

RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT, made and entered into by and between the STATE OF HAWAII, by its Director of Transportation, hereafter called the "STATE," and PIONEER MILL COMPANY, LLC, a Delaware limited liability company, whose mailing address is c/o Kaanapali Land Management Corp., 275 Lahainaluna Road, Lahaina, Hawaii 96761, hereafter called the "GRANTOR",

WITNESSETH THAT:

WHEREAS, the STATE desires the temporary use of certain property, being an approximately 25 foot wide and 5,800 foot long strip between Dickenson Street and Aholo Road, identified as Mill Street as shown and delineated on Tax Map Key No. (2) 4-6 attached as Exhibit A hereto and incorporated herein by reference (hereafter referred to as the "Property"), in connection with the construction, preservation and protection of the highway project known as Honoapiilani Highway Widening, Lahainaluna Road to Aholo Road, Project No. 30BC-01-04, at Lahaina, County and Island of Maui, State of Hawaii (hereafter referred to as the "Project"); and,

WHEREAS, the STATE is planning to award a construction contract for work on the Project in the very near future; and,

members, managers, principals, employees, agents and their subcontractors, suppliers and materialmen (each such person or entity being referred to herein as an "Insured Party") and insuring the Insured Parties against claims which may arise out of or result from (i) any CONTRACTOR'S performance or failure to perform the services hereunder, (ii) the ownership, design, construction, use, maintenance, repair, control, operation and demolition of the Property and the temporary public roadway to be constructed thereon by any of the Insured Parties and any of their invitees, and (iii) the ownership of the Property, and grant of right of entry onto the Property as they relate to the purposes set forth in this Agreement.

1. Worker's Compensation to the full extent as required by applicable law; and Employer's Liability Insurance coverage at \$500,000 each accident.

2. Commercial General Liability Coverage, including Contractual Liability and Personal Liability coverage, and naming the STATE, GRANTOR, and the applicable CONTRACTOR as Named Insureds and each of the other Insured Parties, Kaanapali Land Management Corp., KLC Holding Corp., KLC Land Company, LLC, Kaanapali Land, LLC, their partners, their parent entities, their affiliates and their respective

officers, employees and agents and others designated by Owner and Owner's mortgagees as Additional Insureds, in not less than the following amounts:

Bodily Injury and Property Damage Liability

\$1,000,000 each occurrence

\$2,000,000 aggregate

3. Comprehensive Automobile Liability Insurance covering all owned and non-owned and hired vehicles of the STATE and any CONTRACTOR, including the loading and unloading thereof, with limits of:

Bodily Injury and Property Damage Liability

\$1,000,000 each accident

4. Excess Liability Coverage providing liability coverage in excess of the policies obtained under items 2 and 3 above:

\$50,000,000 each occurrence/\$50,000,000 aggregate

All such liability insurance shall include the condition that it is Primary and that any such insurance maintained by GRANTOR, the STATE (including any STATE self insurance program) and the CONTRACTOR, and any other

Additional Insured, is excess and non-contributory. All such policies shall contain such riders and endorsements as may be necessary to ensure that coverage is in effect for the perils set forth herein, including, but not limited to, the use of the Property as a temporary public roadway for use by the general public. Each CONTRACTOR shall cause each of its subcontractors to carry and maintain insurance coverage that complies with this Subsection A; provided, however, that such subcontractor shall only be obligated to provide coverage for such subcontractor's performance and operations in connection with the Property.

B. The STATE, on behalf of itself and each of its CONTRACTORS (and their subcontractors), and each CONTRACTOR on behalf of itself and each such subcontractor, hereby waives all rights of action and subrogation against GRANTOR. To the extent permitted by applicable law, the STATE, each CONTRACTOR and each of its subcontractors agrees to look solely to their insurers, and each does hereby release and waive any and all rights it has now, or may in the future have, to recover against GRANTOR, Kaanapali Land Management Corp., KLC Holding Corp., KLC Land Company, LLC, Kaanapali Land, LLC, their partners, their parent corporations, their affiliates and their mortgagees, and their respective officers, employees, agents and assigns (collectively, sometimes called "Indemnitees") for loss or damage to

E. Each policy of insurance provided for in this Section 4 shall have attached thereto (a) an endorsement that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice to GRANTOR and (b) an endorsement to the effect that no action or omission of a party thereto shall affect the obligation of the insurer to pay the full amount of any loss sustained to any other party hereto and any other parties insured under such policy, and the certificate(s) of insurance shall so state.

5. Indemnification by each CONTRACTOR. The STATE shall require that each CONTRACTOR shall enter into an agreement with the STATE in the form set forth herein as EXHIBIT B or such other form as GRANTOR may approve, whereby, to the extent that the Required Coverage is inadequate to do so, CONTRACTOR shall defend, indemnify and hold harmless each of the Insured Parties from and against all loss, claims, liabilities and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of collection which result from (i) Contractor's acts or omission in connection with any work done on the Property relating to this Agreement, (ii) the introduction or use of Hazardous Materials at the Property or the failure to comply with any Hazardous Materials Law, (iii) injury to, or death of, any person, including agents, employees, invitees,

subcontractors, suppliers or materialmen, (iv) loss of, or damage to, the Property (including but not limited to loss of use thereof), (v) claims against GRANTOR for express or implied indemnity or contribution arising by reason of any of the foregoing in connection with this Agreement. Such obligations of such CONTRACTOR hereunder shall not be limited by the availability, limits, or coverage of insurance carried or required herein, or required by law to be carried, provided, that the CONTRACTOR shall not be obligated to indemnify the GRANTOR if and to the extent that such damage, injury or death is caused by the gross negligence or willful misconduct of the GRANTOR or any of the GRANTOR's officers, employees, agents or representatives. The STATE shall provide the GRANTOR with written verification of said agreement prior to entering the Property.

6. Extension. This Agreement may be extended upon mutual written agreement of the parties hereto.

7. Termination. This Agreement may terminate upon thirty (30) days' written notice by the STATE as to all or any portion of the Property.

8. No unreasonable interference. The GRANTOR agrees not to unreasonably interfere with the STATE's facilities, operations and activities in, on or connected with the Property. The STATE agrees not to unreasonably interfere with the

GRANTOR's facilities, operations and activities in, on or connected with the Property or any adjacent property owned by the GRANTOR.

9. Restoration of the Property. Upon termination of this Agreement, the STATE shall, at its own cost and expense, restore the Property to the same condition in which it was prior to entry.

10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one (1) and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one (1) document.

11. Headings, captions. The headings and captions used herein are for convenience of reference only and are not to be used to construe, interpret, define or limit the paragraphs to which they may pertain.

12. Singular, plural. In this Agreement, the singular

shall include the plural, and the plural shall include the singular, as the case may be.

13. Binding effect. The term "GRANTOR" wherever used herein shall include the heirs, parents, subsidiaries, personal representatives, successors and assigns of each, and the term "STATE" wherever used herein shall include the State of Hawaii, its successors and permitted assigns, and this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their legal representatives, successors and assigns.

14. Assignment. The GRANTOR may not assign or otherwise transfer any interest in this Agreement without prior written notification to the STATE. The STATE may not assign this Agreement without the GRANTOR's written consent, which GRANTOR may give or withhold in its sole and absolute discretion.

15. Amendment. This Agreement shall not be amended except in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this
Right of Entry Agreement this 9th day of June, 2008.

GRANTOR:

PIONEER MILL COMPANY, LLC

A Delaware limited liability company

By: Howard Hanzan

Print Name: Howard Hanzan

Its: Vice President

STATE:

STATE OF HAWAII

By: BD

Its: Director of Transportation

APPROVED AS TO FORM:

Sam Q. Jarama

Deputy Attorney General State of Hawaii

