of Title No. 513,133.