

Hawaiiana Management Company, Ltd

2006 Monthly Operating Budget For

Ko'olani at Ala Moana

Approved by Board of Directors on 00/00/00

DESCRIPTION	JAN 2006	FEB 2006	MAR 2006	APR 2006	MAY 2006	JUNE 2006	JULY 2006	AUG 2006	SEPT 2006	OCT 2006	NOV 2006	DEC 2006	ANNUAL TOTAL
REVENUE													
MAINTENANCE FEES	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	2,178,000
TOTAL REVENUE	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	181,500	2,178,000

UTILITIES	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
ELECTRICITY	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000	408,000
TV CABLE	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	102,000
WATER	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	38,400
SEWER	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	9,225	110,700
GAS	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000
TELEPHONE	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	15,600
TOTAL UTILITIES	58,225	58,225	58,225	58,225	58,225	58,225	58,225	58,225	58,225	58,225	58,225	58,225	698,700

CONTRACT SVCS	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
AIR CONDITIONING	374	374	374	374	374	374	374	374	374	374	374	374	4,493
WINDOW CLNG	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	36,000
ELEVATOR	6,125	6,125	6,125	6,125	6,125	6,125	6,125	6,125	6,125	6,125	6,125	6,125	73,500
PEST CONTROL	185	185	185	185	185	185	185	185	185	185	185	185	2,220
MECHANICAL SYSTEMS	563	563	563	563	563	563	563	563	563	563	563	563	6,750
REFUSE	2,450	2,450	2,450	2,450	2,450	2,450	2,450	2,450	2,450	2,450	2,450	2,450	29,400
GENERATOR	342	342	342	342	342	342	342	342	342	342	342	342	4,104
FIRE SYSTEMS	200	200	200	200	200	200	200	200	200	200	200	200	2,400
BACKFLOW TESTS	50	50	50	50	50	50	50	50	50	50	50	50	600
TOTAL CNTRCT SVCS	13,289	13,289	13,289	13,289	13,289	13,289	13,289	13,289	13,289	13,289	13,289	13,289	159,467

MAINTENANCE	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
AIR CONDITIONING	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
CLEANING SUPPS	800	800	800	800	800	800	800	800	800	800	800	800	9,600
GROUNDS	800	800	800	800	800	800	800	800	800	800	800	800	9,600
ELECTRICAL/LIGHTING	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	18,000
PLUMBING	500	500	500	500	500	500	500	500	500	500	500	500	6,000
POOL AND SPA	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
PAINT	100	100	100	100	100	100	100	100	100	100	100	100	1,200
SECURITY EQUIPMENT	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
FIRE SYSTEMS	200	200	200	200	200	200	200	200	200	200	200	200	2,400
BLDG REPAIRS	1,150	1,150	1,150	1,150	1,150	1,150	1,150	1,150	1,150	1,150	1,150	1,150	13,800
MISC RPRS & PURCHS	400	400	400	400	400	400	400	400	400	400	400	400	4,800
TOOLS	200	200	200	200	200	200	200	200	200	200	200	200	2,400
BLDG MAINT-OTHER	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
AMENITIES	400	400	400	400	400	400	400	400	400	400	400	400	4,800
CLUB FACILITY	9,167	9,167	9,167	9,167	9,167	9,167	9,167	9,167	9,167	9,167	9,167	9,167	110,000
TOTAL MAINTENANCE	19,217	19,217	19,217	19,217	19,217	19,217	19,217	19,217	19,217	19,217	19,217	19,217	230,600

2006 Monthly Operating Budget For Ko'olani at Ala Moana

DESCRIPTION	JAN 2006	FEB 2006	MAR 2006	APR 2006	MAY 2006	JUNE 2006	JULY 2006	AUG 2006	SEPT 2006	OCT 2006	NOV 2006	DEC 2006	ANNUAL TOTAL
PROFESSIONAL SVCS													
M.A. ADMIN SVCS & SRVC	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
AOAO ADMIN EXPS	500	500	500	500	500	500	500	500	500	500	500	500	6,000
MANAGEMENT SRVCS	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
AUDIT	104	104	104	104	104	104	104	104	104	104	104	104	1,248
LEGAL FEES	500	500	500	500	500	500	500	500	500	500	500	500	6,000
NEWSLETTER EXPENSE	300	300	300	300	300	300	300	300	300	300	300	300	3,600
TOTAL PROF. SERVICES	7,404	7,404	7,404	7,404	7,404	7,404	7,404	7,404	7,404	7,404	7,404	7,404	88,848

PAYROLL & BENEFITS	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
P/R - MANAGER	4,250	4,250	4,250	4,250	4,250	4,250	4,250	4,250	4,250	4,250	4,250	4,250	51,000
P/R - MAINT	11,321	11,321	11,321	11,321	11,321	11,321	11,321	11,321	11,321	11,321	11,321	11,321	135,846
P/R - JANITORIAL	8,745	8,745	8,745	8,745	8,745	8,745	8,745	8,745	8,745	8,745	8,745	8,745	104,940
P/R - SECURITY	18,001	18,001	18,001	18,001	18,001	18,001	18,001	18,001	18,001	18,001	18,001	18,001	216,008
P/R - OFFICE	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	30,000
WORKERS COMP	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	28,200
TDI	225	225	225	225	225	225	225	225	225	225	225	225	2,700
HEALTH CARE	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
PAYROLL TAXES	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	48,000
PAYROLL PREP	200	200	200	200	200	200	200	200	200	200	200	200	2,400
RENT - MGR APARTMENT	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	30,000
TOTAL P/R & BENEFITS	59,091	59,091	59,091	59,091	59,091	59,091	59,091	59,091	59,091	59,091	59,091	59,091	709,094

OTHER EXPENSES	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
INSURANCE	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	204,000
UNINSURED EXP	500	500	500	500	500	500	500	500	500	500	500	500	6,000
MISC SUPP EXP	100	100	100	100	100	100	100	100	100	100	100	100	1,200
TOTAL OTHER EXP.	17,600	17,600	17,600	17,600	17,600	17,600	17,600	17,600	17,600	17,600	17,600	17,600	211,200

TOTAL OP EXPENSE 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 174,826 2,097,909

RESERVE CONTRIBUTION 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 6,674 80,091

FOOTNOTE: Queen Street Improvement District (ID-10; HCDA) Principal amount of \$85,097.04 payable over 20 years with an assumed rate of interest of 8% per annum. Monthly payments of \$711.79 with the annual amount of \$8,541.48

I, Phyllis Kacher, as agent for/and/or employed by Hawaiiana Management Company, the condominium managing agent for Ko'olani at Ala Moana condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Phyllis Kacher
Signature

11/2/05
Date

Pursuant to 514A-83.6 HRS., a new association created after January 1, 1993 need not collect estimated replacements reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The Budget amount for Reserves is an estimate only.

TABLE OF CONTENTS

	<u>Page</u>
1. INTRODUCTORY PROVISIONS.....	2
1.1 Definitions	2
1.2 Adoption of Bylaws	5
1.3 Conflicts	6
1.4 Application	6
2. ASSOCIATION OF OWNERS	6
2.1 Membership	6
2.2 Meetings of the Association.....	6
2.3 Notice of Meetings	7
2.4 Quorum	7
2.5 Acts of Association	7
2.6 Voting	8
2.7 Proxies and Pledges.....	8
2.8 Order and Conduct of Business	10
2.9 Committees.....	10
2.10 Prohibited Acts of Association Employees	10
3. BOARD OF DIRECTORS	11
3.1 Number and Qualification	11
3.2 Election and Term of Office	11
3.3 Inspectors for Voting and Elections.....	11
3.4 Nomination for Election to the Board.....	12
3.5 Candidates for Election to Board of Directors	12
3.6 Removal	12
3.7 Vacancies	13
3.8 Meetings of the Board of Directors.....	13
3.9 Notice	14
3.10 Waiver of Notice	14
3.11 Quorum of Board of Directors	14
3.12 Conflicts of Interest.....	14
3.13 Compensation.....	14
3.14 Fidelity Bonds	14
3.15 Community Documents	15
3.16 Fiduciary Duty.....	15
4. OFFICERS	15
4.1 Designation and Qualification.....	15
4.2 Election of Officers	15
4.3 Removal.....	15
4.4 President.....	15
4.5 Vice President.....	15
4.6 Secretary.....	16
4.7 Treasurer	16
4.8 Compensation.....	16
4.9 Auditor.....	16

5.	ADMINISTRATION.....	16
5.1	Management.....	16
5.2	Employment of a Managing Agent.....	20
5.3	Execution of Instruments.....	21
5.4	Deposits of Association Funds.....	21
5.5	Books and Records of Account.....	21
5.6	Record of Ownership.....	21
5.7	Minutes of Meetings.....	22
5.8	Location and Inspection of Books and Records.....	22
5.9	Representation.....	23
5.10	Liability and Indemnity of the Board of Directors and Officers.....	24
6.	BUDGETS, RESERVES AND ASSESSMENTS.....	24
6.1	Budget for Common Expenses.....	24
6.2	Supplemental Budget.....	26
6.3	Notice of Increase in Certain Assessments.....	26
6.4	Owner's Payments for Common Expenses.....	26
6.5	Payment as Agent.....	26
6.6	Land Trust.....	27
6.7	Due Date of Assessments.....	27
6.8	Taxes and Assessments.....	27
6.9	Default in Payment of Assessments.....	27
6.10	Collection from Tenants and Agents.....	28
6.11	Disputed Assessments; Notices; Dispute Resolution.....	29
6.12	Liability for Unpaid Assessments Upon Sale.....	29
6.13	Certificate of Unpaid Assessments.....	30
6.14	Waiver.....	30
6.15	Late Fees.....	30
7.	INSURANCE.....	30
7.1	Liability Insurance.....	30
7.2	Property Insurance.....	30
7.3	Policy Requirements.....	31
7.4	Additional Requirements of All Policies.....	32
7.5	Directors' and Officers' Insurance.....	32
7.6	Insurance Against Additional Risks.....	33
7.7	Review; Inspection; Miscellaneous.....	33
8.	MAINTENANCE, USE, ALTERATIONS AND ADDITIONS.....	33
8.1	Maintenance and Repair of Apartments.....	33
8.2	Maintenance and Repair of Common Elements.....	33
8.3	Use of Community.....	34
8.4	Alterations and Additions.....	36
9.	RESTORATION.....	37
9.1	Determination to Reconstruct or Repair.....	37
9.2	Notice to Owners.....	37
9.3	Plans and Specifications.....	37
9.4	Construction Contract.....	37
9.5	Disbursement of Funds.....	38
9.6	Directions to Insurance Trustee.....	39

10.	CONDEMNATION.....	39
	10.1 Condemnation Awards.....	39
	10.2 Arbitration.....	40
11.	MORTGAGES AND MORTGAGEES.....	40
	11.1 Notice to Board of Directors.....	40
	11.2 Notice of Default.....	40
	11.3 Examination of Books.....	41
	11.4 Mortgage Protection.....	41
	11.5 Right of First Refusal Not Applicable.....	43
	11.6 Unpaid Common Expenses or Assessments.....	43
	11.7 Release of Information.....	43
	11.8 Eligible Holders.....	44
12.	GENERAL AND MISCELLANEOUS PROVISIONS.....	44
	12.1 Community Rules.....	44
	12.2 Amendment of Bylaws.....	44
	12.3 Abatement and Enjoinment of Violations by Apartment Owners.....	45
	12.4 Penalties for Violations.....	45
	12.5 Expense of Enforcement.....	45
	12.6 Manner of Giving Notices.....	45
	12.7 Owners May Incorporate.....	46
	12.8 Captions.....	46
	12.9 Gender.....	46
	12.10 Waiver.....	46
	12.11 Interpretation.....	46
	12.12 Severability.....	46
	12.13 Incorporation of Exhibit.....	46

**BYLAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
KO'OLANI AT ALA MOANA**

1. INTRODUCTORY PROVISIONS

1.1 **Definitions.** The terms used in these Bylaws shall have the meanings given to them in the Declaration (as hereinafter defined) and in Chapter 514A, Hawaii Revised Statutes, as amended, except as otherwise expressly stated herein or clearly required by the context. All definitions used in the Declaration shall be incorporated by this reference. Unless clearly repugnant to the context, the following terms, whenever used in these Bylaws, shall have the following meanings:

"Act" means the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended.

"Apartment" means any apartment (as that term is defined in the Act) within the Community, as described in the Declaration and as shown on the Condominium Map, including, without limitation, and including the common interests and Limited Common Elements appurtenant thereto. This term includes Residences and Commercial Apartments.

"Apartment Deed" means the grant of a Residence or Commercial Apartment from the Declarant to an Owner, which is recorded with the Assistant Registrar of the Land Court of the State of Hawaii, and/or the Bureau of Conveyances of the State of Hawaii, as appropriate.

"Apartment Owner" or "Owner" means a person or persons owning, severally or in common, an Apartment; provided that:

- (i) Lessees. To such extent and for such purposes, including the exercise of voting rights, as shall be provided by Recorded lease, a lessee of an Apartment shall be deemed to be an Apartment Owner;
- (ii) Purchasers. The purchaser of an Apartment pursuant to a Recorded agreement of sale shall have all the rights of an Apartment Owner; provided that the seller may retain the right to vote on matters substantially affecting the seller's security interest in the Apartment, as provided in the Act; and
- (iii) Trustee under Land Title-Holding Trust. In the event that any interest in an Apartment is transferred to a trustee under a land title holding trust under which substantially all powers of management, operation and control of the Apartment remain vested in the trust beneficiary or beneficiaries, the beneficiary or beneficiaries of any such trust shall be deemed to be the Apartment Owner to the extent of their interest therein except insofar as the trustee notifies the Association otherwise in writing. A transferee of the beneficial interest in any such trust shall have all of the rights and duties of an Apartment Owner when notice of such transfer is given to the Association by the trustee. Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purposes, and the transferor may continue to be recognized by the Association as the Apartment Owner and shall have all of the rights and obligations of ownership.

"Architectural Committee" and **"Architectural Guidelines"** are defined in the Declaration.

"Association" means the Association of Apartment Owners of Ko'olani at Ala Moana, consisting of all Apartment Owners acting as a group in accordance with this Declaration, the Bylaws and the Act; provided that in the event the Community is merged with a condominium development or developments located or to be located on lands adjacent to or in the vicinity of the Community, in accordance with the Declaration of Merger, all references to the Association shall mean and refer to the merged association of apartment owners of the entire development, as reconstituted by any such merger or mergers.

"Assessments" include (a) **"Benefited Assessments"**, (b) **"General Assessments"**, (c) **"Special Assessments"**, and (d) **"Capital Improvement Assessments"**, all as defined in the Declaration.

"Board of Directors" or **"Board"** means the board of directors of the Association.

"Bylaws" means these Bylaws, as amended from time to time.

"Commercial Apartment(s)" means those commercial condominium apartments in the Community as identified in and created under the Declaration and as shown on the Condominium Map as Apartments ____ to ____, inclusive and including appurtenant common interests and appurtenant Limited Common Elements, if any. The term shall have the same meaning as "Apartment" as defined in the Act. Commercial Apartment No. ____ is specifically described as the **"Club Facility."**

"Common Elements" are described in the Declaration and include without limitation: (1) the "Community Access Drive" which means and refers to the common element roadway area servicing Ko'olani at Ala Moana from its intersection at Waimanu Street, through the parking garage to the boundary with and serving the Porte Cochere and parking garage for the adjacent Nauru Tower and more fully described in that certain Grant of Roadway Easement; Maintenance Agreement described in the Declaration and (2) the Club Facility if and when the same is conveyed by Declarant to the Association.

"Community" shall refer to the Ko'olani at Ala Moana condominium development established by the Declaration and consisting of the land described in Exhibit "A" and the buildings, landscaping, improvements and structures thereon (including the Apartments, Common Elements and Limited Common Elements) and all easements, rights and appurtenances belonging thereto. In addition, following the date upon which any Declaration of Merger becomes effective, "Community" shall also include the Merged Community (defined below) made subject to such Declaration of Merger, and the land, buildings, landscaping, improvements and structures thereon (including the Apartments, Common Elements and Limited Common Elements), and all easements, rights and appurtenances belonging thereto.

"Community Documents" means the Declaration, these Bylaws, the Community Rules, the Architectural Guidelines, the Declaration of Merger and the Declaration Regarding Community Area.

"Community Rules" means the Community Rules for Ko'olani at Ala Moana adopted and promulgated from time to time by the Board of Directors in accordance with these Bylaws for the conduct of Owners, tenants, occupants and guests in the Community.

"Condemnation Trustee" means a bank or trust company doing business in Hawaii and having net assets of not less than Five Million Dollars designated by the Board of Directors for custody and dispensation of all proceeds of condemnation as provided in these Bylaws.

"Condominium Map" means the plans showing the layout, location, numbers, and dimensions of the Apartment and elevations of the buildings of the Community filed in the Bureau of Conveyances of the State of Hawaii as Condominium Map No. 1572, as amended from time to time.

"Declarant" means SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the post office address of which is 2930 Biscayne Boulevard, Miami, Florida 33137, the owner in fee simple of the land described in Exhibit "A" attached hereto, its successors and assigns. A person or entity shall be deemed a successor or assign of Declarant for purposes of this Declaration if a successor by merger and otherwise only if specifically so designated in a duly Recorded written instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor or assign of Declarant only as to the particular rights or interests of Declarant under this Declaration that are specifically designated in the Recorded written instrument.

"Declaration" means the Declaration of Condominium Property Regime of Ko'olani at Ala Moana, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 300451e1, as amended from time to time.

"Declaration of Merger" means the Declaration of Merger for Condominium Phases for Ko'olani, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 300451e1, as amended from time to time.

A **"Director"** shall include a **"Commercial Director"** and a **"Residential Director,"** as defined in Section 3.2.

"Exclusive Use Lanais" means those certain Limited Common Elements designated as lanai areas for the benefit of certain Owners as designated on the Condominium Map.

"Improvements" means any alteration, modification, addition, or renovation to or destruction of an Apartment, Limited Common Element, Common Element or Association Property, including, without limitation, room partitions, structural alterations to any portion of an Apartment, changes of level or grade of any portion of the Property, parking areas, fences, walls, screening walls, skylights, stairs, decks, hedges, windbreaks, window tinting, landscaping, plantings, planted trees and shrubs, utility facilities, poles, signs, and all other structures or improvements of every type and kind installed or erected on the Property. "Improvement" includes both original improvements and all later changes and improvements.

"Insurance Trustee" means a bank or trust company doing business in Hawaii and having net assets of not less than Five Million Dollars that is designated by the Board of Directors for custody and dispensation of all proceeds of insurance as provided in these Bylaws.

"Invitee" means any person whose presence within the Community is approved by or is at the request of a particular Owner, including, but not limited to, lessees, tenants and the family, guests, employees, licensees or Invitees of Owners, tenants or lessees.

"Ko'olani" or **"Ko'olani at Ala Moana"** means and refers to the high-rise structure in the Community containing the Residences and Commercial Apartments.

"Limited Common Elements" are described in the Declaration.

"Maintenance Manual" refers to the manual which may be prepared by the Declarant or its agents and provided to the Association, specifying standards for maintenance of the Common Elements by the Association and the Apartments by the Owners, as updated and amended from time to time by the Declarant or the Association as provided herein.

"Majority of Owners" (or other specified percentage of Apartment Owners) means the Owners of Apartments (including Residences and Commercial Apartments) to which are appurtenant more than fifty percent (50%) (or other specified percentage) of the common interests in the Community; provided, however, to the extent an issue applies to or affects the rights and obligations of Residences exclusively or Commercial Apartment Owners exclusively, then, with respect to such issue, **"Majority of Owners"** (or other specified percentage of Apartment Owners) means the Owners of Residences or Commercial Apartments, respectively, to which are appurtenant more than fifty percent (50%) (or other specified percentage) of the total common interests appurtenant to such Residences or Commercial Apartments.

"Managing Agent" means the agent engaged by the Board of Directors or Declarant as provided in the Declaration.

"Person" shall refer to an individual, corporation, partnership, Association, or other legal entity.

"Property" means the land, the buildings, and all other Improvements and structures thereon (including the Apartments, Common Elements and Limited Common Elements) and all easements, rights and appurtenances belonging thereto, and all other property with respect to which a condominium property regime shall exist from time to time pursuant to the Declaration.

"Real Estate Commission" shall refer to the Real Estate Commission of the State of Hawaii, or any successor entity.

"Record," "Recorded," "Recording," "Recordable" or "Recordation," means an instrument of record in, or the act of recording or causing to be recorded an instrument with the Assistant Registrar of the Land Court of the State of Hawaii, and/or the Bureau of Conveyances of the State of Hawaii, as appropriate.

"Residence" means a residential condominium home in the Community as identified in and created under the Declaration and as shown on the Condominium Map as Apartments _____ to _____, inclusive, and including appurtenant common interests and appurtenant Limited Common Elements, if any. The term shall have the same meaning as "Apartment" as defined in the Act.

1.2 Adoption of Bylaws. Declarant has established a condominium property regime by the execution and Recordation of the Declaration affecting the land described in Exhibit "A" attached hereto. Declarant declares that the Property constituting such condominium property regime is owned and shall be owned, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to the declarations, restrictions, and conditions set forth in these Bylaws, all of which are declared to be in furtherance of the plan set forth in the Declaration, and are established for the purpose of enhancing and preserving the value, desirability, and attractiveness of the Property and the Community. These Bylaws shall constitute equitable servitudes, liens, and

covenants running with the Property and all Apartments and shall be binding on and shall inure to the benefit of all Persons having or acquiring any right, title, or interest in any portion of the Property.

1.3 Conflicts. These Bylaws are intended to comply with the Act. In case of any conflict between the provisions of these Bylaws and those of Hawaii law, the Act or the Declaration, then the provisions of Hawaii law, the Act or the Declaration, as the case may be, shall control.

1.4 Application. All present and future Owners, lessees, Mortgagees, purchasers under agreements of sale, tenants, and occupants of Apartments and their guests, patrons, customers, other business invitees and employees, and any other Persons who may use any part of the Community in any manner are subject to the Community Documents, as each or any of them may be amended from time to time. The acceptance of an Apartment Deed or other conveyance, or the entry into a rental agreement of an Apartment, or the act of occupying an Apartment, shall constitute an agreement that the Community Documents, as they may be amended from time to time, are accepted, ratified, and will be strictly complied with.

2. ASSOCIATION OF OWNERS

2.1 Membership. All Owners shall constitute the Association. Each Owner shall become a member of the Association upon acquiring title to an Apartment. Membership shall terminate only when ownership of the Apartment ceases for any reason, and shall terminate automatically upon such transfer of ownership of the Apartment. It is intended that the Association qualify as a homeowner's association under Section 528 of the Internal Revenue Code of 1986, as amended.

2.2 Meetings of the Association

(a) First Meeting. Declarant or the Managing Agent shall call the first meeting of the Association no later than one hundred eighty days after Recordation of the first Apartment Deed, if at that time at least forty percent (40%) or more of the Apartment Apartments in the Community have been sold and Recorded. If forty percent (40%) of the Apartments in the Community are not sold and Recorded at the end of one year from the date the first conveyance is Recorded, an annual meeting shall be called as soon as practicable upon the request in writing of at least ten percent (10%) of the Owners. At such meeting, a Board of Directors will be elected to serve until the next annual meeting. The term "sold and recorded" means the sale of an Apartment and the Recording of the Apartment Deed. Notwithstanding anything to the contrary contained in these Bylaws, Declarant shall be entitled to vote and act on all matters as the Association and the Board of Directors until such time as the first meeting of the Association.

(b) Annual Meetings. Annual meetings of the Association shall be held within ninety (90) days following the close of the fiscal year of the Association on such date as the president of the Association (herein the "President") may designate. If the President shall fail to designate such date by the forty-fifth day following the close of the fiscal year, then the annual meeting shall be held on the third Tuesday in the third calendar month following the close of the fiscal year. Each annual meeting shall be a general meeting, and any business within the powers of the Association, without special notice of such business, may be transacted except as limited by law, the Declaration, or these Bylaws. The Board (by resolution) or a majority of all of the Owners (by petition) may establish meetings in addition to annual meetings at semi-annual, quarter-annual or other regular intervals.

(c) Special Meetings. Special meetings of the Association may be called by the President or by any two Directors or by a petition to the Secretary of the Association or the Managing Agent signed by not less than twenty-five percent of the Owners. Upon receipt of the call for a meeting, the Secretary or the Managing Agent shall send notice of the meeting to all Owners. If the Secretary or Managing Agent does not send out the notices for the special meeting within fourteen (14) days of the receipt of a proper call for a meeting, the Person or petitioners calling for the meeting may send them. The meeting shall be held at the time and place specified in such call, or, if unspecified, at any reasonable time within forty-five days from the date the call was received. Except as provided otherwise in these Bylaws or by law, only such business shall be transacted at any special meeting as shall have been indicated by a specific or general description in the notice of the meeting. A special meeting and procedures adopted for the removal and replacement of Directors shall be conducted in accordance with the provisions of these Bylaws pertaining to the removal, replacement and election of Directors.

(d) Special Meeting Upon Merger. Anything in these Bylaws to the contrary notwithstanding, in the event that the Community is merged with an additional phase or phases in accordance with the Declaration of Merger, a special meeting of the Association shall be called and held within ninety (90) days following the date of any of such merger. At such meeting, a new Board of Directors for the Association, as reconstituted by any such merger, shall be elected to replace the existing Board.

(e) Adjournment. Any meeting of the Association may be adjourned to a time not less than forty-eight hours from the time the original meeting was called, to such place and time as may be determined by majority vote of the Owners present at the meeting, either in person or by proxy, and whether or not a quorum is present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted by a quorum at the meeting as originally called.

(f) Place of Meetings. All meetings of the Association shall be held at the address of the Community or elsewhere within the State of Hawaii convenient to the Owners as designated by the Board.

2.3 Notice of Meetings. The notice of every meeting of the Association shall state whether it is an annual or special meeting, the date, time, and place of the meeting, the items on the agenda for the meeting, and shall include a standard proxy form authorized by the Association, if any, and any other information permitted or required to be given by these Bylaws. Notice of each meeting, whether annual or special, shall be given at least fourteen (14) days but no more than forty-five (45) days before the date of the meeting. If notice is given pursuant to the provisions of these Bylaws, the failure of any Owner to receive actual notice of a meeting shall not invalidate the meeting or any proceedings taken at the meeting. The presence of an Owner or Apartment Mortgagee, in person or by proxy, at any meeting shall constitute a waiver of any required notice to that Owner or Mortgagee unless an Owner shall at the opening of such meeting object to the holding of the meeting because of the failure to comply with the provisions of this Section.

2.4 Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of a Majority of Owners shall constitute a quorum at all meetings of Owners.

2.5 Acts of Association. The vote of a Majority of Owners present at a meeting at which a quorum shall be present shall be the acts of the Association and binding upon all Owners for all purposes unless the Declaration or these Bylaws requires a different percentage.

2.6 Voting.

(a) Who Is Entitled To Vote. Each Owner shall be entitled to that percentage of the total vote of all of the Owners (Residences and Commercial Apartments) equal to the percentage of the common interest appurtenant to the Owner's Apartment; provided, however, to the extent an issue applies to or affects the rights and obligations of Residences exclusively or Commercial Apartment Owners exclusively, then, with respect to such issue, each Owner shall be entitled to that percentage of the total vote of all of the Owners of Residences or Commercial Apartments, respectively, equal to the percentage the common interest appurtenant to such Owner's Apartment represents of the total common interests appurtenant to all such Residences or Commercial Apartments, respectively. Votes allocated to any area that constitutes a common area under Section 514A-13(h) of the Act shall not be cast at any Association meeting, whether or not it is so designated in the Declaration. Votes may be cast in person or by proxy in accordance with **Section 2.7**. A personal representative, guardian, conservator, or trustee may vote the percentage of vote for any Apartment owned or controlled by such Person in such capacity, provided that such Person shall first have presented evidence satisfactory to the Association that such Person owns or controls the Apartment in such capacity. When an Apartment is owned of record by two or more Persons, any one of them present at any meeting may exercise the voting rights appurtenant to the Apartment in the absence of protest by any other Owners. In case of protest, each cotenant shall be entitled to vote a fraction only of such vote in proportion to the cotenant's share of ownership in such Apartment. Notwithstanding anything to the contrary provided herein, Declarant shall be entitled to vote and act on all matters as the Association and the Board of Directors until such time as the first meeting of the Association. Thereafter, Declarant, as the Owner of any unsold Apartments, shall be entitled to vote the interest of each such Apartment.

(b) Voting for Directors.

(i) Cumulative Voting for Residential Directors. Residential Directors shall be elected by cumulative voting. The total number of votes that each Residence Owner may cast in an election for Directors is determined by multiplying the votes the Residence Owner is entitled to vote on a noncumulative basis multiplied by the number of Residential Directors to be elected. Each Residence Owner is entitled to cumulate the Residence Owner's votes and give all of them to one nominee or to distribute such votes among any or all of the nominees. Subject to the provisions of **Section 3.1** of these Bylaws, the nominees receiving the highest number of votes on a cumulative basis, up to the total number of Residential Directors to be elected, shall be deemed elected.

(ii) Voting for Commercial Director. The Commercial Director shall be elected by a Majority of Owners of Commercial Apartments.

2.7 Proxies and Pledges.

(a) Requirements. The authority given by any Owner to another Person to represent the Owner at meetings of the Association must be in writing and contain at least the following: (i) the name of the Association, (ii) the date of the meeting of the Association, (iii) the printed name and signature of the Person or Persons giving the authority, (iv) the Apartment or Apartments for which the proxy is given, (v) the printed name of the Person to whom the proxy is given, and (vi) the date the proxy is given. No proxy shall be irrevocable unless coupled with a financial interest in the Apartment represented. A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.

A proxy may designate any Person or the Board of Directors as an entity as proxy and may be limited as the Apartment Owner indicates. To be valid, a proxy must be delivered to the Secretary of the Association or the Managing Agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains. Any one of two or more Persons owning an Apartment may give or revoke a proxy for the entire vote of such Apartment, or if so specified in the proxy, for a share of such vote in proportion to the share of ownership of the Person or Persons giving the proxy. Proxies may be given to the Board of Directors; provided that the proxy form shall contain a box wherein the owner may indicate that the owner wishes the vote be shared with each Board member receiving an equal percentage. Proxy forms which are not marked shall be considered a choice by the owner that the vote be made on the basis of the preference of the majority of the Board.

A proxy given by a co-owner or co-owners for only a share of an Apartment's vote may be exercised to cast the entire vote for such Apartment in the absence of protest by another co-owner or the holder of a proxy from another co-owner. In case of a protest, each co-owner or holder of a proxy from a co-owner, as the case may be, shall be entitled to only a share of such Apartment's vote in proportion to the respective shares of ownership in such Apartment. Any provision hereof to the contrary notwithstanding, the standard proxy form, if any, which accompanies a notice of meeting: (i) shall be valid only for the meeting to which such notice pertains and its adjournment, if any; (ii) may designate any Person as proxy; and (iii) may be limited to the Apartment Owner's desires as indicated.

(b) Limitations On Proxy Votes. A Director who uses Association funds to solicit proxies shall not cast any of these proxy votes for the election or reelection of Directors at any Association meeting unless the proxy form specifically authorizes such a vote, and the Board first posts notice of its intent to solicit proxies in prominent locations within the Community at least thirty (30) days prior to its solicitation of proxies. Any Owner has seven (7) days from the time the Board posts notice to request Association funds to solicit proxies accompanied by a statement. The statement shall not exceed one hundred words and shall disclose the Owner's qualifications to serve on the Board and the reasons for wanting proxies. The Board shall promptly mail to all Owners a proxy form containing either (i) the names of all Owners who requested the use of Association funds to solicit proxies, together with their statements, or (ii) without any names but accompanied by a list of names of all Owners who have requested the use of Association funds for soliciting proxies and their statements. A Director shall not cast any proxy vote at a Board meeting.

A Managing Agent employed by the Association shall not solicit any proxies for its use, nor shall the Managing Agent cast any proxy vote at any Association meeting except for the purpose of establishing a quorum. Voting rights transferred or pledged in a Mortgage, deed of trust, lease, or agreement of sale of any Apartment or interest therein, a true copy of which is filed with the Secretary, shall be exercised only by the Person designated in such instrument unless a written release or other termination signed by the parties is filed with the Secretary. No officer or member of the Association Board shall use Association funds to solicit proxies; except for the distribution of proxies as set forth in Section 514A-82(b)(4) of the Act, provided that this shall not prevent an officer or individual member of the Board from exercising his or her right as an Apartment Owner under the above-stated limitations.

(c) Termination. Unless limited by this Section or the terms of the proxy, a proxy shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of the Owner. Proxies, unless irrevocable or subject to a longer specified term and coupled with a financial interest, shall be valid only for the meeting to which the proxy pertains, and for any adjournments

thereof. Any one of two or more Persons owning an Apartment may revoke a proxy for the entire vote of such Apartment or if so specified in the proxy, for a share of such vote in proportion to the share of ownership of the Person or Persons giving such proxy. A proxy given by a co-owner for only a share of an Apartment's vote in proportion to the share of ownership of such co-owner shall be revocable only by such co-owner.

2.8 Order and Conduct of Business. The order of business at all meetings of the Association shall be generally as follows:

- (a) Roll call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of Board of Directors;
- (f) Reports of committees (if any);
- (g) Election of inspectors of election (when required);
- (h) Election of members of the Board of Directors (when required);
- (i) Appointment of auditor;
- (j) Unfinished business; and
- (k) New business.

All meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.

2.9 Committees. The Association may create and appoint such general or special committees as the affairs of the Association may require and define the authority and duties of such committees.

2.10 Prohibited Acts of Association Employees. No employee of the Association shall engage in selling or renting Apartments in the Community, except Association-owned Apartments, unless such activity is approved by an affirmative vote of sixty-five percent (65%) of the Owners.

3. BOARD OF DIRECTORS

3.1 Number and Qualification. The affairs of the Association shall be governed by the Board of Directors. The Board of Directors shall be composed at least of nine (9) Persons, unless not less than sixty-five percent (65%) of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors; provided, however, that the number of Directors may be reduced (but to no fewer than three) if not less than sixty-five percent (65%) of all Apartment Owners vote, by mail ballot or at a special or annual meeting, to reduce the minimum number of Directors. All but one member of the Board of Directors shall be elected by the Owners of Residences (each, a "Residential Director") in accordance with the provisions of **Section 2.6(b)(l)**. One member of the Board of Directors shall be elected by the Owners of Commercial Apartments (the "Commercial Director") and such Commercial Director shall be an Owner of a Commercial Apartment. The Residential Directors and the Commercial Director shall be collectively known as the "Directors." All Directors shall be either Owners, co-Owners, or vendees under an Apartment agreement of sale. An officer of a corporate Owner, the general partners of a general or limited partnership Owner, and the fiduciary or officer of a fiduciary Owner, respectively, shall be deemed to be Owners for the purposes of this Section. There shall not be more than one representative on the Board of Directors from any one Apartment. No resident manager or employee of the Managing Agent shall serve on the Board. For so long as Declarant shall own an Apartment or Apartments within the Community, and for a period of two (2) years thereafter, Declarant may appoint a non-voting "ex-officio" member of the Board of Directors. Declarant shall not exercise this right, however, should Declarant's representative serve as an elected member of the Board of Directors. Any ex-officio member of the Board of Directors may be excluded from executive sessions of the Board of Directors upon a majority vote of the Board of Directors. Any ex-officio member shall have all rights, privileges, and protections as an elected member of the Board as provided under these Bylaws, with the sole exception that such ex-officio member shall be non-voting.

3.2 Election and Term of Office. The election of Directors shall be by secret written ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold office for a period of two years and until their respective successors have been elected, subject to removal as herein provided; except that, with respect to Residential Directors, at the first annual meeting of the Association, the number of Persons to equal a majority of Residential Directors (but no more) who receive the largest number of votes shall be elected for terms of two years, and the remaining Residential Directors shall be elected for a term of one year. Thereafter, at the expiration of the term of office of each of the initial Residential Directors, each successor Residential Director shall be elected for a term of two years.

3.3 Inspectors for Voting and Elections. Before any meeting of the Association at which voting will take place, the Board shall appoint inspectors of the voting at the meeting, including the voting for the election of Directors. The number of inspectors will be either one or three. The inspector or inspectors will: (a) determine the number of votes that may be cast; the authenticity, validity, and effect of proxies, pledges, and other documents purporting to give a Person the right to represent, act, and vote for an Owner; (b) receive votes, ballots, and consents; (c) hear and determine all challenges, questions, and conflicts relating in any way to the right to cast votes; (d) count and tabulate all votes and consents; (e) decide when the polls will close; (f) determine the results of all votes and elections; (g) do other acts that may be proper to conduct the vote or election with fairness to all Owners; and (h) perform such duties impartially, in good faith, to the best of his, her, or their ability and as quickly as practical. The decision, act, or certificate of a majority of

inspectors, if there are three, or of the single inspector will be effective. Any facts stated in any effective report or certificate shall be presumed to be accurate.

3.4 Nomination for Election to the Board.

(a) Residential Directors Nominating Committee. The Board will appoint a committee composed of Owners of Residences to nominate Owners for election to the Board at each annual meeting. This committee will make their selections at least 60 days before the date of each such meeting. The list of nominees must also include any qualified Person nominated in any petition signed by at least five percent of the Residence Owners for Residential Directors, if received by the Board not less than 60 days before the meeting. This list of nominees must be sent to each Owner. If the list is prepared before the notice of meeting is sent, it must be sent with the notice. Each Person nominated must be placed on the ballot at the meeting. At the meeting, however, any Owner present may nominate any other qualified Person for Residential Director, and the Person so nominated must be added to the ballot.

(b) Commercial Director Nominating Committee. The Board will appoint a committee composed of Owners of Commercial Apartments to nominate Owners for election to the Board at each annual meeting. This committee will make their selections at least 60 days before the date of each such meeting. The list of nominees must also include any qualified Person nominated in any petition signed by at least five percent of the Owners of Commercial Apartments for Commercial Directors, if received by the Board not less than 60 days before the meeting. This list of nominees must be sent to each Owner. If the list is prepared before the notice of meeting is sent, it must be sent with the notice. Each Person nominated must be placed on the ballot at the meeting. At the meeting, however, any Owner present may nominate any other qualified Person for Commercial Director, and the Person so nominated must be added to the ballot.

3.5 Candidates for Election to Board of Directors. Each candidate for election or reelection to the Board of Directors may submit to the Board, for distribution to each member of the Association prior to the election, a personal biography which shall include a disclosure of any significant business connection, financial or otherwise, with any current insurer or the Managing Agent of the Community.

3.6 Removal. At any regular or special meeting of the Association duly called, any one or more Directors may be removed with or without cause by a Majority of Owners, and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created; provided, however, that Residential Directors may only be removed by a vote of a Majority of Owners of Residences and the Commercial Director may only be removed by a vote of a Majority of Owners of Commercial Apartments. If any such removal and replacement is to occur at a special meeting, the call for such meeting shall be by the President or by a petition to the Secretary or Managing Agent signed by not less than twenty-five percent (25%) of the Residence Owners, if the petition relates to a Residential Director, and by not less than twenty-five percent (25%) of the Owners of Commercial Apartments, if the petition relates to a Commercial Director; provided, however, that if the Secretary or Managing Agent does not send out the notices for the special meeting within fourteen (14) days of receipt of the petition, the petitioners shall send out the notices for the special meeting. Any member of the Board whose removal has been proposed by an Owner shall be given an opportunity to be heard at the meeting. Any Director who shall miss three consecutive meetings of the Board may be removed by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; provided, however, that this right of removal shall be without prejudice to the Apartment Owners' right to remove Directors as provided above in this **Section 3.6**. Upon removal of a Director by the remaining Directors of the Board, the President

shall schedule a special Association meeting to elect a replacement Director within sixty (60) days from the date of the former Director's removal. If the President fails to so schedule a special Association meeting, the call for such meeting may be made by a petition to the Secretary or Managing Agent signed by not less than twenty-five percent (25%) of the Apartment Owners. The replacement of the Director removed by the Board shall be in accordance with all applicable requirements and procedures in these Bylaws for the replacement of Directors including, but not limited to, any applicable provisions relating to cumulative voting. Any Director removed by the Board shall not be eligible for reelection to the Board for a period of one year after such Director's removal.

3.7 Vacancies. Vacancies in the Board caused by any reason other than the removal of a Director by the Association or by the Board shall be filled by a vote of a majority of the remaining Directors at a special meeting held promptly for that purpose, even though the Directors present at such meeting may constitute less than a quorum. A vacancy may also be filled at a special meeting of the Association whether or not called for that purpose. Each Person so elected shall be a Director for the remainder of the term of the Director whose vacancy is filled (unless sooner removed) or until a successor is elected at the next annual meeting of the Association. The death, incapacity, or resignation of any Director, or such Director's ceasing to be an Owner or co-Owner or the vendee of an Apartment shall cause such office to be vacant.

3.8 Meetings of the Board of Directors.

(a) Annual Meetings. An organizational meeting of the Board and each annual meeting thereafter shall be held at the place of and immediately following the annual meeting of the Association. No separate notice other than the notice of the annual meeting of the Association shall be necessary for such meeting. At such meeting the Board shall elect the officers of the Association for the ensuing year.

(b) Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board. The Board shall meet at least once a year in addition to the annual meeting. Declarant, when acting as the Board as provided in **Section 2.2(a)**, may act without a formal meeting, call, or notice.

(c) Special Meetings. Special meetings of the Board may be called by the President and will be called by the Secretary promptly upon the written request of at least three Directors.

(d) Open and Executive Sessions. All meetings of the Board, other than executive sessions, shall be open to all Owners, and Owners who are not Directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the Board votes otherwise. The Board, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the Association may become involved or orders of business of a similar nature. The nature of all business to be considered in executive session shall first be announced in open session. Whenever practicable, notice of all Board meetings shall be posted by the resident manager, if any, or a member of the Board in prominent locations within the community seventy-two (72) hours prior to the meeting or simultaneously with notice to the Board.

(e) Attendance By Telephone. Members of the Board or of any committee may participate in a meeting by means of a conference telephone or similar communication equipment by

which all Persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

(f) Conduct of Meetings. All meetings of the Board shall be conducted in accordance with the most current edition of Robert's Rules of Order.

3.9 Notice. Fourteen (14) days prior written notice of regular meetings of the Board, if practicable, and at least three business days prior written notice of special meetings shall be given to each Director, either personally or by telephone or facsimile transmission, and shall state the time, place, and purpose of such meeting. Whenever practicable, notice of all board meetings shall be posted by the Managing Agent or a member of the Board in prominent locations within the Community seventy-two (72) hours prior to the meeting or simultaneously with notice to the Board of Directors.

3.10 Waiver of Notice. A Director may waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance at a meeting shall constitute a waiver of notice of the time, place and purpose of the meeting. If all the Directors are present at a meeting of the Board, notice shall not be required and any business may be transacted at such meeting.

3.11 Quorum of Board of Directors. At all meetings of the Board, a majority of the total number of Directors established by these Bylaws shall constitute a quorum for the transaction of business. The votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board. A Director may not cast a proxy at any meeting. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12 Conflicts of Interest. A Director may not vote at any meeting on any issue in which such Director has a conflict of interest. A Director who has a conflict of interest concerning any issue before the Board shall disclose the nature of the conflict of interest to the Board prior to the vote on that issue at the meeting of the Board, and the minutes of the meeting shall record the fact that a disclosure was made. The determination of whether a conflict of interest exists as to a particular Director or Directors shall be determined by a majority of the non-interested Directors, which determination shall be conclusive and binding on all parties. If abstentions for such a reason would result in less than a majority being able to vote, the Directors who do not abstain shall appoint one or more Persons as temporary Directors to vote on the matter in question.

3.13 Compensation. Directors shall not receive any compensation from the Association for acting as such other than a reasonable fee for attendance at the meetings of the Board as set by the Owners at the annual meeting. The Directors may expend Association funds, which shall not be deemed to be compensation to the Directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as Directors; provided that the approved annual operating budget include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State of Hawaii, all other travel expenses incurred under this subsection shall be subject to the requirements of Section 514A-82(b) (10) of the Act.

3.14 Fidelity Bonds. The Board shall require that the Managing Agent and all Directors, officers, trustees, employees, and volunteers responsible for handling funds belonging to or

administered by the Association furnish adequate fidelity bonds naming the Association as the insured and providing coverage in such amounts as the Board deems adequate, but in no event in any amount less than any minimum amount required under the Act. The premiums on such bonds, if paid by the Association, shall constitute a common expense. Every such bond shall:

(a) Provide that the bond(s) may not be canceled or substantially modified (including cancellation for nonpayment of premiums) without at least sixty (60) days prior written notice to the Board, the First Mortgagees of record with respect to any Apartment or any interest therein and every other Person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of Persons who serve without compensation from any definition of the term "employee" or similar term, and, by appropriate endorsement, provide coverage for any such Persons not otherwise covered.

3.15 Community Documents. The Association shall, at its expense, provide all Board members with a current copy of the Declaration, these Bylaws, any Community Rules and/or Architectural Guidelines in effect, and, annually, a copy of the Act.

3.16 Fiduciary Duty. Each Director shall have a fiduciary duty to the Association in the performance or discharge of his or her responsibilities as a Director.

4. OFFICERS

4.1 Designation and Qualification. The principal officers of the Association shall be the President, Vice President, Secretary, and Treasurer, all of whom shall be elected by the Board. The Board may appoint such other officers as in its judgment may be necessary. The President and Vice President shall, but no other officers need, be members of the Board. One individual may hold no more than one office. An Owner shall not act as both an officer of the Association and an employee of the Managing Agent.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Board and shall hold office at the pleasure of the Board.

4.3 Removal. Any officer may be removed with or without cause by the affirmative vote of a majority of the Board. Vacancies may be filled by the Board at any regular meeting or at a special meeting of the Board called for such purpose.

4.4 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. Subject to the control of the Board, the President shall have all the general powers and duties which are incident to the office of president of a corporation organized under the laws of the State of Hawaii, including, but not limited to, the power to appoint committees from among Owners as the President may, in his or her discretion, decide to be appropriate to assist in the conduct of the affairs of the Association. The President shall also have such other powers and duties as may be provided by these Bylaws or assigned from time to time by the Board.

4.5 Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to act temporarily in the place of the President. The Vice President shall also

have such other powers and duties as may be assigned from time to time by the Board or by the President.

4.6 Secretary. The Secretary shall attend and keep the minutes of all meetings of the Owners and the Board, shall maintain and keep a continuous and accurate record of the ownership of all Apartments, shall have charge of such books and papers as the Board may direct, keep the minute book wherein resolutions shall be recorded, and shall in general perform all the duties incident to the office of secretary of a corporation organized under the laws of the State of Hawaii. Duties of the Secretary may be delegated to the Managing Agent or to an assistant secretary subject to the Secretary's supervision.

4.7 Treasurer. The Treasurer shall be responsible for the keeping of full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data and reports. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects of the Association in such depositories as may be designated by the Board of Directors; and shall, in general, perform all the duties incident to the office of treasurer of a corporation organized under the laws of the State of Hawaii. Duties of the Treasurer may be delegated to the Managing Agent subject to the Treasurer's supervision.

4.8 Compensation. No Person shall receive any compensation from the Association for acting as an officer but may be reimbursed for actual expenses incurred in the course of performing such officer's duties.

4.9 Auditor. The Association shall appoint annually a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any Apartment, to audit the books and financial records of the Association as required by law or these Bylaws, or directed additionally by the Board.

5. ADMINISTRATION

5.1 Management. The Board of Directors shall have the powers and duties necessary for the management and operation of the Community, for the administration of the affairs of the Association, and for the performance of all duties and obligations placed on the Board by the Community Documents, and may do all acts and things except those that may not be delegated by the Association to the Board of Directors by the Act, the Declaration or these Bylaws. Such powers and duties of the Board of Directors include, without limitation, the following:

(a) To contract and incur liabilities in connection with the exercise of any of the powers and duties of the Board;

(b) To have custody and control over all funds of the Association, open bank accounts on behalf of the Association, and designate the signatories of those accounts;

(c) To keep books of accounts and records with respect to the Community as provided in the Act and these Bylaws;

(d) To maintain, repair, replace, and restore the Common Elements and make any additions and alterations thereto;

(e) To make additions, alterations, and Improvements to the Property and repair and restore the Property in accordance with the provisions of the Act, the Declaration or these Bylaws after damage or destruction by fire or other casualty or as a result of condemnation;

(f) To purchase, maintain, and replace any equipment and provide all water and utility services required for the Common Elements;

(g) To provide each Apartment with all water, sewer, electricity, and other utility services the Board shall deem necessary, either at the expense of such Apartment or as a common expense, as determined by the Board;

(h) To purchase or provide all other materials, supplies, furniture, labor, and services required by these Bylaws or by law, or which the Board, in its discretion, deems necessary or appropriate for the proper operation and maintenance of the Property, or which are used in common or jointly by the Common Elements and Apartments, in each case to the extent such goods and services shall not be otherwise provided;

(i) To have access to each Apartment from time to time during reasonable hours as may be necessary for the operation of the Property or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Apartment or Apartments;

(j) To maintain and repair any Apartment, if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, Limited Common Elements or any other portion of the Property and if the Owner or Owners of the Apartment shall have failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of maintenance or repair shall have been delivered by the Board to the Owner or Owners. The Board shall levy a Special Assessment against such Apartment for the cost of such maintenance or repair and any attorneys' fees and other expenses incurred in levying and collecting such Special Assessment;

(k) To employ, supervise, and dismiss such personnel as may be necessary for the operation, repair, maintenance, and replacement of the Common Elements;

(l) To procure legal, accounting, and management services necessary or proper for the operation of the Property or the interpretation, enforcement or implementation of the Declaration, these Bylaws and any other material documents affecting the Property;

(m) To obtain and maintain in effect all policies of insurance and bonds as may be required or authorized by the Declaration, these Bylaws, the Board, or the Act;

(n) To cause to be prepared and to approve a budget covering the itemized estimated income of the Community, if any, from all sources and the estimated cost of maintaining and operating the Community during the ensuing fiscal year, including the reserves established by these Bylaws and any other reasonable reserves for such purposes, less any surpluses from the operation of prior years, if any;

(o) To prepare and approve a schedule of monthly Assessments against each Owner for such Owner's proportionate share of such estimated cost of maintaining and operating the Property for such ensuing year and to levy and collect all monthly and Special Assessments of the common expenses and other charges payable by the Owners;

(p) To pay all common expenses which the Association is required to pay pursuant to these Bylaws or by law or which in the Board's opinion shall be necessary or proper for the operation and maintenance of the Property or for the enforcement of these Bylaws, provided that if any such payment is required because of the particular actions of negligence by any Owner, the cost thereof shall be specially assessed to that Owner;

(q) To pay and discharge any lien, encumbrance, tax or assessment levied against all or any portion of the Property which may in the opinion of the Board constitute a lien against the Property or against the Common Elements or Limited Common Elements rather than merely against the interest of particular Owners. If one or more Owners are responsible for the existence of any such lien, they shall be jointly and severally liable for the cost of discharging such lien and for the costs incurred by the Board by reason of such lien;

(r) To enforce the provisions of the Community Documents and establish, assess, and collect such penalties and fines, and any interest as the Board deems appropriate with respect to such enforcement, including penalties, fines, and interest for failure or refusal to pay on demand all costs and expenses required to be paid hereunder; provided that such penalties, fines and interest are not inconsistent with the law or the provisions of these Bylaws or the Declaration. The unpaid amount of such penalties and fines against any Owner shall constitute a lien against the Owner's interest in the Owner's Apartment that may be foreclosed by the Board or the Managing Agent in the same manner as provided in the Act for the foreclosure of a lien for common expenses;

(s) To notify all Persons having any interest in any Apartment, according to the Association's record of ownership, of delinquency exceeding sixty (60) days in the payment of any Assessment against such Apartment;

(t) From time to time to adopt and amend and enforce Community Rules that govern the details of the operation and use of the Property, including, without limitation, Community Rules that apply only to Residences or only to Commercial Apartments, provided, however, that no Community Rule adopted by the Board shall be effective if disapproved by a Majority of Owners at a meeting duly called for such purpose. Nothing herein shall be construed to require that a meeting of the Association be called for the purpose of approving or disapproving Community Rules adopted by the Board of Directors;

(u) From time to time and as provided in and subject to the requirements of the Declaration, to appoint members of the Architectural Committee and to adopt, amend, repeal and enforce Architectural Guidelines, to ensure that proposed plans and Improvements delineated therein are in conformance with and are harmonious with the exterior design and existing materials within the Community. The Architectural Guidelines shall apply to all Apartments; provided, however, the Board may adopt guidelines that apply only to Residences and/or only to Commercial Apartments. The Architectural Guidelines adopted shall include guidelines applicable to the Residences and Commercial Apartments and may include and may include Guidelines that apply only to Residences and/or only to Commercial Apartments;

(v) To grant easements and to enter into leases or licenses of and related to the common areas and elements described in H.R.S. 514A-13(d)(2) and Common Elements not intended for special purpose for periods exceeding five (5) years but not exceeding twenty (20) years, without the requirement to (i) secure the approval of the Apartment Owners, or (ii) make such grants or such leases or licenses subject to termination on sixty (60) days notice as described in H.R.S. 514A-13(d)(2); provided, further, however, the Board may lease or otherwise use for the benefit of the Association portions of the Common Elements which are not actually used for an

originally intended special purpose, as determined by the Board of Directors, provided that unless the approval of seventy-five percent (75%) of the Owners is obtained, any. Provided such lease shall not have a term of more than five years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days' written notice;

(w) To lease or otherwise use for the benefit of the Association those Common Elements not falling within **Subsection (u)** above, upon obtaining (i) the approval of seventy-five percent (75%) of the Owners, including all directly affected Owners and all Owners of Apartments to which such Common Elements are appurtenant in the case of a Limited Common Element, and (ii) approval of all Mortgagees of record on Apartments with respect to which Owner approval is required by (i) above, if such lease or use would be in derogation of the interest of such Mortgagees;

(x) To purchase, lease, or otherwise acquire any Apartment in the Community in the name of the Board of Directors or its nominee, corporate, trust, or otherwise, on behalf of the Association and thereafter sell, lease, mortgage, vote the common interests appurtenant to, and otherwise hold or deal with such Apartment. The Board of Directors may organize corporations to act as nominees of the Board of Directors in acquiring title to or leasing of Apartments on behalf of the Association;

(y) To purchase any Apartment in the Community at foreclosure or other judicial sales in the name of the Board of Directors or its nominee, corporate, trust, or otherwise, on behalf of the Association.

(z) Subject to any approval requirements and spending limits contained in the Declaration and these Bylaws, to borrow money with or without security to be used by the Association for the repair, replacement, maintenance, operation, or administration of the Common Elements of the Community, or the making of any additions, alterations, or Improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the Community; provided that a Majority of Owners give written consent to such borrowing, having been first notified of the purpose and use of the funds;

(aa) To delegate its powers and duties to the Managing Agent, and to committees, agents, officers, representatives, and employees;

(bb) To grant an easement across the Common Elements for any "reasonable purpose," which term shall include, but shall not be limited to, those purposes which are necessary to the operation, care, upkeep, maintenance, and repair of any Apartment, the Common Elements, or any Limited Common Elements in the Community;

(cc) To keep, or cause the Managing Agent to keep, an accurate and current list of members of the Association and their current addresses and names and addresses of the vendees under agreements of sale, if any; and

(dd) On behalf of the Association, to enter into one or more agreements or contracts with the association(s) of Apartment Owners of a condominium community or condominium communities adjacent to or in the vicinity of the Community as necessary or convenient to provide for the joint satisfaction of insurance requirements, on-site management functions, and other items of common interest between the Association and such other association(s), as may be desirable in the interest of efficiency and/or economy for the provision of such items. In such event, the joint

expenses relating to such shared items shall be allocated among the participating associations based on the relative total net living floor area of all Apartments in each of the participating condominium communities, or in such other manner as may be reasonably determined fair and appropriate by the Board and the other participating associations.

(ee) To grant easements and to enter into leases or licenses, of and related to the common areas and elements described in HRS 514A-13(d)(2), for periods exceeding five (5) years but not exceeding twenty (20) years, without the requirement to (i) secure the approval of the Apartment owners, or (ii) make such grants or such leases or licenses subject to termination on sixty (60) days notice as described in HRS 514A-13(d)(2).

(ff) To grant easements and to enter into leases or licenses of and related to the common areas and elements described in H.R.S. 514A-13(d)(2) for periods exceeding five (5) years but not exceeding twenty (20) years, without the requirement to (i) secure the approval of the Apartment Owners, or (ii) make such grants or such leases or licenses subject to termination on sixty (60) days notice as described in H.R.S. 514A-13(d)(2).

Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of the Owners, or any of them, or the Association. Anything contained herein to the contrary notwithstanding, the Board shall have no power to impair the use and enjoyment of an Apartment or the Limited Common Elements appurtenant thereto in a manner inconsistent with the Declaration or these Bylaws.

5.2 Employment of a Managing Agent. Except as otherwise provided in the Declaration with respect to the initial Managing Agent, the Board (on behalf of the Association) shall at all times employ a responsible company duly registered with the Real Estate Commission and licensed to do business in the State of Hawaii as Managing Agent to manage and control the Property, subject at all times to direction by the Board and subject also to the primary rights and responsibility of the Association, with such administrative functions as shall be delegated by the Board. The compensation of the Managing Agent shall be determined by the Board.

The Managing Agent shall have such powers and duties as may be necessary or proper in connection with (a) supervision of the immediate management and operation of the Property; (b) maintenance, repair, replacement, and restoration and any additions or alteration of the Common Elements; (c) the purchase, maintenance, and replacement of any equipment, (d) provision for utilities services to the buildings and the various Apartments; (e) employment, supervision, and dismissal of such personnel as it deems necessary for the maintenance and operation of the Property; (f) execution of contracts with others for the furnishing of such services as it deems proper for the Community; (g) preparation of a proposed budget and schedule of Assessments; (h) collection of all Assessments and payment of all bills; (i) purchase of such insurance as is contemplated by these Bylaws; (j) custody and control of all funds, (k) maintenance of books and records on a cash basis; and (l) preparation of financial reports.

Declarant, or such Managing Agent as Declarant may designate, shall act as the initial Managing Agent for the Community. If the initial management contract is for a term of more than one year, it shall provide that it may be terminated by either party at the end of the first year or at any time thereafter upon not less than ninety (90) days written notice; however, if Declarant or a division, subsidiary, or affiliate of Declarant acts as the first Managing Agent, such management contract shall be subject to termination by either party thereto on not more than sixty (60) days written notice.

The termination of any initial management contract shall be without payment of any termination fee to the Managing Agent. In no event shall the management contract be for a term exceeding three

years, and any such management contract shall be subject to termination, without penalty, by either party thereto on not more than ninety (90) days written notice. No decision by the Board of Directors to terminate professional management of the Community may be made without the prior written consent of at least seventy-five percent (75%) of the institutional holders of First Mortgages on Apartments (based upon one vote for each such First Mortgage).

The Board of Directors may in its discretion limit any of the powers granted to the Managing Agent in these Bylaws or grant additional powers to the Managing Agent.

5.3 Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts, and other instruments shall be signed on behalf of the Association by such officer or officers as shall be provided by general or special resolution of the Board or, in the absence of any such resolution applicable to such instrument, by the President and the Vice President, or by the President or the Vice President and the Treasurer or the Secretary.

5.4 Deposits of Association Funds. The funds of the Association shall be deposited in financial institutions in the State of Hawaii whose deposits are insured by an agency of the United States, held by a corporation authorized to do business HRS 412:8-100 through 8-403, or invested in obligations of the United States government. The funds in the general operating account of the Association shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall the Managing Agent commingle any Association funds with its own funds. For purposes of this Section, lease rent collections and rental operations shall not include the rental or leasing of Common Elements conducted on behalf of the Board of Directors. Association funds shall not be transferred by telephone between accounts. Directors shall not spend Association funds for their travel, Directors' fees and per diem, unless a Majority of Owners approve of these expenses.

5.5 Books and Records of Account.

(a) Financial Records. The Board of Directors will maintain or cause to be maintained accurate and complete books of account and other financial records on a cash basis in accordance with recognized accounting practices. The records shall include, without limiting the generality of the foregoing, detailed and accurate records in chronological order of all receipts and expenditures of the Association, specifying and itemizing all expenses paid or incurred in connection with the maintenance, repair, restoration, and replacement of the Common Elements and any other expenses incurred, all vouchers authorizing payment of such expenses, and monthly statements showing the total current delinquent amount of unpaid Assessments for common expenses.

(b) Annual Statements. Within ninety (90) days after the end of each fiscal year of the Association, the Board will render or cause to be rendered to each Owner a balance sheet and a statement of all receipts and disbursements, including Assessments received and receivable, during the preceding year.

(c) Audit. The Association shall require an annual audit of the Association's financial accounts and no less than one yearly, unannounced verification of the Association's cash balance by an independent public accountant. A copy of the annual audit shall be made available to each Apartment Owner in accordance with the requirements set forth in section 514A-96(b) of the Act.

5.6 Record of Ownership. The Board of Directors or the Managing Agent under the direction and supervision of the Board, will keep an accurate and current record of the names and

addresses of members of the Association, their tenants, Mortgagees, and vendees under agreements of sale, and each Owner's common interest. Every Owner and purchaser under an agreement of sale shall promptly cause to be duly Recorded and filed with the Association the instrument conveying the Owner's interest in an Apartment to such Owner or other evidence of the Owner's title or interest in an Apartment. The Secretary shall maintain all such information in the record of ownership of the Association. Each Owner shall pay the Association or the Managing Agent on demand a service charge in an amount fixed from time to time by the Board (but not more than \$125.00) for the registration on the records of the Association of a change in the ownership of an Apartment.

5.7 Minutes of Meetings. The Association shall maintain minutes of all meetings of the Board of Directors, the Association, and their committees. The minutes shall include the recorded vote of each Board member on all motions except those voted on in executive session.

5.8 Location and Inspection of Books and Records.

(a) Location. All of the Association's books and records shall be kept at the Community or at such other convenient place within the State of Hawaii as the Board shall designate, and in accordance with the requirements of the Act. Subject to the provisions of Section 5.8(b), the Board of Directors shall establish reasonable rules with respect to notice to be given to the custodian of the records by an Owner desiring to make inspection, the hours and days of the week when such inspection may be made, and the payment of the cost of reproducing copies of documents so requested:

(b) Inspection of Financial Records and Minutes.

(i) The Association's most current financial statement and minutes of the Board's meetings, once approved, shall be available to any Owner, Mortgagees or their duly authorized representatives, at no cost or on twenty-four (24) hour loan, at a convenient location designated by the Board.

(ii) Minutes of meetings of the Board and the Association for the current and prior year shall be available for examination by Apartment Owners, Mortgagees or their duly authorized representatives, at convenient hours at a place designated by the Board. Minutes of meetings shall include the recorded vote of each Board member on all motions except motions voted on in executive session. Copies of meeting minutes shall be provided to any Owner upon the Owner's request provided that the Owner, Mortgagees or their duly authorized representatives, pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(iii) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the Association for the current and prior year and delinquencies of ninety days or more shall be available for examination by Apartment Owners, Mortgagees or their duly authorized representatives, at convenient hours at a place designated by the Board; provided:

(A) That the Board may require Owners, Mortgagees or their duly authorized representatives, to furnish to the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the Association or its members or both; and

(B) That Owners, Mortgagees or their duly authorized representatives, pay for administrative costs in excess of eight hours per year. Copies of these items shall be provided to any Owner, Mortgagees or their duly authorized representatives, upon such person's request, provided that the Owner, Mortgagees or their duly authorized representatives, pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(iv) Owners, Mortgagees or their duly authorized representatives, shall also be permitted to view proxies, tally sheets, ballots, Owners' check-in lists, and the certificate of election for a period of thirty (30) days following any Association meeting; provided:

(A) That the Board may require Owners, Mortgagees or their duly authorized representatives, to furnish to the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the Association or its members or both; and

(B) That Owners, Mortgagees or their duly authorized representatives, pay for administrative costs in excess of eight (8) hours per year. Proxies and ballots may be destroyed following the thirty (30) day period. Copies of tally sheets, Owners' check-in lists, and the certificates of election from the most recent Association meeting shall be provided to any Owner upon the Owner's request, provided that the Owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(v) Owners, Mortgagees or their duly authorized representatives, may file a written request with the Board to examine other documents. The Board shall give written authorization or written refusal with an explanation of the refusal within thirty (30) calendar days of receipt of the request.

(c) Members List. Each Owner shall promptly file with the Board of Directors a true and complete copy, as Recorded, of each Apartment Deed, lease, Mortgage, agreement of sale, assignment, or other instrument whereby such Owner acquires, encumbers, or disposes of an interest in an Apartment. The Board or Managing Agent, under direction of the Board, shall keep an accurate and current list of members of the Association and their current addresses and the names and addresses of the vendees under agreements of sale, if any. The list shall be maintained at a place designated by the Board and a copy shall be available at cost to any member of the Association as may be provided in the Community Rules or, in any event, to any member who furnishes to the Managing Agent or the Board of Directors an affidavit stating that the list will be used by the Owner personally and only for the purpose of soliciting votes or proxies or providing information to other Owners with respect to Association matters and that the list will not be used or furnished to any other Person for any other purpose.

(d) In addition to the foregoing, Owners shall have such rights of access to Association records as are provided in HRS §514A-83.5.

5.9 Representation. The Board may represent the Association or any two or more Owners in any action, suit, hearing, or other proceeding affecting the Association, the Common Elements, or more than one Apartment and, on its or their behalf may institute, defend, intervene in, prosecute, and settle any such actions, suits, and proceedings, without prejudice to the rights of any Owners individually to appear, to sue, or be sued. Service of process on two or more Owners in any such action, suit, or proceeding may be made on the President.

5.10 Liability and Indemnity of the Board of Directors and Officers. The Directors and officers of the Association shall not be liable to the Owners for any mistake of judgment or otherwise, except for their own gross negligence or willful misconduct. The Association shall indemnify each Director and officer of the Association against all costs, expenses, and liabilities which may be incurred by or imposed on such Director in connection with any claim, action, proceeding, investigation, or inquiry made, instituted, or threatened in which such Person may be involved as a party or otherwise by reason of such Person's being or having been a Director or officer of the Association, or by reason of any past or future action taken, authorized, or approved by such Director or officer or any omission to act as a Director or officer, whether or not such Person continues to be such Director or officer at the time of the incurring or imposition of such costs, expenses, or liabilities. Such costs, expenses or liabilities shall include judgments, amounts paid in compromise settlements, and amounts paid for services of counsel and other related expenses except those costs, expenses, and liabilities as shall relate to matters as to which such officer or Director shall be finally adjudged to be, or shall be, liable by reason of gross negligence or willful misconduct toward the Association in the performance of such Person's duties as a Director or officer. In the absence of a final adjudication of the existence or nonexistence of a Director's or officer's liability to the Association, the determination of whether a Director or officer has acted with gross negligence or willful misconduct may be made (i) by the Board of Directors by a majority vote or a quorum consisting of disinterested Directors, or (ii) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested Directors so directs, by independent legal counsel selected by the Board of Directors, or (iii) if a quorum of disinterested Directors so directs, by a majority vote of the Owners. The foregoing right of indemnification shall not be exclusive of other rights that any Director or officer may have and shall inure to the benefit of the heirs and personal representatives of each Director or officer.

6. BUDGETS, RESERVES AND ASSESSMENTS

6.1 Budget for Common Expenses.

(a) Before the start of each fiscal year of the Association, the Board shall prepare, or have prepared, and adopt an annual operating budget in accordance with Section 514A-83.6 of the Act. At a minimum, the budget shall include the following:

- (i) The estimated revenues, operating expenses and working capital requirements of the Association for the upcoming year;
- (ii) Information as to whether the budget has been prepared on a cash or accrual basis;
- (iii) The total replacement reserves (as defined in Section 514A-83.6(j) of the Act) of the Association as of the date of the budget;
- (iv) The estimated replacement reserves the Association will require to maintain the Property based on a reserve study conducted by the Association;
- (v) A general explanation of how the estimated replacement reserves are computed;
- (vi) The amount the Association must collect for the fiscal year to fund the estimated replacement reserves;

(vii) An estimate of the maintenance reserves the Association must collect in accordance with applicable provisions in the Declaration;

(viii) An amount which the Board deems appropriate to make up all or a portion of any deficiency from a prior year; and

(ix) The amount of surplus from the prior year, if any, which shall be used to pay common expenses in the upcoming year.

(x) The proposed allocation of Assessments between Residences and Commercial Apartments as required under the Declaration.

(b) For the fiscal year beginning after the Association's first annual meeting and for each fiscal year thereafter, the Association shall assess the Owners as a common expense to fund a minimum of fifty percent (50%) of the estimated replacement reserves for the applicable fiscal year, except that incremental funding of replacement reserves may be implemented in accordance with rules specifically promulgated by the Real Estate Commission pursuant to Section 514A-83.6(b) of the Act. Estimated replacement reserves shall be computed by a formula based on the estimated life and the estimated capital expenditure or major maintenance (as such terms are defined in Section 514A-83.6(j) of the Act) required for each part of the Property and shall include: (i) adjustments for revenues that will be received and expenditures that will be made before the beginning of the fiscal year to which the budget relates; and (ii) separate, designated reserves for each part of the Property for which capital expenditures or major maintenance will exceed \$10,000.00. Parts of the Property for which capital expenditures or major maintenance will not exceed \$10,000.00 may be aggregated in a single designated maintenance reserve. Neither Declarant, the Association, the Managing Agent, any Apartment Owner, nor any Director, officer, or employee of the Association who makes or participates in a good faith effort to calculate the estimated replacement reserves for the Association shall have any personal liability if such estimate subsequently proves to be incorrect.

(c) Upon review and adoption by the Board, a copy of the budget shall be distributed to the Owners and shall constitute the basis of the Association's calculation of common expenses for the year that shall be collected from the Owners as General Assessments and Special Assessments. The budget shall be sent to each Owner, and, if practical, each year's budget shall be sent at least thirty (30) days before the annual meeting of the Association, provided that the budget for the first fiscal year of the Association need not be sent. The Association's annual financial statement shall also be sent out as the Board shall direct and, if practical, shall be sent out at least thirty (30) days before the annual meeting of the Association. Such financial statement must include a statement of all receipts and expenditures determined on a cash basis and a statement of all Association funds and other assets, including, without limitation, all reserve accounts.

(d) The Board may, but shall not be required to, adjust the budget during any year in the event of surplus funds or projected surplus funds, but no Owner will have a right to a refund of any Assessment already paid or the right not to pay any Assessment due but unpaid as a result of any such adjustment in the budget. At the annual meeting each year, the Association shall adopt a resolution that any surplus funds collected from the Owners for common expenses but left over after the end of the previous year shall be used to pay common expenses, excluding any capital improvements, in the next year. For this purpose, each Owner irrevocably appoints the President as such Owner's proxy and attorney-in-fact to adopt such a resolution.

(e) A copy of the Association's annual operating budget shall be furnished to the Real Estate Commission upon its request as part of the Association's registration with the Real Estate Commission under Section 514A-95.1 of the Act, or as required by law.

6.2 Supplemental Budget. The Association's expenditures in any given fiscal year may not exceed by more than twenty percent the total annual operating budget for that fiscal year, except in an emergency situation, as defined in Section 514A-83.6(j) of the Act. If an emergency situation arises or the Association experiences significant revenue shortfalls due to unpaid Assessments, and the Association does not have, or the Board projects that it will not have sufficient funds to pay common expenses on a current basis, the Board shall prepare or have prepared a revision of the estimated common expenses for that year. The increased expense or revenue shortfall amounts of such revision shall be established by Board resolution as a supplemental budget for that year. Such supplemental budget resolution shall contain written findings as to the necessity of the extraordinary expenses and why the expenses were not or could not have been reasonably foreseen in the budgeting process and shall be distributed to the Owners before any Special Assessment is made based on such supplemental budget.

6.3 Notice of Increase in Certain Assessments. The Board shall send to all Owners thereby affected written notice of any new or increased General Assessment, Special Assessment for common expenses or Capital Improvement Assessment at least thirty (30) days before the effective date of such new or increase Assessment.

6.4 Owner's Payments for Common Expenses. Each Owner shall be liable for and pay a share of the common expenses (as defined in the Declaration) in proportion to the common interest appurtenant to such Owner's Apartment. General Assessments and Special Assessments arising from any supplemental budget shall be charged to each Owner accordingly. All Assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien (the "Assessment Lien"), upon the Apartment against which the Assessments are made. Each Assessment, together with such interest and other costs, shall also be the personal obligation of the Owner to whom such Assessment relates. When an Apartment is owned by more than one Person, the obligation shall be joint and several among the co-Owners. Each Owner shall pay the Assessments against such Owner's Apartment for common expenses at such times and in such amounts as established by the Board, provided, however, that Owners who are required by the terms of a First Mortgage to make payments to the Mortgagee for transmittal to the Board shall be permitted to do so. Each Owner shall also be liable for and shall pay all other amounts chargeable to such Owner in accordance with the Declaration and these Bylaws, and all such amounts shall be charged to such Owner as a Special Assessment and shall constitute a lien on the Owner's Apartment as provided in the Declaration, these Bylaws, and the Act. No Apartment Owner may exempt himself from liability for contribution towards common expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Apartment.

6.5 Payment as Agent. Each Owner, as principal, shall be liable for the Owner's proportionate share of the common expenses. The Board, on behalf of the Owners, will pay or cause to be paid all common expenses and shall be responsible, as agent for each Owner, only to collect the funds for the payment of the common expenses and transmit the payments to third Persons to whom such payments must be made.

6.6 Land Trust.

(a) In the event title to any Apartment and its appurtenant common interest is transferred to a trustee under a land title holding trust under which substantially all powers of management, operation, and control of the Apartment remain vested in the trust beneficiary or beneficiaries, the trust estate and the beneficiaries thereunder from time to time shall be liable for and shall pay all common expenses and all other charges, costs, and expenses assessed against such Apartment or the Owner thereof pursuant to the Declaration, these Bylaws, the Community Rules, or the Act.

(b) No claim for payment of common expenses or other charges, costs or expenses shall be made against any such trustee personally, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or Assessment, but the amount thereof shall constitute a lien on the Apartment as provided in the Declaration, these Bylaws, and the Act, notwithstanding any transfer of beneficial interest under such trust.

6.7 Due Date of Assessments. General Assessments shall be payable in monthly installments, unless otherwise determined by the Board, on the first day of each month, commencing with respect to each Apartment on the first day of the first month following the issuance by the appropriate county agency of a certificate of occupancy for such Apartment. The first regular installment of common expenses shall be prorated for each Apartment from the date of issuance of such certificate of occupancy. Special Assessments, Benefited Assessments and Capital Improvement Assessments shall be made payable in a lump sum or in installments as the Board shall determine.

6.8 Taxes and Assessments. Each Owner shall be obligated to have the real property taxes for the Owner's Apartment and appurtenant common interest separately assessed by the proper governmental authority and any other taxes that now are or may hereafter be assessed by law on each Apartment and its limited common interest or the personal property or other interest of the Owner. Each Owner shall be obligated to pay the amount of the taxes so determined. Each Owner shall execute such documents and take such actions as may be reasonably specified by the Board to facilitate compliance with the proper governmental authority regarding such taxes and assessments. Each Owner shall pay the Owner's proportionate share of any assessment by the Board for any taxes or assessments, if any, assessed against the Property as a whole or any part of the Common Elements as a whole and not separately. If, in the opinion of the Board, any taxes or assessments may be a lien on the entire Property or any part of the Common Elements, the Board may pay such taxes or assessments and shall assess the same to the Owners in their proportionate share as determined by the Board.

6.9 Default in Payment of Assessments. Any Assessment not paid within ten (10) days after the due date thereof shall be subject to a late charge equal to ten percent (10%) of the amount of Assessment or such other charge as the Board may specify from time to time, to defray the costs to the Association of additional record keeping and reporting, and shall accrue interest at the rate of twelve percent (12%) per annum from the due date until paid. Any unpaid Assessment shall constitute an Assessment lien on the Apartment for which the Assessment was made, which lien shall have the priority and standing in regard to other liens as provided by law, in particular Section 514A-90(a) of the Act. The Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Owner shall also be liable for attorneys' fees and other related costs incurred by the Association as a result of such delinquency, and if any suit, action or arbitration proceeding is brought to collect any such Assessment or charge, then there shall be added to the

amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon.

In the event of a default or defaults in payment of any such Assessment or Assessments and in addition to any other remedies the Board may have under the Community Documents or by law, the Board may enforce each such obligation as follows:

(a) By suit to enforce such Assessment obligations, provided that each such suit must be authorized by a majority of a quorum of the Board at a regular or special meeting thereof, and any such suit may be instituted by any one member of the Board or by the Managing Agent, if the latter is so authorized in writing. Each such action shall be brought in the name of the Board, and the Board shall be deemed to be acting on behalf of all the Owners. Any judgment rendered in any such action shall include all costs and expenses incurred by the Association in collecting the Assessment, including reasonable attorneys' fees. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of the default, the Board or the Managing Agent (acting upon the authorization of the majority of the Board at any regular or special meeting) may give a notice to the defaulting Owner (with a copy to the Mortgagee of such Owner if such Mortgagee has furnished its name and address to the Board) stating the date of the delinquency, the amount of the delinquency, and making demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may prepare and Record on behalf of the Association a claim of lien against the Apartment of such delinquent Owner. Such claim of lien shall state (i) the name of the delinquent Owner; (ii) a designation of the Apartment against which the claim of lien is made; (iii) the amount claimed to be due and owing (after the allowance of any proper offset); (iv) that the claim of lien is made pursuant to the terms of these Bylaws and the Act; and (v) that a lien is claimed against such Apartment in an amount equal to the net amount of the stated delinquency plus any accrued interest and costs of collection, including attorneys' fees, if any. Such claim of lien shall be signed and acknowledged by any two or more members of the Board, or by the attorney for the Board or by the Managing Agent and shall be dated as of the date of execution. Upon Recordation of a duly executed original or copy of such claim of lien, the Board shall have and may exercise all available remedies. Said remedies include, but are not limited to, foreclosure of the lien in a like manner as to the foreclosure of a mortgage of real property, including foreclosure under power of sale, as provided for in Chapter 667, Hawaii Revised Statutes. The Owner of an Apartment against which the lien of the Association is foreclosed shall pay a reasonable rental for such Apartment, and the plaintiff in such a foreclosure shall be entitled to a receiver to collect such rental. Each default shall constitute a separate basis for a claim of lien, but a single claim of lien may be filed with respect to more than one default.

6.10 Collection from Tenants and Agents. If an Owner shall default in the payment of any Assessment for a period longer than thirty (30) days, the Board may, at its option, so long as such default shall continue and subject to the requirements of HRS §514A-90.5, demand and receive from any tenant of the Owner occupying that Owner's Apartment, the rent as it becomes due or the net amounts due to the Owner under any contract between the Owners and a rental agent up to an amount sufficient to pay all sums due from the Owner, including interest and costs of enforcement, if any. Any such payment to the Board by a tenant or rental agent shall be a full and sufficient discharge of the tenant or agent as between the tenant or agent and the Owner to the extent of the amount so paid. No such demand or acceptance of rent from any tenant or agent shall be deemed to be an approval of any lease by the Owner or a release or discharge of any of the obligations of the Owner remaining unpaid or unperformed or an acknowledgment of surrender of any rights or duties

hereunder. Neither the tenant nor the rental agent shall have the right to question the right of the Board to make such demand, but shall be obligated to make such payments to the Board as demanded. The Board may not exercise this right if a receiver has been appointed to take charge of an Apartment or if a Mortgagee is in possession pending a mortgage foreclosure.

6.11 Disputed Assessments; Notices; Dispute Resolution.

(a) No Owner shall withhold any Assessment claimed by the Association. An Owner who disputes the amount of an Assessment may request a written statement clearly indicating:

(i) The amount of common expenses included in the Assessment, including the due date of each amount claimed;

(ii) The amount of any penalty, late fee, lien filing fee, and any other charges included in the Assessment;

(iii) The amount of attorneys' fees and costs, if any, included in the Assessment;

(iv) That under Hawaii law, the Owner has no right to withhold Assessments for any reason;

(v) That the Owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of the Association's Assessment, provided that the Owner immediately pays the Assessment in full and keeps Assessments current; and

(vi) That payment in full of the Assessment does not prevent the Owner from contesting the Assessment or receiving a refund of amounts not owed.

(b) An Owner who pays the Association the full amount claimed by the Association may proceed to recover all amounts owed to the Owner only as provided in Section U of the Declaration; provided that an Owner may only file for arbitration if all amounts claimed by the Association have been paid in full on or before the date of filing. If the Owner fails to keep all Association Assessments current during the arbitration, the Association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the Owner pays all Association Assessments within thirty (30) days of the date of suspension, the Owner may ask the arbitrator to recommence the arbitration proceedings. If the Owner fails to pay all Association Assessments by the end of the thirty (30) day period, the Association may ask the arbitrator to dismiss the arbitration proceedings. The Owner shall be entitled to a refund of any amounts paid to the Association that are not owed.

6.12 Liability for Unpaid Assessments Upon Sale. In the event of voluntary conveyance of an Apartment, the purchaser or other grantee shall be jointly and severally liable with the Owner or other grantor for all unpaid Assessments for common expenses assessed against the Owner or other grantor up to the time of the conveyance; provided, however, that the Owner or other grantor or the purchaser or other grantee may obtain a certificate as provided in Section 6.13 below, and, except as to the amount of subsequently dishonored checks mentioned in such certificate as having been received within the thirty (30) day period immediately preceding the date of such certificate, the grantee shall not be liable for, nor shall the Apartment conveyed be subject to, any lien for any unpaid Assessments against the Owner or other grantor in excess of the amount set forth in the certificate.

6.13 Certificate of Unpaid Assessments. Any Owner (and his or her Mortgagee or any purchaser of an interest in his or her Apartment) shall be entitled to a certificate from the Board or the Managing Agent setting forth the amount of any due and unpaid Assessments with respect to the Owner's Apartment or setting forth that all Assessments due are paid, if such is the case, within fifteen days after written request and upon payment of a reasonable fee. If any claim of lien is Recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, including accrued interest and costs of enforcement, then upon demand of the Owner or the Owner's successor, and the payment of a reasonable fee, the Board, acting by any two members, shall execute, acknowledge and deliver a release of lien in Recordable form. A certificate regarding unpaid Assessments executed and acknowledged or made under penalty of perjury by any two members of the Board or the Managing Agent shall be conclusive upon the Board and the Association in favor of any and all Persons who rely thereon in good faith as to the matters therein contained, except as to the amount of subsequently dishonored checks mentioned in such certificate as having been received within the thirty (30) day period immediately preceding the date of such certificate.

6.14 Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the Owner hereunder, or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver or a relinquishment for the future of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by an Owner with or without knowledge by the Board of the breach of any covenant hereof shall not be deemed a waiver of such breach.

6.15 Late Fees. The Association may deduct and apply portions of common expenses payments received from an Owner to unpaid late fees only in accordance with Section 514A-15.1 of the Act.

7. INSURANCE

7.1 Liability Insurance. The Association, at its common expense, shall at all times effect and maintain a policy or policies of comprehensive general liability insurance covering all of the Common Elements and public ways, if any, of the Property and insuring Declarant, the Association, the Board of Directors, all Owners, the Managing Agent, and the officers and employees of the Association against claims for injury or death to Persons and damage to Property arising out of the condition of or activities on the Property. The policy or policies shall have a single combined minimum liability limit of not less than \$1,000,000, or such higher limits as the Board may establish with due regard to the prevailing business practices in the State of Hawaii. Each policy shall contain a "severability of interest" endorsement precluding the insurer from denying the claim of an Owner because of a negligent act of the Association, the Board, or other Owners.

7.2 Property Insurance.

(a) The Association shall, as its common expense, insure at all times and keep insured all Common Elements, including all buildings, fixtures, and building service equipment therein located, and, whether or not part of the Common Elements, all exterior and interior walls, floors, and ceilings of the Apartments (to the extent herein provided), in accordance with the "as built" condominium plans and specifications, but excluding any improvements made by an Owner, and excluding Property of every kind and description which is underground (meaning below the level

of contiguous ground and covered by earth, except underground conduit or wiring when beneath buildings) against loss or damage by fire with endorsements for extended coverage, vandalism, and malicious mischief or such broader forms of protection as the Board may determine, in a sufficient amount to provide for the replacement thereof, without deduction for depreciation and with an Inflation Guard Endorsement (for purposes of this section, the type of casualty coverage afforded under such a policy or alternate policy of insurance may sometimes be described as "Fire Insurance"). Flood insurance shall also be provided under the provisions of the federal Flood Disaster Protection Act, if the Property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development, in the amount of the aggregate of the outstanding principal balance of all mortgage loans on Apartments in the Community or the maximum limit of coverage available under the National Flood Insurance Act of 1973, as amended, whichever is less.

(b) Further, at any time if available, the Association may elect to obtain, as its common expense, a policy or policies of insurance providing additional coverage (for fire insurance or otherwise as herein permitted) for all Apartments and Improvements and all buildings, fixtures, building service equipment and Common Elements within the Community providing additional or umbrella coverage above and beyond that afforded by any single or collective Apartment Insurance Coverage policy or policies secured by Owners, or Fire Insurance coverage secured by the Association (the "Umbrella Coverage"). If the Association elects to obtain Umbrella Coverage, the cost thereof shall be a common expense of the Association allocable to both Residences and Commercial Apartment Owners.

7.3 Policy Requirements. Every policy of insurance shall, unless unobtainable:

(a) Require the reconstruction of damaged improvement but shall contain a waiver of any right of the insurer to repair, rebuild, or replace if the Owners decide pursuant to the Declaration and Article 9 below not to repair, rebuild, or restore any damage or destruction;

(b) Provide that any loss shall be adjusted with the Board of Directors and the Owner and Mortgagee of any Apartment directly affected by a loss;

(c) Contain a standard mortgagee clause that shall:

(i) Name the holder of any mortgage affecting any Apartment whose name has been furnished to the Board;

(ii) Provide that any reference to a mortgagee in the policy shall mean and include all holders of mortgages affecting a or any Apartment of the Community, in their respective order and preference, as applicable;

(iii) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association, the Board, an Owner, or any Persons acting under any of them;

(iv) Waive (A) any provision invalidating such mortgage clause by reason of the failure of the Mortgagee to notify the insurer of any hazardous use or vacancy, (B) any requirement that the Mortgagee pay any premium (provided that if the Board fails to pay any premium due or to become due under the policy, the Mortgagee may pay the same prior to the termination of the policy for nonpayment of premiums), (C) any contribution clause, and (D) any right to be subrogated to the right of any Mortgagee against the Owner or lessee of any Apartment or the

Association or the Board of Directors or to require any assignment of any Mortgagee to the insurer; and/or

(v) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy, if in excess of \$1,000.00, shall be payable to the Insurance Trustee;

(d) Provide for the payment of the proceeds to the Insurance Trustee if the total proceeds payable on account of any one casualty exceed \$1,000.00; and

(e) If obtainable without additional expense, be accompanied by the certificate of a licensed insurance broker or agent certifying that the policy complies with and satisfies the requirements of this **Section 7.3**.

7.4 Additional Requirements of All Policies. All insurance policies:

(a) Shall be issued in the name of the Association by an insurance company authorized to do business in the State of Hawaii having a financial rating by Best's Insurance Reports of Class VI or better;

(b) Shall, if obtainable, not relieve the insurer from liability because of loss occurring while the hazard is increased in or to the buildings, whether or not the hazard is within the control or knowledge of the Association or the Board of Directors, or because of any breach of warranty or condition caused by Declarant, an Owner or occupant of an Apartment, or because of any act or neglect of the Association, the Board of Directors, or an Owner or occupant of an Apartment;

(c) Shall contain a waiver by the insurer of any right of subrogation to any right of Declarant, the Association, the Board of Directors, or an Owner against any of them or any Person acting under them;

(d) Shall provide that the policy and its coverage may not be canceled or substantially modified (whether or not requested by the Board) until the insurer shall have given at least thirty (30) days prior written notice to the Board, each Owner, and every other Person in interest who shall have requested such notice;

(e) Shall contain no provision limiting or prohibiting other insurance by an Owner, but provide that the liability of the insurer shall not be affected by, and the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance;

(f) Shall require that the carrier at the inception of the policy and on each anniversary date, provide the Board with a summary of the policy written in layman's terms. The summary shall include a description of the type of policy, the coverage and limits of coverage, the amount of annual premium, and the policy renewal dates. To the extent the Board secures Fire Insurance, Primary, or Umbrella Coverage, the Board shall provide such summary to all Owners.

7.5 Directors' and Officers' Insurance. The Association shall purchase and maintain directors' and officers' liability insurance with coverage in such amount as shall be determined by the Board of Directors. The premiums for such policy or policies shall be a common expense.

7.6 Insurance Against Additional Risks. The Board may also procure insurance against damage to exterior glass and such additional risks of a character normally carried with respect to properties of comparable character and use in the State of Hawaii, including specifically hurricane coverage, as the Board may deem advisable for the protection of the Owners.

7.7 Review; Inspection; Miscellaneous. The Board shall review, not less frequently than annually, the adequacy of its insurance program and shall report in writing its conclusions and actions taken on such review to Declarant and each Owner and to any Mortgagee of an Apartment who shall have requested a copy. At the request of any Mortgagee of an Apartment, the Board shall furnish to the Mortgagee a copy of the policy described in Section 7.2 and of any other policy to which a mortgagee endorsement shall have been attached and proof that premiums on such policy have been made for the period for which the Mortgagee shall so request. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner (or purchaser holding a contract to purchase an interest in an Apartment) at a place designated by the Board. Any coverage procured by the Board shall be without prejudice to the right of any Owner to insure the Owner's Apartment and the contents for the Owner's own benefit at the Owner's own expense.

8. MAINTENANCE, USE, ALTERATIONS AND ADDITIONS

8.1 Maintenance and Repair of Apartments. Each Owner shall at his or her own expense at all times keep the Owner's Apartment and all fixtures and equipment installed in the Owner's Apartment in good order, repair, and condition and shall do such repainting and redecorating as may be necessary to maintain the good appearance and condition of the Owner's Apartment. Each Owner shall be responsible for the maintenance, repair, and replacement of all plumbing and lighting fixtures, windows, water heating, cooling or heating equipment, and appliances and similar equipment installed in the Owner's Apartment and not part of the Common Elements. Notwithstanding the foregoing, the exterior windows of the Apartments and any Exclusive Use Lanai may be cleaned by the Association and charged as a common expense or as a Special Assessment against the Owner, as may be deemed appropriate by the Board. Each Owner shall perform promptly all repair and maintenance work, the omission of which would adversely affect any Common Elements or any other Apartment. To the extent a Maintenance Manual is provided to an Owner, the Owner shall perform the inspections recommended in the Maintenance Manual. Each Owner shall further be responsible for the care and maintenance of the Owner's Apartment as provided in the Declaration and Community Rules. However, no Owner may paint or otherwise decorate the Owner's Exclusive Use Lanai except as provided in the Declaration and in the Community Rules. It is intended that the exterior of the building shall present a uniform appearance, and, to that end, the Board may require the painting or repair of building. No awnings, shades, jalousies, or other device, nor any enclosure of an Exclusive Use Lanai, shall be erected or placed on the Exclusive Use Lanais so as to be visible from the exterior without prior written permission from the Board or in accordance with the Community Rules, if applicable provisions are stated therein.

8.2 Maintenance and Repair of Common Elements. Except as provided otherwise in the Declaration or these Bylaws, all maintenance, repairs, and replacements of the Common Elements shall be made only by or at the direction of the Board of Directors and be charged to all the Owners as a common expense, except: (i) the costs of maintenance, repairs, and replacements necessitated by the negligence, misuse, or neglect of an identified Apartment Owner shall be charged to such Apartment Owner as a Special Assessment, and (ii) all costs of maintenance, repair, replacement, additions, and Improvements to any Limited Common Element shall be charged as a Special Assessment to the Owner(s) of the Apartment or Apartments to which such Limited

Common Element is appurtenant. To the extent a Maintenance Manual is provided to the Association, the Association shall perform the inspections recommended in the Maintenance Manual and, as a result of these inspections, perform all necessary maintenance when recommended. The Association waives any claim against and shall indemnify the Declarant and any of its agents and the contractor if the recommended maintenance is not performed by the Association.

8.3 Use of Community.

(a) All Apartments shall be used only for such purposes as provided in the Declaration.

(b) No fires, including barbecue fires, shall be allowed in any part of any Apartment or the Common Elements, except that barbecuing only to the extent permitted by the County fire code shall be permitted on Exclusive Use Lanais and in such portions of the Common Elements as the Board may designate from time to time by resolution or in the Community Rules. Barbecuing shall include, but shall not be limited to, the broiling of any food items over a charcoal fire, gas grill, or electrical grill.

(c) Every Owner and occupant shall at all times keep his or her Apartment in a strictly clean and sanitary condition and observe and perform all laws, ordinances, rules, and regulations now or hereafter made by any governmental authority or the Association which are applicable to the Property.

(d) All Owners and occupants shall exercise care so as not to make excess noise or vibration especially in the use of musical instruments, radios, televisions, and other devices with sound amplification that may disturb other occupants.

(e) Pets

(i) No livestock, poultry, or other animals whatsoever shall be allowed to be kept in any part of the Project, except that dogs, cats, or other typical household pets ("pet"), such as a guinea pig, a rabbit, fishes, or birds may be kept by occupants in their respective apartments subject to the conditions and restrictions contained herein, but shall not be kept, bred, or used therein for any commercial purpose.

(ii) Except for fish, no more than one (1) pet shall be allowed per apartment.

(iii) No pet may exceed twenty-five (25) lbs. in weight. No infant or juvenile pet of a type or breed which, when fully grown, is likely to exceed twenty-five (25) lbs. in weight, may be kept in the Project.

(iv) No animal described as a pest under H.R.S. § 150A-2 or prohibited from importation under H.R.S. § 141.2, §150A-5, or § 150A-6, may be kept in the Project.

(v) Notwithstanding any provision to the contrary contained herein, certified guide dogs and signal dogs and other such animals specially trained to assist handicapped individuals (hereinafter collectively referred to as "specially trained animals") shall be permitted at the Project subject to the following restrictions:

(A) Such specially trained animals shall not be kept, bred, or used at the Project for any commercial purpose;

(B) Such specially trained animals shall be permitted on the common elements (including but not limited to the recreation areas) provided the specially trained animal is on a leash.

(vi) Except when in transit, pets (other than specially trained animals) shall not be allowed on any common area other than the "Pet Park" on the recreation deck level which may be designated on the Condominium Map. Any pet (other than a specially trained animal) in transit through the common areas must be carried whenever practicable or on a leash which keeps the pet within three feet (3') of its handler's feet. Pets shall not be allowed to come into contact with persons other than the handlers thereof, except as permitted by such other persons.

(f) No Owner or occupant shall make or suffer any strip of waste or unlawful, improper, or offensive use of his or her Apartment, any Limited Common Element appurtenant thereto or any other part of the Community, nor shall any Owner or occupant alter or remove any furniture, furnishings, or equipment from the Common Elements.

(g) The Owner or occupant of any Apartment shall not, without the prior written consent of the Board or in accordance with the Community Rules, if applicable provisions are stated therein, display any sign or place any other thing in or upon any door, window, wall, or other portion of an Apartment or the Common Elements so as to be visible from the outside.

(h) No garments, rugs, or other objects shall be hung from the windows, Exclusive Use Lanais, or facades of any Apartment or other part of the Property. No rugs or other objects shall be dusted or shaken from the windows or Exclusive Use Lanais of any Apartment or other part of the Property or cleaned by beating or sweeping onto any exterior part of the Community. No refuse, garbage, or trash of any kind shall be thrown, placed, or kept on any Common Elements of the Community outside of the disposal facilities provided for such purposes.

(i) No Owner or occupant shall, without the written approval of the Board or in accordance with the Community Rules, if applicable provisions are stated therein, install any wiring for electrical installations, television antenna, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any Apartment or protruding through the walls, windows, or roof thereof.

(j) No Owner or occupant shall place, store, or maintain in the landings, stairways, walkways, sidewalks, parking areas, driveways, roads, grounds, or other Common Elements of similar nature any furniture, packages, or objects of any kind or otherwise obstruct transit through such Common Elements.

(k) No Owner or occupant shall permit any Person who has not obtained the age of majority and who is residing or visiting with him or her to loiter or play in any common areas of the Community that the Board may designate as a non-play area.

(l) No awnings, shades, jalousies, or other device shall be erected or placed on or projecting from the exterior of any Apartment, or the exterior Limited Common Elements, so as to be

visible from the outside without prior written permission from the Board or unless specifically permitted in accordance with the Community Rules.

(m) Except as otherwise required by law, occupancy is limited to no more than two (2) persons per bedroom in each Residence Apartment, not including children under the age of five (5) years, but in no event shall the number of Occupants per bedroom exceed three (3), including children under the age of five (5) years.

8.4 Alterations and Additions.

(a) Subject to the provisions of the Act and except as may otherwise be provided in the Declaration, an Owner of an Apartment shall not, without the prior written consent of the Board, in accordance with Community Rules and any Architectural Guidelines adopted by the Board, make any structural alterations in or additions to the Owner's Apartment or make any alterations in or additions to the exterior of the Owner's Apartment.

(b) Additions or alterations to the Common Elements may be made only by or at the direction of the Board of Directors, except as otherwise provided in the Declaration and these Bylaws.

(c) Whenever in the judgment of the Board of Directors the Common Elements shall require additions or alterations with a total cost equal to or less than \$25,000.00, the Board may proceed with such work and shall assess the cost as a common expense. Any such addition or alterations costing in excess of \$25,000.00 may be made by the Board only after obtaining approval of seventy-five percent (75%) of the Owners, except that such approval shall not be required for any additions or alterations required by law or in the event of an emergency threatening immediate and substantial damage to Persons or damage.

(d) Neither any Owner nor the Association shall make or permit any additions, alterations, repairs or Improvements of the Community or change in the grading or drainage of the Property if the cost is in excess of \$10,000.00 in any one instance except (i) in accordance with complete plans and specifications and detailed plot plans prepared by a registered architect or professional engineer and first approved by the Board of Directors, and (ii) after a bond or certificate of a bond naming the Association as obligee, in a penal sum not less than one hundred percent (100%) of the cost of such construction, and in a form and with a surety satisfactory to the Board of Directors is deposited with the Board assuring the completion of such construction free and clear of all mechanics' and materialmen's liens. Except as may otherwise be provided in the Declaration, any alteration or addition undertaken that is different in any material respect from the Condominium Map shall be commenced only pursuant to an amendment of the Declaration, and, promptly upon completion of such work, the Association shall Record such amendment, together with a complete set of plans of the Property as so altered, certified as-built by a registered architect or professional engineer; provided, however, that alterations or additions within an Apartment or within a Limited Common Element appurtenant to and for the exclusive use of an Apartment shall require the written consent of the Owner's plans by the Board and the Apartment Owners directly affected by such alteration, as determined by the Board. Any necessary amendment of the Declaration may be made by such Owners and the Board and Recorded with the plans certified as built by a registered architect or professional engineer.

9. RESTORATION

9.1 Determination to Reconstruct or Repair. If a building in the Community is damaged by fire or other casualty and the damage is limited to a single Apartment and/or the Limited Common Elements appurtenant thereto, the Board of Directors shall contract to repair and restore the Apartment. If the damage extends to two or more Apartments or to any part of the Common Elements, whether the damaged Property shall be repaired and restored shall be determined as provided in the Declaration. Unless the Owners of all that percentage of Apartments specified in the Declaration decide not to repair and restore the damaged Property within sixty (60) days after the casualty or within thirty (30) days after the date the insurance loss is adjusted, whichever occurs later, or upon the earlier determination of the Owners to repair and restore, the Board of Directors shall immediately contract to repair and restore the damaged Apartments and Common Elements. All costs of repair and restoration of the Apartments and the Common Elements shall be paid from the proceeds of insurance, and, if the casualty is uninsured or the insurance proceeds are insufficient for the restoration, the deficiency shall be paid out of the replacement reserve fund; provided, however, that the Apartment Owners shall be solely responsible for such deficiency as it related to the restoration of their respective Apartment. If the reserve fund is inadequate, the Board of Directors shall levy a Special Assessment on the appropriate Owners in accordance with the common interest appurtenant to their Apartments.

9.2 Notice to Owners. As promptly as possible after any casualty that requires the Owners to decide whether to repair and restore any damage or destruction, the Board of Directors shall notify all Owners of the nature and extent of the damage, the estimated cost to repair or restore, the amount of insurance proceeds, and the estimated amount of Assessments required to pay the excess of the cost of reconstruction or repair over the amount of insurance proceeds, and any other information deemed relevant by the Board of Directors. Notice shall also be given of a meeting of Owners to decide the question of restoration. An Owner's approval or disapproval may be expressed by vote or in writing filed with the Association at or prior to the meeting. The expense of such determination shall be a common expense.

9.3 Plans and Specifications. Any reconstruction or repair shall be substantially in accordance with the plans and specifications for the Improvements existing immediately prior to the casualty, and if restoration to such design is not permissible under applicable laws and regulations then in force, then such reconstruction or repair shall be in accordance with such modified plans and specifications approved as provided in Section 8.5 above. If one or more Apartments are eliminated from the Community, the common interests and other rights of the Owners of Apartments in the modified Community shall be adjusted in an amendment of the Declaration, provided that the common interest of any Owner shall not be altered without the Owner's consent. The Owner of any eliminated Apartment shall be discharged from all obligations under the Community Documents upon the amendment of the Declaration. Alternatively, if the Declaration is not amended so as to discharge the Owners of eliminated Apartments of all such obligations and to adjust equitably the common interest appurtenant to those Apartments not eliminated, the Owner of any eliminated Apartment may convey the Owner's interest to the Board of Directors for the benefit of all other Owners and thereby be discharged from all such obligations under the Community Documents.

9.4 Construction Contract. The Board shall contract to repair or rebuild the damaged portions of the Property, including all Apartments so damaged as well as the Common Elements, in accordance with the approved plans and specifications. If the damage is only to those parts of an Apartment for which the responsibility of maintenance and repair is that of the Owner, then the Owner shall be responsible for reconstruction and repair after casualty.

9.5 Disbursement of Funds. The funds for payment of costs of repair and restoration, which shall consist of proceeds of insurance and funds collected by the Association from Assessments against Owners, shall be disbursed in the following manner:

(a) In the event a decision is made not to repair or rebuild all or any lesser number of the damaged or destroyed Apartments, the Insurance Trustee shall pay to the Owner and any Mortgagee of each Apartment eliminated, as their interests may appear, the portion of the insurance proceeds allocable to their respective Apartment, less the proportionate share of the cost of debris removal. The Owner of any eliminated Apartment may, in addition to the Owner's allocable share of insurance proceeds, receive such reimbursement as the Board deems appropriate. The remaining insurance proceeds shall be paid by the Insurance Trustee to the contractor employed for such work in accordance with the terms of the construction contract and the terms of this **Section 9.5**. When such funds are exhausted, the Association, or if an Owner shall be responsible for costs in excess of insurance proceeds, then that Owner, shall disburse the funds to the contractor.

(b) The cost of the work (as estimated by the Board) shall be paid out from time to time or at the direction of the Board as the work progresses, but subject to the following conditions:

(i) An architect or engineer (who may be an employee of the Board) shall be in charge of the work when the cost of repairs is in excess of \$10,000.00.

(ii) Each request for payment shall be made seven (7) days prior notice to the Insurance Trustee and shall be accompanied by a certificate to be made by such architect or engineer (if one is required hereunder) stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is required to reimburse the Board for payments by the Board to, or is due to, the contractor, subcontractors, materialmen, laborers, engineers, architects, or other Persons rendering service or materials for the work (giving a brief description of such services and materials), and that, when added to all sums previously paid out by the Insurance Trustee, the sum requested does not exceed the value of the work done to the date of the certificate.

(iii) Each request shall be accompanied by waivers of liens satisfactory to the Insurance Trustee and the Board covering that part of the work for which payment or reimbursement is being requested and by a search of title prepared by a licensed abstractor or other evidence satisfactory to the Insurance Trustee showing that no mechanics' or materialmen's or other lien or instrument for the retention or encumbrance of title shall have been filed since the commencement of the reconstruction work and permitted to remain undischarged of record with respect to the Property or any part of the work.

(iv) The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law for occupancy of the premises.

(v) The fees and expenses of the Insurance Trustee shall be paid by the Association as common expenses and such fees and expenses may be deducted from any proceeds at any time in possession of the Insurance Trustee.

(vi) Such other conditions not inconsistent with the foregoing as the Insurance Trustee may reasonably request.

(c) The first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. Upon the completion and payment in full of the work, any remaining balance in a construction fund shall be paid or credited to the Owners (or to the holder of any mortgage on an Apartment) in proportion to their respective common interests.

(d) To the extent that any loss, damage, or destruction to the buildings or other Property is covered by insurance procured by the Board, the Board shall have no claim or cause of action for such loss, damage, or destruction against any Owner or lessee. To the extent that any loss, damage, or destruction to the Property of any Owner or lessee is covered by insurance procured by such Owner or lessee, such Owner or lessee shall have no claim or cause of action for such loss, damage, or destruction against the Board, the Managing Agent, any other Owner, or the Association.

9.6 Directions to Insurance Trustee. The Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary stating whether the damaged Property is to be reconstructed or repaired. The Insurance Trustee shall not be required to determine whether sums paid by Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Board or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a Mortgagee is required by this instrument to be named as payee, the Insurance Trustee shall also name the Mortgagee as payee of any distribution of insurance proceeds to an Owner.

10. CONDEMNATION

10.1 Condemnation Awards.

(a) If part or all of the Property is taken by any authority exercising the power of eminent domain, the taking shall be a casualty and all compensation and damages payable by reason of the taking for or on account of any buildings and Improvements shall be treated the same as proceeds from insurance on account of a casualty and shall be payable to the Condemnation Trustee, which shall have the same powers and duties as the Insurance Trustee.

(b) If the entire Community is taken or so much is taken that the Association withdraws the Community from the Act, the Condemnation Trustee shall pay to each Owner and Mortgagee, as their interests may appear, the portion of the condemnation proceeds allocable to the Owner's Apartment after applying such proceeds to pay for restoring any remaining land to good, orderly condition and even grade.

(c) If any Apartment is taken and there is no final judicial determination of the amount of condemnation proceeds allocable to each Apartment so taken, the amount of the condemnation proceeds allocable to each Apartment shall be determined by arbitration as set forth below.

(d) In the event of a partial taking of the Property:

(i) If any Apartment is physically eliminated or a portion is eliminated and the remaining portion cannot be repaired or rebuilt in a manner satisfactory to the Owner of the Apartment and to the Board of Directors, then such Apartment shall be removed from the Community, and the Condemnation Trustee shall disburse to the Owner and any Mortgagee of such Apartment, as their interests may appear, in full satisfaction of their interests in the Apartment, the portion of the proceeds of such award allocable to such eliminated or removed Apartment after deducting the proportionate share of such Apartment in the cost of the debris removal.

(ii) The Board shall contract for any necessary repair and restoration of the buildings and Improvements remaining after the taking in accordance with the design existing immediately prior to such condemnation or, if repair and restoration in accordance with such design are not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be approved by the Board, the Declarant and the Mortgagee of record of each Apartment directly affected by such taking. Such work shall be undertaken and disbursements shall be made in the manner prescribed in **Section 9.5(b)** above. If the sums held by the Condemnation Trustee are insufficient to pay the costs of such repair and restoration, the Board shall pay the excess costs from the replacement reserve fund; and, if the replacement reserve fund is insufficient for this purpose, the Board shall levy a Special Assessment on the Owners of the remaining Apartments in the proportions prescribed for their sharing of common expenses.

(iii) If the sums received as a result of a partial condemnation exceed the total of any amounts payable to the Owner and any Mortgagee of a removed Apartment and the amount of costs for debris removal and for repair and restoration of the remaining buildings and Improvements, such excess shall be divided among the Owners in accordance with their interest in the Common Elements prior to the condemnation.

10.2 Arbitration. If the portion of a condemnation award allocable to an Apartment which is reduced in size, eliminated, or not restored cannot be determined by agreement between the Owner and the Board of Directors within thirty (30) days after notice by either party to the other party, the portion shall be determined in the manner provided in Section U of the Declaration for the resolution of disputes.

11. MORTGAGES AND MORTGAGEES

11.1 Notice to Board of Directors. An Owner who mortgages the Owner's interest in an Apartment shall notify the Board of the name and address of the Owner's Mortgagee and file a conformed copy of the mortgage with the Association within ten (10) days after execution of the mortgage. The Board of Directors shall maintain such information in a book entitled "Mortgagees of Apartments."

11.2 Notice of Default. When giving notice to an Owner of a default in paying common expenses or other default in the performance of any obligation under the Community Documents or any other document of the Association, the Board of Directors shall send a copy of such notice to each holder of a Mortgage on the Owner's Apartment or interest therein whose name and address has been furnished to the Board of Directors.

11.3 Examination of Books. Each holder of a Mortgage on an Apartment shall be permitted to examine the books of account and records of the Association at reasonable times on business days, and each such Mortgagee shall have the right to require the submission to it of annual reports and other financial data that may be required to be submitted to an Owner.

11.4 Mortgage Protection.

(a) The liens in favor of the Association on any Apartment and its appurtenant interest in the Common Elements shall be subject and subordinate to the rights of the holder of any indebtedness secured by any Recorded Mortgage of such Property made for value, provided that, after the foreclosure of any such Mortgage, there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all Assessments assessed to such Apartment if falling due after the date of such foreclosure sale.

(b) All taxes, Assessments, and charges that may become liens prior to the First Mortgage under the laws of the State of Hawaii shall relate only to the individual Apartments and not to the Community as a whole.

(c) The Declaration and these Bylaws shall not give an Owner priority over any rights of First Mortgagees of Apartments pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Apartments and/or Common Elements.

(d) No amendment to this **Section 11** shall affect the rights of the holder of any Recorded First Mortgage who does not join in the execution thereof, if such Mortgage was Recorded prior to the Recording of such amendment.

(e) Any holder, insurer, or guarantor of a First Mortgage of an Apartment whose interest appears in the record of ownership or who has otherwise delivered a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the House number) shall be entitled to:

(i) Prior written notice of any proposed amendment to the Declaration or these Bylaws effecting a change in (1) the boundaries of an Apartment, (2) the common interest pertaining to the Apartment, or (3) the purposes to which the Apartment, the Limited Common Elements appurtenant thereto, or the Common Elements are restricted;

(ii) Prior written notice of any proposed termination of the Community;

(iii) Timely written notice of any actual or threatened condemnation or eminent domain proceeding affecting the Property or any portion thereof;

(iv) Timely written notice of any significant damage or destruction to the Common Elements or to an Apartment on which there is a First Mortgage held, insured, or guaranteed by such holder;

(v) A copy of any bond required to be posted before commencing or permitting construction of any improvements on or to the Property;

(vi) Timely written notice of all meetings of the Association (the holder or insurer of a First Mortgage being permitted to designate a representative to attend all such meetings);

(vii) Notice of any default by the Owner of the Apartment involved which is not cured within sixty (60) days;

(viii) Upon request therefor, a certificate of any then unpaid Assessments for common expenses due from the Owner of the Apartment involved, as provided in Section 6.13 above;

(ix) A copy of all pleadings filed in any lawsuit, administrative proceedings, or other action affecting the Property, or any portion thereof, upon specific written request and at such Person's expense; and

(x) Prior written notice of any proposal to subdivide, encumber, sell, or transfer the Common Elements or any part thereof, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community shall not be deemed a transfer within the meaning of this subsection.

(f) Unless at least seventy-five percent (75%) of the Owners have given their prior written approval and the approval by the eligible holders for First Mortgages on Apartments to which at least sixty-seven percent (67%) of the votes of Apartments subject to Mortgages held by such eligible holders are allocated have been obtained, the Association shall not be entitled to:

(i) By act or omission, seek to abandon or terminate the Community;

(ii) Change the common interest appurtenant to any individual Apartment;

(iii) Partition or subdivide any Apartment;

(iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community shall not be deemed a transfer within the meaning of this subsection;

(v) Use condemnation proceeds or hazard insurance proceeds for losses to the Property or any part thereof (whether to Apartments or to Common Elements) for other than the repair, replacement, or reconstruction of same;

(vi) Materially amend any provision of the Declaration or these Bylaws, or to add material provisions thereto, which establish, provide for, govern, or regulate any of the following:

(1) Voting;

(2) Assessments, Assessment Liens, or subordination of such liens;

- (3) Reserves for maintenance, repair, and replacement of the Common Elements;
- (4) Insurance or fidelity bonds;
- (5) Right to use of the Common Elements;
- (6) Responsibility for maintenance and repair of the Property;
- (7) Expansion or contraction of the Community or the addition, annexation, or withdrawal of Property to or from the Community;
- (8) Boundaries of any Apartment;
- (9) The interests in the Common Elements or Limited Common Elements;
- (10) Convertibility of Apartments into Common Elements or of Common Elements into Apartments;
- (11) Leasing of Apartments;
- (12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Apartment;
- (13) Establishment of self-management by the Association;

provided, however, that this **Subsection (f)** shall not apply to any actions taken pursuant to rights expressly reserved to Declarant in the Community Documents, including, without limitation, rights relating to the merger of phases as provided in Section P of the Declaration.

11.5 Right of First Refusal Not Applicable. In the event that there shall be any "right of first refusal" to purchase any Apartment by the Association, any First Mortgagee who obtains title to an Apartment pursuant to the remedies provided in a Mortgage or foreclosure of the Mortgage or deed in lieu of foreclosure shall be exempt from such "right of first refusal" (but such right of first refusal shall apply to any subsequent transferee of the First Mortgagee).

11.6 Unpaid Common Expenses or Assessments. Any First Mortgagee who obtains title to an Apartment pursuant to the remedies provided in a Mortgage or foreclosure of the Mortgage shall not be liable for such Apartment's unpaid common expenses and Assessments that accrue prior to the acquisition of title to such Apartment by the Mortgagee. The unpaid share of common expenses or Assessments shall be deemed to be collectible from all of the Owners as a common expense of the Association, including an acquirer of such Apartment and his or her successors and assigns.

11.7 Release of Information. The Board may provide any information available to it pertaining to an Apartment or the Community to the First Mortgagee of an Apartment and such Mortgagee may provide any information to the Board regarding the mortgagor, the mortgagor's loan, and the status of such loan.

11.8 Eligible Holders. As used in these Bylaws, an "eligible holder, insurer, or guarantor" shall mean a holder, insurer, or governmental guarantor of a First Mortgage on an Apartment that has requested notice in accordance with Section 11.4 of these Bylaws.

12. GENERAL AND MISCELLANEOUS PROVISIONS

12.1 Community Rules. Declarant may initially establish and the Board may thereafter adopt, amend, or repeal Community Rules as the Board may deem necessary to govern the conduct, use, and operation of the Community, including, without limitation, the Residences, the Commercial Apartments, Common Elements, and Limited Common Elements. Each Owner agrees that the Owner's rights under this instrument shall be in all respects subject to the Community Rules.

Each Owner agrees to obey the Community Rules as the same may be promulgated from time to time and shall see that the Community Rules are faithfully observed by the Owner's Invitees, guests, employees, and tenants. The Community Rules shall apply to and be binding upon all occupants of the Apartments.

12.2 Amendment of Bylaws.

(a) Vote or Consent Requirements. Except as otherwise expressly provided in the Declaration, these Bylaws, or in the Act, these Bylaws may be amended in any respect not inconsistent with law or the Declaration by the affirmative vote or written consent of not less than sixty-five percent (65%) of the Owners, provided that each of the particulars set forth in Section 514A-82 of the Act shall always be embodied in the Bylaws, and provided further that an amendment to the provisions of these Bylaws that are for the express benefit of holders or insurers of First Mortgages on Apartments shall require the approval of eligible holders of First Mortgages on Apartments to which there are allocated at least sixty-seven percent (67%) of the votes allocated to all Apartments subject to First Mortgages held by such eligible holders, together with the vote of not less than sixty-five percent (65%) of the Owners, and provided further that an amendment to the provisions of these Bylaws that are for the express benefit of Declarant shall also require the express written consent and joinder of Declarant, together with such other approval requirements as set forth in this Section 12.2(a).

(b) Proposed Amendments. Proposed amendments to these Bylaws with the rationale for the proposal may be submitted to the Owners either by the Board of Directors or by a volunteer Owner's committee. If a volunteer Owner's committee desires to submit a proposal to the Owners, it shall first submit the proposal to the Board of Directors with the rationale for the proposal and a petition supporting the proposed Bylaws signed by not less than twenty-five percent of the Owners. Within fourteen (14) days from the receipt of the proposal, the rationale, and the petition by the Board, the Board shall mail to the Owners for approval without change the proposed amendments to these Bylaws, the rationale for the proposal, ballots for voting, and the Board's comments, if any, concerning the proposal. No amendment proposed by the Board or the volunteer Owner's committee shall be valid unless the required percentage of votes or consents for such amendment are obtained within three hundred sixty-five (365) days of the mailing to Owners, or in such shorter time as is specified in the mailing.

(c) Adoption of Committee's Proposal. If the Board fails to mail the proposed amendments to these Bylaws, rationale, and ballots for voting to the Owners within fourteen (14) days of the receipt of the petition by the Board, then the Owner's committee may mail such items to the Owners, and the vote thus taken will be valid, provided the Owner's committee has complied with all other applicable rules on voting for Bylaws amendments. The results of such vote shall be

presented to the officers of the Association who shall promptly execute such documents as shall be necessary to permit the amendments to be Recorded.

(d) When Amendments Are Effective. An amendment to the Bylaws shall be effective only upon the Recording of such amendment.

12.3 Abatement and Enjoinment of Violations by Apartment Owners. The violation of any Community Rules adopted by the Board, the breach of any requirements of the Architectural Guidelines, the breach of any of these Bylaws, or the breach of any provision of the Declaration shall give the Board the right, in addition to any other right set forth in the Declaration or these Bylaws:

(a) to enter the Apartment and/or Limited Common Elements appurtenant thereto, in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the appropriate Owner, any structure, thing, or condition that may exist therein which is contrary to the intent and meaning of the Community Documents, and the Board shall not be deemed guilty in any manner of trespass; or

(b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs, including attorneys' fees, shall be paid by the appropriate Owner upon demand.

12.4 Penalties for Violations. The violation by any Owner of any of the covenants, conditions, and restrictions set forth in the Declaration, these Bylaws, the Community Rules, or the Architectural Guidelines shall give the Board the right, in addition to other rights set forth in the Declaration, these Bylaws, the Community Rules or the Architectural Guidelines, to assess a reasonable fine against such Owner; provided that if any such violation continues for a period of ten (10) days after notice of violation has been given to such Owner, such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties. The unpaid amount of such fines against any Owner shall constitute a lien against such Owner's interest in such Owner's Apartment that may be foreclosed by the Board or the Managing Agent in the same manner as provided in the Declaration, these Bylaws, or the Act for unpaid common expenses. No penalty may be imposed under this **Section 12.4** until the Owner accused of any such violation has been afforded the right to have a hearing before the Board or a committee designated by the Board to conduct such hearing or has waived such right in writing. Each such Owner shall have the right to be heard in person, by submission of a written statement, or through a spokesperson, at any such hearing.

12.5 Expense of Enforcement. Each Owner shall pay all costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association in collecting any delinquent Assessments against such Owner, in foreclosing its lien therefore, or in enforcing any provisions of the Declaration, these Bylaws, the Community Rules or the Architectural Guidelines.

12.6 Manner of Giving Notices. All notices permitted or required to be given under these Bylaws, the Declaration, or the Act must be in writing and may be delivered either personally or by mail. All notices mailed to Owners shall be sent by registered or certified mail to the Owner or Owners at the address furnished in writing from time to time to the Association, or, if no address has been furnished, to the Apartment. All notices to the Board may be personally delivered to a Director or may be sent by registered or certified mail or facsimile transmission to the office of the Managing Agent or to such other address as the Board may hereafter designate from time to time by notice in writing to all Owners and Mortgagees of Apartments. All notices to Mortgagees of Apartments shall be sent by registered or certified mail to their respective addresses, as designated by them from

time to time in writing, to the Board. All notices given by mail shall be deemed to have been given twenty-four (24) hours after being deposited in the United States mail, postage prepaid, except notices of changes of address which shall be deemed to have been given when received.

12.7 Owners May Incorporate. All of the rights, powers, obligations, and duties of the Association imposed hereunder may be exercised and enforced by a nonprofit membership corporation, formed under applicable laws for the purposes herein set forth. Such a corporation shall be formed upon the approval of at least seventy-five percent (75%) of the Owners. The formation of the corporation shall in no way alter the terms, covenants, and conditions set forth herein, and the Articles and Bylaws of the corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation which is in violation of any or all of the terms, covenants, or conditions contained herein shall be void and of no effect.

12.8 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws, or the intent of any provisions hereof.

12.9 Gender. The use of a pronoun of any gender in these Bylaws shall be deemed to include the other gender and the use of the singular shall be deemed to include the plural whenever the context requires.

12.10 Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.11 Interpretation. The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform condominium complex whereby the Owners shall carry out and pay for the operation and maintenance of the Community as a mutually beneficial and efficient establishment.

12.12 Severability. The provisions of these Bylaws shall be deemed independent and severable, and the invalidity or partial invalidity or enforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

12.13 Incorporation of Exhibit. Exhibit "A" attached to these Bylaws is incorporated into these Bylaws by this reference.

[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

CERTIFICATE OF ADOPTION

The undersigned Declarant and Owner of all Apartments in the Community hereby adopts the foregoing as the Bylaws of the Association of Apartment Owners of Ko'olani, as of July 30, 2003.

Declarant

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) SS.

On this 30th day of JULY 2003, before me personally appeared SAUL JACK, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Bonnie H. Hudson
Notary Public, State of FLORIDA
Type or print name: _____

My commission expires:



Bonnie H. Hudson
Commission # CC 918075
Expires April 16, 2004
Bonded Thru
Atlantic Bonding Co., Inc

EXHIBIT "A"

ITEM I:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KALIA, WAIKIKI, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 1-A, AREA 109,587 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 2, FILED WITH LAND COURT CONSOLIDATION NO. 194 OF NAURU PHOSPHATE ROYALTIES (HONOLULU), INC.

TOGETHER WITH AN EASEMENT FOR BUILDING PURPOSES (EASEMENT "2"), AREA 384 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 6 OF LAND COURT APPLICATION NO. 1250, AFFECTING LOT 6, AS SHOWN ON MAP 5 OF LAND COURT APPLICATION NO. 1250, AS SET FORTH BY LAND COURT ORDER NO. 108885 RECORDED OCTOBER 2, 1992.

TOGETHER WITH ACCESS TO A PUBLIC ROAD, NAMELY, WAIMANU STREET, OVER AND ACROSS LOT 1-B OF LAND COURT CONSOLIDATION NO. 194, AS SET FORTH BY LAND COURT ORDER NO. 149192 RECORDED JANUARY 28, 2003.

ITEM II:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KAWAIAHAO STREET, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 2-A, AREA 6,751 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 2, FILED WITH LAND COURT CONSOLIDATION NO. 188 OF WAIMANU INVESTMENT VENTURE, A HAWAII LIMITED PARTNERSHIP.

TOGETHER WITH ACCESS TO A PUBLIC ROAD, NAMELY WAIMANU STREET OVER AND ACROSS LOT 30-B OF LAND COURT APPLICATION NO. 948, AS SET FORTH BY LAND COURT ORDER NO. 149191 RECORDED JANUARY 28, 2003 (AS TO LOT 2-A); AND AS SET FORTH BY LAND COURT ORDER NO. 149189 (AS TO LOT 30-B).

ITEM III:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KEWALO, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 4, AREA 20,391 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 18, FILED WITH LAND COURT CONSOLIDATION NO. 53 OF VICTORIA WARD, LIMITED.

TOGETHER WITH ACCESS TO WAIMANU STREET OVER AND ACROSS LOT 915-B OF LAND COURT APPLICATION NO. 880, AS SET FORTH BY LAND COURT ORDER NO. 149187 RECORDED JANUARY 28, 2003 (AS TO LOT 4); AND AS SET FORTH BY LAND COURT ORDER NO. 149188 (AS TO LOT 915-B).

ITEM IV:

FIRST:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KEWALO, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 915-B, AREA 85,668 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 131, FILED WITH LAND COURT APPLICATION NO. 880 OF BISHOP TRUST COMPANY, LIMITED.

SECOND:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KOLOWALU-KAI, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 30-B, AREA 6,901 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 8, FILED WITH LAND COURT APPLICATION NO. 948 OF HAWAIIAN DREDGING COMPANY, LIMITED.

AS TO ITEMS I THROUGH IV:

BEING ALL OF THE PREMISES DESCRIBED IN AND COVERED BY TRANSFER CERTIFICATE OF TITLE NO. 643,161

ISSUED TO: SUNSET HEIGHTS HAWAII, LLC, A DELAWARE LIMITED LIABILITY COMPANY

SUBJECT, HOWEVER, to the following:

1. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the unrecorded Planned Development Permit No. PD 2-84 and Kakaako Community Development District Plan dated November 7, 1984, issued to the Nauru Phosphate Royalties Trust by the Hawaii Community Development Authority.

Said Planned Development Permit was amended on October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994, January 24, 1997, August 2, 2000, April 2, 2002, September 13, 2002, March 24, 2003 and April 11, 2003.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, assigning all of the right, title and interest in and to the Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Phase I Site, subject to the terms and conditions of the Development Permit, to the Plan and Rules, and this Partial Assignment, recorded June 29, 1989 as Land Court Document No. 1646277.

Consent thereto given by Hawaii Community Development Authority, State of Hawaii, by instrument recorded June 29, 1989 as Land Court Document No. 1646278.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated January 2, 1994, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Waimanu Investment Venture, a Hawaii limited partnership, and Waldron Ventures, a Hawaii general partnership, assigning all of the right, title and interest in and to the Planned Development Permit to

the extent that such right, title and interest are necessary for the development, use or operation of the Reserved Housing Site, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment to the extent they affect the Reserved Housing Project and the Reserved Housing Site, recorded November 2, 1994 as Land Court Document No. 2192784.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded November 2, 1994 as Land Court Document No. 2192785.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated June 1, 1997, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of Lot 2, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment, recorded June 20, 1997 as Land Court Document No. 2387444.

Assignment of Rights and Obligations Under Planned Development Permit and Cancellation and Termination of Partial Assignment dated May 1, 1998, made by and between Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, Assignor, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Assignee, assigning all of the Assignor's right, obligations and liabilities under the Planned Development Permit dated November 7, 1984, as amended, terminating the Partial Assignment dated June 1, 1997, and mutually releasing each other from all claims related thereto, recorded June 5, 1998 as Land Court Document No. 2461954.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated April 17, 2003 recorded April 22, 2003 as Land Court Document No. 2918295.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded April 22, 2003 as Land Court Document No. 2918296.

2. AS TO ITEM I (Lot 1-A):

- a. Drainage and temporary construction easements, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430.
- b. Easement in favor of the Board of Water Supply, City and County of Honolulu, for right of way for an underground water line or pipe lines, shown on Map No. 1 filed with Land Court Application No. 1250 (now a portion of Lot 1-A), as set forth by Decree 1383, filed June 26, 1940.
- c. Easement (area 1,840 square feet) in favor of the City and County of Honolulu, for drainage purposes, shown on Map No. 4 filed with Land Court Application No. 1250, as set forth by Land Court Order No. 37100, recorded March 20, 1973.

- d. Easement (area 1,297 square feet) in favor of the City and County of Honolulu for drainage purposes, shown on Map No. 6 filed with Land Court Application No. 784, as set forth by Land Court Order No. 37122, recorded March 22, 1973.
- e. Easement for electrical purposes, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated (now Verizon Hawaii, Inc.), recorded December 16, 1991 as Land Court Document No. 1873345.
- f. Easement "1" (area 1,339 square feet) for sanitary sewer purposes, shown on Map No. 1 filed with Land Court Consolidation No. 194, as set forth by Land Court Order No. 133679, recorded December 22, 1998.
- g. Restriction of vehicular access, shown on Map No. 1 filed with Land Court Consolidation No. 194, as set forth by Land Court Order No. 133679, recorded December 22, 1998.

3. AS TO ITEM III (Lot 4):

- a. Easement for drainage purposes (Parcel 16, are 3,934 square feet), in favor of the City and County of Honolulu , as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33118 and also recorded September 6, 1973 as Land Court Document No. 648352.
- b. Easement for drainage purposes, shown on Map No. 14 filed with Land Court Consolidation No. 53, as set forth by Land Court Order No. 38673, recorded November 14, 1973.
- c. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Deed and Covenants, recorded April 11, 2003 as Land Court Document No. 2914554.
- d. Any unrecorded leases of tenant space located in the Garden Office Building, a portion of which encroaches onto said Lot 4, and which leases are subject to termination pursuant but subject to the terms of the Deed and Covenants from Victoria Ward, Limited to Nauru Phosphate Royalties (Honolulu), Inc. recorded April 11, 2003 as Land Court Document No. 2914554.

4. AS TO ITEM IV, FIRST (LOT 915-B):

- a. Easement for drainage and temporary construction easements for rights of way, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430.
- b. Easement (40 feet wide) for drainage purposes, shown on Map No. 123 filed with Land Court Application No. 880, as set forth by Land Court Order No. 37124, recorded March 22, 1973.

- c. A Grant of Easement for utility purposes, being 10 and 25 feet wide, containing an area of 11,467 square feet, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated (now Verizon Hawaii, Inc.), recorded December 16, 1991 as Land Court Document No. 1873345.
 - d. Access rights in favor of Lot 4 of Land Court Consolidation No. 53, to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149188 recorded January 28, 2003 (as to Lot 915-B); and as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4).
5. AS TO ITEM IV, SECOND (LOT 30-B):
- a. Access rights in favor of Lot 2-A of Land Court Consolidation No. 188, to Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149189 recorded January 28, 2003 (as to Lot 30-B); and as set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A).
6. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Planned Development Agreement, recorded June 28, 1989 as Land Court Document No. 1645703.
- Said Planned Development Permit was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914559.
7. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement Regarding Allocation of Space to Industrial Use, recorded June 29, 1989 as Land Court Document No. 1646279.
- Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914561.
8. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement to Provide Necessary Perpetual Public Easement Areas for Upper-Level Pedestrian Walkways, recorded June 29, 1989 as Land Court Document No. 1646280.
- Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914563.
9. Encroachments or any other matters as shown on survey map prepared by Kendall N. H. Hee, Land Surveyor, with Engineers Surveyors Hawaii, Inc., dated September 25, 2002, last revised March 24, 2003.
10. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Declaration of Restrictive Covenant, recorded April 11, 2003 as Land Court Document No. 2914558.

11. A mortgage to secure an original principal indebtedness of \$20,100,000.00, and any other amounts or obligations secured thereby.

Dated: April 1, 2003, effective as of April 22, 2003
Mortgagor: Sunset Heights Hawaii, LLC, a Delaware limited liability company
Mortgagee: Fremont Investment & Loan, a California industrial bank
Recorded April 22, 2003 as Land Court Document No. 2918299.

12. The Assignment of Rents, in favor of Fremont Investment & Loan, a California industrial bank, as additional security for the payment of the indebtedness in the amount of \$20,100,000.00, which was recorded April 22, 2003 as Regular System Document No. 2003-072734.

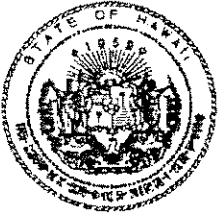
13. A mortgage to secure an original principal indebtedness of \$6,900,000.00, and any other amounts or obligations secured thereby.

Dated: April 1, 2003, effective as of April 22, 2003
Mortgagor: Sunset Heights Hawaii, LLC, a Delaware limited liability company
Mortgagee: Fremont Investment & Loan, a California industrial bank
Recorded April 22, 2003 as Land Court Document No. 2918300.

14. The Assignment of Rents, in favor of Fremont Investment & Loan, a California industrial bank, as additional security for the payment of the indebtedness in the amount of \$6,900,000.00, which was recorded April 22, 2003 as Regular System Document No. 2003-072735.

15. The terms and provisions contained in the 404 Piikoi Planned Development Joint Development Agreement dated as of July 14, 2003, made by and between Sunset Heights Hawaii, LLC, a Delaware limited liability company, and Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, recorded August 7, 2003 as Land Court Document No. 2973501.

END OF EXHIBIT "A"



L-500 STATE OF HAWAII
 OFFICE OF ASSISTANT REGISTRAR
 RECORDED
 APR 11, 2003 08:01 AM
 Doc No(s) 2914558
 on Cert(s) AS LISTED HEREIN



1st CARL T. WATANABE
 ASSISTANT REGISTRAR

20 12/19 Z5

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail Pickup To:

Victoria Ward, Limited
 General Growth Properties, Inc.
 110 North Wacker Drive
 Chicago, Illinois 60606
 Attention: Carol Williams, Esq.

TG: 200253267 -S
 TGE: A3-101-0906
 GLEN Y. AJIMINE

Total Pages: 8

Tax Map Key Nos.: (1) 2-3-005-001, (1) 2-3-005-002, (1) 2-3-005-003, (1) 2-3-005-026,
 (1) 2-3-005-027, (1) 2-3-004-073 and (1) 2-3-007-002

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT, dated as of April 11, 2003 (this "Declaration"), is made by **NAURU PHOSPHATE ROYALTIES (HONOLULU), INC.**, a Delaware corporation ("Declarant"), whose principal place of business and mailing address is 80 Collins Street, Melbourne 3000 VIC., Australia.

WHEREAS, Declarant is the owner in fee simple of certain real property located in Honolulu, Hawaii, and more particularly described in **Exhibit A** attached hereto and made a part hereof (said real property, together with any improvements constructed or to be constructed thereon, hereafter is called "Declarant's Property"), upon which Declarant, or its successors and assigns, intends to build the Phase III portion of a mixed-use planned development project, which includes other properties owned or previously owned by Declarant, under that certain Planned Development Permit for the 404 Piikoi Project (PD 2-84) issued by the Hawaii Community Development Authority ("HCDA") on November 7, 1984, as amended by instruments dated October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994, January 24, 1997, August 2, 2000, April 2, 2002, September 13, 2002, March 24, 2003, and April 11, 2003, or as said Planned Development Permit may be further amended or modified from time to time in the future (said Phase III improvements being hereafter called "Declarant's Phase III Improvements");

WHEREAS, Victoria Ward, Limited ("Victoria Ward"), is the owner in fee simple of certain real property located in Honolulu, Hawaii, and more particularly described in **Exhibit B**

attached hereto and made a part hereof (said real property, together with any improvements constructed or to be constructed thereon, hereafter is called "Victoria Ward's Property"), upon which Victoria Ward, or its successors and assigns, intends to build a mixed-use planned development project including one or more towers (hereafter called "Victoria Ward's Towers");

WHEREAS, HCDA has set forth certain guidelines specifying the minimum spacing between towers, and Declarant and Victoria Ward have agreed among themselves that the tower spacing between any tower comprising Declarant's Phase III Improvements and Victoria Ward's Towers may be less than the minimum spacing required between towers as set forth in HCDA's current tower spacing guidelines; and

WHEREAS, Declarant has agreed that any towers to be built on Victoria Ward's Property may be located on Victoria Ward's Property so that the resulting spacing between any of Victoria Ward's Towers and any tower comprising Declarant's Phase III Improvements may be a minimum of 175 feet, and, further, Declarant has agreed to document such agreement by way of this Declaration.

NOW, THEREFORE, Declarant hereby declares that Declarant's Property shall be held, sold, conveyed, mortgaged, encumbered, leased, used, occupied and improved subject to the following:

1. Victoria Ward's Towers may be built on Victoria Ward's Property such that the resulting minimum tower spacing between any of Victoria Ward's Towers and any tower comprising a portion of Declarant's Phase III Improvements may be a minimum of 175 feet and Declarant waives any rights that Declarant might have to object to such placement of Victoria Ward's Towers on Victoria Ward's Property or to any variance in the HCDA tower spacing guidelines that may be required for such placement upon Victoria Ward's Property.

2. This Declaration shall run with the land and shall constitute notice to, and be binding upon, the successors, grantees, assigns, mortgagees, lienors and any other person claiming an interest in all or any portion of Declarant's Property. Declarant makes this Declaration for the benefit of Victoria Ward's Property, and in favor of Victoria Ward and any successors and assigns who have or acquire an interest in all or any portion of Victoria Ward's Property.

3. Victoria Ward and any successors and assigns who have or acquire an interest in all or any portion of Victoria Ward's Property shall have the right to enforce this Declaration by appropriate action at law or in equity against Declarant, its successors, grantees, assigns, and any other person claiming an interest in all or any portion of Declarant's Property.

4. This Declaration shall not be terminated, cancelled or amended without the express written approval of Victoria Ward and any successors and assigns who have or acquire an interest in all or any portion of Victoria Ward's Property.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

**NAURU PHOSPHATE ROYALTIES
(HONOLULU), INC., a Delaware corporation**

By D. Scott MacKinnon
Name: D. Scott MacKinnon
Title: Assistant Secretary

Declarant

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of April, 2003, before me personally appeared D. SCOTT MacKINNON, to me personally known, who, being by me duly sworn or affirmed, did say that he is the Assistant Secretary of NAURU PHOSPHATE ROYALTIES (HONOLULU), INC., a Delaware corporation; that he executed the foregoing instrument as his free act and deed, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Name: Noelani N. Jinbo
Notary Public, State of Hawaii

My Commission expires: 9/22/2006

LS

U

EXHIBIT A

ITEM 1:

All of that certain parcel of land situate at Kawaiahao Street, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 2-A, area 6,751 square feet, more or less, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 188 of Waimanu Investment Venture, a Hawaii limited partnership;

Being land(s) described in Transfer Certificate of Title No. 635,301 issued to NAURU PHOSPHATE ROYALTIES (HONOLULU), INC., a Delaware corporation.

PORTION OF TAX MAP KEY NO. (1) 2-3-004-073

ITEM 2:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 4, area 20,391 square feet, more or less, as shown on Map 18, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 53 of Victoria Ward, Limited;

Being the land(s) described in Transfer Certificate of Title No. 642,198 issued to NAURU PHOSPHATE ROYALTIES (HONOLULU), INC., a Delaware corporation.

PORTION OF TAX MAP KEY NO. (1) 2-3-005-027

ITEM 3:

All of that certain parcel of land situate at Kewalo Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 915-B, area 85,668 square feet, more or less, as shown on Map 131, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 880 of Bishop Trust Company, Limited;

Being the land(s) described in Transfer Certificate of Title No. 642,195 issued to NAURU PHOSPHATE ROYALTIES (HONOLULU), INC., a Delaware corporation.

PORTION OF TAX MAP KEY NO. (1) 2-3-007-002

(a) "Administrative Merger" means the unification of the administration, management and use of any two or more of Tower I and the Additional Phases, as provided in and pursuant to this Declaration of Merger, such that the use of the respective common elements, the respective common expenses, and the management of the respective affairs of the merged phases are shared, and the administration of the merged phases is unified under one integrated association of apartment owners, but the ownership interests of the respective apartment owners in Tower I and the Additional Phases are not altered or affected.

(b) "Administrative Merger Date" means the date of recording of the applicable Certificate of Administrative Merger in accordance with the provisions of Section 3 below.

(c) "Association" means the Association of Apartment Owners of the Merged Project.

(d) "Merged Project" means, in the case of an Administrative Merger, any two or more of Tower I and the Additional Phases as reconstituted by the recording of one or more Certificates of Administrative Merger in accordance with the provisions of Section 3 below, or, in the case of an Ownership Merger, any two or more of Tower I and the Additional Phases as reconstituted by the recording of one or more Certificates of Ownership Merger in accordance with the provisions of Section 5 below.

(e) "Ownership Merger" means the merger of ownership interests of any two or more of Tower I and the Additional Phases such that each apartment owner in the merged phases shall have appurtenant thereto an undivided percentage ownership interest in the common elements (including the land) of the Merged Project and may include, at the option of Declarant, the consolidation of any parcel(s) of land covered by the phases being merged.

(f) "Ownership Merger Date" means the date of recording of the applicable Certificate of Ownership Merger in accordance with the provisions of Section 5 below.

2. **Administrative Merger.** Declarant shall have the right, but not the obligation, in its sole and absolute discretion, without the further act, consent, or joinder of any apartment owner, lien holder, or any other persons, to cause and effect the Administrative Merger of any two or more of Tower I and the Additional Phases and to execute and record one or more Certificates of Administrative Merger (as described in Section 3 below) and all other instruments as Declarant deems necessary or appropriate for the purpose of effecting the Administrative Merger. An Administrative Merger may occur with respect to any two or more of Tower I and the Additional Phases, at the same or at different times, and an Administrative Merger with respect to any two or more of such phases shall not affect the right of Declarant to merge another phase or phases at a later date or dates, subject to all of the provisions of this Declaration of Merger.

3. **Requirements of Administrative Merger.** Administrative Merger shall take effect upon completion of all of the following:

(a) **Declaration; Bylaws; Condominium Map.** Declarant shall have, with respect to each phase to be merged, recorded a declaration of condominium property regime and bylaws and filed a condominium map, complying with the requirements of the Act. Each such declaration of condominium property regime and bylaws shall be in substantially similar form for each phase to be merged (with appropriate modifications for such items as the physical description of the land included in each phase and easements and other encumbrances affecting the land, the number and description of the apartments in each phase, the description of the common elements and limited common elements in each phase, and the percentage of common interest appurtenant to the apartments in each phase).

(b) **Construction.** Construction of the apartments and common elements described in the declaration of condominium property regime for each of the phases to be merged shall have been substantially completed, and there shall have been recorded a verified statement of a Hawaii registered architect or professional engineer certifying that the final plans filed as the condominium map for each of the phases to be merged fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments of such phase, as built.

(c) **Certificate of Administrative Merger.** Declarant shall have recorded a "Certificate of Administrative Merger," which certificate shall contain (i) a certification that the requirements of subsections 3(a) and 3(b) above have been satisfied; (ii) a statement explaining how the common expenses for the Merged Project will be calculated; and (iii) a statement that Administrative Merger with respect to the phases to be merged has, by the recording of the Certificate of Administrative Merger, become effective.

4. **Effect of Administrative Merger.** From and after the Administrative Merger Date, the following consequences shall ensue:

(a) **Use of Common Elements.** Each apartment in the Merged Project shall have appurtenant thereto nonexclusive easements and rights to use and enjoy the common elements of each of the merged phases to the same extent and subject to the same limitations as are imposed upon apartments in each of such phases as though the merged phases had been developed as a single condominium project.

(b) **Common Expenses.** The merged phases will each bear a share of the total common expenses (as the term "common expenses" is defined in the respective declarations of condominium property regime for the merged phases) of the Merged Project, treating the merged phases as one project for this purpose. The share of common expenses for each phase shall be a fraction, the numerator of which shall be the total approximate net living floor area of all of the apartments in the respective phase, and the denominator of which shall be the total approximate net living floor area of all apartments in the Merged Project. For purposes of this Declaration of Merger, the approximate net living floor areas shall be as reflected in the respective declarations of

condominium property regime for each phase to be merged. Each apartment's share of the common expenses of the Merged Project shall be the product of the common interest appurtenant to such apartment multiplied by the share of common expenses allocated to the phase in which the apartment is located. The apartment owner's obligations with respect to the common expenses for the Merged Project shall commence as of the Administrative Merger Date or other date specified in the Certificate of Administrative Merger and may increase or decrease following the Administrative Merger.

(c) Association of Apartment Owners. The associations of apartment owners of each of the merged phases provided for in their respective declarations of condominium property regime and bylaws shall be merged into a single association covering the entire Merged Project which shall be known as the "**Association of Apartment Owners of Ko'olani**" (the "**Association**"). After Administrative Merger, the Association shall have all of the powers and obligations vested in the associations of apartment owners of the merged phases. In the event that the association of apartment owners of one of the merged phases shall be incorporated prior to an Administrative Merger, the apartment owners in the other merged phase(s) shall upon Administrative Merger automatically become members of the association of apartment owners of the incorporated phase, and its charter and bylaws shall so provide. In the event that the association of apartment owners of two or more of the merged phases shall be incorporated prior to an Administrative Merger, the associations of apartment owners of the incorporated merged phases shall, upon such Administrative Merger, take the appropriate steps to (i) merge the corporations into one corporation or consolidate the corporations into a new corporation, and (ii) have the apartment owners in the unincorporated merged phase(s), if any, become members of the association of apartment owners of the entity that survives the aforementioned merger or consolidation, and its charter and bylaws shall so provide.

(d) Voting. Each of the merged phases shall have the same share of the total votes of the Merged Projects as the share set forth above for the sharing of common expenses. As such, each apartment owner's vote in the Association will be the product of the common interest appurtenant to his or her apartment multiplied by the fractional share of the common expenses allocated to the phase in which his or her apartment is located.

(e) Board of Directors. Upon Administrative Merger, the boards of directors of the associations of apartment owners of the merged phases immediately prior to Administrative Merger shall govern jointly the Merged Project; provided, however, that within sixty days following the Administrative Merger Date, or other specified in the Certificate of Administrative Merger, a special meeting of the Association shall be called to elect a new board of directors to replace the existing boards of directors, and the new board of directors shall thereafter govern the Merged Project. In the event that such special meeting should be held as required herein six months or more before the next annual meeting of the Association, the terms of the directors shall be calculated as if they had been elected at the previous annual meeting of the Association. If such special meeting is held less than six months before the next annual meeting of the Association, the terms of the directors shall be calculated as if they were elected at the next annual meeting

of the Association, and no election shall be held at such next annual meeting. The provisions and procedures for calling and holding such meeting and all other meetings of the Association, and for qualification and election of directors, shall be as set forth in the applicable provisions of the declarations of condominium property regime and bylaws of the merged phases. The number of directors of the Association shall be nine, unless apartment owners having not less than sixty-five percent of the total vote in the Merged Project vote by mail ballot, or at a special or general meeting, to reduce the minimum number of directors, but to no fewer than three directors.

(f) Interpretation. For the purposes of administration and use of the Merged Project, upon Administrative Merger all of the apartments in the Merged Project shall be treated as though they were all included in a single condominium project created by a single recording of a declaration of condominium property regime covering the Merged Project, and the declarations of condominium property regime applicable to the merged phases shall be construed as one document applicable to the entire Merged Project, except to the extent expressly otherwise provided herein. The same shall be true of the respective bylaws and project rules of each phase. In the event of a conflict between the respective declarations of condominium property regime, bylaws, and/or project rules, the declaration of condominium property regime, bylaws, and project rules first in effect for any of the merged phases shall control. Upon Administrative Merger, the specified voting percentages required to amend the declaration of condominium property regime, bylaws, and house rules for the Merged Project shall refer to and mean the specified percentage of the total vote in the Merged Project. From and after the Administrative Merger Date, the merged phases shall be treated for purposes of administration, use, and sharing of common expenses as though they had been developed as a single project. The Merged Project shall be known as KO'OLANI.

(g) Ownership. Except as otherwise provided in this Declaration of Merger, Administrative Merger shall only affect the administration and use of the merged phases and the sharing of common expenses, and shall not affect the ownership of apartments and common elements in the respective phases.

5. Ownership Merger. The provisions of this Section 5 shall apply only in the event Declarant elects to effect an Ownership Merger of any two or more of Tower I and the Additional Phases. The recording of one or more Certificates of Ownership Merger shall be conclusive evidence that Declarant has elected to effect an Ownership Merger of such phases. In the event that Declarant shall elect to effect an Ownership Merger of such phases, the provisions of this Section 5 shall control in the event of a conflict with any other provision of this Declaration of Merger.

(a) Ownership Merger. Any provision of this Declaration of Merger to the contrary notwithstanding, Declarant shall have the right, but not the obligation, in its sole and absolute discretion, without the further act, consent, or joinder of any apartment owner, lien holder, or any other persons, to cause and effect the Ownership Merger of any two or more of Tower I and the Additional Phases and to execute and record one or more Certificates of Ownership Merger (as described below in this Section 5) and all other instruments as Declarant deems necessary or appropriate for the purpose of effecting the

Ownership Merger. An Ownership Merger may occur with respect to any two or more of Tower I and the Additional Phases, at the same time or at different times, and an Ownership Merger with respect to any two or more of such phases shall not affect the right of Declarant to merge another phase or phases at a later date or dates, subject to all of the provisions of this Declaration of Merger.

(b) Requirements of Ownership Merger. Ownership Merger shall take effect upon completion of all of the following:

(1) Declaration; Bylaws; Condominium Map. Declarant shall have, with respect to each phase to be merged, recorded a declaration of condominium property regime and bylaws and filed a condominium map, complying with the requirements of the Act. Each such declaration of condominium property regime and bylaws shall be in substantially similar form for each phase to be merged (with appropriate modifications for the physical description of the land included in each phase and easements and other encumbrances affecting the land, the number and description of the apartments in each phase, the description of the common elements and limited common elements in each phase, and the percentage of common interest appurtenant to the apartments in each phase).

(2) Construction. Construction of the apartments and common elements described in the declaration of condominium property regime for each of the phases to be merged shall have been substantially completed and there shall have been recorded a verified statement of a Hawaii registered architect or professional engineer certifying that the final plans filed as the condominium map for each of the phases to be merged fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments of such phase, as built;

(3) Certificate of Ownership Merger. Declarant shall have recorded a "Certificate of Ownership Merger", which certificate shall contain (i) certification that the requirements of subsections 5(b)(1) and 5(b)(2) above has been satisfied; (ii) a schedule setting forth the undivided percentage common interest appurtenant to each apartment in the Merged Project; (iii) the revised property descriptions reflecting the consolidation of parcels of land in the Merged Project, if applicable; (iv) a statement explaining how undivided common interests assigned to an apartment in the Merged Project will be calculated; and (v) a statement that Ownership Merger with respect to the phases to be merged has, by the recording of the Certificate of Ownership Merger, become effective.

(c) Effect of Ownership Merger. From and after the Ownership Merger Date, the following consequences shall ensue:

(1) Common Elements. The common elements of each of the merged phases, including the land, will be the common elements of the Merged Project, and each owner of an apartment in the merged phases shall have the right to full use and enjoyment of all of the common elements of the Merged Project to the same extent and subject to the same limitations as are imposed upon apartment owners in each

of the merged phases as though the merged phases had been developed as a single project.

(2) Common Interest. Each apartment in the Merged Project shall have appurtenant thereto an undivided common interest in the common elements of the Merged Project, including the land, and in all common profits and expenses of the Merged Project, and for all other purposes, including voting, as set forth in the Certificate of Ownership Merger. The undivided common interest in common elements assigned to an apartment in the Merged Project shall be a fraction, the numerator of which is the approximate net living floor area of the apartment (as set forth in the declaration of condominium property regime covering the phase in which such apartment is situated) and the denominator of which is the total approximate net living floor area of all apartments in the Merged Project. The obligations of an apartment owner with respect to undivided common interest in common elements assigned to an apartment shall commence as of the Ownership Merger Date or other date as specified in the Certificate of Ownership Merger and may increase or decrease after the Ownership Merger. The common interest appurtenant to each apartment in the Merged Project shall be calculated and rounded off in such a manner that each common interest will be reflected as a number having no more than five digits following the decimal point. Adjustments to the common interest for each apartment in the Merged Project may be made in Declarant's discretion in order that the total common interest for all apartments in the Merged project equals exactly 1.0000 (100.00%). The recording of the Certificate of Ownership Merger shall be deemed an amendment to the declarations of condominium property regimes of the merged phases which effectuates such alteration and reassignment of common interests, and, upon recording of the Certificate of Ownership Merger, the deeds for apartments in the Merged Project as recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii shall be deemed automatically amended, without further action by Declarant or any other person, to reflect the newly assigned common interests appurtenant to the apartments as set forth in the Certificate of Ownership Merger.

(3) Association of Apartment Owners. The associations of apartment owners of each of the merged phases provided for in their respective declarations of condominium property regime and bylaws shall be merged into a single association covering the entire Merged Project which shall be known as the "**Association of Apartment Owners of Ko'olani**" (the "**Association**"). After Ownership Merger, the Association shall have all of the powers and obligations vested in the associations of apartment owners of the merged phases. In the event that the association of apartment owners of one of the merged phases shall be incorporated prior to an Ownership Merger, the apartment owners in the other merged phase(s) shall upon Ownership Merger automatically become members of the association of apartment owners of the incorporated phase, and its charter and bylaws shall so provide. In the event that the association of apartment owners of two or more of the merged phases shall be incorporated prior to an Ownership Merger, the associations of apartment owners of the incorporated merged phases shall, upon such Ownership Merger, take the appropriate steps to (i) merge the corporations into one corporation or consolidate the corporations into a new corporation, and (ii) have the apartment owners in the unincorporated merged phase(s), if any, become

members of the association of apartment owners of the entity that survives the aforementioned merger or consolidation, and its charter and bylaws shall so provide.

(4) Board of Directors. Upon Ownership Merger, the boards of directors of the associations of apartment owners of the merged phases immediately prior to Ownership Merger shall govern jointly the Merged Project; provided, however, that within sixty days following the Ownership Merger Date, a special meeting of the Association shall be called to elect a new board of directors to replace the existing boards of directors, and the new board of directors shall thereafter govern the Merged Project. In the event that such meeting should be held as required herein six months or more before the next annual meeting of the Association, the terms of the directors shall be calculated as if they had been elected at the previous annual meeting of the Association. If such special meeting is held less than six months before the next annual meeting of the Association, the terms of the directors shall be calculated as if they were elected at the next annual meeting of the Association and no election need be held at such next annual meeting. The provisions and procedures for calling and holding such meeting and all other meetings of the Association, and for qualification and election of directors, shall be as set forth in the applicable provisions of the declarations of condominium property regime and bylaws of the merged phases. The number of directors of the Association shall be nine unless apartment owners having not less than sixty-five percent of the common interests in the Merged Project vote by mail ballot, or at a special or general meeting, to reduce the minimum number of directors, but to no fewer than three directors.

(5) Interpretation. Upon Ownership Merger, all of the apartments in the Merged Project shall be treated as though they were all included in a single condominium project created by a single recording of a declaration of condominium property regime covering the Merged Project, and the declarations of condominium property regime applicable to the merged phases shall be construed as one document applicable to the entire Merged Project, except to the extent expressly otherwise provided herein. The same shall be true of the respective bylaws and project rules of each phase. In the event of a conflict between the respective declarations of condominium property regime, bylaws, and/or project rules, the declaration of condominium property regime, bylaws and project rules first in effect for any of the merged phases shall control. From and after the Ownership Merger Date, the merged phases shall be treated for all purposes as though they had been developed, divided into apartments and used by the apartment owners thereof as a single undivided project. The Merged Project shall be known as KO'OLANI.

(d) Consolidation. Upon Ownership Merger of Tower I and the Additional Phases, Declarant shall have the right, but not the obligation, in its sole and absolute discretion, without the further act, consent, or joinder of any apartment owner, lien holder, or any other persons, to cause and effect the legal consolidation of the Property or any portions thereof into one or more parcels of land. Declarant shall have the right to execute, acknowledge, deliver, and record any documents, maps, petitions, or other instruments necessary or appropriate, as determined by Declarant in its sole and absolute discretion, for the purpose of effecting such legal consolidation of the Property, and to

amend the declarations of condominium property regime of the Merged Project to reflect such consolidation.

6. **Reservation of Rights.** In addition to the rights reserved in this Declaration of Merger or in any declaration of condominium property regime or elsewhere, the Declarant reserves the following rights:

(a) If any part of the common elements of one phase now or hereafter encroaches upon an apartment or limited common element of another # phase, or if an apartment in one phase now or hereafter encroaches upon an apartment in another phase or upon a portion of the common elements in another phase, an easement shall exist for such encroachment and its maintenance for so long as the encroachment continues. If a building or other improvements of the Merged Project are partially or totally destroyed and then rebuilt, or if a minor shift or settlement of a building or other improvements occurs, easements shall exist for minor encroachments by parts of the common elements in one phase upon an apartment or limited common element in another phase or by an apartment in one phase upon parts of the common elements in one phase and for their maintenance for so long as the encroachments continue.

(b) The Association shall have the irrevocable right, exercisable by its board of directors or managing agent, to have access to and enter each apartment and/or the limited common elements in the Merged Project from time to time during reasonable hours as may be necessary for the operation of the Merged Project or for the installation, repair, maintenance, or replacement of any common elements of the Merged Project, or at any time for making emergency repairs which may be necessary to prevent damage to any Apartment or the common elements in the Merged Project.

(c) Each owner of an apartment in the Merged Project shall have an easement in common with the owners of all of the other apartments in the Merged Project to use all pipes, wires, ducts, cables, conduits and public utility lines, and other common elements located in another apartment in the Merged Project and serving such owner's apartment. Each apartment shall be subject to an easement for necessary and reasonable access to any common elements located in the apartment in favor of the owners of all other apartments in the Merged Project served by such common elements.

(d) Declarant and the Association, exercisable by its board of directors, shall have the right to designate, grant, convey, transfer, cancel, relocate, and otherwise deal with any easements over, under, across, or through the common elements of the Merged Project for any reasonable purpose, which may include, but shall not be limited to, those purposes that are necessary for the operation, care, upkeep, maintenance, or repair of any apartment, the common elements of the Merged Project or any easements for utilities or for any public purpose.

(e) Declarant reserves the right for itself and its successors and assigns to designate, grant, convey, transfer, cancel, relocate, reserve, or otherwise deal with any easements and rights of way at any time for utilities, sanitary and storm sewers, cable transmission facilities, telecommunication systems and facilities, refuse disposal,

landscape maintenance, driveways, parking areas, access roadways, and other similar purposes, over, across, under, and through the common elements of the Merged Project, including, without limiting the generality of the foregoing, the right of entry to construct, reconstruct, operate, maintain, repair, and relocate such lines, facilities, and appurtenances and to grant any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, homeowner's associations, or other entities and the right to grant, dedicate, designate, use, and enjoy easements and/or rights-of-way for access purposes. These reserved rights shall be exercised in a manner that will not materially impair or interfere with the use of any apartment in the Merged Project. Each apartment owner in Phase I or any Additional Phase, every holder of liens in Phase I or any Additional Phase, and every other party acquiring an interest in Phase I or any Additional Phase or in the Property or any part thereof, by acquiring such apartment, lien, or other interest, , consents to any such designation, granting, conveyance, transfer, cancellation, relocation, and reservation of easements and/or rights-of-way as provided above, without the necessity of any owner, lien holder, or other party, or those claiming by, through, or under such party, entering into any further agreement respecting such action or document; provided, however, that such owner, lien holder, or other party, or those claiming by, through or under such owner, lien holder or other party, agrees to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Declarant without payment of additional consideration. The rights reserved to Declarant include specifically, without limitation, the right to utilize utility services to the Merged Project, to serve adjacent and separate developments outside of the Merged Project provided Declarant sub-meters such use; and the right to use roadways in the Merged Project to serve adjacent developments, provided the such adjacent development shares pro rata for the cost of maintenance and repair of the roadway. The rights reserved in this Section 6(e) shall continue through the later of December 31, 2022 or until the date two (2) years following the latest date of completion of construction and certification of availability for occupancy of all Apartments in the Merged Project.

(f) Declarant and its agents, successors, mortgagees, and assigns, shall have the right and an easement to conduct extensive sales activities on and at the Merged Project, including the use of any apartment owned by Declarant (and any other apartment, with the express permission of the owner of such Apartment) and the common elements (excluding limited common elements appurtenant to other apartments) in the Merged Property for model apartments, sales and management offices, parking, and extensive sales displays and activities, and the posting and maintenance of signs and other advertisements relating to such sales activities. The rights reserved in this Section 6(f) shall continue until the date two (2) years following the latest date of completion of construction and certification of availability for occupancy of all apartments in the Merged Project.

(g) Declarant and its agents, employees, contractors, licensees, successors, mortgagees, and assigns shall have an easement over, under, and upon any portion of the Merged Project, including the common elements, limited common elements, and any apartment as may be reasonably necessary for the completion of improvements to and correction of defects and other "punchlist" items in the Merged Project. The rights

reserved in this Section 6(g) shall continue until ten (10) years after the later of: (i) the recording of the "as built" verified statement required by Section 514A-12 of the Act; (ii) the "date of completion" of the improvements as defined in Section 507-43(f), Hawaii Revised Statutes (as amended), of the last apartment constructed in the Merged Project, or (iii) the expiration of the applicable limited warranty period for any portion or portions of the common elements of the Merged Project.

(h) Declarant and its agents, employees, contractors, licensees, successors, mortgagees, and assigns shall have an easement over, under, and upon any portion of the Merged Project to create and cause noise, dust, vibration, and other nuisances or annoyances created by and resulting from any work connected with or incidental to the development, construction, and sale of any apartment in or other improvement to the Merged Project, any additional phase to the Merged Project, or any other development which Declarant, its successors, or assigns may develop on property adjacent to or in the vicinity of the Merged Project. Each and every owner or other person acquiring any interest in the Merged Project waives any and all rights, claims, or actions that might otherwise be asserted against Declarant, its agents, employees, licensees, successors, mortgagees, and assigns based on any such noise, dust, vibration, and other nuisances or annoyances.

(i) Each owner acknowledges and agrees that Declarant, on behalf of the Association, may seek or has obtained certain licenses and permits from the Department of Planning and Permitting of the City and County of Honolulu (the "DPP") relating to the connection of the Merged Community to the public storm sewer system. To the extent that any such licenses or permits have not been issued to the Association, Declarant and its agents, employees, contractors, licensees, successors, mortgagees, and assigns reserve the right to transfer to the Association any and all obligations in connection with such permits. In connection with such permits and licenses, the Association shall have the responsibility to comply at all times now and in the future with all DPP regulations and any other applicable statutes, ordinances, and rules and regulations of Federal, State, or County agencies relating to the discharge, drainage, and runoff of storm water and surface water, and their constituents, from the Merged Project into the public storm sewer system. Neither the Association nor any owner of an apartment in the Merged Project shall take any actions that may in any way undermine the Association's obligations to comply with such regulations. Each owner of an apartment in the Merged Project and the Association shall execute any and all documents required by Declarant in Declarant's sole discretion to transfer, if required, any applicable license(s) relative to such discharge, drainage, and runoff to the Association. Each owner of an apartment in the Merged Project shall indemnify and hold harmless Declarant, its successors, and assigns from and against any and all claims and demands for damages in connection with the Association's fulfillment of its storm sewer connection obligations.

(j) Declarant hereby reserves to itself and the Association, and their respective officers, agents, employees, successors, and assigns, an easement to enter upon, across, over, in, and under any portion of the Merged Project for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of any portion of the Merged Project so as to improve the drainage of water on the Merged

Project. Reasonable efforts shall be made to use this easement so as to disturb as little as possible the uses of the owners, the Association, and Declarant, as applicable, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work. The rights reserved in this Section 6(l) shall continue until ten (10) years after the later of: (i) the Recording of the "as built" verified statement required by Section 514A-12 of the Act; or (ii) the "date of completion" of the improvements as defined in Section 507-43(f), Hawaii Revised Statutes (as may be amended), of the last apartment constructed in the Merged Community.

(k) There shall be reciprocal appurtenant easements of encroachment as between adjacent Limited Common Elements of apartments in the Merged Project due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (either initially by Declarant or subsequently in accordance with the terms of this Declaration) to a distance of not more than one foot, as measured from any point on the common boundary between said adjacent Limited Common Elements, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct or negligence (e.g. failure to have a survey done prior to construction) on the part of an owner, occupant or the Association. Any such easements for encroachment shall be for the encroachment and for the maintenance thereof (including access to and from the encroachment).

7. **Accumulated Funds.** Any long-term funds accumulated for the purpose of major repairs and replacements in any pre-existing phase or phases prior to Administrative Merger or Ownership Merger shall remain intact in a separate account for such pre-existing phase or phases, or shall be isolated and identified as pertaining only to the pre-existing phase or phases, and shall be expended solely for the contemplated purposes before funds from any other source are so expended, and the interest in such funds of each apartment owner in that phase or in those phases shall be equal to his or her common interest prior to merger, and such interest shall not be separated from the apartment to which it appertains, and shall be deemed to be conveyed with such apartment even though not expressly mentioned or described in the instrument of conveyance. Other reserve funds shall be consolidated and maintained as a single fund for the Merged Project, and, so that the interest in such other reserve funds attributable to each apartment in the Merged Project shall be equal to that apartment's share of the vote (or common interest in the event of Ownership Merger) in the Merged Project, the board of directors shall, if necessary, make adjustments to the account of each apartment owner by (i) refund in whole or in part; and/or (ii) credit in whole or in part against future assessments; and/or (iii) special assessments or series of assessments; and/or (iv) any other means consistent with generally accepted accounting principles; provided, however, the board of directors shall make such adjustments without charging any apartment owner a special assessment for reserves in any one month that exceeds more than twenty percent (20%) of the monthly assessment for other common expenses, after excluding any assessment for reserves. Except as provided above, there shall be only one common fund for the Merged Project.

8. **Contributions.** Upon Administrative Merger or Ownership Merger, Declarant may, but need not, require the apartment owners in all or any of the merged phases to make contributions, in addition to their normal prescribed share of the common expenses, to the cash reserves, the general operating account, and/or any other accounts of the Merged Project. Declarant may provide that such contributions shall be made in a lump sum amount or in installments over a period of time. In setting the amount and terms of any such contributions, Declarant shall take into consideration the amount of cash reserves, the amounts in the general operating accounts, and/or the amounts in any other accounts of the respective phases accumulated prior to the merger, and the physical condition of the various buildings and apartments in each of the merged phases. The amount and terms of the contributions to be made by the apartment owners in a phase shall be fairly determined by Declarant in Declarant's sole and absolute discretion and shall be set forth in a notice by Declarant to the apartment owners or the board of directors of the Merged Project. Declarant shall have no obligation to collect such contributions from the apartment owners. Collection of such contribution amounts shall be the responsibility of the board of directors, which may, in its discretion, elect to instruct the managing agent of the Merged Project to administer the collection of such contribution amounts. Delinquent amounts of such contributions shall constitute a lien against the delinquent apartment owner's interest in his or her apartment that may be foreclosed by the board of directors of the Merged Project, or the managing agent thereof, in the same manner as provided in the Act for unpaid common expenses.

9. **Pre-merger Obligations.** The apartment owners in a phase being merged into an existing and completed phase shall not be assessed, nor shall they have any obligation with respect to any debts, expenses, costs, or other obligations of the apartment owners in such completed phase incurred prior to the Administrative Merger Date or the Ownership Merger Date, as applicable.

10. **Limitation on Time for Merger.**

(a) **Administrative Merger.** Declarant's right to effect an Administrative Merger with respect to any of Tower I or the Additional Phases not previously merged pursuant to this Declaration of Merger shall terminate automatically on December 31, 2022, unless and until such merger is approved by the vote or written consent of apartment owners in each of the phases to be merged who own at least sixty-five percent of the common interests in that phase.

(b) **Ownership Merger.** Declarant's right to effect an Ownership Merger with respect to any of Tower I or the Additional Phases not previously merged for ownership purposes pursuant to this Declaration of Merger shall terminate automatically on December 31, 2022.

11. **No Obligations Regarding Other Development.** Nothing in this Declaration of Merger shall be construed as a representation, warranty, or agreement by Declarant that any or all of Tower I or the Additional Phases will be developed or that either an Administrative Merger or an Ownership Merger of any or all of such phases will occur, or to require Declarant to develop any or all of Tower I or the Additional Phases, or to

merge such phases, or to prohibit Declarant from dealing freely with the Property, including, without limitation, developing the whole or any part of the Property for purposes inconsistent with the merger of such phases or with the uses or designs of other portions of the Property.

12. **Power of Attorney.** Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any or all of the apartments in any of Tower I or the Additional Phases, and without being required to obtain the consent or joinder of any apartment owner, lien holder, or any other persons, to effect an Administrative Merger or Ownership Merger, in accordance with the provisions of this Declaration of Merger, and to execute and record the Certificate of Administrative Merger, the Certificate of Ownership Merger and any and all other instruments necessary or appropriate for the purpose of effecting the merger of phases as contemplated hereby, including, but not limited to, the amendment of any declaration of condominium property regime and/or the condominium map of the Property or the alteration of common interests in the case of Ownership Merger, and the consolidation of any parcel(s) of land covered by a new phase being merged into an existing phase with any parcel(s) of land covered by an existing phase, if applicable. Any such action shall be deemed taken by Declarant as the true and lawful attorney-in-fact of the respective apartment owners. Each and every party acquiring an interest in the Property, by such acquisition, consents to all such mergers of phases and to the execution, delivery, and recordation of such documents as may be necessary to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints Declarant and its assigns his or her attorney-in-fact with full power of substitution to execute, acknowledge, deliver, and record such documents and to do such things on his or her behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights and shall not be affected by the disability of any such party.

13. **Severability.** If any provision of this Declaration of Merger is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Declaration of Merger, and this Declaration of Merger shall continue in full force and effect and be construed and enforced as if such provision had not been included, or had been modified as provided above, as the case may be, to the full extent permissible by law.

14. **Amendment of Declaration of Merger.** Prior to a merger of any two or more of Tower I and the Additional Phases, any amendment of this Declaration of Merger shall require the consent of Declarant and, for each phase, the vote or written consent of apartment owners having not less than sixty-five percent of the common interests in each phase. Upon an Administrative Merger, any amendment of this Declaration of Merger shall require the consent of Declarant, the vote or written consent of apartment owners having not less than sixty-five percent of the total vote in the Merged Project, and the vote or written consent of apartment owners in each non-merged phase having not less than sixty-five percent of the common interests in each such phase. Upon an Ownership Merger, any amendment of this Declaration of Merger shall require the consent of the Developer, the vote or written consent of apartment owners having not less

than sixty-five percent of the common interests in the Merged Project, and the vote or written consent of apartment owners in each non-merged phase having not less than sixty-five percent of the common interests in each such phase. The foregoing provisions of this Section 14 notwithstanding, Declarant may amend this Declaration of Merger, without the consent or joinder of any other person or entity, to remove therefrom any portion of the Property, prior to any merger affecting such portion of the Property to be so removed and so long as Declarant shall be the owner of such portion of the Property to be so removed, or to add to the Property other property adjacent to or in the vicinity of the Property, so long as Declarant shall be the owner of such other property to be so added.

15. **Assignment.** Notwithstanding any provision of this Declaration of Merger to the contrary, the rights reserved to the Declarant in this Declaration of Merger shall be fully and freely assignable by the Declarant in whole or in part, and every apartment owner in Phase I or any Additional Phase, every holder of liens in Phase I or any Additional Phase, and each every other party acquiring an interest in Phase I or any Additional Phase, or in the Property, or any part thereof, by acquiring such apartment, lien or other interest, consents to any such assignment by Declarant and, to the extent designated by Declarant, agrees to recognize any assignee as the "Declarant" under this Declaration of Merger.

[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

Declarant has executed this Declaration of Merger as of the date first referenced above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

Declarant

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) SS.

On this 30th day of JULY 2003, before me personally appeared SAUL SACK, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Bonnie H. Hudson
Notary Public, State of FLORIDA
Type or print name: _____

My commission expires _____
Bonnie H. Hudson
Commission # CC 918075
Expires April 16, 2004
Bonded Thru
Atlantic Bonding Co., Inc.



EXHIBIT A

ITEM ONE

PARCEL FIRST:

All of that certain parcel of land situate at Kawaiahao Street, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 2-A, area 6,751 square feet, more or less, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 188 of Waimanu Investment Venture, a Hawaii limited partnership;

Together with access to a public road, namely, Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149191, filed January 28, 2003 (as to Lot 2-A); and as set forth by Land Court Order No. 149189 (as to Lot 30-B).

Being land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

PARCEL SECOND:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 4, area 20,391 square feet, more or less, as shown on Map 18, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 53 of Victoria Ward, Limited;

Together with access to Waimanu Street over and across Lot 915-B of Land Court Application 880, as set forth by Land Court Order No. 149187, filed January 28, 2003 (as to Lot 4); and as set forth by Land Court Order No. 149188 (as to Lot 915-B).

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

PARCEL THIRD:

All of that certain parcel of land situate at Kewalo Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 915-B, area 85,668 square feet, more or less, as shown on Map 131, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 880 of Bishop Trust Company, Limited;

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to

Sunset Heights Hawaii, LLC, a Delaware limited liability company.

PARCEL FOURTH:

All of that certain parcel of land situate at Kolowalu-Kai, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 30-B, area 6,901 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 948 of Hawaiian Dredging Company, Limited.

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

ITEM TWO:

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 1-A, area 109,587 square feet, more or less, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 194 of Nauru Phosphate Royalties (Honolulu), Inc.;

Together with an easement for building purposes (Easement "2"), area 384 square feet, more or less, as shown on Map 6 of Land Court Application No. 1250, affecting Lot 6, as shown on Map 5 of Land Court Application No. 1250, as set forth by Land Court Order No. 108885, filed October 2, 1992;

Together with access to a public road, namely, Waimanu Street, over and across Lot 1-B of Land Court Consolidation No. 194, as set forth by Land Court Order No. 149192, filed on January 28, 2003.

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

Exhibit B /

PARCEL FIRST:

All of that certain parcel of land situate at Kawaiahao Street, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 2-A, area 6,751 square feet, more or less, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 188 of Waimanu Investment Venture, a Hawaii limited partnership;

Together with access to a public road, namely, Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149191, filed January 28, 2003 (as to Lot 2-A); and as set forth by Land Court Order No. 149189 (as to Lot 30-B).

Being land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

PARCEL SECOND:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 4, area 20,391 square feet, more or less, as shown on Map 18, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 53 of Victoria Ward, Limited;

Together with access to Waimanu Street over and across Lot 915-B of Land Court Application 880, as set forth by Land Court Order No. 149187, filed January 28, 2003 (as to Lot 4); and as set forth by Land Court Order No. 149188 (as to Lot 915-B).

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

PARCEL THIRD:

All of that certain parcel of land situate at Kewalo Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 915-B, area 85,668 square feet, more or less, as shown on Map 131, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 880 of Bishop Trust Company, Limited;

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

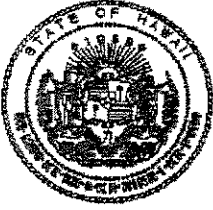
PARCEL FOURTH:

All of that certain parcel of land situate at Kolowalu-Kai, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 30-B, area 6,901 square feet, more or less, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 948 of Hawaiian Dredging Company, Limited.

Being the land(s) described in Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

25100
2507
2507



L-385 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

MAY 18, 2006 08:02 AM

L.C. Order No(s) 166175
on Cert(s) AS LISTED HEREIN

Issuance of Cert(s) 805,674
Thru 805,675

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR



20 1/1 25

Reserved for Recording Information

Reserved for Recording Information

After recording, return by mail or pick-up

CASE LOMBARDI & PETTIT
Colleen Okashige for Dennis Lombardi, Esq.
Telephone No. 547-5400

Document contains 20 pages

lots: 3, 4 & 5 to Hawaii Community Development
Authority CT 805,674

lot 6: to Sunset Heights Hawaii, LLC
CT 805,675

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 WAIMANU INVESTMENT VENTURE,)
 A Hawaii limited partnership)
)
 to register and confirm title to land situate at)
 Kalia, Waikiki, City and County of)
 Honolulu, State of Hawaii)
 _____)

CONSOLIDATION NO. 188
(Map 3)

LAND COURT
STATE OF HAWAII
2006 APR 21 PM 3:42
KATHLEEN HANAWAHINE
REGISTRAR

Petition of SUNSET HEIGHTS HAWAII, LLC and HAWAII COMMUNITY DEVELOPMENT AUTHORITY, Owners, consolidation of Lots 2-A and 2-B, as shown on Map 2 and resubdivision of said consolidation into Lots 3 to 6, inclusive and designation of restriction of vehicular access rights affecting Lots 3, 5 and 6

**AMENDED
ORDER OF SUBDIVISION**

Upon the record and the evidence herein, and the map or plan filed with the application for subdivision in this matter having been referred to the Surveyor of the State of Hawaii, and he having examined and checked the same and certified the same to be correct, Copy of said petition and the Return of the Surveyor by reference made a part hereof,

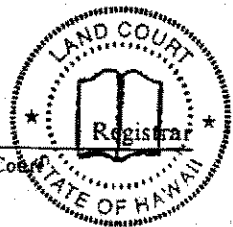
IT IS ORDERED, ADJUDGED AND DECREED, that the said subdivision, as certified by the Surveyor of the State of Hawaii, is hereby authorized and approved, and the Assistant Registrar of this court is hereby directed to endorse on Owner's Certificate of Title No. 643161, 642192 and 642194 a reference to said map or plan as approved, and, upon presentation to him of proper deeds of transfer, to issue a new certificate, or certificates, for the lots conveyed, and enter same on said Owner's Certificate of Title No. 642192 and 642194, in accordance with Hawaii Revised Statutes, Sections 501-89 and 501-109.

Dated: Honolulu, Hawaii, APR 21 2006

A TRUE COPY, ATTEST WITH
THE SEAL OF SAID COURT
IANNIS SHUMMA

KATHLEEN HANAWAHINE

for Judge of the Land Court



IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 WAIMANU INVESTMENT VENTURE,)
 A Hawaii limited partnership)
)
 to register and confirm title to land situate at)
 Kalia, Waikiki, City and County of)
 Honolulu, State of Hawaii)
 _____)

CONSOLIDATION NO. 188
(Map 3)

2006 APR 21 PM 3:42
KAIHELEI M. HONOHANU
REGISTRAR

LAND COURT
STATE OF HAWAII

Petition of SUNSET HEIGHTS HAWAII, LLC and HAWAII COMMUNITY DEVELOPMENT AUTHORITY, Owners, consolidation of Lots 2-A and 2-B, as shown on Map 2 and resubdivision of said consolidation into Lots 3 to 6, inclusive and designation of restriction of vehicular access rights affecting Lots 3, 5 and 6

**AMENDED
RETURN OF THE STATE LAND SURVEYOR**

To the Honorable Judge of the Land Court,
State of Hawaii.

Pursuant to an Order duly made and issued out of said Honorable Court on the 3rd day of November 2005, referring the map filed for approval of subdivision in the above entitled matter, to the State Land Surveyor for verification, check on the ground if necessary and report.

The undersigned, the State Land Surveyor begs to report that the same has been examined and checked as to form and mathematical correctness and found to be in order.

And further, that said map has been compared with Transfer Certificates of Title No. 643,161; 642,192 and found to be in accord therewith.

NOTE:

Allegations in the petition have been checked and found to be in accord therewith except for the following:

1. Lots 1 to 4, inclusive have been changed to Lots 3 to 6, inclusive, respectively.
2. Access for Lots 5 and 6 should be clarified.
3. The status of Doc. No. 2918296 should be clarified (noted in TCT as consent).
4. The status of Doc. No. 2918297 should be clarified (noted in TCT as a release of liability).
5. The status of Doc. No. 14918 should be clarified (not noted in TCT)..

Only encumbrances as noted in the petition have been checked.

APPROVED by the City Department of Planning and Permitting on November 29, 2005.

And pending the approval of the Court, the map and said Transfer Certificates of Title will be held for further instructions.

DATED at Honolulu, this 21st day of April, 2006.

Examined by:

Ronald A.K. Sumida
Assistant.
lk

Glenn Kodani
for STATE LAND SURVEYOR

=====

Ld.Ct.Cons. 188 Map 3
Return of the State Land Surveyor
Page 3

Received from the State Land Surveyor _____ blueprints of, and the approved tracing map in the above entitled matter and Transfer Certificates of Title No.

Honolulu, Hawaii
APR 21 2006, 2006

JANNIS SHIROMA
CLERK REGISTRAR OF THE LAND COURT

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)

of)

Consolidation No. 188

WAIMANU INVESTMENT VENTURE,)
a Hawaii limited partnership)

To register and confirm title to land)
situate Kalia, Waikiki,)
City and County of Honolulu,)
State of Hawaii)

LAND COURT
STATE OF HAWAII
2006 APR 20 PM 1:30
APR 20 2006
REGISTRAR

AMENDED
PETITION FOR CONSOLIDATION OF LOTS 2-A AND 2-B,
AS SHOWN ON MAP 2, INTO LOTS 3 TO 6, INCLUSIVE, AND
DESIGNATION OF RESTRICTION OF VEHICULAR ACCESS
RIGHTS AFFECTING LOTS 3, 5 AND 6

JOINDER AND CONSENT OF
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
(Filed Previously)

JOINDER AND CONSENT OF
VICTORIA WARD, LIMITED
(Filed Previously)

JOINDER AND CONSENT OF
HSBC REALTY CREDIT CORPORATION (USA)
(Attached Hereto)

Referred to the Surveyor of
the State of Hawaii for
check and report

Map filed _____ transmitted herewith;
Certificate of Title No. 643,161, 642,192
and 642,194

By Order of the Court:

OF COUNSEL:
CASE LOMBARDI & PETTIT

DENNIS M. LOMBARDI 3071
ESTHER S. HAN 8147
737 Bishop Street
26th Floor
Honolulu, Hawaii 96813
Attorneys for Petitioner
Phone: (808) 547-5400

Registrar

4 white prints required

Lots 2-A and 2-B (#1)
27295-9/414436.2

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)
)
 of) Consolidation No. 188
)
 WAIMANU INVESTMENT VENTURE,)
 a Hawaii limited partnership)
)
 To register and confirm title to land)
 situate Kaiia, Waikiki,)
 City and County of Honolulu,)
 State of Hawaii)
)
 _____)

AMENDED
PETITION FOR CONSOLIDATION OF LOTS 2-A AND 2-B,
AS SHOWN ON MAP 2, INTO LOTS 3 TO 6, INCLUSIVE, AND
DESIGNATION OF RESTRICTION OF VEHICULAR ACCESS
RIGHTS AFFECTING LOTS 3, 5 AND 6

SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company (hereinafter "Petitioner"), the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137, by and through its attorneys, Case Lombardi & Pettit, respectfully petitions this Court as follows:

I. Petition Property and Ownership.

A. Petitioner is the owner in fee simple of Lot 2-A, as shown on Map 2 of Land Court Consolidation No. 188, said Lot being described in and covered by Certificate of Title No. 643,161 issued to Petitioner.

B. HAWAII COMMUNITY DEVELOPMENT AUTHORITY ("HCDA"), a public body and body corporate and politic of the State of Hawaii, is the owner in fee simple of Lot 2-B, as shown on Map 2 of Land Court Consolidation No. 188, said Lot being described in and covered by Certificate of Title No. 642,192.

C. VICTORIA WARD, LIMITED, a Delaware corporation, is the owner in fee simple of Lot 2-C, as shown on Map 2, of Land Court Consolidation No. 188, said Lot being described in

and covered by Certificate of Title No. 642,194.

II. Land Court Map. Petitioner files with this Petition a tracing (the "Map") showing the following:

A. The consolidation of Lots 2-A and 2-B, as shown on Map 2, into Lots 3, 4, 5 and 6; and

B. The designation of restriction of vehicular access rights affecting Lots 3, 5, and 6.

III. Access.

A. Lots 3 and 4 will have access to Waimanu Street, a public road.

B. Lot 5 will have access over Lot 2-C, as shown on Map 2, of Land Court Consolidation 188, over Lot 4 to Waimanu Street, a public road, until such time as vehicular access from Lot 5 directly or indirectly (for example, via easement) to a public road (e.g., Lot 4, being part of Queen Street) is created by order of this Court or by recordation of an instrument providing an easement for such vehicular access. Upon the creation of such alternate access to Queen Street or another public road, the Lot 5 right of access over Lot 2-C shall automatically expire. Without limiting the provisions above providing for the automatic termination of the right of access over Lot 2-C, the owner of Lot 2-C shall have the option of filing a petition cancelling the right of access over Lot 2-C without the joinder or consent of any other party upon the creation of alternate access to Queen Street or another public road for Lot 5. In addition, at the option and upon the request of the owner of Lot 2-C, HCDA shall join in a petition to confirm the cancellation of the right of access over Lot 2-C upon the provision of alternate access to Queen Street or another public road for Lot 5.

C. Lot 6 will have access over Lot 30-B-1, as shown on Map 10 of Land Court Application No. 948, and thence over Lot 915-B-1-A, as shown on Map 135, of Land Court Application No. 880, to Waimanu Street, a public road.

IV. Encumbrances. The following encumbrances shall affect the subdivided lots as indicated:

A. Lots 3, 4 and 5 Only:

- (1) Right of way as set forth in Land Court Order No. 149191.
- (2) Planned Development Agreement dated October 19, 1988, filed as Document No. 1645703.
- (3) Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, filed as Document No. 1646277, regarding Document No. 1645703.
- (4) Agreements filed as Document Nos. 1646279 and 1646280.
- (5) Partial Assignment of Rights filed as Document No. 2192784, regarding Document No. 1645703.
- (6) Partial Assignment of Rights filed as Document No. 2387444, regarding Document No. 1645703.
- (7) Partial Assignment of Rights filed as Document No. 2461954.
- (8) 404 Piikoi Planned Development Joint Development Agreement filed as Document No. 2973501.
- (9) Grant of Easement in favor of Sunset Heights Hawaii, LLC, filed as Document No. 3011013.
- (10) Agreements filed as Document Nos. 3020871 and 3020872.

B. Lot 6 Only:

- (1) Declaration of Restrictive Covenants dated April 11, 2003, filed as Document No. 2914558.
- (2) Land Court Order No. 149192, issued on January 28, 2003, as amended by Land Court Order No. 150195, issued on April 8, 2003.

- (3) Planned Development Agreement dated October 19, 1988, filed as Document No. 1645703.
- (4) Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, filed as Document No. 1646277, regarding Document No. 1645703.
- (5) 404 Piikoi Planned Development Joint Development Agreement filed as Document No. 2973501.
- (6) Declaration of Merger for Condominium Phases for Ko'olani filed as Document No. 3004561.
- (7) Declaration of Condominium Property Regime of Ko'olani Condominium Map No. 1572 filed as Document No. 3004562, as amended by Document Nos. 3021498, 3021499, 3031081, 3119165, 3119166, 3128149, 3146592, and 3248363, 3381283 and 3381284.
- (8) Bylaws of the Association of Apartment Owners of Ko'olani filed as Document No. 3004563.
- (9) Mortgage and Security Agreement (HSBC Realty Credit Corporation (USA)) filed as Document No. 3236690.
- (10) Agreements filed as Document Nos. 1646279 and 1646280.
- (11) Partial Assignment of Rights filed as Document No. 2192784, regarding Document No. 1645703 and release of liability filed as Document No. 2918297.
- (12) Partial Assignment of Rights filed as Document No. 2387444, regarding Document No. 1645703.
- (13) Partial Assignment of Rights filed as Document No. 2461954, as partially assigned by Document No. 2387444.

(14) Lease filed as Document No. 2468470, as assigned by Document No. 2478626.

(15) Partial Assignment of Rights filed as Document Nos. 2918295 and Consent to Partial Assignment of Rights and Obligations Under Planned Development Permit filed as Document No. 2918296.

(16) Rights of way in favor of Lot 2-A across Lot 30-B, as set forth by Land Court Order No. 149189.

V. Joinder and Consent.

A. The Joinder and Consent of Hawaii Community Development Authority to this petition was filed previously.

B. The Joinder and Consent of HSBC Realty Credit Corporation (USA) to this petition is attached hereto.

C. The Joinder and Consent of Victoria Ward, Limited to this petition was filed previously.

VI. Separate Lot Ownership.

After the consolidation and resubdivision, the property shall be owned as follows and new Certificates of Title should be issued:

(A) HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a public body and body corporate and politic of the State of Hawaii, shall be the sole owner of Lots 3, 4, and 5. These lots shall be subject only to those encumbrances scheduled above.

(B) SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, shall be the sole owner of Lot 6 (portion former Lot 2-A). This lot shall be subject only to those encumbrances scheduled above.

VII. Quitclaim.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a public body and body corporate and politic of the State of Hawaii, hereby conveys, grants, and quitclaims without warranty to SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, all right, title, and interest that HAWAII COMMUNITY DEVELOPMENT AUTHORITY may have in Lot 6, to the extent and in the capacity herein indicated. SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, similarly hereby conveys, grants, and quitclaims without warranty to HAWAII COMMUNITY DEVELOPMENT AUTHORITY any interest that SUNSET HEIGHTS HAWAII, LLC, may have in Lots 3, 4, and 5, to the extent and in the capacity herein indicated.

VIII. City and County Approval.

The foregoing consolidation was approved by the Department of Planning and Permitting of the City and County of Honolulu, on November 29, 2002, as evidenced by the Department's stamp on the white print of the Map filed with this Petition.

WHEREFORE, PETITIONER PRAYS THAT:

1. The map filed herewith be examined and found correct;

2. An Order issue approving and authorizing said consolidation, resubdivision of consolidation, and designation of restriction of vehicular access rights, to endorse the consolidation and resubdivision and amendment to Certificates of Title on Certificate of Title Nos. 642,194, 643,161 and 642,192 in accordance with Chapter 501, Hawaii Revised Statutes;

3. An Order issue approving and authorizing said consolidation, resubdivision of consolidation, and designation of restriction of vehicular access rights and directing the Assistant Registrar of the this Court to cancel Certificate of Title Nos. 643,161 and 642,192, and

to issue new Certificates of Title as follows, and to transfer all information contained on said Certificates of Title:

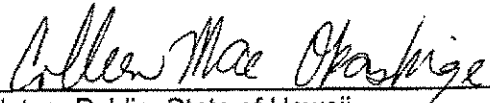
- A. As to Lots 3, 4 and 5: HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a public body and body corporate and politic of the State of Hawaii, 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii, as tenant in severalty; and
- B. As to Lot 6: SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, 2930 Biscayne Boulevard, Miami, Florida 33137, as tenant in severalty.

DATED: Honolulu, Hawaii, March 24, 2006.



DENNIS M. LOMBARDI
Attorney for Petitioner

Subscribed and sworn to before me this
24th day of March, 2006.



Notary Public, State of Hawaii
Type or Print Name: Colleen Mae Okashige
My commission expires: 11/14/07

L.S.

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)

of)

Consolidation No. 188)

WAIMANU INVESTMENT VENTURE,)
a Hawaii limited partnership)

To register and confirm title to land)
situate Kalia, Waikiki,)
City and County of Honolulu,)
State of Hawaii)

JOINDER AND CONSENT OF
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

HAWAII COMMUNITY DEVELOPMENT AUTHORITY, a public body and body corporate and politic of the State of Hawaii, the owner in fee simple of Lot 2-B, as shown on Map 2 of Land Court Consolidation No. 188, said Lot being described in and covered by Certificate of Title No. 642,192, hereby joins in and consents to the foregoing Petition.

DATED: October 6, 2005

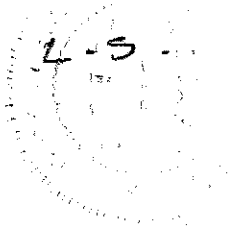
HAWAII COMMUNITY DEVELOPMENT
AUTHORITY, a public body and body corporate
and politic of the State of Hawaii,

By 
Name: Daniel Dinell
Its: Executive Director

By _____
Name: _____
Its: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 5th day of October, 2005, before me personally appeared Daniel Dinell ~~XXX~~ to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Wendi T. Reyes
Notary Public, State of Hawaii
Type or print name: Wendi T. Reyes
My commission expires: 3/30/2006

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)
)
 of)
)
 WAIMANU INVESTMENT VENTURE,)
 a Hawaii limited partnership)
)
 To register and confirm title to land)
 situate Kalia, Waikiki,)
 City and County of Honolulu)
 State of Hawaii)
)
 _____)

Consolidation No. 188

JOINDER AND CONSENT OF
HSBC REALTY CREDIT CORPORATION (USA)

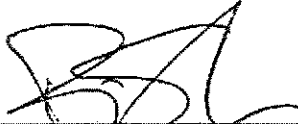
HSBC REALTY CREDIT CORPORATION (USA), a Delaware corporation, the holder of the Mortgagee's interests under the Mortgage and Security Agreement filed as Document No. 3236690, hereby joins in and consents to the foregoing Petition, on the condition that this joinder and consent shall not be deemed to authorize any further joinders

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

or consents, or be deemed to waive any provisions in, or affect the priority of, the foregoing Mortgages, all of which are hereby expressly reserved.

DATED: March 20, 2006

HSBC REALTY CREDIT CORPORATION,
a Delaware corporation

By 
Name: Benjamin M. Stacks
Title: Senior Vice President

By 
Name: Carly Berfas
Title: Asst. Vice President

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

On this 20TH day of MARCH, 2006, before me personally appeared Benjamin M. Sticks and Carly Berfas, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

James M. Norris
Notary Public, State of _____
Type or print name: _____
My commission expires: _____

JAMES M. NORRIS
No. 01NC5030955
Notary Public, State of New York
Qualified in Nassau County
My Commission Expires July 25, 2009

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)

of)

Consolidation No. 188)

WAIMANU INVESTMENT VENTURE,)
a Hawaii limited partnership)

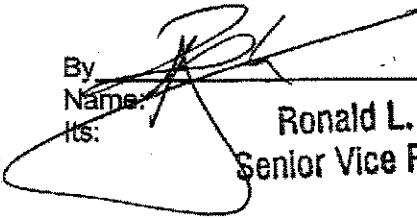
To register and confirm title to land)
situate Kalia, Waikiki,)
City and County of Honolulu,)
State of Hawaii)

JOINDER AND CONSENT OF
VICTORIA WARD, LIMITED

VICTORIA WARD LIMITED, a Delaware corporation, the owner in fee simple of Lot 2-C, as shown on Map 2 of Land Court Consolidation No. 188, said Lot being described in and covered by Certificate of Title No. 642,194, hereby joins in and consents to paragraph III.B of the foregoing Petition.

DATED: October 17, 2005

VICTORIA WARD, LIMITED
a Delaware corporation

By 
Name: _____
Its: **Ronald L. Gern**
Senior Vice President

By _____
Name: _____
Its: _____

State of ILLINOIS
County of Cook

)
) ss.
)

On this 17th day of October, 2005, before me personally appeared Ronald L. Genn and _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Leslee C. Tornabeni
Notary Public, State of ILLINOIS
Type or print name: Leslee C. Tornabeni
My commission expires: 11-06-05

DOCUTRIEVE

A Title Guaranty Company

235 Queen Street Honolulu HI 96813
Toll Free (888) 352-7389 Phone (808) 533-2292
FAX (808) 533-2271

Management Companies:

Hawaiiana

AAO Maui Vista

ResortQuest

Full Package Price (Tax Included):

\$300

\$300

\$200.00

Qty	Cost	Document Requested	Order Information
Payment is requested in advance unless picking up at a TG Escrow Branch.			
X	20.00	Articles of Association	Ordered by: Robin Glass
X	20.00	Articles of Incorporation	
X	20.00	Amendments to Articles of Association	Company Name: Coldwell Banker Pacific Property
X	20.00	Amendments to Articles of Incorporation	Company Address:
X	20.00	Approved Annual Meeting Minutes	4211 Waialae Ave Suite
X	20.00 each	Approved Minutes from Board of Director Meeting	UW1 Honolulu HI 96816
X	25.00 ea.	Bylaws / Restated Bylaws	Phone: 358-1774
X	25.00 ea.	Amendments to Bylaws / to Restated Bylaws	Fax: 748-8112
X	25.00 ea.	Declaration of Covenants, Conditions and Restrictions	Property Name & Unit #: Koolani
X	25.00 ea.	Amendments to Declaration of CCR	#4202
X	25.00 ea.	Declaration of Condominium Property Regime (CPR) or Restated Decl of CPR	TMK: (1) 2-3-006-004 0325
X	25.00 ea.	Amendments to Declaration of CPR or to Restated Decl of CPR	
X	15.00	House Rules - including amendments	PAYMENT INFORMATION
X	20.00	Financial Statement - current or last issued	<input type="checkbox"/> VISA <input checked="" type="checkbox"/> MC <input type="checkbox"/> CHECK <input type="checkbox"/> PAY AT PICK UP
X	20.00	Operating Budget - current or last issued	CC#: 5588-3250-0060-3795
X	15.00	Insurance Summary	Exp. Date: 05/08
X	50.00	Lender's Disclosure (HOA Cert)	Card Holder: ROBIN C GLASS
X	110.00	Property Information Form (RR105c)	GLOBAL ELECTRONIC COMMERCE LLC
X	30.00	Complete Reserve Study Report	DELIVERY INSTRUCTIONS
			<input checked="" type="checkbox"/> Pickup TG Branch: Kahala
			<input type="checkbox"/> Courier Walk/Drive (within Downtown area)
			<input type="checkbox"/> U.S. Mail
		State Tax Applies to ALL Documents	Address:
		ADD 0.04166 TAX	
		300.00 TOTAL COST	DATE ORDERED: 10/22/06
			TIME:

UNDERSTAND THAT ALL UNRECORDED DOCUMENTS ARE THE PROPERTY OF SAID PROPERTY MANAGEMENT COMPANY AND MAY NOT BE DUPLICATED WITHOUT THEIR PERMISSION.



Business Account Online

LOG OFF

View My Account

Make a Payment

Manage My Account

Help/Contact Us

Unbilled Activity

Sunday, August 27, 2006

GLOBAL ELECTRONIC COMMERCE, LLC
XXXX-XXXX-XXXX-4698 [Employee Accounts](#)

The following transactions have been posted to your account since your last statement and are listed by individual card users. This list may not include your most recent transactions.

Current Balance*	\$ 4187.96
Minimum Payment	\$ 0.00
Due Date	08/29/2006
Credit Line	\$ 50000.00
Available Credit**	\$ 45487.13

Last Closing Date	08/04/2006
Next Closing Date	09/04/2006
Last Payment Received	08/24/2006
Past Due Amount	\$ 0.00
Last Statement Balance	\$ 4804.75

Account Online Features

Deals & Discounts

Citi can help you save time & money by offering great deals from leading companies.

Find Citi Products & Info

Readily available to meet your one-of-a-kind business needs.

Track spending

Monthly online account summaries are sorted by each cardholder's transactions.

ROBIN C GLASS

Account #: XXXX-XXXX-XXXX-3795

Trans Date	Post Date	City, State	Description	Transaction Amount
08/22/2006	08/23/2006	HONOLULU,HI	DOCUTRIEVE	300.00

Subtotal Transactions 115

Subtotal Amount

4187.96

* **Current Balance:**The Current Balance is updated each evening and does not reflect transactions (Payments, purchases and adjustments) posted today.

** **Available Credit:** The dollar value of any unused credit, including authorizations made and not yet posted to your account.



L-616 STATE OF HAWAII
 OFFICE OF ASSISTANT REGISTRAR
 RECORDED
 JUN 04, 2004 12:00 PM
 Doc No(s) 3119166
 on Cert(s) 643,161



/s/ CARL T. WATANABE
 ASSISTANT REGISTRAR

20 2/2 Z1

Return by Mail Pickup
 Case, Bigelow & Lombardi (DML)
 737 Bishop Street, Suite 2600
 Honolulu, HI 96813

Total Pages:

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
 2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO DECLARATION
 OF CONDOMINIUM PROPERTY REGIME OF
 KO'OLANI
(CONDOMINIUM MAP NO. 1572)

SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani Condominium Map No. 1572 recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration") as amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map").

B. Pursuant to Sections Q.2 and Q.5 of the Declaration, Declarant has reserved the right to amend the Declaration.

C. Declarant desires to amend Exhibits "B-1," "B-2," and "B-3" to conform to the amendment to the Condominium Map, and to amend Section Q of the Declaration in order to address certain aspects of the amendment to the Condominium Map.

AMENDMENT:

Pursuant to the rights reserved in the Declaration, Declarant hereby amends the Declaration as follows:

1. By deleting Exhibit "B-1" to the Declaration in its entirety, and substituting therefor the Exhibit "B-1" attached to this amendment, which exhibits shall supercede the existing Exhibit "B-1" in all respects.

2. By deleting Exhibit "B-2" to the Declaration in its entirety, and substituting therefor the Exhibit "B-2" attached to this amendment, which exhibits shall supercede the existing Exhibit "B-2" in all respects.

3. By deleting Exhibit "B-3" to the Declaration in its entirety, and substituting therefor the Exhibit "B-3" attached to this amendment, which exhibits shall supercede the existing Exhibit "B-3" in all respects.

4. By renumbering Section Q.10 of the Declaration as Section Q.12.

5. By adding a new Section Q.10 to the Declaration as follows:

10. Parking Gate. Notwithstanding any other provision in this Declaration, Declarant hereby reserves the right, but does not assume the obligation, to install or construct a gate or barrier on the third floor entrance to the parking garage (the "Third Floor Access") in order to restrict or prevent access to or egress from the parking garage via the Third Floor Access. In connection with construction of such a gate or barrier, Declarant reserves the right to partially block the Third Floor Access, and may, in Declarant's discretion, issue to the Association and/or the Commercial Apartment owners and/or the Owners and/or any occupant and/or any owner or occupant of adjacent properties a limited number of access keys or access

devices ("Third Floor Access Devices"), for which Declarant may require and charge a fee or a deposit. If the Declarant exercises the right to issue such Third Floor Access Devices, Declarant may assign its rights and obligations under this Section to the Association. In such an event, the Board shall have the authority and be responsible for coordinating the issuance of Third Floor Access Devices pursuant to this Section and shall adopt rules and regulations with respect thereto. Declarant also reserves the right to fully block access via the third floor entrance by placing a temporary or permanent barricade that will block all entry to the Third Floor Access by any Owner, occupant, family member, guest, invitee, or any other person.

6. By adding a new Section Q.11 to the Declaration, as follows:

11. Expanded Parking Facilities. In connection with Declarant's reserved right in **Section Q.1(d)** and notwithstanding any other provision in this Declaration, Declarant hereby reserves the right, but does not assume the obligation, to build and/or construct an extended parking structure, as such parking structure is depicted in the Condominium Map, dated as of even date herewith. Owner, its mortgagees, assigns, and successors, acknowledge and agree that such extended parking facilities are subject to approval by the Hawaii Community Development Authority, over which Declarant, its successors and assigns, have no control or authority. Owner, its mortgagees, assigns, and successors, also acknowledge and agree that the specific Parking Stalls assigned to Owner's Apartment in Exhibit "B-3" attached hereto assume the construction of the extended parking structure in accordance with Declarant's construction plans, and such Parking Stall assignments are, therefore, subject to the HCDA approval. In the event that the HCDA does not approve the expanded parking structure, Declarant hereby reserves the right to reassign Parking Stalls, and such reassignment shall occur by supplemental Declaration or amendment to this Declaration, recordable by the Declarant in its sole discretion without the joinder or consent of the any entity or person, including, without limitation, the Association, Owners, or their mortgagees. Owners acknowledge and agree, for themselves, their successors, assigns, and mortgagees that such reassignment of Parking Stalls may result in Owner's being assigned a different and/or less desirable and/or fewer Parking Stalls; provided that, upon such reassignment, each Residential Apartment shall have appurtenant to it at least one (1) Parking Stall, as required by law.

7. By deleting the second parenthetical in Section Q.8 in its entirety.

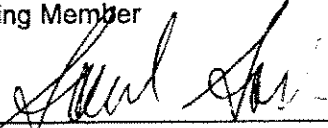
8. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Declarant has executed this instrument as of May 25, 2004.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) SS.

On MAY 25, 2004, before me personally appeared **Saul Sack**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Trang M. Van
Notary Public, State of California
Type or print name: TRANG M. VAN
My commission expires: 3/25/07

EXHIBIT "B-1"

(Description of Building and Apartments)

APARTMENT SUMMARY

Apartment Type	Quantity	Number of Bedrooms & Baths	Floor Levels	Approximate Net Living Area (Sq. Ft.)	Approx. Net Lanai Area (Sq. Ft.)	Approx. Net Rooftop Lanai Area (Sq. Ft.)	Total Area (Sq. Ft.)
1	40	3/2	5-45	1,374	0	0	1,374
2	26	3/2	5-31	1,561	0	0	1,561
2L	14	3/2	32-45	1,527	46	0	1,573
3	28	2/2	5-33	1,162	0	0	1,162
3L	12	2/2	34-45	1,120	49	0	1,169
4	30	2/2	5-35	1,157	0	0	1,157
4L	10	2/2	36-45	1,113	49	0	1,162
5	31	2/2	5, 7-37	1,157	0	0	1,157
5L	8	2/2	38-45	1,113	49	0	1,162
6	29	2/2	5, 7-35	1,157	0	0	1,157
6L	10	2/2	36-45	1,113	49	0	1,162
7	28	2/2	5-33	1,151	0	0	1,151
7L	12	2/2	34-45	1,108	49	0	1,157
8	25	2/2	6-31	1,518	0	0	1,518
8L	14	2/2	32-45	1,461	71	0	1,532
9	39	3/2	6-45	1,392	0	0	1,392
10	1	1/1	6	317	0	0	317
11	1	1/1	6	884	0	0	884
12	1	1/1	6	815	0	0	815
PH-01	1	2/2.5	46/47	1,958	0	0	1,958
PH-02	1	2/2.5	46/47	2,081	0	433	2,081
PH-03	1	2/2.5	46/47	1,924	0	581	1,924
PH-04	1	3/3.5	46/47	2,602	0	372	2,602
PH-05	1	4/4.5	46/47	2,602	0	363	2,602
PH-06	1	3/3.5	46/47	2,508	0	0	2,508
PH-07	1	4/4.5	46/47	2,603	0	476	2,603
PH-08	1	4/4.5	46/47	2,376	0	487	2,376
PH-09	1	2/2.5	46/47	1,790	0	426	1,790
PH-10	1	3/2.5	46/47	2,499	0	378	2,499
PH-11	1	2/2.5	46/47	1,801	0	0	1,801

DESCRIPTION OF FLOOR PLANS

RESIDENTIAL APARTMENTS

Type 1 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,364 square feet.

Type 2 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,561 square feet.

Type 2L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,527 square feet, and a lanai of approximately 46 square feet.

Type 3 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,162 square feet.

Type 3L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,120 square feet, and a lanai of approximately 49 square feet.

Type 4 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 4L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 5 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 5L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 6 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 6L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 7 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,151 square feet.

Type 7L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,108 square feet, and a lanai of approximately 49 square feet.

Type 8 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,518 square feet.

Type 8L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,461 square feet, and a lanai of approximately 71 square feet.

Type 9 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room and a laundry/utility room, and has a foyer. Each apartment has a net living area of approximately 1,392 square feet.

Type 10 apartments: Each apartment is a single-story studio apartment. Each apartment contains three (3) rooms, including a bedroom/living room, one (1) bathroom, and a foyer. Each apartment has a net living area of approximately 317 square feet.

Type 11 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 884 square feet.

Type 12 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 815 square feet.

Type PH-01 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,958 square feet.

Type PH-02 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,081 square feet, and a roof top lanai of approximately 433 square feet.

Type PH-03 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,924 square feet, and a roof top lanai of approximately 581 square feet.

Type PH-04 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,602 square feet, and a roof top lanai of approximately 372 square feet.

Type PH-05 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,602 square feet, and a roof top lanai of approximately 363 square feet.

Type PH-06 apartment: The apartment is a two-story apartment. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,508 square feet.

Type PH-07 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,603 square feet, and a roof top lanai of approximately 476 square feet.

Type PH-08 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½)

bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,376 square feet, and a roof top lanai of approximately 487 square feet.

Type PH-09 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,790 square feet, and a roof top lanai of approximately 426 square feet.

Type PH-10 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains nine (9) rooms, including three (3) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,499 square feet, and a roof top lanai of approximately 378 square feet.

Type PH-11 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,801 square feet.

COMMERCIAL APARTMENTS

1. Commercial Apartment Type C-1 is an unimproved loft space. The apartment has approximately 13,353 net square feet.
2. Commercial Apartment Type C-2 is an unimproved loft space. The apartment has approximately 7,163 net square feet.

EXHIBIT "B-2"

(Common Elements)

One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically, but not limited to:

1. The Land in fee simple;
2. All yards, grounds, trees, gardens, walkways, walkway railings, gates, landscaping, recycling area, trash bins, telephone room, car wash area, fire control rooms, mechanical rooms, emergency exits and stairways, and refuse facilities not located within an Apartment;
3. All roads, driveways, access lanes, paved areas, ramps and loading areas and the porte cochere;
4. All guest and accessible guest parking stalls and parking areas, including roadway areas, which shall not be designated as Limited Common Elements; provided the use of Accessible Guest Parking Stall(s) shall be governed by the applicable rules and regulations set forth in the House Rules;

The following parking stalls are designated as "Guest" parking stalls:

1049G	1050G	1051G	1052G	1053G	1054G	1057G	1058G	1059G	1060G
1061G	1062G	1063G	1064G	1065G	1066G	1067G	1068G	1069AG	1070AG
1071AG	1072G	1073G	1074G	1075G	1076G	1077G	1078G	1079G	1080G
1081G	1082G	1083G	1084G	1085G	1086G				

5. All parking stall designated as loading areas not assigned to the apartments;

The following parking stalls are designated as "Loading Area" parking stalls:

1141L	1142L	1143L	1144L	2143L
-------	-------	-------	-------	-------

6. Any swimming pool, appurtenant deck, tennis court(s), barbecue areas, dog park, function rooms, restroom facilities and recreational areas and facilities, if any, located on the sixth floor of the Platform.
7. All restroom facilities not located within an Apartment;
8. Unassigned storage areas, if any, to the extent the use of the same has not been assigned to an owner by the Declarant or the Board;
9. All foundations, floor slabs, columns, girders, beams, supports, perimeter, party and load bearing walls and partitions (excluding the finishes thereon), roofs, lobby areas, stairways (excluding any private stairway located within and serving only an Apartment), elevators, walkways, corridors, ramps, loading areas, elevator lobby areas, entrances, entry ways and exits of the Project, the conference room, all storage rooms not located within an apartment, all maintenance rooms, all elevator machine rooms, all mechanical rooms, all electrical rooms and all trash rooms;
10. All vents, shafts, sewer lines, water lines, pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations on, above, over, under and across the Project to the point of their respective connections to Improvements comprising a part of the Apartments or the Limited Common Elements appurtenant thereto, which serve more than one Apartment, including, without limitation, those providing electricity, light, gas (if any), water, air conditioning, sewer, refuse, drainage, irrigation, telephone, and radio and television signal distribution (if any); and
11. Any and all other apparatus and installations existing for common use by more than one (1) Apartment, and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

EXHIBIT "B-3"

(Limited Common Elements)

Limited Common Elements.

Certain parts of the Common Elements, herein called the "Limited Common Elements", are hereby designated and set aside for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as follows:

1. Each residential Apartment shall have for its exclusive use one (1) or more parking stalls ("Residential Parking Stall(s)", attached storage units, if any, as shown on the Condominium Map and reflected in the chart contained in this Exhibit and as may be designated by amending and/or supplementing the Declaration.
2. Each commercial Apartment shall have for its exclusive use at least four (4) parking stalls, as shown on the Condominium Map and reflected in the chart contained in this Exhibit and shall also have additional "Declarant Reserved Stalls" (as defined in the Declaration), all of which are reserved for use and assignment by the Developer/Declarant for use and assignment to apartment owners within this Project by amending and/or supplementing the Declaration.
3. Those residential Apartments with lanais, roof top lanais, and courtyards shown on the Condominium Map (collectively "lanais") shall have for their exclusive use the lanais as noted in the Declaration and as shown on the Condominium Map, from the exterior surface of all perimeter walls which separate the interior of the Apartments from the lanais to the interior edge of the exterior railings or other boundaries of the lanais. All net lanai floor areas are not exact but are approximations based on the floor plans of the subject lanais and the Apartments to which they are appurtenant.
4. Storage areas shown on the Condominium Map bearing the same number (preceded by "S-") as the adjacent parking stall shall be appurtenant to the Apartment to which the parking stall is assigned and may not be separated from the parking stall bearing the same number.
5. Residential Apartment Limited Common Elements.

Certain parts of the Common Elements, herein called the "Residential Apartment Limited Common Elements", are hereby designated and set aside for the exclusive use of the residential Apartments only, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Residential Apartment Limited Common Elements as follows:

- a. Elevators (and corresponding elevator lobbies) identified as elevator numbers 1, 2, 3, and 4, as shown on the Condominium Map, which access the residential apartments only;
 - b. The common areas/amenities on the fourth floor (shown as the "Amenity Area" on the Condominium Map) including the screening room and meeting rooms, if any.
6. Parking Stalls
 - a. Residential Apartment Parking Stall Assignments

Each apartment shall have appurtenant to it the exclusive right to use at least one (1) parking stall(s) as designated by Supplemental Declaration or amendment to the Declaration. The current assignment of parking stalls, which shall change and should not be relied upon, follows:

KO'OLANI PARKING STALL CHART

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
101*			908	5078	5079
301**			909	1105C	1106
501	5117	5118	1001	5030	5031
502	5136	5137	1002	3069	3070
503	5111	5112	1003	4025T	4026T
504	5113	5114	1004	2026T	2027T
505	5115	5116	1005	2020T	2021T
506	5132	5133	1006	4011T	4012T
507	5134	5135	1007	4009T	4010T
601	2096	2097	1008	5121	5122
602	2137	2138	1009	5012	5017
603	4095T	4096T	1101	5034	5035
604	4081T	4082T	1102	3105	3106
607	5066T	5067T	1103	2024T	2025T
608	4105	4106	1104	4007T	4008T
609	5145	5146	1105	1019T	1020T
610	5044		1106	1017T	1018T
611	5007		1107	1021T	1022T
612	5045		1108	4139	4140
701	2089	2090	1109	2112	2113
702	4144	4145	1201	5054	5055
703	4085T	4086T	1202	5036	5037
704	4089T	4090T	1203	4018T	4019T
705	4083T	4084T	1204	4027T	4028T
706	4087T	4088T	1205	4005T	4006T
707	5005T	5006T	1206	1025T	1026T
708	5163	5164	1207	4021T	4022T
709	5028	5029	1208	5175	5176
801	1094	1095	1209	5167	5168
802	4121	4122	1401	5013	5014
803	5003T	5004T	1402	4168	4169
804	5060T	5061T	1403	3093T	3094T
805	5064T	5065T	1404	3085T	3086T
806	5072T	5073T	1405	3083T	3084T
807	5001T	5002T	1406	3079T	3080T
808	5052	5053	1407	3081T	3082T
809	1109	1110	1408	4077	4078
901	1090	1091	1409	5143	5144
902	4129	4130C	1501	5076	5077
903	5062T	5063T	1502	5082	5083
904	5068T	5069T	1503	2034T	2035T
905	5074T	5075T	1504	2022T	2023T
906	4091T	4092T	1505	3077T	3078T
907	5058T	5059T	1506	3018T	3019T

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
1507	4023T	4024T	2008	4030	4031
1508	4067	4068	2009	5091	5092
1509	5018	5019	2101	4153	4154
1601	5032	5033	2102	1043	1044
1602	4058	4059	2103	2127	2128
1603	1023T	1024T	2104	2135	2136
1604	1133	1134	2105	2110	2111
1605	3024T	3025T	2106	2108	2109
1606	3022T	3023T	2107	1118	1128C
1607	2018T	2019T	2108	4142	4143
1608	4064	4065	2109	4056	4057
1609	5161	5162	2201	4194	4195
1701	5100	5101	2202	1037	1038
1702	1047	1048	2203	2133	2134
1703	1124	1125	2204	2121	2122
1704	1092	1093	2205	2084	2085
1705	1088C	1089	2206	2067	2068
1706	1112	1113	2207	2100	2101
1707	1126	1127	2208	3133	3134
1708	4048	4049	2209	4175	4176
1709	4133	4134	2301	4075	4076
1801	4159	4160	2302	3100	3101
1802	2055	2056	2303	2123	2124
1803	1107C	1108	2304	2139	2140
1804	1122	1123	2305	2094	2095
1805	1087	1104	2306	2131	2132
1806	2114	2115	2307	1131	1132
1807	1100	1101	2308	3173	3174
1808	4046	4047	2309	4199	4198
1809	4181	4182	2401	4073	4074
1901	5150	5151	2402	1041	1042
1902	2051	2052	2403	1096	1097
1903	1135	1136	2404	1137	1138
1904	1114	1115	2405	2098	2099
1905	1111	1121	2406	2125	2126
1906	1139	1140	2407	1098	1099
1907	3016T	3017T	2408	3165	3166
1908	4062	4063	2409	5080	5081
1909	4112	4113	2501	4054	4055
2001	5147	5148	2502	3161	3162
2002	2047	2048	2503	2069	2070
2003	1116	1117	2504	2106	2107
2004	1102	1103	2505	2129	2130
2005	1129	1130	2506	2116	2117
2006	1119	1120	2507	2141	2142
2007	3020T	3021T	2508	3067	3068

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
2509	4035	4036	3101	3113	3114
2601	4151	4152	3102	3029C	3030
2602	3044	3045	3103	5171	5172
2603	2063	2064	3104	5046	5047
2604	2105	2118C	3105	5038	5039
2605	2077C	2091C	3106	5042	5043
2606	2088	2102	3107	5015	5016
2607	2065	2066	3108	3124C	3143
2608	3179	3180	3109	3177	3178
2609	4166	4167	3201	4042	4043
2701	4127	4128	3202	3137	3138
2702	3042	3043	3203	2082	2083
2703	2075	2076	3204	2092	2093
2704	5095	5096	3205	5022	5023
2705	5050	5051	3206	5130	5131
2706	5089	5090	3207	5048	5049
2707	2071	2072	3208	3058	3099
2708	3125	3126	3209	4071	4072
2709	3152	3153	3301	4034	4039
2801	4079	4080	3302	3034	3035
2802	3032	3033	3303	5169	5170
2803	5093	5094	3304	5152	5153
2804	5020	5021	3305	5008	5009
2805	5024	5025	3306	5097	5098
2806	5087	5088	3307	5026	5027
2807	2080	2081	3308	3102	3103
2808	3075	3076	3309	3107	3108
2809	4044	4045	3401	3171	3172
2901	4040	4041	3402	3036	3037
2902	3119	3120	3403	5086	5108C
2903	5010	5011C	3404	5084	5085C
2904	2061	2062	3405	5149	5127
2905	5158	5159	3406	5103	5102
2906	5156	5157	3407	5056	5057
2907	2103C	2104	3408	2045	2046
2908	5040	5041	3409	4146	4147
2909	3071	3072	3501	3104C	3123
3001	4052	4053	3502	3117	3118
3002	3040	3041	3503	5119	5120
3003	2073	2074	3504	5141	5142
3004	2086	2087	3505	4157	4158
3005	5154	5155	3506	4116	4117
3006	2078	2079	3507	5106	5107
3007	2119	2120	3508	2043	2044
3008	2039	2040	3509	3059	3060
3009	4137	4138	3601	3111	3112

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
3602	3135	3136	4103	4173	4174
3603	5165	5166	4104	4148	4149
3604	5173	5174	4105	4099	4100
3605	5109	5110	4106	4097	4098
3606	5125	5126	4107	4196	4197
3607	5128	5129	4108	3139	3140
3608	3052	3053	4109	3095	3096
3609	3169	3170	4201	3163	3164
3701	3185	3186	4202	4161	4163
3702	3157	3158	4203	4164	4165
3703	4110	4111	4204	3073	3074
3704	4069	4070	4205	3131	3132
3705	4135	4136	4206	3150	3151
3706	4179	4180	4207	4037	4038
3707	4114	4115	4208	3038	3039
3708	1035	1036	4209	2041	2042
3709	3054	3055	4301	3121	3122
3801	3175	3176	4302	4001	4002
3802	3115	3116	4303	3109	3110
3803	4192	4193	4304	3127	3128
3804	4066C	4107C	4305	3181	3182
3805	4108	4109	4306	3183	3184
3806	4131	4132	4307	4020	4029
3807	4155	4156	4308	3026	3031
3808	3097	3098	4309	1039	1040
3809	1045	1046	4401	3056	3057
3901	5104	5105	4402	4003	4004
3902	3155	3156	4403	3167	3168
3903	4060	4061	4404	3065	3066
3904	4050	4051	4405	3144	3145
3905	4190	4191	4406	3063	3064
3906	4188	4189	4407	3129	3130
3907	4177	4178	4408	3159	3160
3908	3048	3049	4409	1033	1034
3909	2053	2054	4501	3141	3142
4001	3061	3062C	4502	4013	4015
4002	5138	5140	4503	4123	4124
4003	4186	4187	4504	4032	4033C
4004	4150	4172	4505	4184	4185
4005	4170	4171	4506	3148	3149
4006	4101	4102	4507	4125	4126
4007	4103	4104	4508	3027	3028
4008	3046	3047	4509	3146	3147
4009	2049	2050	4601	2008	2009
4101	5123	5124	4602	1007	1008
4102	4120	4141	4603	1011	1012

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
4604	3008	3009	4608	2004	2005
4605	3001	3002	4609	2016	2017
4606	2001	2002	4610	3003	3004
4607	1004	1005	4611	1001	1002

*Apartment No. 101 shall have the following parking stalls assigned to the apartment:

1003A	1006	1009	1010	1013T	1014T	1015T	1016T	1027T	1028T	1029
1030	1031T	1032T	1055AV	1056AV	2003	2006	2007	2010A	2011T	2012T
2013T	2014T	2015	2028T	2029T	2030	2031	2032T	2033T	2036T	2037T
2038	2057	2058A	2059A	2060A	3005	3006	3007	3010A	3011	3012T
3013T	3014T	3015T	3050	3051	3154A	3087T	3088T	3089	3090	3091T
3092T	4014A	4016T	4017T	4118T	4119T	4093	4094	4162A	4183A	5070

**Apartment No. 301 shall have the following parking stalls assigned to the apartment:

5071	5099A	5139A	5160A
------	-------	-------	-------

Common element parking stalls designated as "Guest" parking stall assignments and "Loading Area" parking stall assignments are reflected on Exhibit "B-2."

25
C



L-610 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 25, 2004 10:00 AM
Doc No(s) 3128149
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1

kl

Return by Mail Pickup
Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Total Pages:

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration") as amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court, as may have been amended and/or restated ("Condominium Map").

B. Pursuant to Sections Q.2 and Q.5 of the Declaration, Declarant has reserved the right to amend the Declaration.

C. Declarant desires to amend Exhibit "B-1" to conform to the Condominium Map.

AMENDMENT:

Pursuant to the rights reserved in the Declaration, Declarant hereby amends the Declaration as follows:

1. By deleting Exhibit "B-1" to the Declaration in its entirety, and substituting therefor the Exhibit "B-1" attached to this amendment, which exhibits shall supercede the existing Exhibit "B-1" in all respects.


2. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced
above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN FRANCISCO)

On May 25, 2004, before me personally appeared Saul Sack, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Trang M. Van
Notary Public, State of California
Type or print name: TRANG M. VAN
My commission expires: 3/25/07

EXHIBIT "B-1"

(Description of Building and Apartments)

APARTMENT SUMMARY

Apartment Type	Quantity	Number of Bedrooms & Baths	Floor Levels	Approximate Net Living Area (Sq. Ft.)	Approx. Net Lanai Area (Sq. Ft.)	Approx. Net Rooftop Lanai Area (Sq. Ft.)	Total Area (Sq. Ft.)
1	40	3/2	5-45	1,374	0	0	1,374
2	26	3/2	5-31	1,561	0	0	1,561
2L	14	3/2	32-45	1,527	46	0	1,573
3	28	2/2	5-33	1,162	0	0	1,162
3L	12	2/2	34-45	1,120	49	0	1,169
4	30	2/2	5-35	1,157	0	0	1,157
4L	10	2/2	36-45	1,113	49	0	1,162
5	31	2/2	5, 7-37	1,157	0	0	1,157
5L	8	2/2	38-45	1,113	49	0	1,162
6	29	2/2	5, 7-35	1,157	0	0	1,157
6L	10	2/2	36-45	1,113	49	0	1,162
7	28	2/2	5-33	1,151	0	0	1,151
7L	12	2/2	34-45	1,108	49	0	1,157
8	25	2/2	6-31	1,518	0	0	1,518
8L	14	2/2	32-45	1,461	71	0	1,532
9	39	3/2	6-45	1,392	0	0	1,392
10	1	1/1	6	317	0	0	317
11	1	1/1	6	884	0	0	884
12	1	1/1	6	815	0	0	815
PH-01	1	2/2.5	46/47	1,958	0	0	1,958
PH-02	1	2/2.5	46/47	2,081	0	433	2,081
PH-03	1	2/2.5	46/47	1,924	0	581	1,924
PH-04	1	3/3.5	46/47	2,602	0	372	2,602
PH-05	1	4/4.5	46/47	2,602	0	363	2,602
PH-06	1	3/3.5	46/47	2,508	0	0	2,508
PH-07	1	4/4.5	46/47	2,603	0	476	2,603
PH-08	1	4/4.5	46/47	2,376	0	487	2,376
PH-09	1	2/2.5	46/47	1,790	0	426	1,790
PH-10	1	3/2.5	46/47	2,499	0	378	2,499
PH-11	1	2/2.5	46/47	1,801	0	0	1,801

DESCRIPTION OF FLOOR PLANS

RESIDENTIAL APARTMENTS

Type 1 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,374 square feet.

Type 2 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,561 square feet.

Type 2L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,527 square feet, and a lanai of approximately 46 square feet.

Type 3 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,162 square feet.

Type 3L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,120 square feet, and a lanai of approximately 49 square feet.

Type 4 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 4L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 5 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 5L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 6 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 6L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 7 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,151 square feet.

Type 7L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,108 square feet, and a lanai of approximately 49 square feet.

Type 8 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,518 square feet.

Type 8L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,461 square feet, and a lanai of approximately 71 square feet.

Type 9 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room and a laundry/utility room, and has a foyer. Each apartment has a net living area of approximately 1,392 square feet.

Type 10 apartments: Each apartment is a single-story studio apartment. Each apartment contains three (3) rooms, including a bedroom/living room, one (1) bathroom, and a foyer. Each apartment has a net living area of approximately 317 square feet.

Type 11 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 884 square feet.

Type 12 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 815 square feet.

Type PH-01 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,958 square feet.

Type PH-02 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,081 square feet, and a roof top lanai of approximately 433 square feet.

Type PH-03 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,924 square feet, and a roof top lanai of approximately 581 square feet.

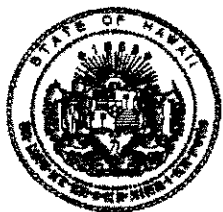
Type PH-04 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,602 square feet, and a roof top lanai of approximately 372 square feet.

Type PH-05 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,602 square feet, and a roof top lanai of approximately 363 square feet.

Type PH-06 apartment: The apartment is a two-story apartment. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,508 square feet.

Type PH-07 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,603 square feet, and a roof top lanai of approximately 476 square feet.

52



L-452 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
AUG 03, 2004 11:00 AM
Doc No(s) 3146592
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1

pm

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO CONDOMINIUM MAP FOR
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

This Amendment to Condominium Map for Ko'olani (Condominium Map No. 1572) (hereinafter referred to as this "Amendment"), is made as of August 3, 2004, by SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Sunset Heights").

RECITALS:

A. On October 2, 2003, Sunset Heights, as Declarant, filed a Declaration of Condominium Property Regime of Ko'olani in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration"), as the same may be amended and/or restated, and the Condominium Map was filed as Condominium Map No. 1572, as amended and/or restated.

B. Pursuant to the various subparts of Section Q of the Declaration, Declarant has the right to amend the Declaration and Condominium Map without being

required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to make alterations in the Community which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the apartment types or change the configuration of apartment built on a particular floor of the Tower).

C. Declarant has not conveyed any homes in the Community.

D. The Condominium Map has been amended to correct typographical errors on pages CPR-1.00 and CPR-2.02, to change the font size on various pages, to clarify operable window details on various pages, and to make minor modifications to graphic labeling and location of graphic labeling.

E. Declarant wishes to amend the Condominium Map to reflect the indicated changes.

AMENDMENT:

Pursuant to the rights reserved to Declarant in Section Q of the Declaration, Declarant hereby deletes pages CPR-0.01, CPR-0.02, CPR-1.00, CPR-1.03, CPR-2.02 through CPR-2.16, inclusive, CPR-3.01 through CPR 3.05, inclusive, CPR-3.07, CPR-4.01, and CPR-4.02 of the Condominium Map and substitutes therefor pages CPR-0.01, CPR-0.02, CPR-1.03, CPR-2.02 through CPR-2.16, inclusive, CPR-3.01 through CPR 3.05, inclusive, CPR-3.07, CPR-4.01, and CPR-4.02 of the Condominium Map and accompanying Architect's Certificate recorded and filed herewith.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN FRANCISCO)

On JULY 20, 2004, before me personally appeared **Saul Sack**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



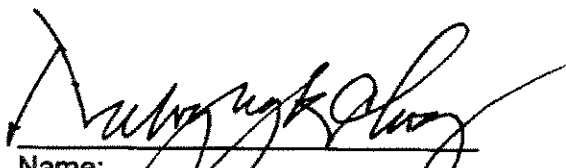
Trang M. Van
Notary Public, State of California
Type or print name: TRANG M. VAN

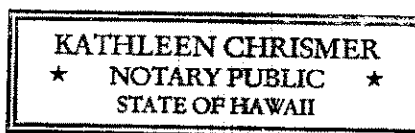
My commission expires: 3/25/07

ARCHITECT'S VERIFIED STATEMENT REGARDING
THE FLOOR PLANS AND ELEVATIONS FOR
KO'OLANI


The undersigned, a registered architect, does hereby verify, to the best of his/her knowledge, information, and belief that the foregoing sheets CPR-0.01, CPR-0.02, CPR-1.00, CPR-1.03, CPR-2.02 through CPR-2.16, inclusive, CPR-3.01 through CPR 3.05, inclusive, CPR-3.07, CPR-4.01, and CPR-4.02, filed or to be filed as the Condominium Map for Ko'olani, are accurate copies of portions of the plans of said community, as filed with the City and County of Honolulu having jurisdiction over the issuance of permits for the construction of this community.

Durrant Media Five


Name: _____
Hawaii Registration No. 2450



Subscribed and sworn to before me this
2nd day of August, 2004.


Type or print name: Kathleen Chrismer
Notary Public, State of Hawaii
My commission expires: May 13, 2005



L-628 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
NOV 04, 2003 10:00 AM

Doc No(s) 3021499
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 2/2 Z1

Return by Mail Pickup
Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Total Pages:

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF
KO'OLANI

(CONDOMINIUM MAP NO. 1572)

SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration") as the same may be further amended.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map").

B. Pursuant to Sections Q.2 and Q.5 of the Declaration, Declarant has reserved the right to amend the Declaration.

C. Declarant desires to amend Exhibit "B-1" to conform to the amendment to the Condominium Map.

AMENDMENT:

Pursuant to the rights reserved in the Declaration, Declarant hereby amends the Declaration as follows:

1. By deleting Exhibit "B-1" to the Declaration in its entirety, and substituting therefor the Exhibit "B-1" attached to this amendment, which exhibits shall supercede the existing Exhibit "B-1" in all respects.

2. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Declarant has executed this instrument as of October 31, 2003.

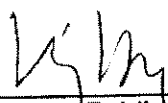
SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By: 
Name: Saul Sack
Title: Vice President

STATE OF California)
County of San Francisco) SS.

On October 31, 2003, before me personally appeared **Saul Sack**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.


Notary Public, State of California
Type or print name: Virginia Huntley
My commission expires: Nov. 26, 2006

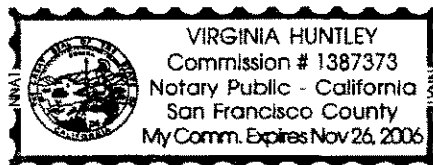


EXHIBIT "B-1"

(Description of Building and Apartments)

APARTMENT SUMMARY

Apartment Type	Quantity	Number of Bedrooms & Baths	Floor Levels	Approximate Net Living Area (Sq. Ft.)	Approx. Net Lanai Area (Sq. Ft.)	Approx. Net Rooftop Lanai Area (Sq. Ft.)	Total Area (Sq. Ft.)
1	40	2/2	5-45	1,364	0	0	1,364
2	26	3/2	5-31	1,561	0	0	1,561
2L	14	3/2	32-45	1,527	46	0	1,573
3	28	2/2	5-33	1,162	0	0	1,162
3L	12	2/2	34-45	1,120	49	0	1,169
4	30	2/2	5-35	1,157	0	0	1,157
4L	10	2/2	36-45	1,113	49	0	1,162
5	31	2/2	5, 7-37	1,157	0	0	1,157
5L	8	2/2	38-45	1,113	49	0	1,162
6	29	2/2	5, 7-35	1,157	0	0	1,157
6L	10	2/2	36-45	1,113	49	0	1,162
7	28	2/2	5-33	1,151	0	0	1,151
7L	12	2/2	34-45	1,108	49	0	1,157
8	25	2/2	6-31	1,518	0	0	1,518
8L	14	2/2	32-45	1,461	71	0	1,532
9	39	3/2	6-45	1,392	0	0	1,392
10	1	1/1	6	317	0	0	317
11	1	1/1	6	884	0	0	884
12	1	1/1	6	815	0	0	815
PH-01	1	2/2.5	46/47	1,960	0	0	1,960
PH-02	1	2/2.5	46/47	2,115	0	526	2,115
PH-03	1	2/2.5	46/47	1,927	0	587	1,927
PH-04	1	3/3.5	46/47	2,633	0	373	2,633
PH-05	1	4/4.5	46/47	2,611	0	363	2,611
PH-06	1	3/3.5	46/47	2,517	0	0	2,517
PH-07	1	4/4.5	46/47	2,613	0	476	2,613
PH-08	1	4/4.5	46/47	2,378	0	487	2,378
PH-09	1	2/2.5	46/47	1,802	0	433	1,802
PH-10	1	3/2.5	46/47	2,497	0	390	2,497
PH-11	1	2/2.5	46/47	1,798	0	0	1,798

DESCRIPTION OF FLOOR PLANS

RESIDENTIAL APARTMENTS

Type 1 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,364 square feet.

Type 2 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,561 square feet.

Type 2L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,527 square feet, and a lanai of approximately 46 square feet.

Type 3 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,162 square feet.

Type 3L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,120 square feet, and a lanai of approximately 49 square feet.

Type 4 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 4L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 5 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 5L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 6 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 6L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 7 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,151 square feet.

Type 7L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,108 square feet, and a lanai of approximately 49 square feet.

Type 8 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,518 square feet.

Type 8L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,461 square feet, and a lanai of approximately 71 square feet.

Type 9 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room and a laundry/utility room, and has a foyer. Each apartment has a net living area of approximately 1,392 square feet.

Type 10 apartments: Each apartment is a single-story studio apartment. Each apartment contains three (3) rooms, including a bedroom/living room, one (1) bathroom, and a foyer. Each apartment has a net living area of approximately 317 square feet.

Type 11 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 884 square feet.

Type 12 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 815 square feet.

Type PH-01 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,960 square feet.

Type PH-02 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,115 square feet, and a roof top lanai of approximately 526 square feet.

Type PH-03 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,927 square feet, and a roof top lanai of approximately 587 square feet.

Type PH-04 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,633 square feet, and a roof top lanai of approximately 373 square feet.

Type PH-05 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,611 square feet, and a roof top lanai of approximately 363 square feet.

Type PH-06 apartment: The apartment is a two-story apartment. Each apartment contains twelve (12) rooms, including three (3) bedrooms, three and a half (3-½) bathrooms, an office/study, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,517 square feet.

Type PH-07 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,613 square feet, and a roof top lanai of approximately 476 square feet.

Type PH-08 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½)

bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,378 square feet, and a roof top lanai of approximately 487 square feet.

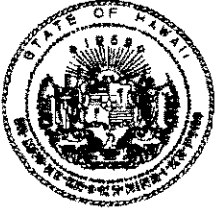
Type PH-09 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,802 square feet, and a roof top lanai of approximately 433 square feet.

Type PH-10 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains nine (9) rooms, including three (3) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,497 square feet, and a roof top lanai of approximately 390 square feet.

Type PH-11 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms, two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,798 square feet.

COMMERCIAL APARTMENTS

1. Commercial Apartment Type C-1 is an unimproved loft space. The apartment has approximately 13,353 net square feet.
2. Commercial Apartment Type C-2 is an unimproved loft space. The apartment has approximately 7,163 net square feet.



L-627 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
NOV 04, 2003 10:00 AM

Doc No(s) 3021498
on Cert(s) 643.161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/2 Z1

KM

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO CONDOMINIUM MAP FOR
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

This Amendment to Condominium Map for Ko'olani (Condominium Map No. 1572) (hereinafter referred to as this "Amendment"), is made as of October 31, 2003, by SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Sunset Heights").

RECITALS:

A. On October 2, 2003, Sunset Heights, as Declarant filed a Declaration of Condominium Property Regime of Ko'olani in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161, as the same may be amended and/or restated, and the Condominium Map was filed as Condominium Map No. 1572, as the same may be amended.

B. Pursuant to Sections Q.2 and Q.5 of the Declaration, Declarant has the right to amend the Declaration and Condominium Map without being required to obtain the

consent or joinder of any Apartment Owner, lien holder, or other persons, to make alterations in the Community which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the apartment types or change the configuration of apartment built on a particular floor of the Tower). Declarant has not conveyed any homes in the community.

C. The internal configuration of various apartments have been modified and the Condominium Map has been amended to reflect the revised features of various apartments in the community.

AMENDMENT:

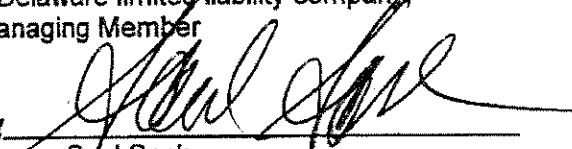
1. Pursuant to the rights reserved to Declarant in Sections Q.2 and Q.5 of the Declaration, Declarant hereby amends the Condominium Map by deleting in its entirety the Condominium Map and substituting therefor the entire substitute Condominium Map and Architect's Certificate filed concurrently herewith.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

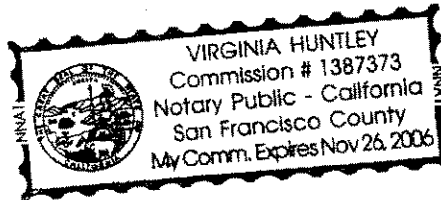
By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By: 
Name: Saul Sack
Title: Vice President

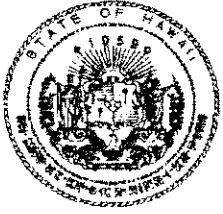
STATE OF California)
County of San Francisco) SS.

On October 31, 2003, before me personally appeared **Saul Sack**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Virginia Huntley
Notary Public, State of California
Type or print name: Virginia Huntley
My commission expires: November 26, 2006



25
c



L-642 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

NOV 21, 2003 11:00 AM

Doc No(s) 3031081

on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z4

pm

Return by Mail Pickup
Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Total Pages: 4

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani Condominium Map No. 1572 recorded in the Land Court of the State of Hawaii as Document No. 3004562; and noted on Certificate of Title No. 643,161 ("Declaration") as the same may be amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map").

B. Pursuant to Sections Q.2 and Q.5 of the Declaration, Declarant has reserved the right to amend the Declaration.

C. Declarant desires to amend and restate Sections Q.1(d) and Q.1(e)(1) of the Declaration.

AMENDMENT:

Pursuant to the rights reserved in the Declaration, Declarant hereby amends the Declaration as follows:

1. By deleting in its entirety Section Q.1(e)(1) of the Declaration in its entirety, and amending and restating Section Q.1(e)(1) as follows:

(1) No Effect on Buildings, Apartments, or Other Improvements Shown on Condominium Map. The deletion and removal of the Removable Land or the annexation of additional land or improvements described above shall not affect the layout, location, dimensions, or structure of any of the buildings, Apartments, or other improvements to the Community as shown on the Condominium Map; except to the extent such modifications are necessary to permit the annexation of additional land or improvements described above and/or the deletion and removal of the Removable Land.

3. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Declarant has executed this instrument as of October 31, 2003.

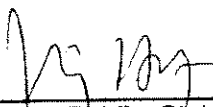
SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

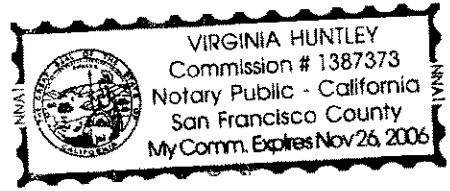
By: 
Name: Saul Sack
Title: Vice President

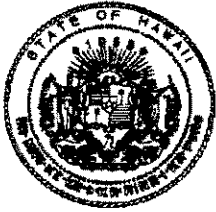
STATE OF California)
County of San Francisco) SS.
)

On October 31, 2003, before me personally appeared **Saul Sack**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Notary Public, State of California
Type or print name: Virginia Huntley
My commission expires: Nov. 26, 2006





L-615 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 04, 2004 12:00 PM
Doc No(s) 3119165
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/2 Z1

kh

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO CONDOMINIUM MAP FOR
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

This Amendment to Condominium Map for Ko'olani (Condominium Map No. 1572) (hereinafter referred to as this "Amendment"), is made as of May 25, 2004, 2004, by SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Sunset Heights").

RECITALS:

A. On October 2, 2003, Sunset Heights, as Declarant, filed a Declaration of Condominium Property Regime of Ko'olani in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration"), as the same may be amended and/or restated, and the Condominium Map was filed as Condominium Map No. 1572, as amended and/or restated.

B. Pursuant to the various subparts of Section Q of the Declaration, Declarant has the right to amend the Declaration and Condominium Map without being

required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to make alterations in the Community which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the apartment types or change the configuration of apartment built on a particular floor of the Tower).

C. Declarant has not conveyed any homes in the community.

D. The internal configuration of Type 1 Apartments and Penthouse units (Type PH) have been modified and the Condominium Map has been amended to reflect the revised features of various apartments in the community, and to extend the parking structure to provide additional parking stalls.

E. Declarant wishes to amend the Condominium Map to reflect the indicated changes.

AMENDMENT:


1. Pursuant to the rights reserved to Declarant in Section Q of the Declaration, Declarant hereby amends the Condominium Map by deleting in its entirety the Condominium Map and substituting therefor the entire substitute Condominium Map and Architect's Certificate filed concurrently herewith.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced
above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

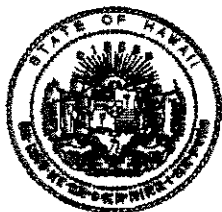
By 
Name: Saul Sack
Title: Vice President

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN FRANCISCO)

On MAY 25, 2004, before me personally appeared Saul Sack, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Trang M. Van
Notary Public, State of California
Type or print name: TRANG M. VAN
My commission expires: 3/25/07



L-830 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
MAR 31, 2005 10:30 AM,

Doc No(s) 3248363
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z4

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO CONDOMINIUM MAP FOR
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

This Amendment to Condominium Map for Ko'olani (Condominium Map No. 1572) (hereinafter referred to as this "Amendment"), is made as of March³⁰, 2005, by SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Sunset Heights").

RECITALS:

A. On October 2, 2003, Sunset Heights, as Declarant, filed a Declaration of Condominium Property Regime of Ko'olani in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration"), as the same may be amended and/or restated, and the Condominium Map was filed as Condominium Map No. 1572, as amended and/or restated. ✓

B. Pursuant to the various subparts of Section Q of the Declaration, Declarant has the right to amend the Declaration and Condominium Map without being ✓

required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to make alterations in the Community which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the apartment types or change the configuration of apartment built on a particular floor of the Tower).

C. Declarant has not conveyed any homes in the Community.

D. The Condominium Map has been amended to correct typographical errors on pages CPR-0.02, CPR-1.05 and CPR-1.06, to: (i) correct typographical errors on page CPR-0.02 regarding the unit numbers for certain Apartments on Floor 6; (ii) indicate on page CPR-0.02 the square footage of certain exclusive use courtyard lanais on Floors 5 and 6; and (iii) clarify on pages CPR-1.05 and CPR-1.06 the apartments to which exclusive use lanais are appurtenant as limited common elements.

E. Declarant wishes to amend the Condominium Map to reflect the indicated changes.

AMENDMENT:

Pursuant to the rights reserved to Declarant in Section Q of the Declaration, Declarant hereby deletes pages CPR-0.02, CPR-1.05 and CPR-1.06 of the Condominium Map and substitutes therefor pages CPR-0.02, CPR-1.05 and CPR-1.06 of the Condominium Map and accompanying Architect's Certificate recorded and filed herewith.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced
above.

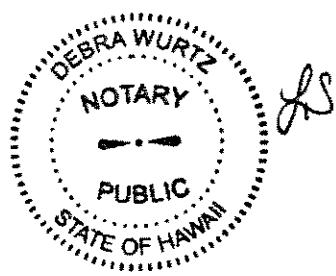
SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By 
Name: Rafael Baez
Title: Vice President

STATE OF HAWAII)
City & County of Honolulu) SS.

On March 28 2008, before me personally appeared **Rafael Baez**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Debra Wurtz
Notary Public, State of HAWAII
Type or print name: DEBRA WURTZ

My commission expires: Sept 12 2008



L-515 STATE OF HAWAII
 OFFICE OF ASSISTANT REGISTRAR
 RECORDED
 JAN 20, 2006 02:00 PM
 Doc No(s) 3381283
 on Cert(s) 643,161



/s/ CARL T. WATANABE
 ASSISTANT REGISTRAR

20 1/1 Z1

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
 737 Bishop Street, Suite 2600
 Honolulu, HI 96813

Total Pages: 11

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
 2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO DECLARATION
 OF CONDOMINIUM PROPERTY REGIME OF
 KO'OLANI
(CONDOMINIUM MAP NO. 1572)

On this 19th day of January 2006, SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani Condominium Map No. 1572 recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration") as amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map").

B. Pursuant to Section Q.1 of the Declaration, Declarant has reserved, notwithstanding the lease, sale or conveyance of any Apartment, the right to amend the Declaration without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons to reconfigure, delete and annex the lands subject to the Declaration.

C. Each of the applicable conditions to such reconfiguration and the actions further actions set forth in Section Q.1 of the Declaration has been satisfied.

D. In connection with the reconfiguration of the lands subject to the Declaration, Declarant desires to hereby amend the Declaration to revise the legal description of the land to accurately reflect the land to be described in and which is subject to the Declaration as shown and described in Exhibit "A" to the Declaration.

AMENDMENT:

1. Pursuant to the rights reserved to Declarant in Section Q.1 of the Declaration, Declarant hereby amends the Declaration by deleting the Exhibit "A" to the Declaration and substituting therefore the revised Exhibit "A" being filed herewith, which revised Exhibit "A" shall supersede Exhibit "A" to the Declaration.


2. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

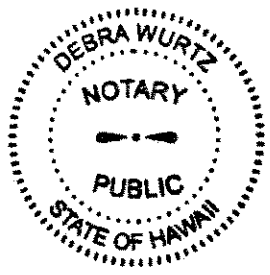
SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By  _____
Name: Rafael Baez
Title: Vice President

STATE OF HAWAII)
City + County Honolulu) SS.

On Jan 19 2006, before me personally appeared Rafael Baez, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s) and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Debra Wurtz
Notary Public, State of HAWAII
Type or print name: DEBRA WURTZ
My commission expires: Sept 12 2008

EXHIBIT "A"

That certain real property situate at Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

ITEM I:

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 1-A-2, area 150 square feet, and Lot 1-A-3, area 37,112 square feet, more or less, as shown on Map 3, filed with Land Court Consolidation No. 194 of Nauru Phosphate Royalties (Honolulu), Inc.

Together with access over Lot 915-B-1-A, Map 135 of Land Court Application No. 880, over Lot 915-C, Map 131 of Land Court Application No. 880, and thereafter to Waimanu Street, a public road, as set forth by Land Court Order No. 164227, recorded December 7, 2005.

ITEM II:

All of that certain parcel of land situate at Kawaiahao Street, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 2-A, area 6,751 square feet, more or less, as shown on Map 2, filed with Land Court Consolidation No. 188 of Waimanu Investment Venture, a Hawaii limited partnership.

Together with access to a public road, namely Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A); and set forth by Land Court Order No. 149189 (as to Lot 30-B).

ITEM III:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 4, area 20,391 square feet, more or less, as shown on Map 18, filed with Land Court Consolidation No. 53 of Victoria Ward, Limited.

Together with access to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4); and as set forth by Land Court Order No. 149188 (as to Lot 915-B).

ITEM IV:

FIRST:

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lots 915-B-1-A, area 81,183 square feet, more or less, as shown on Map 135 and 915-B-2, area 1,540 square feet, more or less, as shown on Map 132, said Maps filed with Land Court Application No. 880 of Bishop Trust Company, Limited.

Lot 915-B-1-A will have access over Lot 915-C, as shown on Map 131, to Waimanu Street, a public road, as set forth by Land Court Order No. 163904, recorded November 9, 2005.

SECOND:

All of those certain parcels of land situate at Kolowalu-Kai, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lots 30-B-1, area 5,281 square feet, more or less, and 30-B-2, area 1,620 square feet, more or less, as shown on Map 10, filed with Land Court Application No. 948 of Hawaiian Dredging Company, Limited.

Note: Lot 30-B-1 will have access over a portion of Lot 915-B-1, as shown on Map 132 of Land Court Application No. 880, to Lot 915-C, as shown on Map 131 of Land Court Application No. 880, and thereafter to Waimanu Street, a public road, as set forth by Land Court Order No. 155386.

Being the premises described in and covered by Transfer Certificate of Title No. 643,161 issued to Sunset Heights Hawaii, LLC, a Delaware limited liability company.

Together with (1) a non-exclusive 10 feet wide easement for underground utility and subsurface sewer purposes on, under, over and across property described in Exhibit "A" of Grant of Sewer Easement (Subsurface Sewer) and as granted by Grant of Sewer Easement (Subsurface Sewer) dated September 18, 2003, recorded October 15, 2003 as Land Court Document No. 3011013, noted on Transfer Certificate of Title Nos. 642,199; 642,192; 635,293 and 635,298; (2) the right under that certain unrecorded Construction License and Right of Entry Agreement dated March 29, 2004 (the "Hokua License") to construct and install sewer improvements, require the dedication to the City and County of Honolulu of such sewer improvements upon the completion of construction of such sewer improvements and the right to require that an easement be delivered to the City, in accordance with and subject to the terms of the Hokua License; and (3) the right under that certain unrecorded Construction License and Right of Entry Agreement, dated December 19, 2003 (the "VWL License") to construct and install sewer improvements, require the dedication to the City and County of Honolulu of such improvements upon the completion of construction of such sewer improvements and the right to require that an easement be delivered to the City, in accordance with and subject to the terms of the VWL License.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the unrecorded Planned Development Permit No. PD 2-84 and Kakaako Community Development District Plan dated November 7, 1984, issued to the Nauru Phosphate Royalties Trust by the Hawaii Community Development Authority.

Said Planned Development Permit was amended on October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994, January

24, 1997, August 2, 2000, April 2, 2002, September 13, 2002, March 24, 2003, April 11, 2003, December 12, 2003 and July 14, 2004.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, assigning all of the right, title and interest in and to the Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Phase I Site, subject to the terms and conditions of the Development Permit, to the Plan and Rules, and this Partial Assignment, recorded June 29, 1989 as Land Court Document No. 1646277.

Consent thereto given by Hawaii Community Development Authority, State of Hawaii, by instrument recorded June 29, 1989 as Land Court Document No. 1646278.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated November 2, 1994, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Waimanu Investment Venture, a Hawaii limited partnership, and Waldron Ventures, a Hawaii general partnership, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Reserved Housing Site, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment to the extent that they affect the Reserved Housing Project and the Reserved Housing Site, recorded November 2, 1994 as Land Court Document No. 2192784.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded November 2, 1994 as Land Court Document No. 2192785.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated June 1, 1997, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of Lot 2, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment, recorded June 20, 1997 as Land Court Document No. 2387444.

Assignment of Rights and Obligations Under Planned Development Permit and Cancellation and Termination of Partial Assignment dated May 1, 1998, made by and between Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, Assignor, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Assignee, assigning all of the Assignor's right, obligations and liabilities under the Planned Development Permit dated November 7, 1984, as amended, terminating the Partial Assignment dated June 1, 1997, and mutually releasing each other from all claims related thereto, recorded June 5, 1998 as Land Court Document No. 2461954.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated April 17, 2003 recorded April 22, 2003 as Land Court Document No. 2918295.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded April 22, 2003 as Land Court Document No. 2918296.

2. AS TO ITEM I (Lot 1-A-3):

- a. Drainage and temporary construction easements, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430, and as shown on the survey by Miles S. Horie, Licensed Professional Land Surveyor, of Engineers Surveyors Hawaii, Inc., dated April 6, 2004, revised April 13, 2004, April 26, 2004, and February 23, 2005 (the "Survey").
- b. Easement in favor of the Board of Water Supply, City and County of Honolulu, for right of way for an underground water line or pipe lines, shown on Map No. 1 filed with Land Court Application No. 1250 (now a portion of Lot 1-A), as set forth by Decree 1363, recorded June 26, 1940, and as shown on the Survey.
- c. Easement (area 1,840 square feet) in favor of the City and County of Honolulu, for drainage purposes, shown on Map No. 4 filed with Land Court Application No. 1250, as set forth by Land Court Order No. 37100, recorded March 20, 1973, and as shown on the Survey.
- d. Easement (area 1,297 square feet) in favor of the City and County of Honolulu for drainage purposes, shown on Map No. 6 filed with Land Court Application No. 784, as set forth by Land Court Order No. 37122, recorded March 22, 1973, and as shown on the Survey.

3. AS TO ITEM III (Lot 4):

- a. Easement for drainage purposes (Parcel 16, area 3,934 square feet), in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33118, and also recorded September 6, 1973 as Land Court Document No. 648352, and as shown on the Survey.
- b. Easement for drainage purposes, shown on Map No. 14 filed with Land Court Consolidation No. 53, as set forth by Land Court Order No. 38673, recorded November 14, 1973, and as shown on the Survey.
- c. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Deed and Covenants, recorded April 11, 2003 as Land Court Document No. 2914554.

4. AS TO ITEM IV, FIRST (Lot 915-B-1-A):

- a. Easement for drainage and temporary construction easements for rights of way, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430, and as shown on the Survey.
 - b. Easement (40 feet wide) for drainage purposes, shown on Map No. 123 filed with Land Court Application No. 880, as set forth by Land Court Order No. 37124, recorded March 22, 1973, and as shown on the Survey.
 - c. Access rights in favor of Lot 4 of Land Court Consolidation No. 53, to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149188, recorded January 28, 2003 (as to Lot 915-B), and as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4).
 - d. Restriction of vehicular access shown on Map No. 134 filed with Land Court Application No. 880, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - e. Easement W for traffic signal facilities as shown on Map 134, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - f. Easement X for traffic signal facilities as shown on Map 134, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - g. Easement Y for sanitary sewer as shown on Map 135, as set forth by Land Court Order No. 163904, recorded November 9, 2005.
5. AS TO ITEM IV, SECOND (Lot 30-B-1):
- a. Access rights in favor of Lot 2-A of Land Court Consolidation No. 188, to Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149189, recorded January 28, 2003 (as to Lot 30-B); and set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A).
 - b. Restriction of vehicular access shown on Map No. 10 filed with Land Court Application No. 948, as set forth by Land Court Order No. 155386, recorded March 10, 2004, and as shown on the Survey.
6. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Planned Development Agreement, recorded June 28, 1989 as Land Court Document No. 1645703.
- Said Planned Development Permit was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914559.
7. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement Regarding Allocation of Space to Industrial Use, recorded June 29, 1989 as Land Court Document No. 1646279.

Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914561.

8. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement to Provide Necessary Perpetual Public Easement Areas for Upper-Level Pedestrian Walkways, recorded June 29, 1989 as Land Court Document No. 1646280.

Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914563.

9. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Declaration of Restrictive Covenant, recorded April 11, 2003 as Land Court Document No. 2914558.

10. The terms and provisions contained in the 404 Piikoi Planned Development Joint Development Agreement dated as of July 14, 2003, made by and between Sunset Heights Hawaii, LLC, a Delaware limited liability company, and Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, recorded August 7, 2003 as Land Court Document No. 2973501.

11. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Declaration of Merger of Condominium Phases for Ko'olani recorded October 2, 2003 as Land Court Document No. 3004561.

12. Land Court Condominium Map No. 1572, as amended by instruments dated October 31, 2003, recorded November 4, 2003 as Land Court Document No. 3021498, dated May 25, 2004, recorded June 4, 2004 as Land Court Document No. 3119165, dated August 3, 2004, recorded August 3, 2004 as Land Court Document No. 3146592, and dated as of March 30, 2005, recorded March 31, 2005 as Land Court Document No. 3248363, as the same may be amended, restated and/or supplemented.

13. The terms and provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime dated July 30, 2003, recorded October 2, 2003 as Land Court Document No. 3004562.

The foregoing Declaration was amended by instruments dated October 31, 2003, recorded November 4, 2003 as Land Court Document No. 3021499, dated October 31, 2003, recorded November 21, 2003 as Land Court Document No. 3031081, dated May 25, 2004, recorded June 4, 2004 as Land Court Document No. 3119166, recorded June 25, 2004 as Land Court Document No. 3128149, as the same may be amended, restated and/or supplemented.

14. The terms and provisions contained in or incorporated by reference in the Condominium By-Laws dated July 30, 2003, recorded October 2, 2003 as Land Court Document No. 3004563, as the same may be further amended, restated and/or supplemented.

15. The terms and provisions contained in the Grant of Sewer Easement (Subsurface Sewer) dated September 18, 2003, made by and between Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, and Sunset Heights Hawaii, LLC, a Delaware limited liability company, recorded October 15, 2003 as Land Court Document No. 3011013, and as shown on the Survey.
16. A wooden barrier crosses the South boundary, a chain link fence crosses the East boundary, and upper level concrete walls on parking structure cross West boundary (3 walls), as shown on the survey by Miles S. Horie, Licensed Professional Land Surveyor, of Engineers Surveyors Hawaii, Inc., dated April 6, 2004, April 13, 2004, April 26, 2004 and February 23, 2005.
17. A Grant of Easement for electrical, communication and utility purposes over Easement 1, affecting Lot 915-B-1 and Easement 2, affecting Lot 1-A, in favor of Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. (formerly known as Verizon Hawaii Inc.), recorded May 25, 2004 as Land Court Document No. 3113850.

The foregoing Grant of Easement was amended by instrument recorded August 25, 2005 as Land Court Document No. 3317858.

18. A mortgage to secure an original principal indebtedness of \$212,500,000.00, and any other amounts or obligations secured thereby.

Dated: March 3, 2005

Mortgagor: Sunset Heights Hawaii, LLC, a Delaware limited liability company

Mortgagee: HSBC Realty Credit Corporation (USA), a Delaware corporation, as agent for itself and other co-lenders as may exist from time to time, their successors and/or assigns, as their interests may appear

Recorded March 3, 2005 as Land Court Document No. 3236690.

19. The Assignment of Rents and Leases dated March 3, 2005 in favor of HSBC Realty Credit Corporation (USA), a Delaware corporation, as administrative agent for itself and certain co-lenders, as additional security for the payment of the indebtedness in the amount of \$212,500,000.00, which was recorded March 3, 2005 as Document No. 2005-042937.

20. A financing statement

Debtor: Sunset Heights Hawaii, LLC

Secured Party: HSBC Realty Credit Corporation (USA)

Recorded March 3, 2005 as Document No. 2005-042938.

END OF EXHIBIT "A"



L-516 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JAN 20, 2006 02:00 PM
Doc No(s) 3381264
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1

RETURN BY MAIL PICKUP XX TO:

Case, Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.),
2-3-005-027-0000 (por.), 2-3-007-002-0000 (por.)

AMENDMENT TO CONDOMINIUM MAP FOR
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

This Amendment to Condominium Map for Ko'olani (Condominium Map No. 1572) (hereinafter referred to as this "Amendment"), is made as of January 19, 2006, by SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Sunset Heights").

RECITALS:

A. On October 2, 2003, Sunset Heights, as Declarant, filed a Declaration of Condominium Property Regime of Ko'olani in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 ("Declaration"), as the same may be amended and/or restated, and the Condominium Map was filed as Condominium Map No. 1572, as amended and/or restated.

B. Pursuant to Section Q.1 of the Declaration, Declarant has the right to amend the Declaration and Condominium Map without being required to obtain the consent or

joinder of any Apartment Owner, lien holder, or other persons to reconfigure, delete and annex the lands subject to the Declaration.

C. Each of the applicable conditions to such reconfiguration and the actions further actions set forth in Section Q.1 of the Declaration has been satisfied.

D. In connection with the reconfiguration of the lands subject to the Declaration, Declarant desires to hereby amend pages CPR-1.00 and CPR-1.01 of the Condominium Map.

E. Declarant wishes to amend the Condominium Map to reflect the indicated changes.

AMENDMENT:


Pursuant to the rights reserved to Declarant in Section Q.1 of the Declaration, Declarant hereby deletes pages CPR-1.00 and CPR-1.01 of the Condominium Map and substitutes therefor pages CPR-1.00 and CPR-1.01 of the Condominium Map and accompanying Architect's Certificate recorded and filed herewith.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

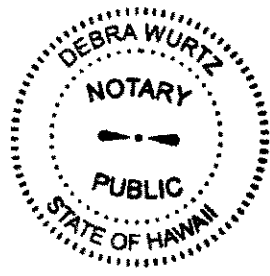
SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By  _____
Name: Rafael Baez
Title: Vice President

STATE OF HAWAII)
City + County Honolulu) SS.
)

On Jan 19, 2008 ^{du}, before me personally appeared **Rafael Baez**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Debra Wurtz
Notary Public, State of HAWAII
Type or print name: DEBRA WURTZ
My commission expires: Sept 12, 2008



L-273 STATE OF HAWAII
 OFFICE OF ASSISTANT REGISTRAR
 RECORDED
 MAY 18, 2006 08:01 AM
 Doc No(s) 3430251
 on Cert(s) 643,161 & 798,968



/s/ CARL T. WATANABE
 ASSISTANT REGISTRAR

20 1/3 Z7

xw

RETURN BY MAIL PICKUP XX TO:

Case, Lombardi & Pettit (DML)
 737 Bishop Street, Suite 2600
 Honolulu, HI 96813

Total Pages: 4

2343048(LH)

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.)

AMENDMENT TO DECLARATION
 OF CONDOMINIUM PROPERTY REGIME OF
 KO'OLANI

(CONDOMINIUM MAP NO. 1572)

(Storage Area for Apartment No. 1401)

On this 11th day of May, 2006, SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani (Condominium Map No. 1572) recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title Nos. 643,161 and 798,968 ("Declaration") as amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map"), as amended.

FAM

2343048

LC

1

B. Pursuant to Section E.18 of the Declaration, Declarant has reserved the exclusive right to assign to Owners the right to use any designated storage area not included as a component of a Parking Stall.

C. Declarant desires to exercise such right to assign a storage area to Apartment No. 1401.

AMENDMENT:

1. Pursuant to the rights reserved to Declarant in Section E.18 of the Declaration, Declarant hereby assigns Storage Area No. S-209 to owner(s) of Apartment No. 1401, as limited common interest appurtenant to such apartment.

2. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

By _____
Name: Rafael Baez
Title: Vice President

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On May 11, 2006, before me personally appeared **Rafael Baez**, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Colleen Mae Okashige

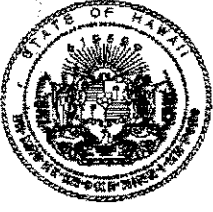
Notary Public, State of Hawaii

Type or print name: Colleen Mae Okashige

My commission expires: 11/14/07



25
18
302



L-181 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 13, 2006 08:01 AM
Doc No(s) 3438941
on Cert(s) AS LISTED HEREIN



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

21 1/1 Z11

KM

RETURN BY MAIL PICKUP XX TO:

FAM
1792090

Case, Lombardi & Pettit (DML)
737 Bishop Street, Suite 2600
Honolulu, HI 96813

THIS INSTRUMENT FILED FOR RECORD BY
FIRST AMERICAN TITLE COMPANY, INC. AS
AN ACCOMODATION ONLY IT HAS NOT BEEN
EXAMINED AS TO ITS EXECUTION OR AS TO
ITS EFFECT UPON THE TITLE.

Total Pages: 21

Tax Map Key No.: (1) 2-3-006-014-0000 (por.)

AMENDMENT TO DECLARATION
OF CONDOMINIUM PROPERTY REGIME OF
KO'OLANI
(CONDOMINIUM MAP NO. 1572)

On this 13 day of June 2006, SUNSET HEIGHTS HAWAII, LLC, a Delaware limited liability company, the address of which is 2930 Biscayne Boulevard, Miami, Florida 33137 (hereinafter called "Declarant"), does hereby amend that certain Declaration of Condominium Property Regime of Ko'olani Condominium Map No. 1572 recorded in the Land Court of the State of Hawaii as Document No. 3004562, and noted on Certificate of Title No. 643,161 and those noted on Schedule 1 attached hereto ("Declaration") as amended and/or supplemented.

RECITALS:

A. By Declaration, Declarant submitted certain land and improvements, as described in the Declaration, to a condominium property regime (hereinafter "Community"), with the plans therefor filed as Condominium Map No. 1572 in said Land Court ("Condominium Map").

B. Pursuant to Sections Q.1, Q.3 and Q.5 of the Declaration, Declarant has reserved, notwithstanding the lease, sale or conveyance of any Apartment, the right to amend the Declaration without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons.

C. Declarant desires to amend Sections E.18 and P.3 of the Declaration for clarification purposes.

AMENDMENT:

1. Pursuant to the rights reserved to Declarant in Section Q.1 of the Declaration, Declarant hereby amends the Declaration by deleting the Exhibit "A" to the Declaration and substituting therefor the revised Exhibit "A" being filed herewith, which revised Exhibit "A" shall supersede Exhibit "A" to the Declaration.

2. Pursuant to the rights reserved to Declarant in Sections Q.3 and Q.5 of the Declaration, Declarant hereby amends the Declaration as follows:

2.1 Declarant hereby amends Section E.18 of the Declaration by deleting the first sentence thereof in its entirety and substituting therefor the following sentence: "Storage areas shown on the Condominium Map bearing the same number (preceded by 'S-') as the Parking Stall shall be appurtenant to the Apartment to which the Parking Stall is assigned."

2.2 Declarant hereby amends Section P.3 of the Declaration by deleting the first sentence thereof in its entirety and substituting therefor the following sentence (for convenience only, modified language appears in italics):

"Declarant, its contractors, subcontractors, licensees, Mortgagees, and assigns, and their respective employees and agents, shall have the right, and an easement in favor of Declarant and its successors and assigns is hereby granted, to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable, or useful for designing, developing, constructing, or completing any additional phase to the Community, connecting any such additional phase to the roads and utility installations of the Community, and selling the apartments contained within any such additional phase, including, but not limited to, *(i) the right to consolidate any parcel(s) of land covered by this Declaration with any other parcel(s) of land in connection with the merger of phases for ownership purposes, as provided in the Declaration of Merger and (ii) the right to create a passage way through the eastern facing (Ala Moana Shopping Center side) portion of the parking garage in a location dictated by proper engineering and in compliance with all laws to facilitate access to the parking garage of such additional phase and to permit vehicular access to the parking garage of such additional phase through the parking garage of the Community as set forth in this Section P.3; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to*

the Community and the exercise of the right set forth in the foregoing clause (ii) specifically shall not disturb existing parking stalls and shall have minimal impact on the traffic circulation pattern in the parking garage of the Community; and provided further that any person exercising any such rights shall use reasonable efforts, without additional cost to Declarant and consistent with maintaining the progress of the design, development, construction, completion, and sale of the additional phase to minimize interference with the Apartment Owners' use and enjoyment of the Community."

2.3 Declarant hereby amends Exhibit "B-3" to the Declaration by deleting Paragraph 4 thereof in its entirety and substituting therefor the following Paragraph:

"4. Storage areas shown on the Condominium Map bearing the same number (preceded by 'S-') as the Parking Stall shall be appurtenant to the Apartment to which the Parking Stall is assigned."

3. Except as amended by this instrument, the Declaration shall continue in full force and effect as first written.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DECLARANT has duly executed this instrument as of the date first referenced above.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: SUNSET HEIGHTS HAWAII HOLDINGS, LLC,
a Delaware limited liability company,
Managing Member

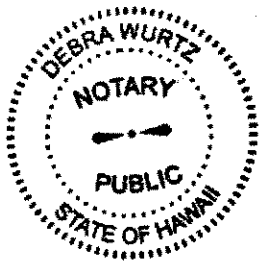
By


Name: Rafael Baez

Title: Vice President

STATE OF HAWAII)
City and) SS.
COUNTY OF HONOLULU)

On June 6, 2006, before me personally appeared Rafael Baez, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s) and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Debra Wurtz
Notary Public, State of HAWAII
Type or print name: DEBRA WURTZ
My commission expires: Sept 12 2008

EXHIBIT "A"

That certain real property situate at Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

ITEM I:

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 1-A-2, area 150 square feet, and Lot 1-A-3, area 37,112 square feet, more or less, as shown on Map 3, filed with Land Court Consolidation No. 194 of Nauru Phosphate Royalties (Honolulu), Inc.

Together with access over Lot 915-B-1-A, Map 135 of Land Court Application No. 880, over Lot 915-C, Map 131 of Land Court Application No. 880, and thereafter to Waimanu Street, a public road, as set forth by Land Court Order No. 164227, recorded December 7, 2005.

ITEM II:

All of that certain parcel of land situate at Kawaiahao Street, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 2-A, area 6,751 square feet, more or less, as shown on Map 2, filed with Land Court Consolidation No. 188 of Waimanu Investment Venture, a Hawaii limited partnership.

Together with access to a public road, namely Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A); and set forth by Land Court Order No. 149189 (as to Lot 30-B).

ITEM III:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 4, area 20,391 square feet, more or less, as shown on Map 18, filed with Land Court Consolidation No. 53 of Victoria Ward, Limited.

Together with access to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4); and as set forth by Land Court Order No. 149188 (as to Lot 915-B).

ITEM IV:

FIRST:

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 915-B-1-A, area 81,183 square feet, more or less, as shown on Map 135, as shown on Map 132, filed with Land Court Application No. 880 of Bishop Trust Company, Limited.

Lot 915-B-1-A will have access over Lot 915-C, as shown on Map 131, to Waimanu Street, a public road, as set forth by Land Court Order No. 163904, recorded November 9, 2005.

SECOND:

All of those certain parcels of land situate at Kolowalu-Kai, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 30-B-1, area 5,281 square feet, more or less, as shown on Map 10, filed with Land Court Application No. 948 of Hawaiian Dredging Company, Limited.

Note: Lot 30-B-1 will have access over a portion of Lot 915-B-1, as shown on Map 132 of Land Court Application No. 880, to Lot 915-C, as shown on Map 131 of Land Court Application No. 880, and thereafter to Waimanu Street, a public road, as set forth by Land Court Order No. 155386.

Being the premises described in and covered by Transfer Certificate of Title No. 643,161, and those noted on Schedule 1 attached hereto.

Together with (1) a non-exclusive 10 feet wide easement for underground utility and subsurface sewer purposes on, under, over and across property described in Exhibit "A" of Grant of Sewer Easement (Subsurface Sewer) and as granted by Grant of Sewer Easement (Subsurface Sewer) dated September 18, 2003, recorded October 15, 2003 as Land Court Document No. 3011013, noted on Transfer Certificate of Title Nos. 642,199; 642,192; 635,293 and 635,298; (2) the right under that certain unrecorded Construction License and Right of Entry Agreement dated March 29, 2004 (the "Hokua License") to construct and install sewer improvements, require the dedication to the City and County of Honolulu of such sewer improvements upon the completion of construction of such sewer improvements and the right to require that an easement be delivered to the City, in accordance with and subject to the terms of the Hokua License; and (3) the right under that certain unrecorded Construction License and Right of Entry Agreement, dated December 19, 2003 (the "VWL License") to construct and install sewer improvements, require the dedication to the City and County of Honolulu of such improvements upon the completion of construction of such sewer improvements and the right to require that an easement be delivered to the City, in accordance with and subject to the terms of the VWL License.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the unrecorded Planned Development Permit No. PD 2-84 and Kakaako Community Development District Plan dated November 7, 1984, issued to the Nauru Phosphate Royalties Trust by the Hawaii Community Development Authority.

Said Planned Development Permit was amended on October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994, January 24, 1997, August 2, 2000, April 2, 2002, September 13, 2002, March 24, 2003, April 11, 2003, December 12, 2003 and July 14, 2004.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, assigning all of the right, title and interest in and to the Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Phase I Site, subject to the terms and conditions of the Development Permit, to the Plan and Rules, and this Partial Assignment, recorded June 29, 1989 in said Land Court as Document No. 1646277.

Consent thereto given by Hawaii Community Development Authority, State of Hawaii, by instrument recorded June 29, 1989 in said Land Court as Document No. 1646278.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated November 2, 1994, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Waimanu Investment Venture, a Hawaii limited partnership, and Waldron Ventures, a Hawaii general partnership, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Reserved Housing Site, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment to the extent that they affect the Reserved Housing Project and the Reserved Housing Site, recorded November 2, 1994 in said Land Court as Document No. 2192784.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded November 2, 1994 in said Land Court as Document No. 2192785.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated June 1, 1997, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of Lot 2, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment, recorded June 20, 1997 in said Land Court as Document No. 2387444.

Assignment of Rights and Obligations Under Planned Development Permit and Cancellation and Termination of Partial Assignment dated May 1, 1998, made by and between Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, Assignor, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Assignee, assigning all of the Assignor's right, obligations and liabilities under the Planned Development Permit dated November 7, 1984, as amended, terminating the Partial Assignment dated June 1, 1997, and mutually releasing each other from all claims related thereto, recorded June 5, 1998 in said Land Court as Document No. 2461954.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated April 17, 2003 recorded April 22, 2003 in said Land Court as Document No. 2918295.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded April 22, 2003 in said Land Court as Document No. 2918296.

2. AS TO ITEM I (Lot 1-A-3):

- a. Drainage and temporary construction easements, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 in said Land Court as Document No. 611430, and as shown on the survey by Miles S. Horie, Licensed Professional Land Surveyor, of Engineers Surveyors Hawaii, Inc., dated April 6, 2004, revised April 13, 2004, April 26, 2004, and February 23, 2005 (the "Survey").
- b. Easement in favor of the Board of Water Supply, City and County of Honolulu, for right of way for an underground water line or pipe lines, shown on Map No. 1 filed with Land Court Application No. 1250 (now a portion of Lot 1-A), as set forth by Decree 1363, recorded June 26, 1940, and as shown on the Survey.
- c. Easement (area 1,840 square feet) in favor of the City and County of Honolulu, for drainage purposes, shown on Map No. 4 filed with Land Court Application No. 1250, as set forth by Land Court Order No. 37100, recorded March 20, 1973, and as shown on the Survey.
- d. Easement (area 1,297 square feet) in favor of the City and County of Honolulu for drainage purposes, shown on Map No. 6 filed with Land Court Application No. 784, as set forth by Land Court Order No. 37122, recorded March 22, 1973, and as shown on the Survey.

3. AS TO ITEM III (Lot 4):

- a. Easement for drainage purposes (Parcel 16, area 3,934 square feet), in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33118, and also recorded September 6, 1973 in said Land Court as Document No. 648352, and as shown on the Survey.

- b. Easement for drainage purposes, shown on Map No. 14 filed with Land Court Consolidation No. 53, as set forth by Land Court Order No. 38673, recorded November 14, 1973, and as shown on the Survey.
 - c. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Deed and Covenants, recorded April 11, 2003 in said Land Court as Document No. 2914554.
 4. AS TO ITEM IV, FIRST (Lot 915-B-1-A):
 - a. Easement for drainage and temporary construction easements for rights of way, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 in said Land Court as Document No. 611430, and as shown on the Survey.
 - b. Easement (40 feet wide) for drainage purposes, shown on Map No. 123 filed with Land Court Application No. 880, as set forth by Land Court Order No. 37124, recorded March 22, 1973, and as shown on the Survey.
 - c. Access rights in favor of Lot 4 of Land Court Consolidation No. 53, to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149188, recorded January 28, 2003 (as to Lot 915-B), and as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4).
 - d. Restriction of vehicular access shown on Map No. 134 filed with Land Court Application No. 880, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - e. Easement W for traffic signal facilities as shown on Map 134, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - f. Easement X for traffic signal facilities as shown on Map 134, as set forth by Land Court Order No. 163886, recorded November 8, 2005.
 - g. Easement Y for sanitary sewer as shown on Map 135, as set forth by Land Court Order No. 163904, recorded November 9, 2005.
 5. AS TO ITEM IV, SECOND (Lot 30-B-1):
 - a. Access rights in favor of Lot 2-A of Land Court Consolidation No. 188, to Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149189, recorded January 28, 2003 (as to Lot 30-B); and set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A).
 - b. Restriction of vehicular access shown on Map No. 10 filed with Land Court Application No. 948, as set forth by Land Court Order No. 155386, recorded March 10, 2004, and as shown on the Survey.
 6. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Planned Development Agreement, recorded June 28, 1989 in said Land Court as Document No. 1645703.

Said Planned Development Permit was amended by instrument recorded April 11, 2003 in said Land Court as Document No. 2914559.

7. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement Regarding Allocation of Space to Industrial Use, recorded June 29, 1989 in said Land Court as Document No. 1646279.

Said Agreement was amended by instrument recorded April 11, 2003 in said Land Court as Document No. 2914561.

8. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement to Provide Necessary Perpetual Public Easement Areas for Upper-Level Pedestrian Walkways, recorded June 29, 1989 in said Land Court as Document No. 1646280.

Said Agreement was amended by instrument recorded April 11, 2003 in said Land Court as Document No. 2914563.

9. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Declaration of Restrictive Covenant, recorded April 11, 2003 in said Land Court as Document No. 2914558.

10. The terms and provisions contained in the 404 Piikoi Planned Development Joint Development Agreement dated as of July 14, 2003, made by and between Sunset Heights Hawaii, LLC, a Delaware limited liability company, and Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, recorded August 7, 2003 in said Land Court as Document No. 2973501.

11. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Declaration of Merger of Condominium Phases for Ko'olani recorded October 2, 2003 in said Land Court as Document No. 3004561.

12. Land Court Condominium Map No. 1572, as amended by instruments dated October 31, 2003, recorded November 4, 2003 in said Land Court as Document No. 3021498, dated May 25, 2004, recorded June 4, 2004 in said Land Court as Document No. 3119165, dated August 3, 2004, recorded August 3, 2004 in said Land Court as Document No. 3146592, dated as of March 30, 2005, recorded March 31, 2005 in said Land Court as Document No. 3248363, and dated January 19, 2006, recorded January 20, 2006 in said Land Court as Document No. 3381284, as the same may be further amended, restated and/or supplemented.

13. The terms and provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime dated July 30, 2003, recorded October 2, 2003 in said Land Court as Document No. 3004562.

The foregoing Declaration was amended by instruments dated October 31, 2003, recorded November 4, 2003 in said Land Court as Document No. 3021499, dated October 31, 2003, recorded November 21, 2003 in said Land Court as Document No. 3031081, dated May 25, 2004, recorded June 4, 2004 in said Land Court as Document No. 3119166, recorded June 25, 2004 in said Land Court as Document No. 3128149, and dated January 19, 2006, recorded January 20, 2006 in said Land Court as Document No. 3381283, as the same may be further amended, restated and/or supplemented.

14. The terms and provisions contained in or incorporated by reference in the Condominium By-Laws dated July 30, 2003, recorded October 2, 2003 in said Land Court as Document No. 3004563, as the same may be further amended, restated and/or supplemented.
15. The terms and provisions contained in the Grant of Sewer Easement (Subsurface Sewer) dated September 18, 2003, made by and between Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, and Sunset Heights Hawaii, LLC, a Delaware limited liability company, recorded October 15, 2003 in said Land Court as Document No. 3011013, and as shown on the Survey.
16. A wooden barrier crosses the South boundary, a chain link fence crosses the East boundary, and upper level concrete walls on parking structure cross West boundary (3 walls), as shown on the survey by Miles S. Horie, Licensed Professional Land Surveyor, of Engineers Surveyors Hawaii, Inc., dated April 6, 2004, April 13, 2004, April 26, 2004 and February 23, 2005.
17. A Grant of Easement for electrical, communication and utility purposes over Easement 1, affecting Lot 915-B-1 and Easement 2, affecting Lot 1-A, in favor of Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. (formerly known as Verizon Hawaii Inc.), recorded May 25, 2004 in said Land Court as Document No. 3113850.

The foregoing Grant of Easement was amended by instrument recorded August 25, 2005 in said Land Court as Document No. 3317858.

END OF EXHIBIT "A"

SCHEDULE 1
(Schedule of Certificates of Title)

Schedule 1

Unit No.	TCT
501	798,883
502	804,946
503	798,884
504	798,885
505	798,886
506	798,887
507	798,888
601	798,890
602	798,891
603	799,961
604	798,893
607	798,894
608	798,895
609	798,896
612	798,897
701	798,902
702	798,903
703	803,946
704	798,905
705	798,906
706	798,907
707	798,908
708	798,909
709	798,910
801	798,911
802	798,912
803	798,913
804	798,914
805	798,915
806	798,916
807	798,917
808	798,918
809	798,919
901	798,920
902	798,921
903	798,922
904	798,923
905	798,924
906	798,925
907	798,926
908	798,927
909	798,928
1001	798,932
1002	798,933
1003	798,934
1004	798,935
1005	798,936
1006	798,937
1007	798,938

1008	798,939
1009	798,940
1101	798,950
1102	798,951
1103	798,952
1104	798,953
1105	798,954
1106	798,955
1107	798,956
1108	798,957
1109	798,958
1201	798,959
1202	798,960
1203	798,961
1204	798,962
1205	798,963
1206	800,303
1207	798,965
1208	798,966
1209	798,967
1401	805,639
1402	798,969
1403	798,970
1404	798,971
1405	798,972
1406	798,973
1407	798,974
1408	798,975
1409	798,976
1501	798,977
1502	798,978
1503	798,979
1504	798,980
1505	798,981
1506	798,982
1507	798,983
1508	798,984
1509	798,985
1601	798,986
1602	798,987
1603	798,988
1604	798,989
1605	798,990
1606	798,991
1607	798,992
1608	798,993
1609	798,994
1701	798,995
1702	798,996
1703	798,997
1704	798,998
1705	798,999

1706	799,000
1707	799,001
1708	799,002
1709	799,003
1801	799,004
1802	799,005
1803	799,006
1804	799,007
1805	799,008
1806	799,009
1807	799,010
1808	799,011
1809	803,316
1901	799,013
1902	799,014
1903	799,015
1904	799,016
1905	799,017
1906	799,018
1907	799,019
1908	799,020
1909	799,021
2001	799,022
2002	799,023
2003	799,024
2004	799,025
2005	799,026
2006	799,027
2007	799,028
2008	799,029
2009	799,030
2101	799,039
2102	799,040
2103	799,041
2104	799,042
2105	799,043
2106	799,044
2107	799,045
2108	799,046
2109	799,047
2201	799,048
2202	799,049
2203	799,050
2204	799,051
2205	799,052
2206	799,053
2207	799,054
2208	799,055
2209	799,056
2301	799,057
2302	799,058
2303	799,059

2304	799,060
2305	799,061
2306	799,062
2307	799,064
2308	799,065
2309	799,066
2401	799,067
2402	799,068
2403	799,069
2404	799,070
2405	799,071
2406	799,072
2407	799,073
2408	799,074
2409	799,075
2501	799,076
2502	799,077
2503	799,078
2504	799,079
2505	799,080
2506	799,081
2507	799,082
2508	799,083
2509	799,084
2601	804,947
2602	804,948
2603	804,949
2604	804,950
2605	804,951
2606	804,952
2607	904,953
2608	804,954
2609	804,955
2701	804,956
2702	804,957
2703	804,958
2704	804,959
2705	804,960
2706	804,961
2707	804,862
2708	804,963
2709	804,964
2801	804,965
2802	804,966
2803	804,967
2804	804,968
2805	804,969
2806	804,970
2807	804,971
2808	804,972
2809	804,973
2901	804,982

2902	804,983
2903	804,984
2904	804,985
2905	804,986
2906	804,987
2907	804,988
2908	804,989
2909	804,990
3001	804,992
3002	804,993
3003	804,994
3004	804,995
3005	804,996
3006	804,997
3007	804,998
3008	804,999
3009	805,000
3101	805,001
3102	805,002
3103	805,003
3104	805,004
3105	805,005
3106	805,006
3107	805,007
3108	805,008
3109	805,009
3201	805,014
3202	805,015
3203	805,016
3204	805,017
3205	805,018
3206	805,019
3207	805,020
3208	805,021
3209	805,022
3301	805,023
3302	805,024
3303	805,025
3304	805,026
3305	805,027
3306	805,028
3307	805,029
3308	805,030
3309	805,031
3401	805,032
3402	805,033
3403	805,034
3404	805,035
3405	805,036
3406	805,037
3407	805,038
3408	805,039

3409	805,040
3501	805,043
3502	805,044
3503	805,045
3504	805,046
3505	805,047
\3506	805,048
3507	805,049
3508	805,050
3509	805,051
3601	805,052
3602	805,053
3603	805,054
3604	805,055
3605	805,056
3606	805,057
\3607	805,058
3608	805,059
3609	805,060
3701	805,061
3702	805,062
3703	805,063
3704	805,064
3705	805,065
3706	805,066
3707	805,067
\3708	805,068
3709	805,069
3801	805,074
3802	805,075
3803	805,076
3804	805,077
3805	805,078
3806	805,079
3807	805,080
3808	805,081
\3809	805,082
3901	805,083
3902	805,084
3903	805,085
3904	805,086
3905	805,087
3906	805,163
3907	805,088
3908	805,089
3909	805,090
\4001	805,091
4002	805,092
4003	805,093
4004	805,094
4005	805,095
4007	805,096

4008 805,483
4009 805,097
4101 805,109
4102 805,110
4103 805,111
4104 805,112
4105 805,113
4106 805,114
4107 805,115
4108 805,116
4109 805,117
4201 805,118
4202 805,119
4203 805,120
4204 805,121
4205 805,122
4206 805,123
4207 805,164
4209 805,124
4301 805,125
4302 805,126
4303 805,127
4304 805,128
4304 805,128
4305 805,129
4306 805,130
4307 805,131
4308 805,132
4309 805,133
4401 805,135
4402 805,136
4403 805,137
4404 805,138
4405 805,139
4406 805,140
4407 805,141
4408 805,142
4409 805,143
4501 805,144
4502 805,145
4503 805,146
4504 805,147
4505 805,148
4506 805,149
4507 805,150
4508 805,612
4509 805,152
4601 806,769
4602 806,770
4603 806,771
4604 805,160
4605 805,161

4606	806,772
4607	805,165
4609	806,773
4610	805,162
4611	806,774

25
A80



L-834 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
OCT 02, 2003 10:00 AM

Doc No(s) 3004562
on Cert(s) 643,161



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

100 2/3 Z4

7

Return by mail [] pickup [] to:

Case Bigelow & Lombardi (DML)
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

Total No. of Pages: 100

FAM

106-7157

Tax Map Key Nos.: (1) 2-3-006-014-0000 (por.), 2-3-004-073-0000 (por.), 2-3-005-027-0000 (por.),
2-3-007-002-0000 (por.)

DECLARATION OF CONDOMINIUM PROPERTY REGIME

of

KO'OLANI

CONDOMINIUM MAP NO. 1572

Table of Contents

A.	DEFINITION OF CERTAIN TERMS.....	1
B.	SUBMISSION TO CONDOMINIUM PROPERTY REGIME.....	6
C.	COMMUNITY NAME.....	6
D.	DESCRIPTION OF THE LAND, BUILDINGS AND APARTMENTS.....	6
E.	OTHER EASEMENTS AND RESERVED RIGHTS.....	7
F.	COMMON INTEREST.....	13
G.	PURPOSES AND RESTRICTIONS AS TO USE.....	14
H.	ADMINISTRATION OF THE COMMUNITY.....	25
I.	COMMON EXPENSES AND RESERVE FUNDS.....	30
J.	ASSESSMENTS.....	32
K.	INSURANCE.....	36
L.	RESTORATION AFTER CASUALTY.....	37
M.	ALTERATION OF THE COMMUNITY.....	37
N.	COMPLIANCE WITH COMMUNITY DOCUMENTS.....	47
O.	USE OF HAZARDOUS MATERIAL.....	47
P.	MERGER OF PHASES.....	48
Q.	DECLARANT'S RESERVED RIGHTS.....	49
R.	AMENDMENT OF THIS DECLARATION.....	54
S.	COMMUNITY AND RELATED MATTERS.....	56
T.	CLAIMS AND LITIGATION.....	62
U.	MISCELLANEOUS.....	66

A. DEFINITION OF CERTAIN TERMS.

Defined terms appear throughout this Declaration with the initial letter of each such term capitalized. Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows:

1. **"Act"** means the Condominium Property Act, Hawaii Revised Statutes ("HRS"), Chapter 514A, as amended.
2. **"Adjacent Property"** means any real property, together with any Improvements located thereon, now or hereafter owned by Declarant, or an affiliate, subsidiary, or parent of Declarant, adjacent to or in the vicinity of the Property including, without limitation, the real property described as the Removable Land in **Section Q.1.** of this Declaration.
3. **"Apartment"** means any apartment (as that term is defined in the Act) within the Community, as described in **Section D** of this Declaration and as shown on the Condominium Map, including the common interest appurtenant thereto. This term includes Residences and Commercial Apartments.
4. **"Architectural Committee"** and **"Architectural Guidelines"** are defined in **Section M.2.**
5. **"Assessments"** include (a) **"Benefited Assessments"**, (b) **"General Assessments"**, (c) **"Special Assessments"**, and (d) **"Capital Improvement Assessments"**, all as defined in **Section J.**
6. **"Association"** means the Association of Apartment Owners of Ko'olani, consisting of all Apartment Owners acting as a group in accordance with this Declaration, the Bylaws, and the Act; provided that, in the event the Community is merged with a condominium development or developments located or to be located on lands adjacent to or in the vicinity of the Community, in accordance with the Declaration of Merger, all references to the Association shall mean and refer to the merged association of apartment owners of the entire development, as reconstituted by any such merger or mergers.
7. **"Board of Directors"** or **"Board"** means the board of directors of the Association.
8. **"Bylaws"** means the Bylaws of the Association Recorded concurrently with this Declaration, as amended from time to time.
9. **"Commercial Apartment(s)"** means those commercial condominium apartments in the Community as identified in and created under this Declaration and as shown on the Condominium Map (and labeled "Developer Reserved Area" on the Condominium Map), including appurtenant common interests and appurtenant Limited Common Elements, if any. The term shall have the same meaning as "Apartment" as defined in the Act. Either one or both Commercial Apartments may be specifically described as the **"Club Facility"**; provided that, if only one of the Commercial Apartments is designated by the Declarant as the Club Facility, such designation shall occur by supplemental Declaration, recordable by the Declarant in its sole discretion without the joinder or consent of the any entity or person, including, without limitation, the Association, Owners, or their mortgagees.

10. **"Common Elements"** are described at **Section D.4** and include without limitation: (1) the **"Community Access Drive"** which means and refers to the common element roadway area servicing the Community from its intersection at Waimanu Street, through the parking garage to the boundary with, and serving the Porte Cochere and parking garage, for the adjacent Nauru Tower; and (2) the Club Facility, if and when the same is conveyed by Declarant to the Association.

11. **"Community"** shall refer to the Ko'olani condominium development established by this Declaration and consisting of the land described in **Exhibit "A"** and the buildings, landscaping, improvements, and structures thereon (including the Apartments, Common Elements, and Limited Common Elements) and all easements, rights, and appurtenances belonging thereto, together with any property added to the Declaration by annexation as provided in **Section Q.1(d)**, but only following the completion of such annexation. Prior to the date upon which any Declaration of Merger becomes effective, the Community may also be called **"Phase I"**. In addition, following the date upon which any Declaration of Merger becomes effective, "Community" shall also include the Merged Community (defined below) made subject to such Declaration of Merger, and the land, buildings, landscaping, improvements, and structures thereon (including the Apartments, Common Elements, and Limited Common Elements) and all easements, rights, and appurtenances belonging thereto.

12. **"Community Documents"** means this Declaration, the Bylaws, the Community Rules, the Architectural Guidelines, and the Declaration of Merger.

13. **"Community Rules"** means the Community Rules for Ko'olani adopted and promulgated from time to time by the Board of Directors pursuant to the Bylaws for the conduct of Owners, tenants, occupants, and guests in the Community.

14. **"Condominium Map"** means the plans showing the layout, location, apartment numbers, and dimensions of the Apartments and elevations of the buildings of the Community filed with the Assistant Registrar of the Land Court of the State of Hawaii as Condominium Map No 1572, as amended from time to time.

15. **"Declarant"** means **SUNSET HEIGHTS HAWAII, LLC**, a Delaware limited liability company, the post office address of which is 2930 Biscayne Boulevard, Miami, Florida 33137, the owner in fee simple of the land described in **Exhibit "A"** attached hereto, its successors and assigns. A person or entity shall be deemed a successor or assign of Declarant for purposes of this Declaration only as provided in **Section U.4**.

16. **"Declaration"** means this Declaration of Condominium Property Regime of Ko'olani, as amended from time to time.

17. **"Declaration of Merger"** or **"Merger Declaration"** means the Declaration of Merger of Condominium Phases for Ko'olani, filed with the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3004561.

18. Reserved.

19. **"Designated Limited Common Element Walls or Floors"** means those certain Common Elements consisting of walls and floors and the internal equipment within such walls or floors, such as plumbing, ventilating, and electrical wires, which are located between two (2) adjacent Apartments (either horizontally or vertically), which are designated by the Declarant or the Association as a Limited Common Element if an Owner acquires fee title to the two (2) adjacent

Apartments separated by such wall or floor, subject to compliance with the requirements of this Declaration.

20. **"Exclusive Use Lanais"** means those certain Limited Common Elements designated as lanai areas or court yard areas for the benefit of certain Owners as designated on the Condominium Map.

21. **"Exhibit"** means the following exhibits attached to this Declaration and incorporated herein by this reference.

- (a) **"A"** Legal Description;
- (b) **"B-1"** Description of Buildings;
- (c) **"B-2"** Description of Common Elements;
- (d) **"B-3"** Description of Limited Common Elements;
- (e) **"C"** Common Interests for Community; and
- (f) **"D"** Description of Maintenance Responsibilities.

22. **"Hazardous Discharge"** means any event involving the use, deposit, disposal, spill, or release of any Hazardous Material on, within, or under the Community.

23. **"Hazardous Material"** means any hazardous or toxic substance, including those substances listed in the United States Department of Transportation Hazardous Materials Table (49 Code of Federal Regulations, Section 172.101) or by the Environmental Protection Agency as hazardous substances (40 Code of Federal Regulations, Part 302), as amended, and substances that are or become regulated under law, radioactive materials, petroleum and petroleum products, asbestos, organic compounds known as polychlorinated biphenyls, and chemicals known to cause cancer or reproductive toxicity.

24. **"Hazardous Materials Claim"** means:

(a) Any action instituted or threatened with respect to an Apartment or the Community pursuant to any Hazardous Materials Law; and

(b) Any and all claims made or threatened by any third party against an Owner or the Association or any other person seeking damages, contribution, cost recovery, compensation, injunctive relief, or similar relief resulting from a Hazardous Discharge or from the existence of any Hazardous Material on, within, or under the Community.

25. **"Hazardous Materials Law"** means any law now existing or hereafter enacted affecting the Community relating to environmental conditions, industrial hygiene, or Hazardous Materials.

26. **"Hawaii Community Development Authority"** means the Hawaii Community Development Authority, a governmental agency of the State of Hawaii that has zoning and planning authority over developments within the Kaka'ako Redevelopment District, including the Property.

27. **"Improvement"** means any alteration, modification, addition, or renovation to or destruction of all or any portion of an Apartment, Limited Common Element, Common Element, or Association Property, including, without limitation, room partitions, structural alterations to any portion of an Apartment, alteration of the floor plan of any Apartment as shown on the Condominium Map, alterations to electrical and plumbing systems, changes of level or grade of any portion of the Property, parking areas, fences, walls, screening walls, skylights, stairs, decks, hedges, windbreaks, window tinting, landscaping, plantings, planted trees and shrubs, utility facilities, poles, signs, and all other structures or improvements of every type and kind installed or erected on the Property. "Improvement" includes both original improvements and all later changes and improvements.

28. **"Invitee"** means any person whose presence within the Community is approved by or is at the request of a particular Owner, including, but not limited to, lessees, tenants and the family, guests, employees, licensees, or invitees of Owners, tenants, or lessees.

29. **"Limited Common Elements"** are described at Section D.5.

30. **"Maintenance Manual"** refers to the manual that may be prepared by the Declarant or its agents and provided to the Association, specifying standards for maintenance of the Common Elements by the Association and the Apartments by the Owners, as updated and amended from time to time by the Declarant or the Association as provided herein.

31. **"Majority of Owners"** (or other specified percentage of Apartment Owners) means the Owners of Apartments to which are appurtenant more than fifty percent (or other specified percentage) of the total common interests in the Community.

32. **"Managing Agent"** means the agent engaged by the Board of Directors or Declarant pursuant to Section H.3 of this Declaration.

33. **"Merged Community"** is defined as the Merged Project in the Declaration of Merger and means (all of the following capitalized terms are defined in the Declaration of Merger), in the case of an Administrative Merger, any two or more of Phase I and the Additional Phases as reconstituted by the recording of one or more Certificates of Administrative Merger in accordance with the provisions of Declaration of Merger, or, in the case of an Ownership Merger, any two or more of phase I and the Additional Phases as reconstituted by the recording of one or more Certificates of Ownership Merger in accordance with the provisions of the Declaration of Merger.

34. **"Mortgage"** means any Recorded or otherwise perfected instrument, which is not a fraudulent conveyance under Hawaii law, given in good faith and for valuable consideration as security for the performance of an obligation, including without limitation a deed of trust or an agreement of sale, but shall not include any instrument creating or evidencing solely a security interest arising under the Hawaii Uniform Commercial Code, HRS Chapter 490, as amended. **"First Mortgage"** means a Mortgage, which is the first and most senior of all Mortgages upon the same property. **"Mortgagee"** means the holder of a note or interest secured by a Mortgage. **"First Mortgagee"** means the holder of a First Mortgage. **"Mortgagor"** means the party executing a Mortgage as obligor.

35. **"Owner"** means a person or the persons owning, jointly or in common, an Apartment; provided that:

(a) **Lessees.** To such extent and for such purposes, including the exercise of voting rights, as shall be provided by Recorded lease, a lessee of an Apartment shall be deemed to be an Apartment Owner;

(b) **Purchasers.** The purchaser of an Apartment pursuant to a Recorded agreement of sale shall have all the rights of an Apartment Owner; provided that the seller may retain the right to vote on matters substantially affecting the seller's security interest in the Apartment, as provided in the Act; and

(c) **Trustee under Land Title-Holding Trust.** In the event that any interest in an Apartment is transferred to a trustee under a land title-holding trust under which substantially all powers of management, operation, and control of the Apartment remain vested in the trust beneficiary or beneficiaries, the beneficiary or beneficiaries of any such trust shall be deemed to be the Apartment Owner to the extent of their interest therein, except insofar as the trustee notifies the Association otherwise in writing. A transferee of the beneficial interest in any such trust shall have all of the rights and duties of an Apartment Owner when notice of such transfer is given to the Association by the trustee. Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purposes, and the transferor may continue to be recognized by the Association as the Apartment Owner and shall have all of the rights and obligations of ownership.

36. **"Planned Development Permit"** means that certain Planned Development Permit (PD2-84) dated November 7, 1984 for the 404 Piikoi Project, as amended on October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 24, 1994, January 24, 1997, August 2, 2000, and April 2, 2002 (collectively the "Planned Development Permit") issued by the Hawaii Community Development Authority.

37. **"Property"** means the land, the buildings, and all other improvements and structures thereon (including the Apartments, Common Elements, and Limited Common Elements) and all easements, rights, and appurtenances belonging thereto, and all other property with respect to which a condominium property regime shall exist from time to time pursuant to the Declaration.

38. **"Record," "Recorded," "Recording," "Recordable," or "Recordation"** means an instrument of record in, or the act of recording or causing to be recorded an instrument with, the Assistant Registrar of the Land Court of the State of Hawaii.

39. **"Residence"** means a residential condominium home in the Community as identified in and created under this Declaration and as shown on the Condominium Map, including appurtenant common interests and appurtenant Limited Common Elements, if any. The term shall have the same meaning as "Apartment" as defined in the Act.

40. **"Residential Apartment Limited Common Elements"** are described at Section D.5 and in Exhibit "B-3."

41. **"Supplemental Declaration"** means a declaration containing covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and/or easements, or similar

instrument supplementing or amending this Declaration as it relates to all or any portion of the Property, which is Recorded from time to time in accordance with this Declaration.

42. **"Tower"** means and refers to the high-rise structure in the Community containing the Residences and Commercial Apartments.

B. SUBMISSION TO CONDOMINIUM PROPERTY REGIME.

Declarant hereby submits all of its right, title, and interest in and to the land described in **Exhibit "A"** and all improvements now located or hereafter constructed on the land to a condominium property regime as established by the Act. Declarant declares that such land and improvements are owned and shall be owned, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to the declarations, restrictions, covenants, and conditions set forth in this Declaration and in the Bylaws, which declarations, restrictions, covenants, and conditions shall constitute equitable servitudes, liens, and covenants running with the land and shall be binding on and shall inure to the benefit of Declarant, all subsequent owners and lessees of Apartments, all subsequent owners and lessees of all or any part of the Community, and their respective heirs, successors, successors in trust, personal representatives, and assigns. All of the provisions of this Declaration are intended to create mutual servitudes upon each Apartment and to create reciprocal rights among the Apartment Owners.

C. COMMUNITY NAME.

The condominium property regime established by this Declaration shall be known as either **Ko'olani** or **Ko'olani at Ala Moana**.

D. DESCRIPTION OF THE LAND, BUILDINGS AND APARTMENTS.

1. Land. The land submitted to this condominium property regime is described in **Exhibit "A"** attached hereto (the "Land").

2. Building and Apartments. The Community shall contain 370 Residences and 3 Commercial Apartments in a single 46-story building, together with an attached parking garage of 5 levels and related facilities, all as more fully described in **Exhibit "B-1"** attached hereto and as shown on the Condominium Map. The Community shall be constructed principally of concrete, concrete masonry, wood, aluminum, glass, and steel. The Condominium Map is intended only to show the layout, location, apartment numbers, and dimensions of the Apartments and elevations of the building and is not intended and shall not be deemed to contain or make any other representation or warranty.

3. Limits of Apartments. Each Apartment includes all walls, columns, and partitions which are not load-bearing within the Apartment's perimeter walls, the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames, the air space within the perimeter, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors, and all glass window screens and all fixtures originally installed in the Apartment, and all pipes, plumbing (including water heaters), wires, conduits, and other utility or service lines and facilities within the Apartment perimeter and servicing only the Apartment. The Apartments shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the undecorated or

unfinished surfaces of the doors, door frames, and window frames along the perimeters, the interior load-bearing columns, girders, beams, and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Apartment, or any pipes, shafts, wires, conduits, or other utility or service lines running through an Apartment which are utilized for or serve more than one Apartment, all of which are deemed Common Elements as provided in this Declaration.

4. Common Elements. The Common Elements include the land described in **Exhibit "A"** in fee simple, subject to Declarant's reserved right to reconfigure the Land as provided in **Section Q** of this Declaration, and the Limited Common Elements described below, and all other portions of the Community, other than the Apartments, including, specifically, but not limited to, the Common Elements mentioned in the Act that are actually constructed on the land, and all other portions of the Community necessary or convenient to its existence, maintenance and safety or normally in common use and which are not included as part of an Apartment, including but not limited to those Common Elements described in **Exhibit "B-2"** and as may be shown on the Condominium Map. The Common Elements shall also include any property or apartment conveyed to it by the Declarant in accord with **Section H.6** of this Declaration.

5. Limited Common Elements. Certain parts of the Common Elements, referred to as the "Limited Common Elements", are hereby designated and set aside for the exclusive use of certain Apartments, and such Apartments shall have appurtenant, exclusive easements for the use of such Limited Common Elements. Those facilities described in **Exhibit "B-3"** as "Residential Apartment Limited Common Elements" shall constitute Residential Apartment Limited Common Elements appurtenant to and for the exclusive use of the residential Apartments. The Limited Common Elements, and the Apartment(s) to which the Limited Common Elements are appurtenant, are described in **Exhibit "B-3"**; provided that, to the extent that specific Parking Stalls are not assigned to an Apartment in **Exhibit "B-3,"** each Residential Apartment shall have appurtenant to it at least one (1) Parking Stall, which will be assigned to such Apartment in connection with the filing of a Supplemental Declaration.

E. OTHER EASEMENTS AND RESERVED RIGHTS.

In addition to the easements established as Limited Common Elements and any easements and reserved rights described in **Exhibit "A"** attached hereto or elsewhere in this Declaration (including without limitation the rights reserved to Declarant in **Section P** of this Declaration relating to the merger of condominium phases, and in **Section Q** of this Declaration relating to Declarant's right to reconfigure the land and Common Elements), the Apartments and Common Elements shall have and be subject to the following easements and reserved rights, all of which if in favor of Declarant may be exercised without the joinder or consent of any person, owner or owner's mortgagee.

1. Appurtenant Non-exclusive Easements. Each Apartment shall have appurtenant thereto non-exclusive easements in the Common Elements designed for such purposes for ingress to, egress from, utility services for, and support of maintenance and repair of each such Apartment and for use of the other Common Elements according to their respective purposes, subject always to the exclusive use of the Limited Common Elements as provided herein. Each Apartment in a building shall have an appurtenant easement in the other Apartments and Limited Common Elements in the building for support.

2. Encroachments. If any part of the Common Elements now or hereafter encroaches upon an Apartment or Limited Common Element, or if an Apartment now or hereafter

encroaches upon another Apartment or upon a portion of the Common Elements, an easement shall exist for such encroachment and its maintenance for so long as the encroachment continues. If a building or other improvements of the Community are partially or totally destroyed and then rebuilt, or if a minor shift or settlement of a building or other improvements occurs, easements shall exist for minor encroachments by parts of the Common Elements upon an Apartment or Limited Common Element or by an Apartment upon parts of the Common Elements and for their maintenance for so long as the encroachments continue.

3. Association Rights of Access to Apartments and Limited Common Elements.

The Association shall have the irrevocable right, exercisable by the Board of Directors or the Managing Agent, to have access to and enter each Apartment and/or the Limited Common Elements from time to time during reasonable hours as may be necessary for the operation of the Community or for the installation, repair, maintenance, or replacement of any Common Elements, or at any time for making emergency repairs that may be necessary to prevent damage to any Apartment or the Common Elements.

4. Utilities.

Each Apartment Owner shall have an easement in common with the Owners of all of the other Apartments to use all pipes, wires, ducts, cables, conduits and public utility lines, and other Common Elements located in another Apartment and serving such Owner's Apartment. Each Apartment shall be subject to an easement for necessary and reasonable access to any Common Elements located in the Apartment in favor of the Owners of all other Apartments served by such Common Elements.

5. Repair and Maintenance Easements.

Declarant and the Association, exercisable by the Board of Directors, shall have the right to designate, grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across, or through the Common Elements of the Community for any reasonable purpose, which may include, but shall not be limited to, those purposes that are necessary for the operation, care, upkeep, maintenance, or repair of any Apartment, the Common Elements, or any easements for utilities or for any public purpose.

6. Easements for Utilities and Access.

Declarant reserves the right for itself and its successors and assigns without the consent or joinder of any Owner or its mortgagee to designate, grant, convey, transfer, cancel, relocate, or otherwise deal with, for the benefit of the Community or, in Declarant's sole discretion, for the benefit of others, any easements, licenses, and rights of way at any time for utilities, any public-type facility (mailboxes and the like), sanitary and storm sewers, cable transmission facilities, telecommunication systems and facilities, refuse disposal, landscape, maintenance, driveways, parking areas, access roadways, and other similar purposes, on, over, across, under, and through the Common Elements of the Community. Without limiting the generality of the foregoing, Declarant reserves the right (x) to utilize for any purposes specified in this Section any of the common utility facilities described in the prior sentence (such as, but not limited to, waterlines, sewer lines, access roadways and the like) whether located in designated easement areas or otherwise, together with the right of entry to construct, reconstruct, operate, maintain, repair and relocate such lines, facilities, and appurtenances, (y) to grant any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, homeowner's associations, or other entities, and (z) the right to grant, dedicate, designate, use, and enjoy easements and/or rights-of-way for access purposes (including for vehicular and pedestrian access). Declarant may, in its discretion, complete any construction of intended facilities in advance of the designation or creation and granting of the easement covering the facilities so constructed. Without limitation, Declarant shall specifically have the right to grant an easement to the owners and association of the Nauru Tower or owners or associations of Adjacent Properties for ingress and egress purposes on and over the Community Access Drive for the benefit

of such owners, and their guests and invitees, without the consent or joinder of the Association or Owners or their Mortgagees. Declarant reserves the right to collect and retain, without accounting to the Board, the Association, or any Owner, all amounts payable under any easement or under any assignment of Declarant's right under this Declaration. These reserved rights shall be exercised in a manner that will not materially impair or interfere with the use of any Apartment. Each Owner, by purchasing an Apartment, consents to any such designation, grant, conveyance, transfer, cancellation, relocation, and reservation of easements and/or rights of way as provided above without the necessity of any Owner or those claiming by, through, or under an Owner entering into any further agreement respecting such action or document; provided, however, that such Owner and those claiming by, through, or under an Owner agree to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Declarant without payment of additional consideration. The rights reserved to Declarant include specifically, without limitation, the right to utilize any utility service to the Community and grant the right of use of such utility service to serve adjacent and separate developments outside of the Community provided Declarant sub-meters such use and the right to use roadways in the Community to serve adjacent developments provided the Association controlling such development shares pro rata in the cost of maintenance and repair of the roadway, if applicable. The rights reserved in this Section E.6 shall continue through the later of December 31, 2022 or until the date two (2) years following the date of the sale of the last Apartment owned by Declarant in the Merged Community. Each Owner, by purchasing an Apartment, consents to any such designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way as provided above without the necessity of any Owner or those claiming by, through or under an Owner entering into any further agreement respecting such action or document; provided, however, that such Owner and those claiming by, through or under an Owner agrees to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Declarant without payment of additional consideration.

7. Sales Activities. Declarant and its agents, successors, Mortgagees, and assigns shall have the right and an easement to conduct extensive sales activities on and at the Community, including the use of any Apartment owned by Declarant (and any other Apartment, with the express permission of the Owner of such Apartment) and the Common Elements (excluding Limited Common Elements appurtenant to other Apartments) for model apartments, sales and management offices, parking, and extensive sales displays and activities, the posting and maintenance of signs and other advertisements relating to such sales activities, and to install, maintain, locate, relocate, and reconfigure such structures, displays, advertising signs, billboards, flags, sales desks, kiosks, sales offices, construction offices, model homes, interior design and decorator centers, and parking areas for employees, agents, and prospective buyers as may be necessary or convenient for the proper development and disposition of Apartments by sale, resale, lease, or otherwise, and the right, but not the obligation, to provide ongoing maintenance, operation, service, construction, and repairs to individual Apartments. Without limiting the foregoing, Declarant reserves the right to use any Apartment owned by Declarant in the Community as a sales office, model home, construction office, and/or real estate sales or leasing office. Declarant and its prospective purchasers shall be entitled to the non-exclusive use of the Common Elements, without further cost for access, ingress, egress, use, or enjoyment, in order to show the Property to its prospective purchasers to dispose of the Property as provided herein. The rights reserved in this Section E.7 shall continue until the date two (2) years following the date of the sale of the last Apartment owned by Declarant in the Merged Community.

8. Construction Activities. Declarant and its agents, employees, contractors, licensees, successors, Mortgagees and assigns shall have an easement over, under, and upon any portion of the Community, including the Common Elements, Limited Common Elements, and any

Apartment, as may be reasonably necessary for the completion of improvements to and correction of defects and other "punchlist" items in the Community. The rights reserved in this **Section E.8** shall continue until ten (10) years after the later of: (i) the Recording of the "as built" verified statement required by Section 514A-12 of the Act; (ii) the "date of completion" of the improvements as defined in HRS Section 507-43(f) as amended of the last Apartment constructed in the Merged Community; (iii) the date of the sale of the last Apartment owned by Declarant in the Merged Community; or (iv) the expiration of the applicable limited warranty period for any portion or portions of the Common Elements.

9. Noise, Dust, Vibration, and Other Inconveniences. Declarant and its agents, employees, contractors, licensees, successors, Mortgagees, and assigns shall have an easement over, under, and upon any portion of the Community to create and cause noise, dust, vibration, and other nuisances or annoyances created by and resulting from any work connected with or incidental to the development, construction, and sale of any Apartment or other improvement to the Community, any additional phase to the Community, or any other development which Declarant, its successors or assigns, may develop on property adjacent to or in the vicinity of the Community. Each and every Owner or other person acquiring any interest in the Community waives any and all rights, claims or actions that might otherwise be asserted against Declarant, its agents, employees, licensees, successors, Mortgagees, and assigns, based on any such noise, dust, vibration, and other nuisances or annoyances.

10. Community Access Drive and Traffic Circulation. Each Owner shall have a non-exclusive right to enter upon and use for ingress and egress purposes the Community Access Drive serving the Community (the "Access Easement"/Fire Lane in Favor of Nauru Tower shown on the Condominium Map). Declarant reserves the right to alter the circulation pattern on the Community Access Drive or any component thereof in Declarant's sole discretion. Without limitation of the foregoing, Declarant may, in connection with the merger of the Community with any Additional Phases, convert the Community Access Drive or any component thereof into an ingress-only or egress-only driveway, so long as alternate access is afforded. Declarant hereby discloses and each Owner acknowledges that (i) Declarant intends to use the Community Access Drive to conduct and perform its construction and sales activities within the Community until all of the Apartments have been completed and sold, (ii) the Community Access Drive will be used for access purposes by other Owners in the Community, and (iii) the Community Access Drive will be used for access purposes by owners of the Nauru Tower. These activities may result in noise, vibration, and other nuisances and hazards, including traffic congestion and temporary impairment of access to portions of the Community, and each Owner covenants that such Owner assumes all risks associated with the Owner's use of the private roads. The provisions of this Declaration shall apply to and govern each Owner's use of the private road, and each Owner shall indemnify and hold harmless Declarant, its successors and assigns, from and against any and all claims and demands for damages made by, through, or under such Owner in connection with the right of entry granted by Declarant to such Owner.

11. Storm Sewer. Each Owner acknowledges and agrees that Declarant, on behalf of the Association, may seek or has obtained certain licenses and permits from the Department of Planning and Permitting of the City and County of Honolulu (the "DPP") relating to the connection of the Community to the public storm sewer system. To the extent that any such licenses or permits have not been issued to the Association, Declarant and its agents, employees, contractors, licensees, successors, Mortgagees, and assigns, reserve the right to transfer to the Association any and all obligations in connection with such permits. In connection with such permits and licenses, the Association shall have the responsibility to comply at all times now and in the future with all DPP regulations and any other applicable statutes, ordinances, and rules and regulations of Federal,

State, or County agencies relating to the discharge, drainage, and runoff of storm water and surface water, and their constituents, from the Community into the public storm sewer system. Neither the Association nor any Owner shall take any actions that may in any way undermine the Association's obligations to comply with such regulations. Each Owner and the Association shall execute any and all documents required by Declarant in Declarant's sole discretion to transfer, if required, any applicable license(s) relative to such discharge, drainage, and runoff to the Association. Each Owner shall indemnify and hold harmless Declarant, its successors and assigns, from and against any and all claims and demands for damages in connection with the Association's fulfillment of its storm sewer connection obligations.

12. Drainage. Declarant hereby reserves to itself and the Association, and their respective officers, agents, employees, successors, and assigns, an easement to enter upon, across, over, in, and under any portion of the Community for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of any portion of the Community so as to improve the drainage of water on the Community. Reasonable efforts shall be made to use this easement so as to disturb as little as possible the uses of the Owners, the Association and Declarant, as applicable, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work. The rights reserved in this **Section E.12** shall continue until ten (10) years after the later of: (i) the Recording of the "as built" verified statement required by Section 514A-12 of the Act; or (ii) the "date of completion" of the improvements as defined in HRS Section 507-43(f) of the last Apartment constructed in the Merged Community.

13. Limited Common Element Encroachments. There shall be reciprocal appurtenant easements of encroachment as between adjacent Limited Common Elements due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (either initially by Declarant or subsequently in accordance with the terms of this Declaration) to a distance of not more than one foot, as measured from any point on the common boundary between said adjacent Limited Common Elements, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct or negligence (e.g., failure to have a survey done prior to construction) on the part of an Owner or the Association. Any such easements for encroachment shall be for the encroachment and for the maintenance thereof (including access to and from the encroachment).

14. Cable/Data System. Without limiting any other right reserved or available to Declarant in this Declaration or at law, Declarant hereby reserves the exclusive right to install or have installed a Cable/Data System as defined below. The Cable/Data System, if and when installed, shall be maintained by either a satellite/cable television provider or a telecommunication service provider or both. Declarant reserves the right to grant non-exclusive easements over the Property as necessary to provide cable television and telecommunication services to Owners, including easements for access, ingress, and egress for installation, maintenance, and removal of any type of cable and telecommunication equipment, including, without limitation, antennae, head end equipment, cable amplifier, line splitting devices, coaxial cable, amplifier housing, and all facilities related thereto (collectively, "Cable/Data System"), as well as for the solicitation of sales, marketing, disconnection of service, and subscriber equipment retrieval. Each Apartment and the Association Property shall be subject to an easement in favor of all other Apartments and in favor of the entity holding the right to provide cable television and telecommunication service to the Community, to provide for the passage through the Apartments and the Common Elements of television and telecommunication connections from any other Apartment to the Cable/Data System, and shall be subject to further easement for the placement and maintenance of such connections.

Declarant, on behalf of itself and its successors, assigns, and grantees, hereby acknowledges and agrees that its interest in the Property is subject to the terms of any agreement between Declarant and a satellite/cable television provider or a telecommunication services provider (collectively, the "Cable Contract"), and the Association and all Owners shall be subject to all of the limitations, restrictions, reservations, rights, easements, conditions, and covenants set forth in such Cable Contract. The Declarant shall be entitled to collect and retain all amounts payable under the Cable Contract or any assignment of Declarant's rights thereunder.

15. Equipment Easement Area. Without limiting any other right reserved or available to Declarant in this Declaration or at law and notwithstanding a limitation on the rights of others as set forth in Section G.A. 21, Declarant hereby reserves for its benefit an exclusive easement over an area or areas as determined by Declarant, in its sole discretion, located on the roof of the building not to exceed two thousand five hundred (2500) square feet in aggregate ("Equipment Easement Area") for the purpose of installation and maintenance of telecommunication and cable transmitting and receiving equipment and all facilities related thereto, satellite and microwave dishes, and other antenna, transmitting, receiving, and relay equipment and devices for use in connection with operations inside and/or outside of the Community, and a non-exclusive easement over the Property as necessary for the purpose of ingress, egress, and access to such equipment for installation, maintenance, repair, replacement and removal; provided that such easements shall be exercised in a manner that does not unreasonably interfere with or disrupt the operation of the Community and the use thereof by the Owners. Declarant shall be entitled to collect and retain any and all amounts payable pursuant to any agreement for use or lease of the Equipment Easement Area or any assignment of Declarant's rights hereunder. Declarant may exercise the rights reserved in this Section without the joinder or consent of any person or Owner or Owner's mortgagee.

16. Non-Exclusive Easements Over the Property for Access to Parking Stalls; Exclusive Right to Unassigned Parking Stalls. Parking Stalls that are appurtenant to Commercial Apartments or Parking Stalls that are appurtenant to any Apartment owned or controlled by Declarant, specifically including the Parking Stall scheduled as Developer's Reserved Stalls in Exhibit "B-3", are hereby denominated as "Declarant Reserved Stalls" and/or "Declarant Reserved Parking Stalls." Declarant hereby reserves for its benefit the right and easement for access, ingress, and egress through the Parking Garage to any Parking Stalls, including, without limitation, Declarant Reserved Stalls. Declarant further hereby reserves for its benefit the exclusive right to use and/or assign and/or sell Declarant Reserved Parking Stalls to any third party. Declarant may waive this right with respect to any one or more unassigned Parking Stalls, in which case, the Board shall have the authority to regulate the use of those stalls over which Declarant has waived its control.

17. Club Facility Operation Agreement. Each Owner acknowledges and agrees that Declarant, on behalf of the Association, may enter but shall not be obligated to enter into an operation agreement with an operator of Declarant's choice for operation of the Club Facility in order to provide health club services, on a non-exclusive basis, to members of the Association, the Merged Community, and members of the public. Any fees applicable to such agreement shall be charged to the common expenses of the Community. Such agreement shall provide for access of the Owners based on standards and procedures accepted by the operator to limited portions of the improved Club Facility and to the extent undertaken by the Club Facility operator, access, on a fee for service or facility basis, to other portions or facilities of the Club Facility. Entry into such operation agreement shall not require the joinder or consent of any Owner or Owner's Mortgagee.

18. Storage Areas. Storage areas shown on the Condominium Map bearing the same number (preceded by "S-") as the adjacent Parking Stall shall be appurtenant to the Apartment to which the Parking Stall is assigned and may not be separated from the Parking Stall to which it is assigned. Without limiting any other right reserved or available to Declarant in this Declaration or at law, Declarant hereby reserves for its benefit an exclusive right to assign to Owners the right to use any designated storage area not included as a component of a Parking Stall. This reserved right may be assigned by Declarant to the Association.

19. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant by this or any other Section without the prior written consent of Declarant, and any attempt to do so shall have no effect.

F. COMMON INTEREST.

1. Allocation of Undivided Common Interest. Each Apartment shall have appurtenant thereto an undivided interest (referred to as the "common interest") in all Common Elements of the Community and the same proportionate share in all common profits and common expenses of the Community, except as otherwise provided in this Declaration or the Bylaws, and for all other purposes, including voting, as set forth in **Exhibit "C"** attached hereto. The common interest appurtenant to each Apartment is determined by dividing the approximate total net interior floor area of each such Apartment by the approximate total net interior floor area of all Apartments, and rounding off so that the total of all common interests equals 1.0000 (100.00%); provided, however, in accordance with Hawaii Revised Statutes § 514A-15(a), as between residential and commercial apartments, these interests have been apportioned in a fair and equitable manner so as to reflect the discrete uses and benefits or lack thereof accruing to the Residential and Commercial Apartments, respectively. In so apportioning the common interests between the Residential and Commercial Apartments, Declarant recognizes that the Commercial Apartments are unfinished loft space, and that any future Commercial Apartment Owner will be required to improve such space, and will likely improve and maintain not only the Commercial Apartment, but may also improve surrounding common areas (if such improvement and maintenance will benefit the Commercial Apartment Owner) at its own expense. Further, the Commercial Apartments will not benefit in the same manner from the many recreational amenities and landscaping as will the Residential Apartments, as these amenities and landscaping are primarily for the benefit of resident Owners, rather than commercial enterprises. Accordingly, the Declarant has apportioned the common interests between Residential and Commercial Apartments not on the basis of approximate total net interior floor area, but based on factors which the Declarant has deemed to be fair and equitable to both Residential and Commercial Apartment Owners.

2. Alterations and Transfers of Common Interest. Except in the event of the merger of phases for ownership purposes or as provided elsewhere in this Declaration, the common interest and easements appurtenant to each Apartment shall have a permanent character and shall not be altered except by a Recorded amendment to this Declaration which contains the consent of all Owners of Apartments affected thereby and the consent of the holders of any Mortgage affecting such Apartments as shown in the Association's records of ownership, or who have given the Board notice of their interest. Notwithstanding the foregoing, the common interest, voting rights, and easements appurtenant to each Apartment may be altered (diminished or increased) by a Recorded amendment to this Declaration: (a) as may be determined necessary by Declarant, without the consent of any party, to correct any errors or misstatements of fact in the Community Documents, the Condominium Map, and/or the legal description of the Property and/or to correct any typographical or mathematical errors in the statement of common interests, (b) without the joinder of

any party, upon the alteration of the Community as permitted pursuant to **Section Q.3**, and/or (c) upon the action or consent of all Owners of Apartments affected thereby and the consent of the holders of any Mortgage affecting such Apartments as shown in the Association's records of ownership, or who have given the Board notice of their interest. The common interest and appurtenant easements shall not be separated from the Apartment to which they appertain and shall be deemed to be conveyed or encumbered with that Apartment even though such interest or easements are not expressly mentioned in the conveyance or other instrument. The Common Elements shall remain undivided and the right to partition or divide any part of the Common Elements shall not exist except as provided in the Act.

G. PURPOSES AND RESTRICTIONS AS TO USE.

Subject to the rights reserved to Declarant in the Community Documents, the Community and each of the Apartments are intended for and shall be restricted to the following purposes and uses, which, together with any other restrictions contained in the Community Documents, are intended and shall be deemed to be cumulative.

1. Permitted Uses.

(a) Residences.

(1) Except for Home-Based Small Businesses (defined in **Section G.1(a)(2)** below), Residences shall at all times be occupied and used only for residential purposes in accordance with applicable laws, this Declaration, and the Bylaws, and for no other purposes. Without limiting the foregoing, no Residence shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

(2) "Home-Based Small Business" shall mean a business which: (i) is operated solely within the Residence incidental to the use of the Residence for residential purposes, (ii) is limited to arts and crafts, the rendition of professional services, or other similar activities, (iii) is operated by the Owner of the Residence (or a member of such Owner's family) whose principal residence is the Residence, (iv) is permitted by, and is at all times in compliance with, all applicable laws, this Declaration, the Bylaws, and the Community Rules, and (v) does not result in (A) the violation of any of the provisions of this Declaration, (B) any unreasonable increase in the flow of traffic within the Property, (C) any odor, noise, or vibration outside of the Residence, or (D) parking problems within the Community. No Owner, lessee, tenant, or other occupant of a Residence shall regularly bring clients, customers, or other business invitees onto the Community for business purposes.

(b) Commercial Apartments. Commercial Apartments shall at all times be occupied and used only for commercial purposes or uses as said term "commercial" is defined or described in the Kaka'ako Community Development District Plan and the Kaka'ako Community Development District Rules established by the Hawaii Community Development Authority, as amended from time to time, and for use by the Owners of such Commercial Apartments, and the Owner's family and guests, for residential uses in conjunction with or ancillary to such commercial uses.

2. Owners' Transfer Rights.

(a) No Timeshares. Subject to any rights reserved to Declarant in this Declaration, including but not limited to Section Q(4), no Residence or any interest therein shall be sold, transferred, conveyed, leased, occupied, rented, or used for or in connection with any timesharing purpose or under any timesharing plan, arrangement, or program, including without limitation any so-called "vacation license," travel club membership," or "time-interval ownership" arrangement. The term "timesharing" or "timeshare" as used in this Section G.2(a) shall be deemed to include, but is not limited to, any plan, program, or arrangement under which the right to use, occupy, own, or possess a Residence rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association, or club membership, license, rental, or use agreement, co-tenancy agreement, partnership, or otherwise.

(b) Owners' Right to Sell, Lease and Transfer. Subject to Section G.2(a), the Apartments Owners shall have the absolute right to sell, lease, rent, or otherwise transfer their respective Apartments subject to all provisions of the Act and the Community Documents. No Residence may be leased or rented for an initial term of less than one hundred eighty (180) days (or such longer period as may be required by ordinance of the City and County of Honolulu to avoid classification of the Residence as a "transient vacation unit") except the rights reserved to Declarant under Section Q.4. Also, except for rights reserved to Declarant in this Declaration, no Owner may rent any Residence in any manner by which the occupants of the Residence are provided customary hotel or similar services, such as room service, maid service, laundry or linen service or bell service. Any lease or rental agreement of an Apartment shall provide that it shall be subject in all respects to the provisions of the Community Documents and that the failure of the lessee or tenant to comply with the terms of the Community Documents shall be a default under the lease or rental agreement.

3. Use of Common Elements. Each Apartment Owner may use the Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Apartment Owners, provided that the Board of Directors (without limitation of the powers reserved to Declarant under this Declaration) shall have the right:

(a) Change of Use. To change the use of the Common Elements upon approval of seventy-five percent (75%) of the Owners;

(b) Lease of Common Elements Not Used for Intended Special Purpose. On behalf of the Association, to lease or otherwise use for the benefit of the Association those portions of the Common Elements which are not actually used for an originally intended special purpose, as determined by the Board, provided that, unless the approval of seventy-five percent (75%) of the Owners is obtained, any such lease or use agreement shall not have a term exceeding five (5) years and shall contain a provision that the lease or use agreement may be terminated by any party thereto on not more than sixty (60) days' written notice;

(c) Lease of Other Common Elements. To lease or otherwise use for the benefit of the Association those parts of the Common Elements not falling within Section G.3(b) above, upon obtaining the approval of seventy-five percent (75%) of the Owners, including all directly affected Owners and in the case of Limited Common Elements, all Owners of Apartments to which such Limited Common Elements are appurtenant, and the approval of all Mortgagees of record on

Apartments with respect to which Owner approval is required, if such lease or use agreement would be in derogation of the interest of such Mortgagees; and

(d) Rules and Regulations. To enact, amend, and repeal rules and regulations reasonably restricting and regulating use of the Common Elements, provided that such rules and regulations shall be enacted, amended, or repealed in accordance with and shall be consistent with the terms of the Community Documents and shall not be in derogation of the rights reserved to Declarant in the Community Documents.

4. General Restrictions. An Apartment Owner shall not use any Apartment for any purpose which will injure the reputation of the Community or suffer anything to be done or kept in his or her Apartment or elsewhere in the Community which will (a) jeopardize the soundness of any building in the Community, (b) create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants, (c) increase the rate of fire insurance on any building or the contents of any building, or (d) reduce the value of the Community or any building in the Community.

5. Special Restrictions Applicable to All Apartments. Without limiting the application of any other provision of this Declaration, no use or operation shall be made, conducted, or permitted on or with respect to all or any part of the Community, which use or operation violates applicable laws or the provisions of this Declaration. No Apartment shall be used for any of the following activities or purposes:

(a) Any distillation or refinery facility (excepting therefrom any microbrewery or similar business that may be operated in the Commercial Apartments);

(b) Any dumping of garbage or refuse, except in places designated for disposal by the Board;

(c) Any meeting place, place of public assembly, pool hall, game arcade, betting facility or video or games arcade;

(d) Any business that serves or sells alcoholic beverages (excepting therefrom businesses operated in Commercial Apartments, provided such business does not derive fifty percent (50%) or more of its gross sales volume serving or selling alcoholic beverages);

(e) Any indecent or pornographic uses, massage parlor, adult bookstore, peepshow store, or any other similar store or club; and any business devoted to sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine, or other controlled drugs or substances;

(f) Any gymnasium or martial arts studio;

(g) Any tattoo parlors or body piercing establishments;

(h) Any laundromat, secondhand surplus store, bankruptcy sale;

(i) Any dry cleaning facility or store; provided, however, except that a "drop off" for dry cleaning shall be a permitted use in Commercial Apartments so long as the actual dry cleaning is conducted at a site outside the Community; and

(j) Any discount or thrift stores.

6. Signs. Except as otherwise provided in this Declaration, no signs or other advertising device whatsoever, including without limitation, commercial, political, and similar signs, shall be displayed to the public view or from any Apartment without the approval of the Architectural Committee, or within the Community except: (a) such signs as may be required by legal proceedings; (b) residential identification signs, subject to the approval of the Architectural Committee as to suitability; (c) job identification signs during the time of construction of any portion of the Community by Declarant; and (d) signs used by Declarant for the purpose of developing, improving and selling Apartments. Notwithstanding the foregoing, an Owner may place one (1) sign of reasonable and customary dimensions in the place designated by the Board to advertise such Owner's Apartment for sale or rent. The Board may adopt rules and regulations regarding the size and location of "for sale" and "for rent" signs. Notwithstanding the above, Declarant may post any and all signs which it, in its sole discretion, deems necessary, including, without limitation, the signs specified in this **Section G.6** and in **Sections E.7** and **P.4**.

7. Window Coverings. All window coverings shall be of a neutral color, harmonious with and not conflicting with the color scheme of the exterior wall surface of an Apartment. Window tinting and window coverings which differ from that described above shall be subject to the approval of the Architectural Committee.

8. Animals. No animals, livestock, reptiles, insects, poultry, or other animals of any kind shall be kept in any Apartment except as is permitted by, and in accordance with, the Bylaws.

9. No Mechanics' Liens. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Community for labor or materials alleged to have been furnished or delivered to the Community or any for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner for such cost of discharge.

10. Drainage. There shall be no interference with the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Architectural Committee. For the purpose hereof, "established" drainage is defined as the drainage which exists at the time of the first close of escrow for the sale of an Apartment, or that which is shown on any plans approved by the Architectural Committee. Each Owner shall have the duty and obligation to maintain the drainage situated within any Limited Common Element and/or Exclusive Use Lanais free of debris and any other material that may impede the flow of water and to clean such drainage, as may be necessary. No Owner shall dispose of any Hazardous Materials in any drains. If such Owner fails to maintain such drainage and, as a result, imminent danger or damage to person or property may result to the other Owners, then the Association shall have the right of access onto such area for the purpose of clearing debris and other material so as to not impede the flow of water. This right of access shall be exercised only for the purpose of preventing damage to persons and property, and the entering party ("Entering Party") shall use reasonable care so as to not cause any damage to such areas. The Owner shall reimburse the Association for any costs and expenses incurred in clearing such debris as a Special Assessment. Notwithstanding the foregoing, the Board and its agents shall, after giving reasonable notice, have the right to enter any deck within an Exclusive Use Lanais to conduct a cleaning of and to inspect the established system of drainage located thereon, provided that the Association repairs any damage which might result from such inspection. No Owner shall

cause any water used to water plants by such Owner on his or her Exclusive Use Lanais to drip or drain onto any other Exclusive Use Lanais.

11. Offensive Conduct; Nuisances. No noxious or offensive activities, including, but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Community. Nothing shall be done on or within the Community that may be or may become an annoyance or nuisance to the residents of the Community, or that in any way interferes with the quiet enjoyment of occupants of Apartments. No odorous matters shall be emitted upon or about the Community in such quantity as to be readily detectable outside the physical boundaries of the space within which the odor was generated. Unless otherwise permitted by the Community Rules, no Owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Apartment and except within the Limited Common Elements appurtenant to such Owner's Apartment or Common Elements designated for such purpose by the Association, if any, subject to the provisions of the Community Rules.

12. Noise and Vibration. No person shall produce, or allow to be produced, noise or building shaking vibration at such levels as will be offensive to other Owners.

13. Outside Drying and Laundering. No exterior clotheslines shall be erected or maintained or hung on balconies or railings within the Community and there shall be no exterior drying or laundering of clothes or any other items on any Limited Common Element or Association Property.

14. Toxic or Noxious Matter. No person shall discharge into the Community's sewer system storm drain any toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety or welfare, violate any law, subject any Owner to liability under state and federal law for any clean-up, or cause injury or damage to neighboring property or business elsewhere on the Community.

15. Assignment and Transfer of Parking Stalls and Storage Spaces.

(a) Limitation on Transfer of Parking Stalls and Storage Spaces. Except as provided in this Section G.15, assigned parking stalls and storage spaces may be leased or exchanged apart from the conveyance of an Apartment only as set forth in Section G.2(b) and shall not otherwise be leased, subleased, sold, or otherwise separately conveyed apart from conveyance of such Apartment. Except as set forth herein, no assigned parking stall or storage space may be sold, transferred, or assigned to, or retained in the ownership of, any person not an Owner, and no parking stall or storage space may be rented or leased to a non-Owner except in connection with the rental or lease of an Apartment.

(b) Assignment of Use. The Owner of an Apartment may assign other Owners in the Community the non-exclusive right to use any parking stall or storage space assigned to an Owner, subject to all the requirements of this Declaration and the Community Rules, as such documents may be amended from time to time, provided that the conveyance of fee title to the Apartment by an Owner shall terminate the assignment of such parking or storage rights.

(c) Transfer of Parking Stalls. As long as there is at all times at least one parking stall appurtenant to each Apartment, Apartment Owners (including Declarant) shall have, in accordance with Section 514A-14 of the Act, the right to change the parking stalls appurtenant to their respective Apartments by a written document expressly providing: (a) that the document is an amendment to this Declaration; and (b) the identification of the parking stall or stalls being

transferred or exchanged, the Apartment to which each parking stall was appurtenant prior to the transfer and the Apartment to which each parking stall is being transferred and to which it will be appurtenant as a Limited Common Element. Any such document must be executed by the Owner or Owners (and their respective Mortgagees, if any) of the Apartments whose stalls are being changed, and shall be effective upon Recording; provided however, any such amendment that has the effect only to add an additional parking stall as appurtenant to an Apartment shall not require the joinder of the mortgagee of the Apartment for which the parking stall is being added. A copy of such document, bearing Recordation data, shall be provided to the Association within fifteen (15) days of the Recording thereof.

16. Parking Stalls and Vehicular Restrictions.

(a) Parking Stalls for Disabled Persons. Certain Parking Stalls may be designated for use by disabled persons ("Disabled Parking Stalls") and will be designated as such on the Condominium Map. Such Disabled Parking Stalls may be assigned by Declarant to the Owners of particular Apartments upon the initial sale of such Apartments or may be designated for use by the Owners of Commercial Apartments and their Invitees, jointly. Declarant shall, upon assigning a Disabled Parking Stall to an Owner, designate such assignment in the records of the Association. Such Disabled Parking Stalls shall not be Limited Common Elements. If any Disabled Parking Stalls remain unassigned after the sale of all the Apartment Community, the Board shall have the right to assign and manage such spaces. The Owners who are assigned Disabled Parking Stalls shall be subject to the rights of the Board to re-assign such parking Stalls. Evidence of disabled status shall be by distinguishing license plate or placard issued by the Hawaii Department of Motor Vehicles. Except for Declarant Reserved Parking Stalls, the Board shall have the authority and be responsible for coordinating the assignment of parking stalls in the Parking Garage pursuant to this Section G.16 and shall adopt rules and regulations with respect thereto, including the procedure to be followed should an Owner or occupant become disabled and wish to use a Disabled Parking Stall, forms and methods of notice to be given to the Board and Owner, and procedures for review of the required evidence of disabled status. The Board shall maintain appropriate records of such assignment, including a copy of the evidence provided. In no event shall the Declarant or the Association be held liable if the Declarant or the Association is unable to assign a Disabled Parking Stall to a disabled Owner because all designated Disabled Parking Stalls have previously been assigned to other disabled Owners.

(b) Authorized Vehicles. The following vehicles are "Authorized Vehicles": motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less, and any vehicle owned, used, or authorized by Declarant. Subject to Section G.16(d) below, Authorized Vehicles may be parked in the parking areas in the Property intended for parking of motorized vehicles.

(c) Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": recreational vehicles (e.g., motor homes, travel trailers, camper vans, boats, dune buggies, etc.), commercial-type vehicles (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, trucks with any exterior commercial advertisement, or other similar vehicles), buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles, or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited Vehicles shall not be parked, stored, or kept in any parking areas in the Property.

(d) General Restrictions. All Authorized Vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Apartment and kept within the Property shall be parked in that Owner's assigned parking stall. No vehicle shall be parked in any Parking stall if such vehicle does not completely and clearly fit between the painted parking lines designated for a parking stall or otherwise physically fit wholly within the designated space or any other portion of the parking areas in the Property designed for ingress and egress of vehicles. There shall be no parking in the Property that obstructs free traffic flow, constitutes a nuisance, violates the Community Rules, or otherwise creates a safety hazard. The parking areas in the Property shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational, or business purposes (except for storage in authorized storage spaces). No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property.

(e) Community Rules Respecting Parking. Declarant has the exclusive right to use and/or assign and/or unassigned Parking Stalls that are not appurtenant to any specific Apartment, including Declarant's Reserved Stalls. If Declarant waives this right with respect to any one or more unassigned Parking Stalls, use of those unassigned Parking Stalls, if any, may be governed by rules and regulations adopted in accordance with the Bylaws to assure equitable use of the stalls by all Owners. The Board of Directors may install parking meters, gates, security devices, checkpoints, and other equipment appropriate to this end and may issue stickers or adopt an allocation system. Without limiting the foregoing, the Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Apartments, including, without limitation, designating "residential guest parking," "commercial parking," "parking," and "no parking" areas thereon. Any parking areas shall be subject to such further reasonable control and use limitations as the Board may establish. The Board shall determine, in its discretion, whether there is a violation of the parking and vehicular restrictions set forth in this Declaration or established by the Board, and, if such noncompliance is determined by the Board to exist, the Board shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Property pursuant to law.

(f) Declarant's Rights With Respect to Parking Stalls. The terms of Sections G.15(b) – (d) shall not apply to Declarant.

17. Exclusive Use Lanais. Without limiting the generality of any other provision of this Declaration, the following provisions shall apply to Exclusive Use Lanais:

(a) Use of Exclusive Use Lanais. Exclusive Use Lanais shall be used only as outdoor living areas containing patio furniture, potted plants, and other similar outdoor furnishings that comply with the standards governing the appearance of such items as set forth in the Community Rules. Said furnishings shall be equipped with protective leg caps or other devices to prevent damage to the floor of the Exclusive Use Lanais. No Improvement shall be nailed, bolted, or otherwise attached to the floor, walls, or any other portion of the Exclusive Use Lanais. No hanging screens, banners, or windchimes and no other accouterment (other than plants), which may be visible from any other Apartments, the Common Elements, or Association Property are permitted on any portion of the Exclusive Use Lanais. Unless placed by the Declarant, any plants placed on Exclusive Use Lanais must be approved by the Architectural Committee, must have sufficiently large receptacles to contain all drainage from such plants, and must not be allowed to collect condensates or moisture between the receptacles and the floor of the Exclusive Use Lanais.

(b) Limitations on Use. Exclusive Use Lanais shall not be used for storage of any type, including, without limitation, boxes, tools, exercise and sports equipment, bicycles,

cleaning utensils and supplies, or other household items. Exclusive Use Lanais shall be maintained in a clean, neat, and sanitary condition at all times, and nothing shall be placed on Exclusive Use Lanais so as to render them unsightly or offensive to the other Owners or to any other property in the vicinity of the Community or its occupants. No dust, dirt, or other substances shall be shaken, swept, or thrown from or hosed off the Exclusive Use Lanais on or into any Common Elements. Any item which in the opinion of the Board or the Architectural Committee is unsightly or offensive shall be removed from the Exclusive Use Lanais upon receipt of written notice of such determination from the Board or the Architectural Committee. No Owner shall change or alter the surface or exterior of any Exclusive Use Lanais without the consent of the Architectural Committee.

18. Post-tension Concrete System. By acceptance of a deed to an Apartment, each Owner acknowledges and understands that, generally, the concrete components of the Apartment (floor and ceiling) have been built using a post-tension concrete system ("System"). The System involves placing steel cables under high tension in the concrete slab foundation located beneath the Apartment. Therefore, any attempt to alter or pierce the foundation (for example, saw cutting, drilling, or installation of a subterranean floor safe) could damage the integrity of the System and/or cause serious injury or damage to persons and personal property. By accepting a deed to an Apartment, each Owner specifically covenants and agrees: (i) not to cut into or otherwise tamper with the System; (ii) not to knowingly permit or allow any other person to cut into or tamper with the System; (iii) to disclose the existence of the System to any tenant, lessee, or subsequent purchaser of the Apartment; and (iv) that Declarant shall not be responsible for any damage or injury resulting from or arising in connection with the alteration of the System by the Owner or any employee, agent, family member, contractor, or other representatives of the Owner, and Owner shall indemnify, defend, and hold Declarant harmless with respect to any such damage or injury.

19. Rights of Persons with Disabilities. Subject to the provisions of **Section M** of this Declaration, each Owner shall have the right to modify the Owner's Apartment and the route over the Common Elements leading to the front door of the Apartment, at the Owner's sole cost and expense, in order to facilitate access to the Apartment by persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to such persons. The rights granted by this **Section G.19** are further subject to the following conditions: (i) the modifications shall be consistent with applicable building code requirements; (ii) the modifications shall be consistent with the intent of otherwise applicable provisions of this Declaration pertaining to safety or the aesthetic integrity of the Community; (iii) the modifications which are external to the Apartment shall not prevent reasonable passage by other Owners or Invitees on the Community, and shall be removed by the Owner when the Apartment is no longer occupied by persons requiring those modifications; (iv) any Owner who intends to modify an Apartment pursuant to this **Section G.19** shall submit their plans and specifications to the Architectural Committee for review to determine whether the modifications comply with the provisions of **Section M** and this Section; and (v) any change in the exterior appearance of an Apartment shall be in accordance with the provisions of this Declaration and all applicable provisions of law. The Board shall not deny approval of the proposed modifications under this **Section G.19** without good cause.

20. Compliance with Laws, Etc. Nothing shall be done or kept in any Apartment or in the Common Elements or the Property that might increase the rate of, or cause the cancellation of, insurance for the Community, or any portion of the Community. No Owner shall permit anything to be done or kept in his or her Apartment that violates any law, ordinance, statute, rule, or regulation of any local, county, state, or federal body, including any laws, ordinances, or statutes pertaining to the use or storage of any hazardous, contaminated, or toxic materials.

21. Antennae. Except for rights reserved to Declarant under this Declaration to install such items, no radio station, satellite, or shortwave operators of any kind shall operate from any Apartment or any other portion of the Property unless approved by the Architectural Committee. With the exception of any master antenna maintained by the Association or the cable system maintained by applicable cable franchisee, no exterior radio antenna, "C.B." antenna, television antenna, receiving station, satellite dish, or other antenna of any type (collectively, "Signal Reception Device") shall be erected or maintained anywhere in the Property, without the approval of the Architectural Committee. In considering whether to approve any such application and what conditions, if any, to impose thereon, the Architectural Committee may consider any clearly defined safety objective, the impact of any such Signal Reception Device upon Community aesthetics and uniformity of appearance, and any potential structural damage arising from such Signal Reception Device, provided that any restriction imposed by the Committee shall be reasonable and consistent with rules and regulations promulgated by the Federal Communications Commission pursuant Section 207 of the Telecommunications Act of 1996 (collectively, the "Antennae Statutes"). In reviewing an application for approval to install a Signal Reception Device, the Architectural Committee shall apply the same standards, criteria, and guidelines to such application as applicable to any other proposed exterior improvement to any Apartment and shall not impose any differential or discriminatory requirements applicable only to a proposed Signal Reception Device. In granting approval of the installation of any such Signal Reception Device, the Architectural Committee may further condition such approval upon compliance with any reasonable restrictions authorized by the Antennae Statutes. All satellite dishes approved by the Architectural Committee for installation on the Community shall be black. Normal radio, stereo, high fidelity, and television equipment installation within an Apartment are excepted from the provisions of this section; provided, however, in no event shall such radio, stereo, high fidelity, television equipment, or other electrical equipment interfere with the use of any such equipment by any other Owner within the Community.

22. Firearms and Fireworks. The display and discharge of firearms or fireworks in the Common Elements, including the Limited Common Elements, is prohibited; provided that the display of lawful firearms in the Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements to or from the Owner's Apartment. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

23. Submission of Design Approach and Laboratory Impact Isolation Tests for Initial and Replacement Hard Surface Floors.

(a) The Owner of any Apartment wishing to install a hard surface floor must submit to the Architectural Committee such plans and specifications regarding the flooring and the noise mitigation measures and other information as are required by the Architectural Guidelines, together with a test report from a qualified acoustical testing laboratory clearly showing that the Impact Isolation Class of the flooring, underlayment and method of construction selected has a minimum rating of IIC-55.

(b) No flooring installation or construction shall be permitted until the information required in **Section G.23(a)** is submitted to and approved by the Architectural Committee, unless the Architectural Committee determines in their prudent judgment that the requirement should be waived. Submission of the required materials to the Architectural Committee shall be for the purpose of documenting the location and design of any hard surface flooring within the Community and to ensure that such flooring is designed and installed in a manner to mitigate the transmission of noise and is installed in a professional manner and with reference to appropriate standards. Installation of any hard surface flooring without compliance with each of the requirements set forth

in **Section G.23(a)** and the Architectural Guidelines shall constitute a violation of this Declaration, and subject the violating Owner to all remedies provided herein or by applicable law for such violation, including, without limitation, the levy of fines by the Association until such violation is removed from the Apartment. Approval of the Architectural Committee is not an assurance or guarantee that noise will not be transmitted to other Apartments. In addition, and notwithstanding any Owner's compliance with the requirements of **Section G.23(a)** and the Architectural Guidelines, if, following installation of any such hard surface floor, the Owner of the Apartment located beneath such installation lodges a reasonable and verifiable complaint with the Board concerning the sound impact of such flooring on the complaining Owner's Apartment, the Owner installing such hard surface flooring shall, upon notice from the Board, given in the Board's sole discretion, cover at least eighty percent (80%) of the hard surface flooring within such Owner's Apartment with carpeting in order to mitigate the impact to the complaining Owner, and the failure of the Owner notified by the Board to comply with the Board's requirement within sixty (60) days after receipt of that notice shall constitute a violation of this Declaration and subject the violating Owner to all remedies provided by this Declaration or applicable law.

24. **Water Supply System.** No individual water supply or water softener system shall be permitted in any Apartment unless such system is designed, located, constructed, and equipped in accordance with the requirements, standards, and recommendations of any applicable water district, the locality in which the Property is located, and all other applicable governmental authorities.

25. **Sound Attenuation.** In any multi-family dwelling, sound may be audible between Apartments, particularly where the sound level of the source is sufficiently high and the background noise in an adjacent Apartment is very low. Each Owner shall endeavor to minimize any noise transmission from his or her Apartment, and shall adhere to any of the rules and regulations set forth in the Community Rules and Architectural Guidelines that are designed to minimize noise transmission. To minimize the noise transmission from an Apartment, each Owner (other than Declarant) shall adhere to the following:

(a) No holes or other penetrations shall be made in Common Element or Limited Common Element walls without the permission of the Architectural Committee. No penetrations of any sort shall be made in the ceiling of any Apartment. Acoustical sealant shall be packed around the point of penetration of all pictures and other items hung from the wall that require nailing or screwing.

(b) No modifications shall be made to any Apartment that would result in a reduction in the minimum impact insulation class of the Apartment.

(c) Loudspeakers for music reproduction and television shall not be supported from or contact Common Element or Limited Common Element walls or ceilings and shall be elevated from the floor by a proper acoustic platform.

(d) Pianos shall have at least ½ inch neoprene pads under the supports to minimize vibration transmission into the structure.

(e) All furniture shall contain rubber castors or felt pads.

26. **Roof Access Restrictions.** Owners and Invitees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon (i) the roof of the Community; (ii) any portion of the Common Elements used by the Association for management, administrative, or

security purposes; and (iii) utility closets and electrical or mechanical rooms, without the prior approval of the Architectural Committee.

27. Storage Areas. Storage areas shall be used only for the storage of personal property. In no event shall the storage areas be used for the storage of any Hazardous Materials or any other noxious, toxic, or odorous substances. Assigned storage spaces may be leased or exchanged apart from the conveyance of an Apartment only as set forth in **Section G.2(b)** and shall not otherwise be leased, subleased, sold, or otherwise separately conveyed apart from conveyance of such Apartment. Except as set forth herein, no assigned parking stall may be sold, transferred, assigned to, or retained in the ownership of any person not an Owner, and no parking stall or storage space may be rented or leased to a non-Owner except in connection with the rental or lease of an Apartment.

28. Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Elements and the Property that may be sustained by reason of the negligence of that Owner or the Owner's Invitees. Each Owner, by acceptance of the deed to an Apartment, agrees for himself or herself and for the Owner's Invitees to indemnify each and every other Owner, and to hold each Owner harmless from, and to defend such Owner against, any claim of any person for personal injury or property damage occurring within the Apartment of that particular Owner and within any Limited Common Elements appurtenant to the Owner's Apartment, unless the injury or damage occurred by reason of the negligence of any other Owner.

29. Special Use Restrictions Applicable to Commercial Apartments. Without limiting the application of any other provision of this Declaration, the following restrictions shall be applicable to the Commercial Apartments.

(a) Advertising. No Owner or lessee shall employ an advertising medium which can be heard or experienced outside of the Commercial Apartment, including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, compact disc players, radios, or television. Identification and other signage shall be governed by **Section G.29(c)** below. No Owner or lessee shall distribute, or cause to be distributed, any handbills or other advertising device in the Common Elements or Property or on the public sidewalks or streets adjacent to the Community.

(b) Commercial Invitees and Lessees; Insurance. An Owner of a Commercial Apartment shall be responsible for compliance by such Owner's commercial Invitees and lessees, and such Owner's lessees' Invitees, with the provisions of this Declaration, the Bylaws, and any rules made by the Board. The Owner of a Commercial Apartment and such Owner's lessee shall maintain a policy or policies of public liability insurance in an amount which is reasonable for the use of such Commercial Apartment, naming the Association as an additional insured, and shall demonstrate proof of such insurance to the Board upon request.

(c) Sign Control. Identification and other signs may be placed or displayed by Owners or tenants of Commercial Apartments only as approved by Declarant, and in conformance with all applicable federal, state, and local laws and regulations. If Declarant fails to act on any applicable sign request made in writing by the Commercial Apartment Owner, such signage shall be permitted only in accordance with the Architectural Guidelines subject to the approval procedures set forth in **Section M**. If elected by the Owner(s) of the Commercial Apartments, such Owners may label the parking stalls, which are limited common elements appurtenant to the Commercial Apartment(s), to identify their availability for use by Commercial Apartment users. So long as

Declarant owns any interest in the Community, all identification and other signs for the Commercial Apartments (and any changes thereto) are subject to the prior written approval of Declarant.

(d) Water Usage. Declarant may install water submeters in each Commercial Apartment to measure water usage for each of the individual Commercial Apartments, and, in such case, the Association will be responsible for the payment of this bill to the service provider, and each Commercial Owner will be responsible for paying its share of such water bill plus service charges to the Association. In the event that no submeters are installed for utilities provided to Commercial Apartments, the Board may apportion such use equitably among the users of such utilities. If an Owner of a Commercial Apartment fails to pay any amounts when due, such Commercial Owner will be responsible for any penalties or delinquent amounts levied by the service provider. Additionally, the Association shall have the right to cure any failure by the Owner of a Commercial Apartment ("Defaulting Owner") to pay the amounts due to the service provider. If the Association elects to cure such default, then the Defaulting Owner will be responsible for reimbursing the Association. If the Defaulting Owner fails to reimburse the Association, the Association will be entitled to impose a Special Assessment as provided in this Declaration, may enter the Commercial Apartment to shut off water service to the Defaulting Owner's Commercial Apartment, or may pursue any other remedies as provided in this Declaration. Each Commercial Owner shall also have the obligation to maintain, repair, and replace the submeter providing service to such Owner's Commercial Apartment. If the Owner of a Commercial Apartment fails to maintain such water meters, the Association shall be entitled to maintain, repair, and replace the water meter and charge the cost thereof to such Owner or pursue any other remedies provided under this Declaration.

30. Non-Applicability to Declarant. The foregoing provisions of **Section G** shall not apply to Apartments owned by Declarant or to any Improvements proposed or made by Declarant in connection with its development, construction, promotion, marketing, sale, or leasing of any Apartment or any other portion of the Community or the Merged Community described in **Section P**.

H. ADMINISTRATION OF THE COMMUNITY.

1. Administration. The administration of the Community shall be governed by the Act, the Community Documents, and any agreements, decisions, and determinations lawfully made by the Association, the Board of Directors, or the Managing Agent. The right and duty to administer the Community is vested in the Association and the Board of Directors in accordance with this Declaration and the Bylaws. Specifically, but without limitation, the Association shall:

(a) Fences, Sewers, and Other Improvements. Make, build, maintain, repair, and replace all fences, sewers, drains, roads, curbs, sidewalks, and parking areas which may be required by law to be built, maintained, and repaired upon or adjoining or in connection with or for the use of the Community or any portion thereof;

(b) Compliance With Law. Observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority applicable to the Community;

(c) Common Elements. Repair, maintain, preserve, and replace all Common Elements, including without limitation the Community Access Drive, guest parking areas, any sign, monument, landscape areas, and any similar features in order to keep such Common Elements in good order and repair and in a strictly clean and sanitary condition, except as otherwise provided

herein, and maintain and keep the land and all adjacent land between any street boundary of the Community and the established curb or street line in a neat and attractive condition, and maintain all trees, shrubs, and grass in good cultivation and replant the same as may be necessary, and repair all defects in the Common Elements required to be repaired by the Association;

(d) Setbacks. Observe any setback lines affecting the Community and not place or maintain any building or structure whatsoever, except fences or walls approved or permitted in accordance with Community Documents, between any street boundary of the Community and the setback line along such boundary;

(e) No Waste. Not make or suffer any waste or unlawful, improper, or offensive use of the Community;

(f) New Construction and Alterations to Common Elements. Not erect or place on or within the Community any building or structure, including fences and walls, nor make additions or structural alterations or exterior changes to any Common Elements of the Community, except in accordance with plans and specifications, including a detailed plot plan prepared by a licensed architect, if so required by the Board of Directors, first approved by such percentage of Owners as may be required by the Act, the Bylaws, or this Declaration, and complete any such improvements with due diligence;

(g) Improvements to Community. Before commencing or permitting construction of any improvement on or to the Community having a cost in excess of Twenty-Five Thousand Dollars (\$25,000.00) or such lesser amount as may from time to time be reasonably deemed appropriate by the Board, obtain or cause to be obtained a bond naming as obligees, collectively, the Association, the Board, and all Owners and their respective Mortgagees as their interests may appear, in a sum not less than one hundred percent (100%) of the cost of such construction, with a corporate surety authorized to do business in Hawaii assuring performance of such construction free and clear of all mechanics' and materialmen's liens, and all claims in lieu of mechanics' and materialmen's liens arising under the Act. The Board may, in its sole discretion, increase the Twenty-Five Thousand Dollars (\$25,000.00) limitation from time to time by an amount equal to the percentage increase in the Honolulu Consumer Price Index for all items, as published by the Bureau of Labor Statistics of the United States Department of Labor or other successor federal or state agency or department, and adjusted to any new basis and method of computation then applicable. For purposes of this section, the term "percentage increase" shall mean the product of (i) the fraction, the numerator of which is the difference between the Honolulu Consumer Price Index for the first day of the calendar month preceding the calendar month in which the Board shall approve an increase in such dollar limitation and the Honolulu Consumer Price Index for the first day of the calendar month in which this Declaration is Recorded, and the denominator of which is the Honolulu Consumer Price Index for the first day of the calendar month in which this Declaration is Recorded, times (ii) Twenty-Five Thousand Dollars (\$25,000.00);

(h) Bound by Waivers. Be bound by all waivers, if any, of claims, rights of action, and suits against Declarant, its successors and assigns, which may be contained in the apartment deeds from Declarant to purchasers of Apartments, and the Association shall not bring against Declarant, its successors and assigns, any claim or right of action or suit relating to any of the matters waived by the purchasers in such apartment deeds;

(i) Reserve Study. Commission and have prepared within the time required under the Bylaws a reserve study addressing the requirements of Section 514A-83.6(a);

(j) Accept Conveyances from Declarant. Accept the conveyance by Declarant of the Club Facility or other Commercial Apartment owned by the Declarant on other property specified in Section H.6 and any grant of non-exclusive easement over any landscaped area or other elements or features conveyed by the Declarant; and

(k) Perform Inspection Obligations. Commission and have preformed the inspection obligations set forth in **Section H.8 and H.9.**

2. Standard of Care; Non-Liability.

(a) Scope of Powers and Standard of Care.

(1) General Scope of Powers. Rights and powers conferred on the Board, or committees or representatives of the Association by the Declaration are not duties, obligations, or disabilities charged upon those persons unless the rights and powers are explicitly identified as including duties or obligations in the Declaration or law. Unless a duty to act is imposed on the Board, Architectural Committee, or other committees or representatives of the Association by this Declaration or law, the Board and the committees have the right to decide to act or not act. Any decision to not act is not a waiver of the right to act in the future.

(2) Business Affairs. This Section applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances, and Architectural Committee or other committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his or her duties, a Board member is entitled to rely on information, opinions, reports, or statements, including financial data prepared or presented by:

(A) One or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(B) Counsel, independent accountants, or other persons as to matters which the Board member believes to be within such person's professional or expert competence; or

(C) A committee of the Board upon which the Board member does not serve, as to matters within its designated authority, which committee the Board member believes to merit confidence, so long as, in any such case, the Board member acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(D) This **Section H.2** is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this **Section H.2.**

(b) Association Governance. This **Subsection H.2** applies to Board actions and decisions in connection with interpretation and enforcement of the Declaration, architectural and landscaping control, regulation of uses within the Property, rule making, and oversight of

committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

3. Choice of Entity. Nothing in **Section H.1** shall prevent the Association from organizing itself as a non-profit corporation or a limited liability company if permitted by law.

4. Managing Agent. Management and operation of the Community shall be conducted for the Association by a responsible professional Managing Agent duly registered with the Real Estate Commission of the State of Hawaii who shall be appointed by the Board of Directors in accordance with the Bylaws; provided that the initial Managing Agent shall be appointed by Declarant. The Managing Agent shall at all times be in compliance with the fidelity bond and other requirements of the Act relating to managing agents.

5. Service of Process. The Managing Agent is authorized to receive service of legal process in all cases provided in the Act. In addition, process may be served upon any member of the Board who has a residence or place of business within the City and County of Honolulu, State of Hawaii. Until such time as the Board is elected, any officer of Declarant shall serve as agent for service of legal process.

6. Duty to Accept Property Transferred by Declarant. The Association shall accept and the Declarant reserves the absolute right, without joinder or consent of any person, the Board of Directors, or any Owners or their Mortgagees, to convey to the Association title to any property, including all or any portion of any Property annexed to this Declaration in accordance with **Section Q.1(d)**, together with any Improvements thereon and personal property and including any Apartment owned by Declarant, as a Common Element of the Community, together with the responsibility to perform any and all duties associated therewith, which, upon conveyance or dedication to the Association, the Association shall maintain at its expense for the benefit of the Owners as provided in this Declaration. Property interests transferred to the Association by Declarant may include any Apartment (Residential or Commercial), any entry monument, any and all utility areas, drainage facilities, or any portion of the community facilities, any portion of the Common Elements, and may encompass fee simple title, easements, leasehold interests, and licenses to use; provided, however, that any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association "as-is," "where-is," free and clear of all liens and encumbrances except for the following: (i) the lien for property taxes and assessments not then due and payable; (ii) the terms of this Declaration and the terms of the Supplemental Declaration annexing the property to the Property; (iii) easements, rights-of-way, reservations, covenants, conditions, restrictions, and equitable servitudes, or other non-financial encumbrances as Declarant in its discretion may deem appropriate; and (iv) such financial encumbrances as may be reasonably accepted and assumed by the Association and specifically approved by resolution of the Board. Any property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burden on the Association other than the normal burdens of ownership and maintenance of property and the operation of facilities thereon. Each Owner, by accepting title to any portion of the Property and becoming an Owner, is deemed to approve and accept the acquisition by the Association of Common Elements as provided herein, and any common expenses which may relate thereto. The conveyance by Declarant may be without warranty of any kind except as aforesaid and without the benefit of escrow or title insurance, provided, however, the Association may purchase such title insurance, at the Association's expense, as the Association may wish. Without limiting the foregoing, Declarant reserves the right, in the Declarant's sole discretion, to transfer any Commercial Apartment, including, without limitation, the Club Facility, subject to any leases, contracts, and other agreements applicable to the lease, use, and/or operation of such Apartment, and, upon transfer, the Association agrees to assume the obligations

of the Declarant under such leases, contracts, and other agreements. Furthermore, and notwithstanding anything to the contrary contained or implied in this Declaration, Declarant shall have the absolute right, without consent or joinder of the Association, or any member thereof or its Board, to convey to the Association the Common Element(s) and properties described in this **Section H.6.**

7. **Enforcement.** Subject to **Section T**, the Association and Declarant shall have the right to enforce the provisions of this Declaration, including, without limitation, the decisions of the Architectural Committee and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration, supplemental declaration or other instrument which: (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration; or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant. Declarant may, but shall not be required to, provide in a Supplemental Declaration that if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then an Owner may enforce such provisions on behalf of the Association by any appropriate legal action, whether at law or in equity. The Association may, by contract or other agreement, enforce state laws and County ordinances, or permit the state or County to enforce such laws or ordinances, on the Property for the benefit of the Association or the Owners.

8. **Inspection Obligations.**

(a) **Contract for Services.** In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations set forth in any restrictions contained in the Bylaws) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair, and physical condition of the Community.

(b) **Inspection Responsibilities.** The inspectors shall inspect component parts of the Community, including, but not limited to, structural components and structural supports, parking areas, driveways, life safety systems, and walkways and landscaping. If any of the contractors or subcontractors responsible for constructing any component part of the Community provide the Association with maintenance criteria, maintenance manuals, or warranty requirements, such inspectors shall additionally assist the Association with compliance of same. The Association shall update such manuals on a regular basis. The Association shall be responsible for meeting all requirements under such maintenance manuals, maintenance criteria, or warranty requirements.

(c) **Schedule of Inspections.** The inspections described in this **Section H** shall be undertaken initially within ninety (90) days following the first meeting of the members of the Association and shall take place thereafter at least annually or as recommended in the Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair which either require current action by the Association or will need further review and analysis. Such written reports shall specifically include a review of all irrigation and drainage systems on the Community. The Board shall report the contents of such written reports to the members of the Association at the next meeting of the members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(d) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Apartment in the Community by Declarant to an Owner, the Association shall deliver to the Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide the Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

9. No Reduction in Owner's Responsibilities. Nothing in this **Section H** is intended or shall be deemed to relieve any Owner of his or her responsibility for Limited Common Elements appurtenant to his or her Apartment pursuant to the Community Documents. An illustrative but not exhaustive example of the Association's or Owner's maintenance responsibilities is provided in **Exhibit "D."** This chart is not intended to describe or encompass all maintenance functions nor delineate all respective responsibilities between the Owners and the Association. The Association shall let appropriate contracts to service professionals in order to provide and shall provide regular and routine maintenance, inspection, and repair of each of those items specified as the Association's responsibility in **Exhibit "D"** to this Declaration.

I. COMMON EXPENSES AND RESERVE FUNDS.

1. Common Expenses.

(a) Common Expenses Defined; Liability for General Assessments. Except as otherwise provided in this Declaration, all charges, costs, and expenses incurred by the Association for or in connection with the administration, management, and operation of the Community, and all other amounts designated as common expenses under the Act, this Declaration, or the Bylaws, shall constitute common expenses. Common expenses shall include, without limitation, all charges for taxes which are not assessed separately on each Apartment; governmental assessments; premiums for insurance, including fire and other casualty and liability insurance, required or permitted to be maintained by the Association pursuant to this Declaration and the Bylaws; any liability of the Association for loss or damage arising out of or in connection with the Common Elements or any accident, fire, or nuisance thereon; costs of repair, rebuilding, replacement, and restoration of the Common Elements of the Community, and any additions or alterations thereto; costs of yard, janitorial, and other similar services; wages, accounting, legal, and management fees; start-up fees and other necessary expenses of upkeep, maintenance, management, and operation actually incurred on or for the Common Elements, and the cost of all utility services (including water, electricity, gas, refuse disposal, sewer, and any similar services), unless separately metered or allocated. Common expenses shall also include such amounts as the Board of Directors may deem proper for the payment of any deficit in the common expense assessments for any prior year, for a reserve fund for the operation and maintenance of the Property, and a reserve fund for working capital and replacements, repairs, and contingencies. The common expenses may also include such amounts as may be required, by special assessment, for the purchase of any Apartment by the Board or its designee on behalf of the Association, and any cost incurred by the Association for the lease of any Apartment for use by a resident manager. Common expenses shall be charged to each Apartment Owner as General Assessments in proportion to the common interest appurtenant to such Owner's Apartment; provided, however, common expenses may be apportioned by the Board among Residences and Commercial Apartments in an equitable manner, to reflect the relative costs, risks, expenses and benefits accruing to each.

(b) Liability for Special Assessments. Each Apartment Owner shall be jointly and severally liable for payment as a Special Assessment of all costs and expenses (including, but not

limited to, maintenance, repair, replacement, additions, and improvements) of each Limited Common Element appurtenant to his or her Apartment. If a Limited Common Element is appurtenant to two or more Apartments, all of such costs and expenses shall be charged to and divided among each of the Owners of such Apartments in the proportion that the common interest appurtenant to each Apartment bears to the total common interest of all such Apartments. With the exception of the Residential Apartment Limited Common Elements, it is recognized that extra costs and work may be incurred to separately account for and charge Apartment Owners for Limited Common Elements and that such extra costs and work may not be justified when taking into account the amount of the cost or expense, the difficulty of segregating such costs and expenses, the number of Apartments to which similar Limited Common Elements are appurtenant, the apparent difference in the amount of the various assessments to Apartment Owners if such costs and expense were separately charged rather than being assessed on the basis of each Apartment's common interest, and other relative factors. Accordingly, with the exception of the Residential Apartment Limited Common Elements, the Board may decide by resolution to assess certain types of costs and expenses of Limited Common Elements or to assess all costs and expenses of certain similar Common Elements to all Owners in accordance with the common interest appurtenant to their respective Apartments, if the Board determines that such a method of assessment would be equitable; provided that under no circumstances shall the Board assess the Commercial Apartments for Residential Apartment Limited Common Elements. Such a determination by the Board regarding assessment of Limited Common Elements (with the exception of Residential Apartment Limited Common Elements) shall be final and binding on all Apartment Owners in the absence of a clear showing of abuse of discretion by the Board. The preceding provisions are not intended to and shall not relieve the Owners of their responsibilities for Limited Common Elements appurtenant to their respective Apartments as provided in other provisions of this Declaration and the Bylaws.

(c) Separately Charged Taxes, Assessments, and Other Charges. Taxes, governmental assessments, and other charges or expenses which are or may hereafter be assessed or charged separately on each Apartment or personal property or other interest of the Apartment Owner, including real property taxes and charges for utilities or other services which are separately metered or separately chargeable or attributable to an individual Apartment, shall not be common expenses but shall be the liability of the Owner of each Apartment. All charges, costs, and expenses incurred by the Association that are necessitated by or result from the negligence, misuse, or neglect of an Owner or occupant of an Apartment or any person claiming under either of them shall be charged to such Owner or the Owner of the Apartment of such occupant, as a Special Assessment.

2. Working Capital and Reserve Funds.

(a) Working Capital and Other Reserve Funds. The Board shall establish a working capital fund for the initial months (as determined by the Board) of Community operations by assessment against each of the Apartments of an amount equal to at least two (2) months of the estimated share of common expenses for each Apartment. The Board shall also establish and maintain reserve funds in accordance with the provisions of the Bylaws to provide protection for the payment of common utilities, insurance, maintenance, repair, restoration, and replacement of the Common Elements and the furniture, fixtures, and mechanical equipment thereof, and other expenses of administration and management of the Community and such other regular and ongoing expenses or recurring liabilities as the Board may reasonably foresee. The amounts of such reserve funds shall be considered a common expense and shall be assessed to the Owners as provided above. Such reserve funds shall meet the requirements set forth in the Bylaws. The Board may also establish reserves for unexpected contingencies and liabilities, and such

contingency reserves may from time to time be increased or decreased at the discretion of the Board. The amount of such contingency reserves shall be considered a common expense and shall be assessed to the Owners as provided above. Any amount of the assessment of common expenses that is allocated, used or to be used for capital improvements, or any other capital expenditure, shall not be deemed income to the Association but shall be credited upon the books of the Association to paid-in surplus as a capital contribution by the Owners.

(b) Owners' Interest in Reserve Funds. The proportionate interest of each Owner in all reserve funds of the Association shall not be withdrawn or assigned separately but shall be deemed to be transferred with such Apartment even though not mentioned or described expressly in the instrument of transfer or conveyance. If the condominium property regime established hereby is terminated or waived, said funds remaining after the full payment of all common expenses of the Association shall be distributed to all Owners in proportion to their respective common interests, except for Owners of Apartments reconstituted as a new condominium property regime, in which case the proportionate share of such Owners shall be transferred to the association of such new condominium property regime.

(c) No Commingling of Reserve Funds. Any reserves included in the common expenses which are collected as part of the General Assessments shall be deposited by the Association in a separate bank account (or similar account with a recognized financial or investment institution) to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association, except to the extent that the Association's accountant deems it desirable to do otherwise on the basis of standard accounting principles in similar contexts, optimizing investment returns, or the laws, tax or otherwise, of the State of Hawaii or the United States relating to non-profit corporations or homeowners associations. Such reserves shall be deemed a contribution to the capital account of the Association by the Owners. The responsibility of the Board (whether while controlled by Declarant or the Owners) shall be only to provide for such reserves, if any, as the Board in good faith deems reasonable, and neither Declarant nor the Board nor any member thereof shall have any liability to any Owner or to the Association if reserves prove to be inadequate.

J. ASSESSMENTS

1. Creation of Lien and Personal Obligation. Each Owner, by acceptance of the deed to an Apartment, is deemed to covenant and agree to pay to the Association, and to be jointly and severally liable for: General Assessments; Special Assessments; Benefited Assessments; and Capital Improvement Assessments (collectively, the "Assessments"), such Assessments to be established and collected from time to time as provided in this Declaration and the Bylaws. The Assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien (the "Assessment Lien"), upon the Apartment against which the Assessments are made. Each Assessment, together with such interest and other costs, shall also be the personal obligation of the Owner to whom such Assessment relates. The personal obligation of delinquent payments shall not pass to an Owner's successor in title unless expressly assumed by the successor.

2. Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, culture, safety, and welfare of the Community, to enhance the quality of life within the Community, to preserve the value of the Property, to pay the costs of administration of the Association and all other common expenses, and otherwise to further the

interest of the Association. If an Apartment has separate security, gas, electrical, sewer, or other similar utilities or services, the cost of the same shall be the personal obligation of the Owner of such Apartment.

3. General Assessments. Each Owner shall pay General Assessments as provided in this Section J. Except as otherwise specifically provided herein, payment of General Assessments shall be in such amounts and at such times as may be provided in the duly adopted Bylaws or as determined by the Board. Not later than 60 days prior to the beginning of each fiscal year of the Association, the Board shall prepare a pro-forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total common expenses to be incurred for such fiscal year. The Board shall at the time determine the amount of the General Assessment to be paid by each Owner and notify such Owner. Each Owner shall thereafter pay to the Association said General Assessment in quarterly installments. Each such installment shall be due and payable on the date and in the manner specified by the Board. In the event the Board fails for any reason to determine the budget for any fiscal year, then and until such time as a budget shall have been determined as provided herein, the budget and General Assessments in effect for the then-current fiscal year shall continue for the succeeding fiscal year. If the Board determines that the total General Assessments for the current year are, or will become, inadequate to meet all common expenses for whatever reason, including common expenses in excess of the estimated common expenses used in preparation of the Association's budget for that year, but excluding any common expenses allocated as Special Assessments or Benefited Expenses, the Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the common expenses and determine the revised amount of General Assessments to be paid by each Owner for the balance of the year, and the date or dates when due. If the estimated total General Assessments for the current year prove to be excessive in light of the actual common expenses, the Association may, at the discretion of the Board, retain such excess as additional working capital or reserves, reduce the amount of the General Assessments for the succeeding year, or abate collection of General Assessments for such period as it deems appropriate.

4. Special Assessments. Special Assessments shall be levied by the Association against an Owner and such Owner's Apartment to reimburse the Association for: (a) costs incurred in bringing an Owner or such Owner's Apartment into compliance with the provisions of this Declaration, any Supplemental Declaration, the Bylaws, Community Rules, or Architectural Guidelines; (b) any other charge designated as a Special Assessment in this Declaration, any Supplemental Declaration, the Bylaws, Community Rules, or Architectural Guidelines; (c) fines levied or fixed by the Board as otherwise provided herein; and (d) attorneys' fees, interest, and other costs or charges provided to be paid as, or which are incurred in connection with, a Special Assessment in accordance with this Declaration, any Supplemental Declaration, the Bylaws, Community Rules, or Architectural Guidelines.

5. Benefited Assessments. The Board shall have the power and authority to specifically assess Apartments receiving benefits, items, or services provided to less than all Apartments within the Property (the "Benefited Assessments"). Costs and expenses of the Association which are incurred upon the request of an Owner for specific items or services relating to or benefiting such Owner or such Owner's Apartment, or which are incurred pursuant to this Declaration, any Supplemental Declaration, the Bylaws, Community Rules, or Architectural Guidelines, for specific items or services relating to or benefiting certain Apartments, shall be specifically assessed as Benefited Assessments against the Apartment(s) benefited.

6. Capital Improvement Assessments. The Association may levy a Capital Improvement Assessment for the purpose of defraying, in whole or in part, the cost of any

construction or replacement of a capital improvement to the Common Elements in accordance with the provisions of **Section H.1**. Capital Improvement Assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate.

7. Rate of Assessment. The amount of any General Assessments and Capital Improvement Assessments shall be fixed and levied at a uniform (equal) rate for each Apartment.

8. Date of Commencement of Assessments. Subject to the prepayment of Assessments and funds required for capitalization as set forth in **Section J.15** and the rights of Declarant set forth in this Declaration, the obligation to pay Assessments shall commence as to all Apartments subject to this Declaration on the first day of the month following the conveyance of the first Apartment to an Owner other than Declarant. Assessments shall be due and payable in a manner and on such schedule as the Board may provide.

9. Time and Manner of Payment; Late Charges and Interest. Assessments shall be due and payable by Owners in such manner and at such times as the Board shall designate. Any Assessment not paid within ten (10) days after the due date thereof shall be subject to a one time (per late Assessment) late charge equal to ten percent (10%) of the amount of Assessment or such other charge as the Board may specify from time to time, to defray the costs to the Association of additional record keeping and reporting, and shall accrue interest at the rate of twelve percent (12%) per annum from the due date until paid. Any unpaid Assessment shall constitute an Assessment lien on the Apartment for which the Assessment was made, which lien shall have the priority and standing in regard to other liens as provided by law, in particular Section 514A-90(a) of the Act. The Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Owner shall also be liable for attorneys' fees and other related costs incurred by the Association as a result of such delinquency, and if any suit, action, or arbitration proceeding is brought to collect any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon. The Association may deduct and apply portions of common expense payment received from an Apartment Owner to late charges only in accordance with HRS § 514A-15.1.

10. No Offsets. All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that: (i) the Association, the Board, or Declarant is not properly exercising its duties and powers as provided in this Declaration; (ii) Assessments for any period exceed common expenses; or (iii) an Owner has made, and elects to make, no use of the Common Elements or any portion thereof.

11. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection thereof, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to an Owner shall not relieve any Owner of such Owner's liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty days' written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of an Apartment changes

during an assessment period. Successor Owners of Apartments shall be given credit for prepayments made by prior Owners on a prorated basis.

12. Enforcement of Lien. The Assessment Lien may be foreclosed by the Association as provided for in the Bylaws and/or in the Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed by registered mail to all persons having any interest in such Apartment as shown on the Association's record of ownership, including Mortgagees of record. Upon receipt of such notice, any Mortgagee of record shall be entitled to pay all unpaid amounts of any such assessment, and the Board, acting on behalf of the Association, shall accept such payment in satisfaction thereof and thereupon release and discharge the lien securing the payment thereof. The Managing Agent, acting on behalf of the Association and as directed by the Board, shall be entitled to bid on an Apartment at foreclosure sale and to acquire, hold, lease, Mortgage, and convey such Apartment. An action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing such expenses. All of the provisions of this Section relating to the enforcement of the Assessment Lien provided for herein (including without limitation the provisions of this Section) shall apply with equal force [in each other instance provided for] in this Declaration, any Supplemental Declaration, the Community Rules, or Architectural Guidelines wherein it is stated that payment of a particular Assessment, charge, or other sum shall be secured by the Assessment Lien. Nothing herein shall be construed as requiring that the Association take any action required hereunder in any particular instance, and the failure of the Association to take such action at any time shall not constitute a waiver of the right to take such action at a later time or in a different instance.

13. Liability For Assessments. If an Owner shall default in the payment of any Assessment for a period longer than thirty (30) days, the Board may, at its option, so long as such default shall continue and subject to the requirements of HRS § 514A-90.5, demand and receive from any tenant of the Owner occupying that Owner's Apartment, the rent as it becomes due or the net amounts due to the Owner under any contract between the Owners and a rental agent up to an amount sufficient to pay all sums due from the Owner, including interest and costs of enforcement, if any. Any such payment to the Board by a tenant or rental agent shall be a full and sufficient discharge of the tenant or agent as between the tenant or agent and the Owner to the extent of the amount so paid. No such demand or acceptance of rent from any tenant or agent shall be deemed to be an approval of any lease by the Owner or a release or discharge of any of the obligations of the Owner remaining unpaid or unperformed or an acknowledgment of surrender of any rights or duties hereunder. Neither the tenant nor the rental agent shall have the right to question the right of the Board to make such demand, but shall be obligated to make such payments to the Board as demanded. The Board may not exercise this right if a receiver has been appointed to take charge of an Apartment or if a Mortgagee is in possession pending a mortgage foreclosure.

14. Subordination of the Assessment Lien. The Assessment Lien, including interest, late charges (subject to the limitations of Hawaii law), and costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any First Mortgage upon any Apartment. The sale or transfer of any Apartment shall not affect the Assessment Lien. However, the sale or transfer of any Apartment pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the Assessment Lien as to payments that became due prior to such sale or transfer. No sale or transfer, including transfer to a receiver or trustee in bankruptcy, shall relieve such Apartment from the Assessment Lien for any Assessments thereafter becoming due. Where a Mortgagee of Record obtains title, neither it nor its successors and assigns shall be liable for the share of the common expenses or Assessments by the Association chargeable to the Apartment securing such Mortgage that became due prior to the acquisition of title to such Apartment. Such

unpaid share of common expenses or Assessments shall be deemed to be common expenses collectible from all of the Owners, including the Mortgagee, its successors and assigns.

15. Capitalization of Association. Upon acquisition of Record title to any Apartment, Declarant may require a contribution to be made by the acquiring Owner to the capital of the Association in an amount equal to two-twelfths of the annual total of the General Assessment for that type of Apartment as determined by the Board, and, in addition, the acquiring Owner shall prepay at least two months of General Assessments due in respect of such Apartment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association.

16. Pledge of Assessment Rights as Security. The Association shall have the power to pledge the right to exercise its assessment powers and rights provided for in this Declaration as security.

17. Waiver of Use. No Owner shall be exempt from personal liability for Assessments, nor shall any Apartment owned by such Owner be released from the liens, charges and other provisions of this Declaration, any Supplemental Declaration, the Bylaws, Community Rules or Architectural Guidelines, by voluntary waiver of, or suspension or restriction of, such Owner's right to the use or enjoyment of the Common Elements, or the abandonment of such Owner's Apartment.

K. INSURANCE.

1. Association Obligations. The Association, as a common expense, shall at all times provide and maintain such insurance policies as are provided for in the Bylaws, including, without limitation, such public liability, fire and casualty, officers' and directors' liability and indemnity, workmen's compensation, and other insurance and such fidelity bonds as the Board shall deem necessary or appropriate from time to time. All such policies and claims thereunder shall be administered by the Board. To the extent reasonably available, the Association shall maintain at least \$2,000,000 (combined limits) of insurance against liability incurred as a result of death, personal injury and property damage arising out of a single occurrence. Fire and casualty insurance shall be in an amount as near as possible to the full replacement value of all Improvements located on the Area of Common Responsibility, and shall be written with extended coverage and an inflation guard endorsement, if reasonably available.

2. Owner Obligations. Each Owner shall maintain property insurance against losses to personal property located within such Owner's Apartment and to any upgrades or Improvements located within the Apartment, which property insurance shall include additional living expense coverage and liability insurance against any liability resulting from any injury or damage occurring within the Apartment. Such insurance shall also include coverage against any damage caused by an Owner to another Owner's Apartment or Common Elements. The Association's insurance policies will not provide coverage against any of the foregoing. All Owners hereby waive all rights of subrogation against the Association, and any insurance maintained by an Owner must contain a waiver of subrogation rights by the insurer as to the Association provided; however, that a failure or inability of an Owner to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Owners and the Association set forth herein. No Owner shall separately insure any property covered by the Association's property insurance policy as described above. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the

diminution. The Association may levy an assessment against the Owner's Apartment to collect the amount of the diminution.

L. RESTORATION AFTER CASUALTY.

1. Obligation to Restore. In the event any improvements in the Community are damaged or destroyed by any casualty, and where an election is otherwise permissible under the other provisions of this Declaration and the Bylaws, such improvements shall be rebuilt, repaired, or restored as provided in the Bylaws, unless at least eighty percent (80%) of the Apartment Owners vote not to rebuild, repair, or restore the improvements (including at least eighty percent (80%) of the Owners of the damaged or destroyed Apartments). Such vote shall be taken as provided in the Bylaws. Unless restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site to good orderly condition and even grade. In the absence of a vote not to restore or rebuild, there shall be an affirmative obligation on the Owners to restore and rebuild the Community.

2. Restoration of Common Elements and Apartments. Any restoration of the Common Elements shall be completed diligently by the Association at its common expense, and, to the extent not covered by insurance maintained by the Association, the Apartment Owners shall be solely responsible for the restoration of their respective Apartments. In the event the Owners determine not to repair and restore the improvements, all insurance proceeds remaining after the site is cleared and restored to good condition and even grade shall be divided among the Apartment Owners (and their Mortgagees, if any, as their interests appear) in proportion to their common interests.

M. ALTERATION OF THE COMMUNITY.

1. General

(a) Adherence to Condominium Map. Repair, reconstruction, restoration, replacement of the Community or any building or other structure, or construction of any additional building or other structure or structural alteration or addition thereto, that is different in any material respect from the Condominium Map, shall be undertaken by the Association or any Apartment Owners only pursuant to an amendment of this Declaration. Except as expressly provided otherwise in this Declaration, any such amendment shall be duly executed by or pursuant to the affirmative vote of seventy-five percent (75%) of the Apartment Owners and accompanied by the written consent of the eligible holders of First Mortgages on Apartments to which at least sixty-seven percent (67%) of the votes of Apartments subject to Mortgages held by such eligible holders are allocated, and in accordance with complete plans and specifications therefor first approved in writing by the Architectural Committee and the Board. Promptly upon completion of such repair, reconstruction, restoration, replacement, construction, alteration, or addition, the Association shall duly Record and file of record such amendment together with a complete set of floor plans of the Community as so altered, certified as-built by a licensed, registered architect or professional engineer.

(b) Permitted Alterations.

(1) Each Owner has the right to make any of the following changes, additions and Improvements solely within the Owner's Apartment or Limited Common Element that such Owner controls, subject to the Owner's compliance with the Architectural Guidelines:

(A) To install, maintain, remove, and rearrange partitions and other structures from time to time within the Apartment or Limited Common Element; provided that the Owner shall not have the right to enclose any exterior lanai;

(B) To finish, change, or substitute any plumbing, electrical, or other fixtures attached to the ceilings, floors, or walls as appropriate for the use of the Apartment or Limited Common Element;

(C) To decorate, paint, repaint, wallpaper or otherwise change the appearance of any walls, floors, and ceilings of the Apartment or Limited Common Element that are not readily visible from outside the Apartment or Limited Common Element;

(D) To tile, finish, carpet, re-carpet, and install, change, or remove other flooring in the Apartment or Limited Common Element which is not readily visible from outside the Apartment or Limited Common Element, subject to the limitation on the installation of "hard" flooring as contained in the Architectural Guidelines; or

(E) To make such changes, additions and improvements to the Apartment or Limited Common Elements to facilitate handicapped accessibility within the Apartment or Limited Common Element.

(2) An Owner may make "nonmaterial structural additions to the Common Elements" as that term is used in and subject to the provisions of Section 514A-89 of the Act.

(3) The Owner of two (2) Apartments that are separated by a Common Element that is a wall, floor, or a ceiling, or whose Exclusive Use Lanai or Limited Common Elements are separated from each other or from such Apartments by a Common Element that is a wall, floor, or ceiling, has the right and an easement, subject to Board approval and compliance with the Architectural Guidelines, to change or remove all or part of the intervening wall, floor, and/or ceiling. The Owner also has the right, subject only to Board approval, to install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, to seal hallways or other openings, and to make other reasonable changes or additions which do not adversely affect the structural integrity of the Apartment or Limited Common Element or the building in which such Apartment is situated. Before terminating its common ownership of any of the adjacent Apartments, the Owner must restore the Common Element wall, floor, ceiling, hallway, and/or other openings to substantially the same condition as before the change or removal, unless the new Owners each agree otherwise in writing.

(4) An Owner who owns any two (2) adjacent Apartments has the right, subject only to Board approval and compliance with the Architectural Guidelines: (i) to consolidate the Apartments into a single Apartment; and (ii) to make any Common Element walls, floors or ceilings between the Apartments part of the Apartment or its Limited Common Elements. The Common Interest of the newly created Apartment will be equal to the sum of the Common Interests of the Apartments being consolidated.

(5) The Owners of any two (2) adjacent Commercial Apartments have the right to change the designation of the Limited Common Elements appurtenant to their Commercial Apartments so that one or more Limited Common Elements appurtenant to one Apartment now will be appurtenant to the other Commercial Apartment or to both of the Commercial Apartments.

2. Architectural Committee

(a) Amendments. Notwithstanding the Section of this Declaration entitled "Amendments," no amendment, verification or rescission of this **Section M.2** may be had, nor shall Declarant, or any successor thereof, be prohibited from completing the construction of the Community prior to the conveyance by Declarant, or its successor, of the last Apartment in the Merged Community without the (i) written consent of Declarant, and the (ii) Recording of such consent. Such written consent shall not be required after the conveyance by Declarant (or its successors) of all the Apartments.

(b) Architectural Committee Approval. Each Owner, other than Declarant and except as otherwise expressly provided for in this Declaration, shall obtain the approval of the Architectural Committee for any Improvements in accordance with the provisions set forth below.

(c) Organization. There shall be an Architectural Committee consisting of three (3) persons. There shall also be one (1) alternate member who may be designated by the Architectural Committee to act as a substitute on the Architectural Committee in the event of absence or disability of any member.

(d) Designation of Members and Terms of Office.

(1) Initial Members. The initial members of the Architectural Committee shall be appointed by Declarant prior to the conveyance of the first Apartment to a member of the public. Such designation shall be reflected in the minutes of the Association. Declarant shall designate one member to serve a term of one (1) year; one member to serve a term of (2) years and one member to serve a term of three (3) years from the date of appointment. After the date Declarant no longer owns any Apartments in the Community. Each of said Architectural Committee members shall serve the length of said terms specified, unless they have resigned or have been removed from office. Thereafter, the terms of all Architectural Committee members appointed shall be three (3) years. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term.

(2) Appointment and Removal. Until such time as the Owners, other than Declarant, own ninety percent (90%) or more of the Apartments within the Community, or five (5) years after the first close of escrow of an Apartment to an Owner, the right to appoint and remove all Architectural Committee members and alternate committee members of the Architectural Committee shall be, and is hereby, vested solely in Declarant, unless prior to said time Declarant waives its rights hereunder by notice in writing to the Association; provided, however, that the Board shall have the right to appoint one (1) member to the Architectural Committee from and after turn-over of the administration of the Community to the Association. Members of the Architectural Committee appointed by the Board shall be Apartment Owners. Members appointed to the Architectural Committee by the Declarant need not be Apartment Owners. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the specification in the minutes of the Association of each new Architectural Committee member or alternate member appointed and each member or alternate replaced or removed from the Architectural Committee. In the event

that no members of the Architectural Committee have been appointed by the Declarant or the Board, the Secretary of the Association shall serve as chairperson of the Architectural Committee and shall have the power to appoint the other members.

(3) Resignations. Any member of the Architectural Committee may at any time resign from the Architectural Committee upon written notice delivered to Declarant or to the Board, whichever then has the right to appoint Architectural Committee members.

(4) Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Declarant or the Board, whichever then has the power to appoint Architectural Committee members.

(e) Meetings. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The consent of any two (2) members of the Architectural Committee shall constitute an act by the Architectural Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Architectural Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise.

(f) Scope of Architectural Review. To the extent that an Owner is entitled under this Declaration to modify his or her Apartment in any manner following review and approval by the Architectural Committee, no Improvements of any kind whatsoever shall be commenced, erected, placed, or altered upon or around any Apartment or any Limited Common Element until the location and the complete plans and specifications showing the nature, kind, shape, height, and materials, including the color ("Plans and Specifications"), have been submitted to and approved in writing by the Architectural Committee. The Architectural Committee shall consider and act upon such proposals or plans submitted to it pursuant to the terms of this **Section M.2**. In making its decisions hereunder, the Architectural Committee shall, among other matters, consider the following: (a) whether the proposed Improvements will impair the structural integrity of the Community, or (b) whether the proposed Improvements will adversely impact or increase the costs of operating the heating, ventilating, and air conditioning system or the plumbing, electrical, or mechanical systems, or (c) whether the proposed Improvements will adversely impact the sound insulation or sound transmissions within the Community.

(g) Architectural Guidelines. The Board may, from time to time, adopt, amend, and repeal, by unanimous vote, architectural standards and procedures for review and approval of Plans and Specifications to be known as "Architectural Guidelines" to supplement and clarify the provisions of this Declaration and to otherwise ensure that the proposed plans and Improvements delineated therein are in conformance with this Declaration, and otherwise in harmony with and compatible with the Community's design, materials, structures, and systems. The Architectural Guidelines shall apply to all Apartments; provided, however, the Board may adopt guidelines that apply only to Residences and/or only to Commercial Apartments. The initial Architectural Guidelines have been adopted by the Declarant. The Architectural Guidelines can be amended, changed, or modified from time to time by the Board and/or by the Declarant without a vote of the Owners; however, the Board must, so long as Declarant owns any Apartment, obtain the Declarant's written consent to such amendment, change, or modification. Notwithstanding anything to the contrary set forth herein, in no event shall the Association make any modifications to the Architectural Guidelines applicable to the Commercial Apartments without the prior consent of seventy-five percent (75%) of the Owners of the Commercial Apartments.

(h) Approval of Plans and Specifications by Architectural Committee.

(1) Application for Preliminary Approval.

(A) Any Owner proposing to construct Improvements or taking other actions requiring the prior approval of the Architectural Committee pursuant to this Declaration may first apply to the Architectural Committee for preliminary approval by submission of preliminary drawings of the proposed Improvements in accordance with the Architectural Guidelines, if any. The purpose of the preliminary approval procedure is to allow an Owner proposing to construct Improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final approval. The Architectural Committee shall grant requests for preliminary approval only if the proposed Improvements, to the extent its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. No preliminary approval is binding on the Architectural Committee. The giving of any preliminary approval shall not affect the right of the Architectural Committee or the Board to deny approval of any final Plans and Specifications whether or not such Plans and Specifications are in substantial conformance with the approved application for preliminary approval. No application will be considered by the Architectural Committee unless the Owner is an Association member in good standing (i.e., no outstanding violations, delinquencies, etc.)

(B) Within thirty (30) days after receipt of the application for preliminary approval, the Architectural Committee shall consider and act upon such request. In the event the Architectural Committee fails to approve or disapprove any such preliminary plans within thirty (30) days after all documents and information requested by the Architectural Committee have been received by it, the Owner requesting said approval may submit a written notice to the Architectural Committee and the Board advising the same of its failure to act. If the Architectural Committee and the Board fail to approve or disapprove any such preliminary plans within fifteen (15) days after the receipt of said notice from such Owner, said preliminary plans shall be deemed approved, provided that any Improvements conform to all conditions and restrictions contained in this Section, the Architectural Guidelines and are otherwise in harmony with and compatible with the Community's design, materials, structures, and systems. In granting or denying approval, the Architectural Committee, acting on behalf of the Board, may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

(C) Any preliminary approval granted by the Architectural Committee as provided above shall expire ninety (90) days from the date of the issuance thereof or upon the submission of an Application for final approval, whichever occurs first. In no event shall any preliminary approval be deemed to be an approval authorizing construction of the subject Improvements.

(2) Application for Final Approval.

(A) An application for final approval will be considered complete only when the Architectural Committee has received: (i) 3 copies of the Plans and Specification (unless waived in writing by the Architectural Committee) and all other documents or materials requested by the Architectural Committee, and (ii) all required fees. Incomplete applications will be disapproved. In any case where the Improvements to be constructed require the consent of any Mortgagee, the Declarant, or any other party, or if the construction activities will require access to an Apartment or other property belonging to any other party, the Owner shall provide written evidence to the Architectural Committee that such Mortgagee, Declarant, or the other party has consented to the proposed Improvements or granted the necessary access not later than the commencement of construction, however, the Architectural Committee, in its sole discretion, may require that such evidence be provided prior to the granting of final approval. No application will be considered by the Architectural Committee unless the Owner is an Association member in good standing (i.e., no outstanding violations, delinquencies, etc.).

(B) The Architectural Committee shall consider and act upon any request for final approval within thirty (30) days after a complete application for final approval has been received; provided, however, in cases involving construction, reconstruction, repairs, or maintenance involving Common Elements or Limited Common Elements, the Architectural Committee may, in its sole discretion, by written notice to the Owner given within the thirty (30) day period, extend such period for an additional period, not to exceed sixty (60) days. In the event the Architectural Committee fails to approve or disapprove any such preliminary plans within the required period of time after a complete application for final approval has been received by the Architectural Committee, the Owner requesting said approval may submit a written notice to the Architectural Committee and the Board advising the same of its failure to act. If the Architectural Committee and the Board fail to approve or disapprove any such preliminary plans within fifteen (15) days after the receipt of said notice from such Owner, said preliminary plans shall be deemed approved, provided that any Improvements conform to all conditions and restrictions contained in this Section, the Architectural Guidelines, and are otherwise in harmony with and compatible with the Community's design, materials, structures, and systems. The Architectural Committee, acting on behalf of the Board, may condition any approval on such reasonable requirements as the Architectural Committee determines in its reasonable belief are in the best interests of the Community.

(C) A final approval granted by the Architectural Committee shall expire ninety (90) days from the date of the issuance thereof, or within such different time as is set in writing by the Architectural Committee in the granting of its final approval, unless construction on the approved construction has commenced within the ninety (90) day period or within the period otherwise set by the Architectural Committee.

(i) Inspection and Correction of Work. Inspection of work and correction of defects therein shall proceed as follows:

(1) Right of Inspection During Course of Construction. The Architectural Committee or its duly authorized representative may enter into any Apartment, from time to time, as provided below during the course of construction or installation of any Improvements for the purpose of inspecting such construction and/or installation. If the Architectural Committee determines that such construction and/or installation is not being done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner of the subject Apartment of such noncompliance. The Architectural Committee may not enter into an Apartment without

obtaining the prior permission of the Owner or occupant of such Apartment; provided, however, that such prior permission shall not be unreasonably withheld and shall be given for entry by the Architectural Committee during the daylight hours within forty-eight (48) hours of the request for entry.

(2) Notice of Completion. Upon the completion of any construction or reconstruction or the alteration or refinishing of any Improvements, or upon the completion of any other work for which approved Plans and Specifications are required under this Section, the Owner shall give written notice of completion thereof to the Architectural Committee.

(3) Inspection. Within ninety (90) days after delivery of a notice of completion pursuant to **Section M.2(j)(2)**, the Architectural Committee, or its duly authorized representative, shall have the right to enter into an Apartment, as provided in **Section M.2(j)(1)** above, to inspect such Improvement to determine whether it was constructed, reconstructed, altered, or refinished to substantial compliance with the approved Plans and Specifications. If the Architectural Committee finds that such construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner in writing of such non-compliance within such ninety (90) day period, specifying particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

(4) Non-Compliance. If, upon the expiration of thirty (30) days from the date of such notification, the Owner shall have failed to remedy such non-compliance, the Architectural Committee shall notify the Board in writing of such failure. After affording such Owner notice and opportunity for hearing, the Board shall determine whether there is a non-compliance, and if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than thirty (30) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying Improvement or remedy the non-compliance, and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against such Owner for reimbursement.

(j) Enforcement. Without limitation of any other rights or remedies available under this Declaration, at law or in equity, and subject to **Section T**, the Board or Declarant may, when confronted with a violation of this **Section M** (e.g., no approval was obtained or the constructed Improvements do not conform to the approval given):

(1) Notify the violator to correct the violation and afford the violator an opportunity to cure by either (a) seeking appropriate approval where no approval was originally obtained or (b) modifying the improvement so that it conforms to a pre-existing approval.

(2) Fine the violator pursuant to **Section M.2(r)**.

(3) Retain counsel to communicate the Architectural Committee demands to the violator and assess the violator for the cost incurred by the Architectural Committee in that effort.

(4) Retain a professional or other agent to correct the violation after (a) an appropriate finding by the Board of the violation and (b) a notice to the violator and providing an opportunity to cure.

(5) File an assessment lien against the violator's property for the costs incurred by the Architectural Committee, the Board, or the Declarant that may thereafter be foreclosed by action of the Board if not paid.

(6) Commence an action to enforce the obligations of this Declaration or the Architectural Guidelines.

(k) Estoppel Certificate. Within forty-five (45) days after written request is delivered to the Architectural Committee by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Architectural Committee shall record an estoppel certificate, executed by any two (2) of its members, certifying (with respect to any Apartment of said Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Declaration, or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the non-complying Improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in said Apartment through such Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant and all Owners and such persons deriving any interest through them.

(l) Government Regulations. If there is any conflict between the requirements or actions of the Architectural Committee and the mandatory regulations or ordinances of any governmental entity relating to the Property, the government regulation or ordinance, to the extent that such regulations and ordinances are more restrictive, shall control, and the Architectural Committee shall modify its requirements or actions to conform to the government regulation or ordinance; provided, however, that if the governmental rules or regulations are less restrictive, the provisions of this Declaration shall nonetheless apply. The application by an Owner for review and approval by the Architectural Committee of any Plans and Specifications or other submittals by such Owner shall in no way be deemed to be satisfaction of compliance with any applicable statute or law, or governmental rule or regulation or public utility requirement (hereinafter collectively referred to as "Additional Requirements"); provided, however, if the Additional Requirements are less restrictive than the provisions of this Declaration, the provisions of this Declaration shall nonetheless apply.

(m) Diligence In Construction. Upon final approval of any Plans and Specifications, the Owner shall promptly commence construction within sixty (60) days after final approval of any Plans and Specifications and diligently pursue the same to completion and complete such construction within six (6) months of the commencement of construction unless a longer time is authorized in writing by the Architectural Committee.

(n) Fees For Review. The Board shall have the right to establish reasonable fees for the review and approval of requests submitted to the Architectural Committee for preliminary and final approval pursuant to the provisions of this Section. The Architectural Committee shall have the right to require an Owner to pay any fees, costs, or expenses associated with the review and approval of the Owner's Plans and Specifications by an outside consultant or any costs associated with the review of the Plans and Specifications by any architect on the Architectural Committee.

(o) Compensation. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder, unless the Association retains a professional, architect, engineer, or designer as a member of the Architectural Committee for the purpose of providing professional services, in which event reasonable compensation for such member may be approved by the Board. The Architectural Committee shall have the right to hire any engineer or other consultant, the opinion of which the Architectural Committee deems necessary in connection with its review of any plans submitted by any Owner, and such Owner shall be liable for payment of such engineer's and/or consultant's fee.

(p) Interpretation. All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Architectural Committee, and its decision shall be final, binding and conclusive on all of the parties affected.

(q) Waiver. The approval by the Architectural Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

(r) Additional Powers. The Board may promulgate as a part of the Architectural Guidelines such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration. Without limiting the generality of the preceding sentence, the Board may require security deposits, bonds or other security against damage to Common Elements, Limited Common Elements or other property and otherwise impose such reasonable requirements as the Board determines is in the best interests of the Community to assure compliance with the requirements imposed by the Architectural Committee and may fix fines of up to \$5,000 and/or daily fines not to exceed \$25 per day for any failure to obtain any required approval from the Architectural Committee or otherwise comply with the requirements of this Section M, or the Architectural Guidelines.

(s) Liability. Neither the Association, the Board, the Architectural Committee, nor any committee, director, employee, or member of any of the foregoing shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) damage to the Community or any property within the Community; or (d) the execution and filing of an estoppel certificate pursuant to Section M.2(k), whether or not the facts therein are correct; provided, however, that such Architectural Committee member has acted in good faith on the basis of such information as may be possessed by him or her. Without in any way limiting the generality of the foregoing, the Architectural Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee.

(t) Government Requirements. The application to and the review and approval by the Architectural Committee of any proposals, plans, or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the respective Owner.

(u) Variances. The Architectural Committee may, but shall not be obligated to, authorize variances from compliance with any of the architectural provisions of this Declaration, including, without limitation, restrictions upon height, size, floor area, or placement of any structure or Improvements or other similar restrictions, to comply with the requirements of law, or when circumstances such as aesthetic, environmental, or undue hardship considerations may require. Such variances shall be evidenced in writing, must be signed by at least two (2) members of the Architectural Committee, and shall become effective upon issuance of the Architectural Committee. If such variances are granted, no violation of the covenants, conditions, and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Apartment and particular provision hereof covered by the variance, nor shall it affect in anyway the Owner's obligation to comply with all governmental laws and regulations affecting its use of the Apartment, including, but not limited to, zoning ordinances and setback lines or requirements imposed by the City or any other governmental authority. The grant of a variance by the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent to a variance for any similar or differing non-conforming proposals, plans and specifications, drawings, or matters.

3. Recording of Alterations. Upon completion of any repair, reconstruction, restoration, replacement of the Community or any building or other structure, or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map, the Apartment Owner(s) directly affected (or the Association, in the case where the Association has undertaken such repair, reconstruction, or replacement) shall duly Record and file of record an amendment to this Declaration together with the approved plans showing the alterations or additions. Amendments to this Declaration with respect to repair, reconstruction, restoration, or replacement wholly within an Apartment or more than one Apartment need only be executed by the Apartment Owner(s) directly affected and their Mortgagees, as may be required, except if the alteration, modification, or removal involves a Designated Limited Common Element Wall or Floor, in which case the Declarant's signature shall also be required.

4. Non-Applicability to Declarant. Except as expressly provided, the provisions of this **Section M** shall not apply to any property or Improvements owned or installed by the Declarant, and neither the Board nor, if appointed, the Architectural Committee shall have any rights of review or approval with respect thereto. Without limiting the foregoing, Declarant need not seek or obtain the approval of the Architectural Committee, the Board, the Association, or any Apartment Owner for any Improvement constructed, reconstructed, modified, or placed on any portion of the Property by Declarant. Further, any alteration, modification, or removal of any Designated Limited Common Element Walls or Floors shall, for a period of ten (10) years after the date a certificate of occupancy is issued for the last Apartment in the Community, require the prior written consent of the Declarant unless Declarant has notified the Association, in writing, that it no longer desires to exercise such right of review and approval. In any case where the Improvements to be constructed within an Apartment require the consent of any Mortgagee of the Apartment Owner, the Owner shall provide evidence to the Architectural Committee that such Mortgagee has consented to the proposed Improvements. Nothing in this **Section M** shall impair or diminish the rights reserved to Declarant under **Section Q**.

N. COMPLIANCE WITH COMMUNITY DOCUMENTS.

1. Compliance Required. All Apartment Owners, their tenants, Mortgagees, lessees, families, employees, contractors, guests, and any other persons who may in any manner use the Community, shall be bound by and comply strictly with the provisions of the Community Documents and all agreements and determinations of the Association as lawfully made or amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board of Directors on behalf of the Association or, in a proper case, by any aggrieved Apartment Owner.

2. Recovery of Costs. All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association for: (i) collecting delinquent assessments against any Owner, (ii) foreclosing a lien on any Owner's Apartment, and (iii) enforcing provisions of the Community Documents or the Act against any Owner, shall be promptly paid on demand to the Association by the Apartment Owner and may be collected as a Special Assessment; provided that, if the claims upon which the Association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by the Apartment Owner as a result of the action of the Association, shall be promptly paid on demand to the Apartment Owner by the Association.

O. USE OF HAZARDOUS MATERIAL.

1. Restriction on Use. An Owner shall not cause or permit any Hazardous Material to be generated, used, transported, stored, or disposed of upon, in, or about his or her Apartment or the Common Elements, except in a manner that complies with all applicable Hazardous Materials Laws.

2. Notices. An Owner shall give written notice to the Board of Directors within three (3) business days after the Owner learns or first has reason to believe that (i) a Hazardous Discharge has occurred, or (ii) a Hazardous Materials Claim has been made by any governmental agency or third person, or (iii) any report, notice, or complaint has been made to or filed with any governmental agency concerning the presence, use or disposal of any Hazardous Material at the Community. The notice shall be accompanied by copies of (a) all permits, licenses, and proofs of disclosure to governmental agencies pertaining to the Hazardous Material that is the subject of the claim, (b) any material safety data sheets pertaining to such substances that are required by applicable law, and (c) any claim, report, complaint, notice, warning or other communication that is in the possession of or is reasonably available to the Owner. The Association shall have the right to join and participate, as a party, if it so elects, in any actions initiated in respect of any Hazardous Materials Claim.

3. Indemnity. If the generation, use, transportation, storage, or disposal of Hazardous Materials by an Owner results in contamination of an Apartment or the Common Elements, the Owner shall hold harmless the Association, the Board of Directors, and all other Owners from (i) all damages, including foreseeable and unforeseeable consequential damages, diminution in value of an Apartment, losses and damages for the loss or restriction on use of an Apartment, any part of the Common Elements or of any amenity of the Community, (ii) sums paid in settlement of claims, (iii) all reasonable expenses, including attorneys' fees, consultant fees, and expert fees which arise as a result of any investigation by the Association, or the defense of Hazardous Materials Claims (whether or not formal administrative or legal action is filed) by the Association or any Owner, and (iv) all costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restorative work required by any governmental agency because of a

Hazardous Material present in the soil or ground water on or under the Apartment or the Common Elements.

4. Cleanup.

(a) By an Owner. Without limiting the foregoing, if the presence of any Hazardous Material at an Apartment or the Common Elements caused or permitted by an Owner results in any contamination of the Community, the Owner shall promptly take all actions at his or her sole expense as are necessary to return the Community to the condition existing prior to the Hazardous Discharge; provided that the Board's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Community.

(b) By the Association. If the presence of any Hazardous Material on the Common Elements results in any contamination of the Common Elements, the Association shall promptly take all actions as are necessary to clean up and restore the Common Elements in accordance with all Hazardous Materials Laws, and all Owners shall be severally liable for the cost of any such cleanup and restoration as a common expense to the extent such costs are not chargeable to the Owners of one or more Apartments, as provided in this Declaration, and are not reimbursed to the Association by those Owners.

5. Survival. The obligations under this Section O shall survive the termination of the ownership of an Apartment in the Community.

P. MERGER OF PHASES.

1. Merger of Community with Additional Phases. All of the provisions of the Declaration of Merger, as it may be amended from time to time, are incorporated into and made a part of this Declaration and shall govern in the event of a conflict with the provisions of this Declaration or any other of the Community Documents. The Declaration of Merger, among other things, permits Declarant, in its sole and absolute discretion, to merge additional condominium developments (sometimes the "Additional Phase(s)") with this Community for purposes of use, administration, and ownership. Declarant shall have the absolute right to effect one or more mergers of phases in accordance with the Declaration of Merger.

2. No Obligations Regarding Other Phases. Nothing in this Section P as to merger, or elsewhere in the Community Documents, shall be construed as a representation or warranty by Declarant that any such additional condominium developments will be developed or merged with the Community, or to require Declarant to develop any such additional condominium developments or to merge any such additional condominium developments into the Community, or to prohibit or otherwise restrict Declarant from dealing freely with the property described in the Declaration of Merger (other than the property covered by this Declaration) including, without limitation, developing the whole or any part of such property for a purpose inconsistent with the merger of such property with the Community.

3. Easements for Construction and Sale of Other Phases. Declarant, its contractors, subcontractors, licensees, Mortgagees, and assigns, and their respective employees and agents, shall have the right, and an easement in favor of Declarant and its successors and assigns is hereby granted, to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably

necessary, desirable, or useful for designing, developing, constructing, or completing any additional phase to the Community, connecting any such additional phase to the roads and utility installations of the Community, and selling the apartments contained within any such additional phase, including, but not limited to, the right to consolidate any parcel(s) of land covered by this Declaration with any other parcel(s) of land in connection with the merger of phases for ownership purposes, as provided in the Declaration of Merger; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the Community, and provided further than any person exercising such rights shall use reasonable efforts, without additional cost to Declarant and consistent with maintaining the progress of the design, development, construction, completion, and sale of the additional phase to minimize interference with the Apartment Owners' use and enjoyment of the Community. Declarant further reserves the right to grant, for the benefit of the owner or owners from time to time of all or any portion of each of the other phases, and without the consent or joinder of any party having any interest in the Community, easements over, under, across, along, upon, and through the Common Elements of the Community for ingress and egress purposes, access purposes, electrical, gas, communications, and other utility purposes, sanitary sewer, drainage and drainline, waterline, and flowage purposes, and all other purposes, to the State of Hawaii, the City and County of Honolulu, the Board of Water Supply of the City and County of Honolulu, any other appropriate governmental agency, and/or any public or private utility or other corporation, partnership, individual, or entity, provided that such easements and rights-of-way do not materially impair or interfere with the use of any Apartment in the Community or the Common Elements of the Community. The rights reserved in this Section P.3 shall continue until the date five (5) years following the latest date of completion of construction and certification of availability for occupancy of all Apartments in the Merged Community.

4. Easements for Sales Activities. Declarant, and its agents, successors, Mortgagees, and assigns, shall have the right and an easement to conduct extensive sales activities on and at the Community relating to the sale of any Apartment in the Merged Community, including the use of any Apartment owned by Declarant (and any other Apartment, with the express permission of the Owner of such Apartment) and the Common Elements (excluding Limited Common Elements appurtenant to other Apartments) for model apartments, sales and management offices, parking, and extensive sales displays and activities, and the posting and maintenance of signs and other advertisements relating to such sales activities. The rights reserved in this Section P.4 shall continue until the date five (5) years following the latest date of completion of construction and certification of availability for occupancy of all Apartments in the Merged Community.

Q. DECLARANT'S RESERVED RIGHTS.

Any other provision in this Declaration to the contrary notwithstanding, prior to (i) the time that all Apartments in the Community have been sold and the conveyance thereof Recorded, and (ii) the filing by Declarant of the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act, Declarant shall have the right, but not the obligation, and without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Apartment Owner or any Mortgagee, lienholder, Apartment purchaser, or any other person who may have an interest in the Community, to do the following:

1. Declarant's Reserved Right to Reconfigure, Delete and Annex Land

(a) Declarant's Right to Subdivide, Consolidate and Resubdivide. Declarant shall have the right, at its sole discretion and without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Apartment Owner, or any

Mortgagee, lien holder, any Apartment purchaser, or any other person who may have an interest in the Community or in any Apartment, to effect or participate (unilaterally or jointly with the owner or owners of adjacent parcels of land) in a subdivision of the Community land or a consolidation and resubdivision of the Community land with adjacent parcels of land, the result of which may be to adjust the boundaries of the Community land and delete from the Community a substantial portion of the land covered by this Declaration containing approximately 2.3 ± acres (the "Removable Land"), leaving a net area in excess of approximately 3 ± acres. Any such adjustment of boundaries will reconfigure the Community land such that it actually conforms to the configuration of the Community land as depicted on the Condominium Map and, consequently, will not affect the layout, location, dimensions, or structure of any of the buildings, Apartments, or other increments of the Community as shown on the Condominium Map, and will not change or reapportion the common interests appurtenant to the Apartments, all as set forth and described in this Declaration. Upon removal and deletion of the Removable Land as set forth in this Section, and with no further action required, the Removable Land shall cease to be a part of the Community or subject to this Declaration or the Act, and no Apartment Owner, Mortgagee, lien holder, Apartment purchaser, or any other person (other than Declarant and the holder of any blanket Mortgage affecting the Removable Land prior to this Declaration) who may have an interest in the Community or any Apartment shall have any legal or equitable interest in the Removable Land (or in any other land adjacent to the Community land which may have been consolidated with the Community land pursuant to this Section). If deemed necessary to effect the intent of this Section, each Apartment Owner, Mortgagee, lien holder, and any other person who may have an interest in the Community or any Apartment shall, if requested by Declarant, unconditionally quitclaim and/or release its interest, if any, in the Removable Land (and in any other land adjacent to the Community Land which may have been consolidated with the Community land pursuant to this Section) to Declarant or to Declarant's designee.

(b) Declarant's Right to Process Approvals and Petitions. In the exercise of the foregoing rights, Declarant may at any time (i) file and process the final approval an application with the City and County of Honolulu for a legal subdivision of the Removable Land from the land covered by this Declaration (or for a consolidation and resubdivision resulting in the legal subdivision of the Removable Land from the land covered by this Declaration), (ii) file and process a petition for an order of subdivision or consolidation and resubdivision, designation, granting, conveyance, transfer, cancellation, relocation, and reservation of easements and/or rights of way with the Land Court of the State of Hawaii, and/or any other procedure required to fully and legally effect such subdivision or consolidation and resubdivision, designation, granting, conveyance, transfer, cancellation, relocation, and reservation of easements and/or rights of way, (iii) Record one or more amendments to this Declaration which shall contain an amended description of the land covered by this Declaration deleting therefrom the Removable land, (iv) if deemed necessary by Declarant, Record one or more amendments to the Condominium Map showing any changes to the Community, and (v) if deemed necessary by Declarant, apply for and obtain from the Real Estate Commission of the State of Hawaii a supplementary public report describing the changes made to the Community pursuant to this Section. The Removable Land shall be deemed deleted from the Community for all purposes upon the Recordation of the amendment(s) to the Declaration referenced herein.

(c) Declarant as Attorney in Fact. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Apartment and without being required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to effect the removal and deletion of the Removable Land in accordance with this Section, and to execute, Record, and/or file the herein described applications, petitions, amendments, quitclaims, releases, and any and all other instruments necessary or appropriate for the purpose of effecting the removal

and deletion of the Removable Land as contemplated in this Section. Any such action shall be deemed taken by Declarant as the true and lawful attorney-in-fact of the respective Apartment Owners and lien holders. Each and every party acquiring an interest in any Apartment, the Community, or the land covered by this Declaration, by such acquisition, consents to such deletion and removal and to the filing or Recordation of such documents as may be necessary or convenient to effect the same, agrees to execute such documents, and do such other things on its behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such party.

(d) Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Apartment and without being required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, but not the obligation, from time to time and at any time, to annex by Supplemental Declaration additional real property, whether in fee simple or leasehold, including, without limitation, the Adjacent Property, to this Declaration in increments of any size whatsoever, or to annex more than one such increment at any given time and in any given order. Any such property not specifically annexed by Supplemental Declaration properly Recorded shall not become subject to this Master Declaration. Supplemental Declarations may contain such complementary or supplementary additions and modifications of the provisions of this Declaration as may be necessary to reflect the different character, if any, of the property being annexed and may add, delete, or modify provisions of this Declaration as it applies to the property being annexed. The Recordation of such Supplemental Declaration shall constitute and effectuate the annexation of the property described therein, unless a later effective date is specified in the Supplemental Declaration, making such real property subject to this Declaration and subject to the functions, powers, and jurisdiction of the Association, and thereafter said real property shall be part of the Community and Property for all intents and purposes of this Declaration, and all of the owners of apartment units in the annexed property shall automatically be Owners hereunder. Each Owner hereby acknowledges and agrees that their voting power as a member may be altered (diminished or increased) attributable to such an annexation.

(e) Restrictions. The rights reserved to Declarant in this Section are subject to the following conditions:

(1) No Effect on Buildings, Apartments, or Other Improvements Shown on Condominium Map. The deletion and removal of the Removable Land or the annexation of additional land shall not affect the layout, location, dimensions, or structure of any of the buildings, Apartments, or other improvements to the Community as shown on the Condominium Map.

(2) No Change in Common Interest. The deletion and removal of the Removable Land shall not change or reapportion the percentage of common interest appurtenant to the Apartments.

(3) Gross Area. The gross land area of the Removable Land shall not exceed 2.3 ± acres.

(4) Date. The subdivision or consolidation and resubdivision pursuant to this Section shall be ordered and effected on or before December 31, 2022.

2. Configuration of Apartments, and Other Changes. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Apartment and without being required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to make alterations in the Community (and to amend this Declaration and the Condominium Map

accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the apartment types or change the configuration of apartment built on a particular floor of the Tower). Without limitation of the foregoing, Declarant may change or remove of all or part of an intervening Common Element wall, floor, and/or ceiling separating two (2) Apartments owned by the Developer or Limited Common Elements controlled by the Developer, install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, seal hallways or other openings, and make any other reasonable related changes or additions Declarant determines expedient or necessary. Further, Declarant may consolidate any two (2) adjacent Apartments owned by the Developer into a single Apartment and make any Common Element walls, floors, or ceilings between the Apartments part of the Apartment or its Limited Common Elements. In that regard, Declarant may change the designation of the Limited Common Elements appurtenant to any two (2) adjacent Commercial Apartments owned by the Developer so that one or more Limited Common Elements appurtenant to one Apartment will be appurtenant to the other Apartment or to both of the Apartments.

3. Alterations to the Community. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Apartment and without being required to obtain the consent or joinder of any Apartment Owner, lien holder, or other persons, to make other alterations in the Community (and to amend this Declaration and the Condominium Map accordingly) which make minor changes in any Apartment in the Community or in the Common Elements that do not affect the physical location, design, or size of any Apartment that has been sold and the conveyance thereof Recorded. The Developer has the right to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration and to make such amendments to this Declaration as are appropriate in accordance with this Section and **Section F.2.**

4. Sale of Fractional Interests. Declarant shall have the right, at its sole discretion and without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Apartment Owner, or any Mortgagee, lien holder, any Apartment purchaser, or any other person who may have an interest in the Community or in any Apartment to sell individual fractional interests ("Fractional Interests") in some or all of Apartments located on Floors 18 and 26 of the Tower (and such other Apartments as may be designated by Declarant in a subsequent Phase of the Merged Community), or such other two or more floors (but in no event more than three floors) as Declarant may designate by Supplemental Declaration (the "Fractional Interest Apartments"), by deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership, or otherwise. Notwithstanding the foregoing, no such Fractional Interest shall constitute less than 16.66% interest in the Fractional Interest Apartment, or result in the use, occupancy, or possession of the Fractional Interest Apartment circulating among various persons for less than a sixty-day period in any year, for any occupant. In connection with the sale of Fractional Interests, Declarant further reserves the right to establish plans, programs, or arrangements under which the right to use, occupy, own, or possess some or all of the Fractional Interests rotates among the Owners of such Fractional Interests on a periodically recurring basis according to a fixed or floating time period. Fractional Interests may be created from time to time by the Recording by Declarant of a Supplemental Declaration describing (i) the specific Fractional Interest Apartments that are affected, (ii) the rights and obligations of the Owners of such Fractional Interests, including, without limitation, the obligation to share in the payment of common expenses, (iii) any easements over Common Elements of the Community reserved for the sales, operation, and management of such Fractional Interest Apartments, and (iv) the rights and obligations of any

separate association created for the management and operation of the Fractional Share Apartments.

5. Declarant's Reserved Right to Amend Declaration, Bylaws, Other Community Documents, and/or Condominium Map. Any provision of this Declaration to the contrary notwithstanding, and until the Recording of Apartment conveyances or agreements of sale with respect to all of the Apartments in the Community in favor of Owners other than Declarant, Declarant may amend this Declaration, the Bylaws, other Community Documents, and/or the Condominium Map, to make, without the joinder or consent of the any Owner or such Owner's mortgagee (1) all and any amendments necessary to effect any and all of the reserved rights specified in this **Section Q** or elsewhere set forth in this Declaration, (2) such amendments as may be required or allowed by law, or as may be required by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Community or any of the Apartments, by any institutional lender lending funds on the security of the Community or any of the Apartments, or by any governmental agency (including without limitation the VA, HUD, FNMA and/or FHLMC); provided, however, that, except as otherwise provided herein, no such amendment which would change the common interest appurtenant to an Apartment or substantially change the design, location, or size of an Apartment or the building in which it is located shall be made without the consent to such amendment by all persons having an interest in such Apartment, and (3) to do all things necessary or convenient to satisfy the requirements of the Hawaii Community Development Authority in connection with the Planned Development Permit issued with respect to the Project.

6. Final Condominium Map. Any provision of this Declaration to the contrary notwithstanding, Declarant may amend this Declaration (and, when appropriate, the Condominium Map) to file a verified statement of a registered architect or professional engineer certifying that the final Recorded Condominium Map fully and accurately depicts the layout, location, apartment numbers, and dimensions of the Apartments, as built, or that any revised plans being filed simultaneously with the amendment involve only immaterial changes to the layout, location, and dimensions of the Apartments as built or any change in any apartment number, or such other changes as Declarant is permitted to make pursuant to this Declaration.

7. Alterations by Declarant; Merger. Any provision of this Declaration to the contrary notwithstanding, Declarant may amend this Declaration (and when appropriate the Condominium Map) as provided in **Sections P and/or Q** of this Declaration.

8. Parking Stalls. Subject to **Section G.15(a)**, Declarant may amend this Declaration (and, when appropriate, the Condominium Map) in any manner required to retrofit guest parking stalls (which include parking stalls 1048-53, 1056-63, 1065-76, inclusive), so they are suited for use by persons with disabilities and to assign such stalls as appurtenant Limited Common Elements to any one or more of the apartments intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such assignment may be made to Apartments, the Owners of which Declarant, in its sole judgment, determines require a parking stall accessible to persons with disabilities. Such reassignment is hereby specifically declared not to constitute a material amendment of this Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Declarant. Notwithstanding the foregoing, Declarant also reserves the right, but does not hereby undertake any obligation, to interchange guest parking stalls and the disabled guest parking stalls to accommodate Apartment Owners in need of such. The rights of Declarant under this Section may be assigned to the Association, without the consent of joinder of the Board.

9. Right of Inspection. Declarant reserves the right, but not the obligation, to make any inspection the Common Elements, Limited Common Elements, or Apartments allowed to be made by the Board under **Section H.7.**

10. Successors and Assigns. The rights reserved to Declarant under this **Section Q** shall extend to Declarant and its successors and assigns.

R. AMENDMENT OF THIS DECLARATION.

1. By Apartment Owners. For purposes of this Section, to qualify as an "Eligible Holder of a First Mortgage," a First Mortgagee must have made a written request to the Association for timely written notice of proposed amendments to the Community Documents, as provided in the Bylaws. Except as otherwise expressly provided in this Declaration or in the Act, this Declaration may be amended by the affirmative vote or written consent of not less than seventy-five percent (75%) of the Apartment Owners at a meeting of the Association called for that purpose, and effective only upon the Recording of an instrument setting forth such amendment and vote, duly executed by any two (2) officers of the Association; provided, however, that the approval of Eligible Holders of First Mortgages on Apartments to which at least fifty-one percent (51%) of the votes of Apartments subject to Mortgages held by such eligible holders are allocated, together with such other approval requirements as set forth in this **Section R**, shall be required to materially amend any provision of this Declaration, or to add any material provisions hereto, which establish, provide for, govern, or regulate any of the following:

(a) Abandon or Terminate Community. By act or omission, seek to abandon or terminate the Community;

(b) Change the Common Interest. Change the common interest appurtenant to any individual Apartment;

(c) Partition or Subdivide. Partition or subdivide any Apartment;

(d) Common Elements. By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community shall not be deemed a transfer within the meaning of this subsection;

(e) Use of Condemnation or Insurance Proceeds. Use condemnation proceeds or hazard insurance proceeds for losses to the Property or any part thereof (whether to Apartments or to Common Elements) for other than the repair, replacement, or reconstruction of same;

(f) Material Amendment of Declaration or the Bylaws (FHA). Materially amend any provision of the Declaration or the Bylaws, or to add material provisions thereto, which establish, provide for, govern, or regulate any of the following: (1) voting; (2) Assessments, assessment liens, or subordination of such liens; (3) reserves for maintenance, repair, and replacement of the Common Elements; (4) Insurance or fidelity bonds; (5) right to use of the Common Elements; (6) responsibility for maintenance and repair of the Property; (7) expansion or contraction of the Community or the addition, annexation, or withdrawal of Property to or from the Community; (8) boundaries of any Apartment; (9) the interests in the Common Elements or Limited

Common Elements; (10) convertibility of Apartments into Common Elements or of Common Elements into Apartments; (11) leasing of Apartments; (12) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Apartment; and/or (13) establishment of self-management by the Association; provided, however, that any mortgage holder shall be deemed to consent to any proposed amendment to this Declaration where said mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives written notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested; provided also, however, that this subsection shall not apply to any actions taken pursuant to rights expressly reserved to Declarant in the Community Documents; and provided further that any amendment which has a material adverse affect on any approved use of any Commercial Apartment, the rights of access to any Commercial Apartment, or the rights of parking appurtenant to any Commercial Apartment shall require the written consent or vote of the Owners of all directly affected Commercial Apartments.

(g) Material Amendment of Declaration or the Bylaws (FNMA). A change to any of the following provisions governing the following would also be considered as material: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of common elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (6) redefinition of any unit boundaries; (7) convertibility of units into Common Elements or vice versa; (8) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project; (9) hazard or fidelity insurance requirements; (10) imposition of any restrictions on the leasing of units; (11) imposition of any restrictions on an Apartment Owner's right to sell or transfer his or her unit; (12) a decision by the Association to establish self-management if professional management had been required by the project documents or by an eligible mortgage holder; (13) restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents; or (14) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

2. By Declarant. Nothing in this Section R shall impair or diminish the rights of amendment reserved to Declarant under Sections E, F, L, P or Q.

3. No Impairment or Diminishment of Declarant's Rights. Any provision of this Declaration to the contrary notwithstanding, and in addition to such other approval requirements as are set forth in this Section R, the prior written approval of Declarant will be required before any amendment which would impair or diminish the rights of Declarant to complete the Property or sell or lease Apartments therein in accordance with this Declaration shall become effective. Notwithstanding any other provisions of this Declaration, until such time as Declarant no longer owns any Apartment in the Merged Community, the following actions, before being undertaken by the Association, shall first be approved in writing by Declarant:

(a) Mortgagee Approval. Any amendment or action requiring the approval of Mortgagees pursuant to this Declaration;

(b) Capital Improvement Assessment. The levy of a Capital Improvement Assessment for the construction of new facilities not constructed in the Common Element by Declarant;

(c) Reduction in Services. Subject to any restrictions contained in the Bylaws regarding limitations on General Assessment increases, any significant reduction of Association maintenance or other services;

(d) Assessments. Alteration in the method of fixing and collecting Assessments or any increases in Assessments beyond the amounts permitted under the Bylaws;

(e) Responsibility for Repairs. Reduction in the level of, or change in allocation of, responsibility for maintenance of and repairs to all or any portion of the Common Element subject to this Declaration, or any other maintenance obligations of the Association set forth in this Declaration;

(f) Common Elements. Conveyance or declaration by the Association of all or any portion of the Common Elements;

(g) Architectural Committee Enforcement and Review Procedures. Modification of the enforcement and review procedures of the Architectural Committee, or any change in the architectural and landscaping design originally installed by Declarant;

(h) Improvements to and Maintenance of Common Elements. Modification to Improvements to the Common Elements or to the level or frequency of maintenance of the Common Elements;

(i) Enforcement of the Declaration. Alteration in the method of enforcing the provisions of this Declaration; or

(j) Declarant's Reserved Rights. Any modification of the rights reserved and granted to Declarant herein with respect to development or sale of the Property.

4. Amendments Affecting First Mortgages. Any provision of this Declaration to the contrary notwithstanding, any amendment affecting any provision of this Declaration which is for the express benefit of holders or insurers of First Mortgages on Apartments shall require the approval of eligible holders of First Mortgages on Apartments to which at least sixty-seven percent (67%) of the votes of Apartments subject to Mortgages held by such eligible holders are allocated, together with such other approval requirements as set forth in this **Section R**; provided, however, that any mortgage holder shall be deemed to consent to any proposed amendment to this Declaration where said mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives written notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

S. COMMUNITY AND RELATED MATTERS.

1. Excess Noise. Each Owner acknowledges that the Community may be in an area in which noise levels exceed noise level standards promulgated by the State of Hawaii and that the Community is located within an area in which noise levels exceed noise level standards for residential-zoned areas promulgated by the Department of Health, State of Hawaii. Due to the proximity of one Apartment to another, various noises (including plumbing, impact, vibration, adjacent neighbors, and "other" types of noises) or odors inherent in the ownership of an Apartment within a condominium community may result, to which Owner may be especially sensitive and which may prove an inconvenience for some. Each Owner acknowledges that, notwithstanding the

unacceptability of these noise levels, Declarant, nor any of its officers, directors, affiliates, successors-in-title, or assigns, shall be held liable for any nuisance, personal injury, illness, or any other loss or damage which is caused by noise, odors, or vibrations.

2. Adjacent Uses. Each Owner understands and acknowledges that the Apartments are affected by each of those circumstances and uses as described in this Declaration including without limitation, the following: (a) the land of the Community may have been used previously for commercial and industrial operations; (b) noise levels in the Community may exceed noise level standards for residential-zoned areas promulgated by the State Department of Health, and that these noise levels may not be acceptable to some individuals; (c) the Community is located near or adjacent to properties used for the commercial and industrial purposes; (d) further development of residential (multi-family, single family and affordable), commercial, recreational and public Communities (including without limitation roads, parks, schools, and similar activities) may be ongoing and may continue directly adjacent to Buyer's Apartment and within the vicinity of the Community for a considerable period of time after the Buyer has occupied the Property; (e) there are or may be a variety of pets within the Community that may not be acceptable to some individuals or may create a nuisance; (f) aboveground and underground radio transmission wires, high voltage electric lines and microwave telecommunications facilities are located within and around the Community, which lines purportedly may emit electric and magnetic fields; (g) certain lands within the Community may be irrigated with treated effluent, reclaimed water or other sources of non-potable water, (h) the adjacent HCDA Park may be the site for the burial of ancient Hawaiian remains and/or artifacts; (i) the Property will be subjected to those other uses and circumstances described in the Disclosure Addendum, the Public Report or otherwise in this Sales Contract ;(j) the Community and the Property may be periodically affected by various hazards and by noise, dust, smoke, earthshock, soot, ash, odor, mold or mold spores, noxious vapors, the presence and/or transmission of pollutants or other hazardous materials, surface water runoff, or other adverse environmental conditions, including but not limited to those resulting from wind drift and other weather factors (collectively the "Community Use Effects") created or exacerbated by or attributable to the Community Uses and the historical, existing, and prospective surrounding construction, development, residential, industrial and commercial and other non-residential uses and activities. Buyer specifically approves all of the foregoing uses, circumstances and activities, including changes in use due to zoning changes, other governmental authorization or otherwise (collectively the "Community Operations").

3. Special Conditions Applicable to Apartments Within the Kaka'ako District. Each Owner, by accepting title to an Apartment and becoming an Owner, acknowledges and is aware that the development of the Kaka'ako District may extend over many years, and agrees, so long as he or she is the Owner of the Apartment, not to protest or otherwise object to: (i) zoning or changes in zoning or to uses of, or changes in density of, the property in the district; or (ii) changes in any conceptual or master plan, including, without limitation, the development plan for property in the district; provided, in either case, said zoning, use, density, or conceptual, development, or master plan revision is or would be lawful (including without limitation lawful by special permit, use permit, variance or the like).

4. Additional Disclosures. The Kaka'ako district is still being developed and contains or may contain various residential (multi-family, single family, affordable, and rental communities), commercial, recreational and ancillary projects, including without limitation parks, schools, preschools and daycare centers. Some of the residential and rental housing in the district, including housing to be constructed in the Additional Phases, capable of being merged into the Community, has been and may in the future be developed in cooperation with the ,HCDA, as affordable housing available only to home buyers satisfying specific median income limitations established by HCDA or

renters satisfying specific State or Federal income limitations. These apartments have been or may be sold or rented at prices below the market value of comparable units and may be subject to additional use, occupancy, and transfer/option restrictions.

5. Ongoing Construction and Surrounding Activities. Each Owner, in purchasing or otherwise taking title to an Apartment, does so with the express understanding and acknowledgment that the Community and/or the Apartment may be affected by the ongoing surrounding development, which includes multi-family and single family residential, commercial, recreational, and other types of development, various hazards and by noise, dust, smoke, soot, ash, odor, noxious vapors, surface water runoff, or other adverse environmental conditions, described in this Declaration, and that construction and sales activities by Declarant and the construction and sales activities undertaken on surrounding properties may result in noise, dust, vibration, and other nuisances, disturbances, annoyances, hazards, and effects and may also result in temporary conditions of inconvenience to the Owner, such as increased traffic congestion and impairment of access to the Community. Each Owner hereby accepts these circumstances, and any nuisance, inconvenience, irritation, or annoyance which the Owner may experience as a result of such activities and conditions and agrees to suffer and permit all actions and consequences incidental to such ongoing development, construction, and sales activities. Each Owner further covenants and agrees to assume all risk of any property damage, personal injury, or loss in property value arising from such development, construction, and sales activities and to hold harmless Declarant, its directors, officers, agents, related or affiliated entities, successors and assigns, from and against any and all liability, claims, losses, damages, or expenses, including attorneys' fees, occasioned by such property damage or personal injury to the property or person of the Owner, or the Owner's tenants, lessees, family, servants, guests, invitees, licensees, employees, or other persons who may occupy or otherwise use the Community or any Apartment.

6. Condition of Land. Each Owner and the Association understands and hereby acknowledges that the land of the Community may have been used previously for industrial purposes. Owner also understands that the Land (including the Land under the Apartment) has been graded, soil removed and added to reach its finished height and form, and, as a result, may be subject to subsidence, settlement, or expansion. Except as expressly set forth herein, Owner is relying and will rely solely upon Owner's own inspection and investigation of the Land of the Community and surrounding properties, and is not relying and will not rely in any way upon any representations, statements, warranties, or other information or material furnished by Seller or its representatives, whether oral or written, express or implied. Without limiting the generality of the foregoing, Owner assumes all risks associated with the condition of the Land, the nature of the soils making up the Land, and of hazardous materials on, about, around, under, over or within the Community, including all risks of (i) any and all enforcement, clean up, or other governmental or regulatory actions instituted or threatened pursuant to any hazardous material laws affecting the Community, (ii) all claims made or threatened by any third party against Owner or the Community relating to damage, contribution, compensation, loss, or injury resulting from any hazardous materials, and (iii) Owner's discovery of any occurrence or condition on the Land of the Community or any land adjoining or in the vicinity of the Community which might result in Owner or the Property being made subject to restrictions on ownership, occupancy, transferability, or use of the Property or the Community pursuant to any applicable hazardous materials laws. As used herein, the term "hazardous materials" includes, but is not limited to, any and all radioactive materials, asbestos, polychlorinated biphenyl ("PCB's"), chemicals which cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and other hazardous substances or materials listed, described or defined in 40 CFR Part 302, as amended from time to time.

7. Post-tension Concrete System; Possible Effects. By acceptance of a deed to an Apartment, each Owner acknowledges and understands that, generally, the concrete components of the Apartment (floor and ceiling) have been built using a post-tension concrete system ("System"). The System involves placing steel cables under high tension in the concrete

slab foundation located beneath the Apartment. By acceptance of a deed to an Apartment, each Owner acknowledges that, as a result of the post-tension concrete system method of construction, all concrete surfaces will experience non-structural, cosmetic cracking that may be visible to owners and require cosmetic repairs.

8. Other Environmental Issues. Mold and mold spores are present throughout the environment, and Apartment construction is not, and cannot be, designed to exclude mold spores. All mold is not necessarily harmful, but certain strains of mold have been shown to have adverse health effects in susceptible persons. The most common effects are allergic reactions, including skin irritation, watery eyes, runny nose, coughing, sneezing, congestion, sore throat, and headache. Individuals with suppressed immune systems may risk infections. Moisture is the only mold growth factor that can be controlled in a residential setting. By minimizing moisture, an Owner can reduce or eliminate mold growth. Although the Center for Disease Control states that a causal link between the presence of toxic mold and serious health conditions has not been proven, the Owners should take positive steps to reduce or eliminate the occurrence of mold growth and thereby minimize any possible adverse effects that may be caused by mold by, without limitation, doing the following:

(a) Check Items. Before bringing items into the Apartment, check for signs of mold. Potted plants (roots and soil), furnishings, or stored clothing and bedding material, as well as many other household goods, could already contain mold growth. Avoid storing organic material on lanais or in damp areas.

(b) Vacuuming and Cleaning. Regular vacuuming and cleaning will help reduce mold levels. Mild bleach solutions and most tile cleaners are effective in eliminating or preventing mold growth.

(c) Humidity. Keep the humidity in the Apartment low. Vent clothes dryers to the outdoors. Ventilate kitchens and bathrooms by opening the windows, by using exhaust fans, or by running the air conditioning to remove excess moisture in the air, and to facilitate evaporation of water from wet surfaces. Maintain and properly service your air conditioning system, furnaces, heat pumps, and humidifiers attached to furnaces to keep them in full working condition.

(d) Clean Spills. Promptly clean up spills, condensation, and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in the Apartment. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.

(e) Leaks. Inspect for leaks on a regular basis. Look for discolorations or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditioners) for mold growth. Take notice of musty odors, and any visible signs of mold.

(f) Water Intrusion. Seek to prevent water intrusion into the Apartment by regular caulking and painting and keeping lanais and windows closed during inclement weather.

(g) Clean Affected Areas. Should mold develop, thoroughly clean the affected area with a mild solution of bleach. First, test to see if the affected material or surface is color safe.

Porous materials, such as fabric, upholstery, or carpet should be discarded. Should the mold growth be severe, call on the services of a qualified professional cleaner.

9. Declarant Not Liable. Owner acknowledges and agrees that Declarant will not be liable for any actual, special, incidental, or consequential damages based on any legal theory whatsoever, including, but not limited to, strict liability, breach of express or implied warranty, negligence, or any other legal theory with respect to the presence and/or existence of molds, mildew, and/or microscopic spores unless caused by the sole negligence or willful misconduct of Declarant. Owner, on behalf of itself and its family members, tenants, invitees and licensees, hereby releases Declarant and its officers, directors, partners, members, affiliates, subsidiaries, parent, successors and assigns from and against any and all claims, actions, damages, causes of action, liabilities, and expenses (including without limitation, attorneys' fees and costs of enforcing this indemnity) for property damage, injury, or death resulting from the exposure to microscopic spores, mold, and/or mildew and from any loss of resale value due to the presence and/or existence of mold, mildew, and/or microscopic spores.

10. Nuisances Related to Adjacent Properties. Without in any manner limiting the foregoing provisions of this **Section S** or any provision of this Declaration, each Owner, in purchasing or otherwise taking title to any Apartment, does so with the express understanding and acknowledgment that the Community and the Owner's Apartment may be periodically affected by various hazards and by noise, dust, smoke, earthshock, soot, ash, odor, mold and mold spores, noxious vapors, transmission of pollutants or other hazardous materials, surface water runoff, or other adverse environmental conditions, including but not limited to those attributable to winddrift and other weather factors (the "Community Use Effects") created by or attributable to the location of the Apartment, modifications of adjacent Apartments permitted under this Declaration, as well as historical, existing, and prospective surrounding construction, development, various industrial and commercial uses, and other nonresidential uses and activities, and specifically approves all of those uses and activities, which include, but are not limited to: (a) the items described in this Declaration; (b) real estate development and other changes in use (due to zoning changes or other governmental authorization or otherwise), construction, grading, improvement, and maintenance of adjacent and surrounding properties, including roadways; (c) schools, churches, parks, commercial, recreational, and related facilities and other features common to urban environments; (d) pest management, weed and fungus control, operations and events; (e) presence of aboveground and underground radio transmission wires and high voltage electric lines within and around the Community, which lines purportedly may emit electric and magnetic fields; (f) the location of adjacent commercial area, community parks, and beach parks and the activities occurring at those locations; and (g) commute and off-hours (non-peak) traffic and parking (collectively the "Community Uses"). Each Owner hereby covenants and agrees that the Owner, and the tenants, lessees, family, servants, guests, invitees, licensees, and employees of the Owner, assumes any and all risks associated with such Community Uses and the annoyances, inconveniences, Community Use Effects, and nuisances created thereby, and expressly waives all rights to any claim against the Declarant, its successors and assigns, arising out of or in connection with such activities, annoyances, inconveniences, and nuisances, including but not limited to (i) any right to seek damages attributable thereto or for the design or the placement of improvements to the Community, any Apartment, or the surrounding property, or any part thereof, or related or adjacent facilities or (ii) the abatement or elimination thereof. Such waiver, however, shall not include claims arising out of or in connection with the gross negligence and/or willful misconduct of such entities.

11. Park. Each Owner, in purchasing or otherwise taking title to an Apartment, does so with the express understanding and acknowledgment that the Community is adjacent to parkland (the "Park"), and that the Community and/or the Apartment may be affected by the adjacent Park, which effects may include noise, dust, vibration, and other nuisances, disturbances,

annoyances, environmental hazards, increased traffic congestion, vandalism, and other criminal activity (the "Park Effects"). Each Owner hereby accepts these circumstances, and any nuisance, inconvenience, irritation, or annoyance which the Owner may experience as a result of the proximity of the Community to the Park, and acknowledges and understands that the Park is currently owned by the HCDA and, consequently, the Declarant, its directors, officers, agents, related or affiliated entities, successors, and assigns, the Association, and the Board have no obligation to control any legal or illegal use of the Park by anyone and, further, have no obligation to police or make the Park secure for the Owner, or the Owner's tenants, lessees, family, servants, guests, invitees, licensees, employees, or other persons who may occupy or otherwise use the Community, Apartment, or the Park. Each Owner further covenants and agrees to assume all risk of any property damage, personal injury, or loss in property value arising from the Park Effects, and to hold harmless Declarant, its directors, officers, agents, related or affiliated entities, successors and assigns, from and against any and all liability, claims, losses, damages, or expenses, including attorneys' fees, occasioned by such property damage or personal injury to the property or person of the Owner, or the Owner's tenants, lessees, family, servants, guests, invitees, licensees, employees, or other persons who may occupy or otherwise use the Community or any Apartment. Further, each Owner, in purchasing or otherwise taking title to an Apartment, does so with the express understanding and acknowledgment that the portions of the Park may be the site for certain archeological features, including a burial site for ancient Hawaiian persons ("Archaeological Features"). Each Owner hereby accepts these circumstances, and any nuisance, inconvenience, irritation, annoyance, emotional or psychological discomfort, or diminution in value of the Owner's Apartment or the Community which the Owner may experience as a result of the proximity of the Community or Owner's Apartment to the Archaeological Features.

12. Assumption of Risk, Waiver of Claims, Hold Harmless, and Defend. Without limiting the effect of any of the foregoing provisions of this Section S, each Owner hereby covenants and agrees, on behalf of such Owner, and the tenants, lessees, family, servants, guests, invitees, licensees, and employees of the Owner: (a) to accept any nuisance, inconvenience, irritation, or annoyance which the Owner or such other person claiming through the Owner may experience as a result of the activities and conditions described in this Declaration, including, specifically, the circumstances and/or conditions contained in this Section S and the presence of mold in the Apartment and agrees to suffer and permit all actions and consequences incidental to such activities and conditions; (b) to assume and does hereby assume any and all risks associated with the Community Uses and the annoyances, inconveniences, Community Use Effects, Park Effects, and other nuisances thereby created, as well as with the ongoing construction and sales activities; (c) to waive and does hereby expressly waive all rights to make any claim against Declarant and any of its related entities, affiliates, successors-in-title, or assigns, arising out of or in connection with the ongoing construction and sales activities, the Community Uses, and the annoyances, inconveniences, Community Use Effects, Park Effects, and other nuisances thereby created, the clean-up or remediation of the same, including but not limited to (i) any claim for damages attributable thereto or for the design or the placement of improvements to the Community, the Apartment, or the surrounding property, or any part thereof, or related or adjacent facilities or to the orientation of the Apartment as it relates to exposure to sun, salt spray, or wind; (ii) any and all claims, demands, actions, lawsuits, proceedings, fines, penalties, damages, liabilities, judgments, awards, expenses; and costs (including attorneys' fees and costs) which may arise out of or may directly or indirectly be attributable to the condition of the Property, the soils thereon and therein, and the use, generation, manufacture, treatment, handling, refining, production, storage, release, discharge, disposal, or presence of any hazardous material on, about, around, over, or within the Property; (iii) claims for the abatement or elimination thereof (such waiver, however, shall not include claims arising out of or in connection with the gross negligence and/or willful misconduct of such entities); (iv) to indemnify and hold harmless Declarant and any of its respective related entities, affiliates, successors-in-title, or assigns, and their respective successors and assigns, from

and against any and all claims, demands, actions, lawsuits, proceedings, fines, penalties, damages, liabilities, judgments, awards, expenses, and costs (including attorneys' fees and costs) which may arise out of or may directly or indirectly be attributable to any and all of the foregoing Community Uses, Community Use Effects, Park Effects, and ongoing construction and sales activities; and (v) to defend Declarant and any of its respective related entities, affiliates, successors-in-title, or assigns, and their respective affiliates, successors, and assigns, against any and all claims, demands, actions, lawsuits, proceedings, fines, penalties, damages, liabilities, judgments, awards, expenses, and costs (including attorneys' fees and costs) which may arise out of or may directly or indirectly be attributable to any and all of the foregoing Community Uses, Community Use Effects, Park Effects, and ongoing construction and sales activities.

13. Views. Views from an Apartment and the Community are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Community, and each Owner, by accepting title to or an ownership interest in an Apartment for himself/herself and/or the family, lessees, tenants and guests of such Owner and Owner's successors and assigns acknowledges and agrees that: (a) completion of the Community and the future development of land adjacent to or in the vicinity of the Community by Declarant or others may have a detrimental effect on the views from the Apartment and other parts of the Community, and (b) there are no view easements or rights appurtenant to the Community or the Apartment.

14. Additional Parking. Parking in driveways servicing the garage area of the Community is prohibited. No parking is permitted within the Community Access Drive unless authorized by the Board of Directors in the Community Rules.

T. CLAIMS AND LITIGATION.

1. Limitation on Liability. Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting title to any Apartment, acknowledges and agrees on behalf of the Owner and the Association that no officer, director, member, manager, partner, or shareholder of Declarant (or of Declarant's successor or assignee) shall have any personal liability to any Owner or other person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration.

2. Negotiation, Mediation and Arbitration.

(a) No Judicial or Administrative Proceedings. Except as specifically permitted by law or in this Section T.2, no judicial or administrative (inclusive of arbitration) proceeding shall be commenced or maintained by the Association or any Owner, individually or collectively.

(b) Negotiation, Mediation and Arbitration.

(1) Each Owner on behalf of Owner, Owner's successors and assigns, agrees that there shall be no right to litigate in respect of the Covered Matters, hereinafter defined, and in the event Owner or any other person with an interest in the Community shall have any claim or cause of action arising out of or in any way related to this Declaration (and any and all rules, regulations, and Supplemental Declarations promulgated pursuant to the foregoing, and the enforcement thereof), the design, orientation of the improvements to the Apartment and related facilities, or the Community or Building, the development, construction, quality, sales, marketing, disclosures concerning, financing, delivery of the Community or any Apartment, or any other aspect of or activity with respect to the Community or the Property (herein collectively the "Covered

Matters"), against any of those persons hereinafter defined as Covered Parties, such claim or cause of action (a "Dispute") whether such dispute is based on contract, tort, or statute, including, without limitation, any dispute over (1) the disposition of any deposits hereunder, (2) breach of contract, (3) negligent or intentional misrepresentation or fraud, (4) nondisclosure, (5) breach of any alleged duty of good faith and fair dealing, (6) allegations of latent or patent construction defects, or (7) any other matter arising from or related to the interpretation of any term or provision of this Declaration, or any defense going to the formation or validity of this Declaration, or any provision of this Declaration, including, without limitation, allegations of unconscionability, fraud in the inducement, or fraud in the execution, whether such dispute arises before or after the close of escrow, shall be arbitrated pursuant to the Federal Arbitration Act and subject to the procedures set forth in this Section ("Arbitration" or "arbitration"), after it shall have first been submitted to the process of "Negotiation" and "Mediation" defined and described below. Any such claim or cause of action shall be subject to Negotiation, Mediation, and Arbitration regardless of whether the claim is against another Owner, Declarant, Declarant's real estate broker, agent or attorney, the architects, engineers, or other design consultants for the Community, the contractor, subcontractors, sub-subcontractors, material suppliers, managing agent, or other persons involved with the Community, and their respective officers, directors, agents, servants, employees, or representatives (the "Covered Parties"), provided that such person(s) has entered into an agreement or otherwise agree to negotiate, mediate, and/or arbitrate such disputes; or if such claim or cause of action is filed jointly and severally against other parties, it shall be subject to mediation and arbitration with respect to those parties that have agreed to arbitration, regardless or whether other parties are bound to or are willing to submit to arbitration as herein provided. Any dispute concerning the interpretation or the enforceability of this Section, including, without limitation, its revocability or voidability for any cause, any challenges to the enforcement or the validity of this Declaration, or this Section, or the scope of arbitrable issues under this Section, and any defense relating to the enforcement of this Section, including, without limitation, waiver, estoppel, or laches, shall be decided by an arbitrator in accordance with this Section and not by a court of law. Further, in the event that a Dispute is raised between the parties after an Owner's acquisition of the Owner's Apartment, whether such Dispute is related to, or arises from, an act, omission, or other event occurring prior to such acquisition, such Dispute shall be decided by an arbitrator in accordance with this Section and not by a court of law.

(2) In respect of all Covered Matters, the Owner agrees to participate in a period of good faith negotiation (the "Negotiation"). Each Owner recognizes that the Negotiation process must be completed before the Mediation and/or Arbitration process described in this Section can begin. As such, the claimant Owner must first give written notice to the Covered Party describing the nature of the Dispute and a description of what the Owner believes ought to be done to resolve the Dispute. Owner must also propose a date and time for a conference, which date must fall on a business day between fifteen (15) and twenty (20) days after the date the claimant sends the foregoing notice to the Covered Party (the "Conference"), unless mutually extended by the parties. The Conference shall be held at a mutually agreed-upon location. Within five business (5) days of this Conference notice, the Covered Party shall provide a follow-up notice to the claimant confirming the time of the Conference and stating the name and title of Covered Party's representative to the Conference. Prior to the Conference, claimant will, in good faith, discuss with the Covered Party's representative and consider possible resolutions of the claim. At the Conference, the claimant (and claimant's representatives, if any) and Covered Party's representatives shall confer together to resolve the Dispute for a maximum period of two (2) hours, although the parties may extend or adjourn the meeting by mutual agreement. If, as a result of the Conference, the Dispute or certain issues in the Dispute have been resolved, the parties shall jointly state in writing the issues that have been resolved and the issues, if any, that remain unresolved and will require Mediation and Arbitration.

(3) In the event that the parties have completed Negotiation as required by this Section but failed to resolve the entire Dispute, then, if either of the parties wishes to pursue the Dispute further, the unresolved aspects of the Dispute shall be resolved, if possible, by mediation conducted with the assistance of a single mediator approved by Dispute Prevention and Resolution, Inc., or if not then in existence, the American Arbitration Association ("DPR") in accordance with its rules or the rules of the approved mediator in effect at the time of the initiation of the mediation (the "Mediation"). Any counterclaim a Covered Party may have against a claimant shall also be a subject of (and an attempt shall be made to resolve the same in the context of and by) Mediation. Any Mediation shall be conducted in the County where the Property is located. The parties shall share equally the expense of the mediator.

(4) In the event that the parties have completed Negotiation and Mediation as required by this Section but failed to resolve the claim, then, if any one of the parties wishes to pursue the Dispute further, the unresolved aspects of the Dispute shall be submitted to binding arbitration by and pursuant to the rules of DPR in effect at the time of the initiation of the arbitration. Provided, however, no arbitration may be commenced until Declarant is provided access to the Apartment or Common Element which is subject to the Dispute and a reasonable opportunity to cure the alleged defect as permitted under Section E.8 of this Declaration. Declarant shall be provided a minimum of thirty (30) days to exercise its right to repair or remedy any alleged defect or damage, without a waiver of any right by Declarant to seek recovery of the cost of such effort, following notice of the claimant's intent to proceed to arbitration of a Dispute. Any counterclaim a Covered Party may have against a claimant shall also be resolved in the context of and by Arbitration. The following provisions shall apply to any arbitration commenced by the parties:

(A) Each Owner, the Association and Declarant expressly agree and acknowledge that this Declaration involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule. Accordingly, any and all Disputes shall be arbitrated, which arbitration shall be mandatory and binding. To the extent that any state or local law, ordinance, regulation, or judicial rule shall be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

(B) This Section U shall inure to the benefit of, and be enforceable by, Declarant's subcontractors, agents, vendors, suppliers, design professionals, insurers, and any other person(s) whom Owner contends is responsible for any alleged defect in or to the Property or the Apartment or any improvement or appurtenance thereto.

(C) In the event any Dispute is submitted to Arbitration, each party shall bear its own attorneys' fees and costs (including expert costs) for the Arbitration.

(D) The decision of the arbitrator shall be final and binding. Owner, the Association, and Declarant expressly agree that an application to confirm, vacate, modify, or correct an award rendered by the arbitrator shall be filed in any court of competent jurisdiction in the county in which the Property is located.

(E) The participation by any party in any judicial proceeding concerning this Section T or any matter arbitrable hereunder shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this Section. Any counterclaim a

Covered Party may have against a claimant shall also be resolved in the context of and by Arbitration.

(F) Except as otherwise agreed by the parties pursuant to Declarant's limited warranty or as required by applicable law, the administration and/or arbitrator fees charged by the arbitration service shall be borne pro rata by the parties to the arbitration; provided, however, the administration and/or arbitrator fees and any other fees and costs of the arbitration shall ultimately be borne as determined by the arbitrator.

(G) The arbitrator appointed to serve shall be a neutral and impartial individual.

(H) The venue of the arbitration shall be in the county where the Property is located unless the parties agree in writing to another location. No punitive damages shall be awarded in any claim against Declarant or any other Covered Parties, no award of attorneys' fees or for damages attributable to emotional distress or a multiple of actual damages based upon any theory of law may be made or awarded in any claim against or Dispute involving Declarant or any of the other Covered Parties, all of which are expressly waived by the Association and each Owner. No award of consequential or incidental damages shall be awarded. The arbitrator may award equitable relief pursuant to any Arbitration instituted to enforce this Declaration or any Supplemental Declaration.

(I) If any provision of this **Section T** shall be determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

(J) In the event the foregoing arbitration provision is held not to apply or is held invalid, void, or unenforceable in its entirety for any reason, Owner, the Association and Declarant agree that all Disputes shall be tried before a judge in a court of competent jurisdiction without a jury. The judge in such court of competent jurisdiction shall have the power to grant all legal and equitable remedies and award compensatory damages. Declarant, the Association and Owner each hereby waive and covenant not to assert their constitutional right to trial by jury of any Disputes, including, but not limited to, Disputes relating to construction defects, misrepresentation, or Declarant's failure to disclose material facts. Declarant, the Association, and Owner hereby covenant and agree that their mutual waiver of jury trial shall be binding upon their respective successors and assigns and upon all persons and entities asserting rights or claims or otherwise acting on behalf of Declarant or Owner or their successors and assigns.

3. Rights of Owner to Dispute Assessments. Notwithstanding the provisions of **Section T.2**, an Owner who pays the Association the full amount of Assessments claimed by the Association may file in small claims court or require the Association to mediate to resolve any disputes concerning the amount or validity of the Association's claim. If the Owner and the Association are unable to resolve the dispute through mediation, either party may file for arbitration as provided above; provided, however, that an Owner may only file for arbitration if all amounts claimed by the Association have been paid in full on or before the date of filing. If the Owner fails to keep all Association Assessments current during the arbitration, the Association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the Owner pays all Association Assessments within thirty (30) days of the date of suspension, the Owner may ask the arbitrator to recommence the arbitration proceedings. If the Owner fails to pay all Association Assessments by the end of the thirty (30) day period, the Association may ask the arbitrator to dismiss the arbitration proceedings. The Owner shall be entitled to a refund of any amounts paid to the Association that are not owed.

4. Rights of Association and Declarant. Notwithstanding the provisions of **Section T.2**, the Association and/or the Declarant may proceed by litigation in connection with: (i) the imposition and collection of assessments by the Association, including foreclosure actions necessitated by the failure of an Owner to pay the required assessments; or (ii) counterclaims brought by the Association in proceedings instituted against it. No actions to enforce the provisions of this Declaration, any Supplemental Declaration, and/or any duly-adopted rules or regulations, Bylaws or the Community Rules, if any adopted by the Board, shall be commenced by the Association except on the affirmative vote of sixty-six percent (66%) of the total votes of the Board, and shall proceed only by arbitration in accordance with the provisions of this **Section T**. Actions or proceedings of any kind other than those described in **Section T.3** shall be commenced or prosecuted by the Association only upon the affirmative vote of not less than seventy-five percent (75%) of the Owners at a meeting duly called for that purpose. All such approved actions shall then proceed by the arbitration process outlined in this **Section T**.

U. MISCELLANEOUS.

1. Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in an Apartment, each and every Owner or other person or entity acquiring such interest, including the holders of Mortgage liens on individual Apartments, consents to the rights reserved to Declarant in this Declaration, including, but not limited to, the right to prepare, execute, file, process, and Record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Condominium Map, and the Bylaws. By such acceptance, each and every Owner or party acquiring such interest, including the holders of Mortgage liens on individual Apartments, agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of Declarant, with full right of substitution, as the attorney-in-fact of such Owner or acquiring party to execute such documents and to do such things on such Owner's or acquiring party's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period(s) of Declarant's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or acquiring party.

2. Security. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within or relating to the Community, including any community areas or facilities in which the Association may have an interest or obligation, and neither the Association nor Declarant shall be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Each Owner and occupant acknowledges and understands that neither Declarant, the Association, nor the Board are insurers of the safety or well being of Owners or occupants or their property, and that each Owner and occupant assumes all risks for loss or damage to persons, the Apartments, the Common Elements, and environs of the Community, and to the contents of improvements located thereon, and further acknowledges that neither Declarant, the Association, nor the Board has made any representations or warranties nor has any Owner or occupant relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to the security of the Community and the surrounding area, including any community areas or facilities in which the Association may have an interest or obligation, or any security measures undertaken within the Community or such community areas or facilities.

3. Invalidity. If any provision of this Declaration shall be declared invalid, all other provisions of this Declaration shall continue in full force and effect as if the invalid provision had not been included.

4. Assignment. Declarant may, without the consent or approval of the Association, the Board, any Apartment Owner, any Mortgagee, or any other person or entity, and in Declarant's sole discretion, assign all or any portion of the rights of Declarant in this Declaration and/or in the Property, without the consent or approval of any person to any successor in interest to any portion of Declarant's interest in any portion of the Property by merger or by written assignment. A person or entity shall be deemed a successor or assign of Declarant for purposes of this Declaration if such person or entity is a successor by merger and otherwise only if specifically so designated in a duly Recorded written instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor or assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the Recorded written instrument.

5. Incorporation of Exhibits. Exhibits attached to this Declaration are incorporated herein by reference.

6. Incorporation of Condominium Map. Condominium Map No. _____ is incorporated herein by reference.

7. Other Terms. Terms that are used in this Declaration but are not otherwise defined shall have the meaning given to those terms by the Act, if defined therein.

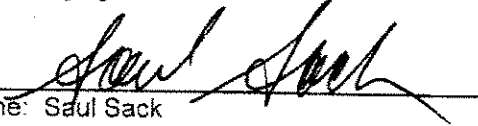
8. Captions; Construction. Captions given to Sections are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as hereinabove set forth.

[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

Declarant has executed this Declaration as of July 30, 2003.

SUNSET HEIGHTS HAWAII, LLC,
a Delaware limited liability company

By: **SUNSET HEIGHTS HAWAII HOLDINGS, LLC,**
a Delaware limited liability company,
Managing Member

By 
Name: Saul Sack
Title: Vice President

Declarant

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) SS.

On this 30th day of JULY 2003, before me personally appeared SAUL SACK, to me personally known, who, being by me duly sworn, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Bonnie H. Hudson
Notary Public, State of FLORIDA
Type or print name: _____

My commission expires:



Bonnie H. Hudson
Commission # CC 918075
Expires April 16, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

EXHIBIT "A"

(Description of Property)

ITEM I:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KALIA, WAIKIKI, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 1-A, AREA 109,587 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 2, FILED WITH LAND COURT CONSOLIDATION NO. 194 OF NAURU PHOSPHATE ROYALTIES (HONOLULU), INC.

TOGETHER WITH AN EASEMENT FOR BUILDING PURPOSES (EASEMENT "2"), AREA 384 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 6 OF LAND COURT APPLICATION NO. 1250, AFFECTING LOT 6, AS SHOWN ON MAP 5 OF LAND COURT APPLICATION NO. 1250, AS SET FORTH BY LAND COURT ORDER NO. 108885 RECORDED OCTOBER 2, 1992.

TOGETHER WITH ACCESS TO A PUBLIC ROAD, NAMELY, WAIMANU STREET, OVER AND ACROSS LOT 1-B OF LAND COURT CONSOLIDATION NO. 194, AS SET FORTH BY LAND COURT ORDER NO. 149192 RECORDED JANUARY 28, 2003.

ITEM II:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KAWAIAHAO STREET, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 2-A, AREA 6,751 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 2, FILED WITH LAND COURT CONSOLIDATION NO. 188 OF WAIMANU INVESTMENT VENTURE, A HAWAII LIMITED PARTNERSHIP.

TOGETHER WITH ACCESS TO A PUBLIC ROAD, NAMELY WAIMANU STREET OVER AND ACROSS LOT 30-B OF LAND COURT APPLICATION NO. 948, AS SET FORTH BY LAND COURT ORDER NO. 149191 RECORDED JANUARY 28, 2003 (AS TO LOT 2-A); AND AS SET FORTH BY LAND COURT ORDER NO. 149189 (AS TO LOT 30-B).

ITEM III:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KEWALO, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 4, AREA 20,391 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 18, FILED WITH LAND COURT CONSOLIDATION NO. 53 OF VICTORIA WARD, LIMITED.

TOGETHER WITH ACCESS TO WAIMANU STREET OVER AND ACROSS LOT 915-B OF LAND COURT APPLICATION NO. 880, AS SET FORTH BY LAND COURT ORDER NO. 149187 RECORDED JANUARY 28, 2003 (AS TO LOT 4); AND AS SET FORTH BY LAND COURT ORDER NO. 149188 (AS TO LOT 915-B).

ITEM IV:

FIRST:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KEWALO, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 915-B, AREA 85,668 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 131, FILED WITH LAND COURT APPLICATION NO. 880 OF BISHOP TRUST COMPANY, LIMITED.

SECOND:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT KOLOWALU-KAI, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 30-B, AREA 6,901 SQUARE FEET, MORE OR LESS, AS SHOWN ON MAP 8, FILED WITH LAND COURT APPLICATION NO. 948 OF HAWAIIAN DREDGING COMPANY, LIMITED.

AS TO ITEMS I THROUGH IV:

BEING ALL OF THE PREMISES DESCRIBED IN AND COVERED BY TRANSFER CERTIFICATE OF TITLE NO. 643,161

ISSUED TO: SUNSET HEIGHTS HAWAII, LLC, A DELAWARE LIMITED LIABILITY COMPANY

SUBJECT, HOWEVER, to the following:

1. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the unrecorded Planned Development Permit No. PD 2-84 and Kakaako Community Development District Plan dated November 7, 1984, issued to the Nauru Phosphate Royalties Trust by the Hawaii Community Development Authority.

Said Planned Development Permit was amended on October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994, January 24, 1997, August 2, 2000, April 2, 2002, September 13, 2002, March 24, 2003 and April 11, 2003.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, assigning all of the right, title and interest in and to the Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Phase I Site, subject to the terms and conditions of the Development Permit, to the Plan and Rules, and this Partial Assignment, recorded June 29, 1989 as Land Court Document No. 1646277. /

Consent thereto given by Hawaii Community Development Authority, State of Hawaii, by instrument recorded June 29, 1989 as Land Court Document No. 1646278.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated January 2, 1994, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Waimanu Investment Venture, a Hawaii limited partnership, and Waldron Ventures, a Hawaii general partnership, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of the Reserved Housing Site, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment to the extent they affect the Reserved Housing Project and the Reserved Housing Site, recorded November 2, 1994 as Land Court Document No. 2192784.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded November 2, 1994 as Land Court Document No. 2192785.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated June 1, 1997, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, assigning all of the right, title and interest in and to the Planned Development Permit to the extent that such right, title and interest are necessary for the development, use or operation of Lot 2, subject to the terms and conditions of the Planned Development Permit, the Kakaako Plan and Rules and this Partial Assignment, recorded June 20, 1997 as Land Court Document No. 2387444.

Assignment of Rights and Obligations Under Planned Development Permit and Cancellation and Termination of Partial Assignment dated May 1, 1998, made by and between Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, Assignor, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, Assignee, assigning all of the Assignor's right, obligations and liabilities under the Planned Development Permit dated November 7, 1984, as amended, terminating the Partial Assignment dated June 1, 1997, and mutually releasing each other from all claims related thereto, recorded June 5, 1998 as Land Court Document No. 2461954.

Partial Assignment of Rights and Obligations Under Planned Development Permit dated April 17, 2003 recorded April 22, 2003 as Land Court Document No. 2918295.

Consent thereto given by Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, by instrument recorded April 22, 2003 as Land Court Document No. 2918296.

2. AS TO ITEM I (Lot 1-A):

- a. Drainage and temporary construction easements, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430.
- b. Easement in favor of the Board of Water Supply, City and County of Honolulu, for right of way for an underground water line or pipe lines, shown on Map No. 1 filed with Land Court Application No. 1250 (now a portion of Lot 1-A), as set forth by Decree 1383, filed June 26, 1940.

- c. Easement (area 1,840 square feet) in favor of the City and County of Honolulu, for drainage purposes, shown on Map No. 4 filed with Land Court Application No. 1250, as set forth by Land Court Order No. 37100, recorded March 20, 1973.
- d. Easement (area 1,297 square feet) in favor of the City and County of Honolulu for drainage purposes, shown on Map No. 6 filed with Land Court Application No. 784, as set forth by Land Court Order No. 37122, recorded March 22, 1973.
- e. Easement for electrical purposes, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated (now Verizon Hawaii, Inc.), recorded December 16, 1991 as Land Court Document No. 1873345.
- f. Easement "1" (area 1,339 square feet) for sanitary sewer purposes, shown on Map No. 1 filed with Land Court Consolidation No. 194, as set forth by Land Court Order No. 133679, recorded December 22, 1998.
- g. Restriction of vehicular access, shown on Map No. 1 filed with Land Court Consolidation No. 194, as set forth by Land Court Order No. 133679, recorded December 22, 1998.

3. AS TO ITEM III (Lot 4):

- a. Easement for drainage purposes (Parcel 16, are 3,934 square feet), in favor of the City and County of Honolulu , as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33118 and also recorded September 6, 1973 as Land Court Document No. 648352.
- b. Easement for drainage purposes, shown on Map No. 14 filed with Land Court Consolidation No. 53, as set forth by Land Court Order No. 38673, recorded November 14, 1973.
- c. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Deed and Covenants, recorded April 11, 2003 as Land Court Document No. 2914554.
- d. Any unrecorded leases of tenant space located in the Garden Office Building, a portion of which encroaches onto said Lot 4, and which leases are subject to termination pursuant but subject to the terms of the Deed and Covenants from Victoria Ward, Limited to Nauru Phosphate Royalties (Honolulu), Inc. recorded April 11, 2003 as Land Court Document No. 2914554.

4. AS TO ITEM IV, FIRST (LOT 915-B):

- a. Easement for drainage and temporary construction easements for rights of way, in favor of the City and County of Honolulu, as acquired by Final Order of Condemnation filed in the First Circuit Court of the State of Hawaii in Civil No. 33119 and also recorded December 20, 1972 as Land Court Document No. 611430.

- b. Easement (40 feet wide) for drainage purposes, shown on Map No. 123 filed with Land Court Application No. 880, as set forth by Land Court Order No. 137124, recorded March 22, 1973.
 - c. A Grant of Easement for utility purposes, being 10 and 25 feet wide, containing an area of 11,467 square feet, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated (now Verizon Hawaii, Inc.), recorded December 16, 1991 as Land Court Document No. 1873345. ✓
 - d. Access rights in favor of Lot 4 of Land Court Consolidation No. 53, to Waimanu Street over and across Lot 915-B of Land Court Application No. 880, as set forth by Land Court Order No. 149188 recorded January 28, 2003 (as to Lot 915-B); and as set forth by Land Court Order No. 149187, recorded January 28, 2003 (as to Lot 4).
5. AS TO ITEM IV, SECOND (LOT 30-B):
- a. Access rights in favor of Lot 2-A of Land Court Consolidation No. 188, to Waimanu Street over and across Lot 30-B of Land Court Application No. 948, as set forth by Land Court Order No. 149189 recorded January 28, 2003 (as to Lot 30-B); and as set forth by Land Court Order No. 149191, recorded January 28, 2003 (as to Lot 2-A).
6. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Planned Development Agreement, recorded June 28, 1989 as Land Court Document No. 1645703. ✓
- Said Planned Development Permit was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914559.
7. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement Regarding Allocation of Space to Industrial Use, recorded June 29, 1989 as Land Court Document No. 1646279.
- Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914561.
8. Terms, provisions, reservations, covenants, conditions and restrictions, as contained in the Agreement to Provide Necessary Perpetual Public Easement Areas for Upper-Level Pedestrian Walkways, recorded June 29, 1989 as Land Court Document No. 1646280.
- Said Agreement was amended by instrument recorded April 11, 2003 as Land Court Document No. 2914563.
9. Encroachments or any other matters as shown on survey map prepared by Kendall N. H. Hee, Land Surveyor, with Engineers Surveyors Hawaii, Inc., dated September 25, 2002, last revised March 24, 2003.

10. Terms, provisions, reservations, covenants, conditions and restrictions as contained in the Declaration of Restrictive Covenant, recorded April 11, 2003 as Land Court Document No. 2914558.
11. A mortgage to secure an original principal indebtedness of \$20,100,000.00, and any other amounts or obligations secured thereby.

Dated: April 1, 2003, effective as of April 22, 2003
Mortgagor: Sunset Heights Hawaii, LLC, a Delaware limited liability company
Mortgagee: Fremont Investment & Loan, a California industrial bank
Recorded April 22, 2003 as Land Court Document No. 2918299.
12. The Assignment of Rents, in favor of Fremont Investment & Loan, a California industrial bank, as additional security for the payment of the indebtedness in the amount of \$20,100,000.00, which was recorded April 22, 2003 as Regular System Document No. 2003-072734.
13. A mortgage to secure an original principal indebtedness of \$6,900,000.00, and any other amounts or obligations secured thereby.

Dated: April 1, 2003, effective as of April 22, 2003
Mortgagor: Sunset Heights Hawaii, LLC, a Delaware limited liability company
Mortgagee: Fremont Investment & Loan, a California industrial bank
Recorded April 22, 2003 as Land Court Document No. 2918300.
14. The Assignment of Rents, in favor of Fremont Investment & Loan, a California industrial bank, as additional security for the payment of the indebtedness in the amount of \$6,900,000.00, which was recorded April 22, 2003 as Regular System Document No. 2003-072735.
15. The terms and provisions contained in the 404 Piikoi Planned Development Joint Development Agreement dated as of July 14, 2003, made by and between Sunset Heights Hawaii, LLC, a Delaware limited liability company, and Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii, recorded August 7, 2003 as Land Court Document No. 2973501.

END OF EXHIBIT "A"

EXHIBIT "B-1"

(Description of Building and Apartments)

APARTMENT SUMMARY

Apartment Type	Quantity	Number of Bedrooms & Baths	Floor Levels	Approximate Net Living Area (Sq. Ft.)	Approx. Net Lanai Area (Sq. Ft.)	Approx. Net Rooftop Lanai Area (Sq. Ft.)	Total Area (Sq. Ft.)
1	40	2/2	5-44	1,364	0	0	1,364
2	26	3/2	5, 6, 7-31	1,561	0	0	1,561
2L	14	3/2	32-45	1,527	46	0	1,573
3	28	2/2	5-33	1,162	0	0	1,162
3L	12	2/2	36-45	1,120	49	0	1,169
4	30	2/2	5-35	1,157	0	0	1,157
4L	10	2/2	36-45	1,113	49	0	1,162
5	31	2/2	5, 7-37	1,157	0	0	1,157
5L	8	2/2	38-45	1,113	49	0	1,162
6	29	2/2	5, 7-35	1,157	0	0	1,157
6L	10	2/2	36-45	1,113	49	0	1,162
7	28	2/2	5-33	1,151	0	0	1,151
7L	12	2/2	34-45	1,108	49	0	1,157
8	25	2/2	6-31	1,518	0	0	1,518
8L	14	2/2	32-45	1,461	71	0	1,532
9	39	3/2	6-45	1,392	0	0	1,392
10	1	1/1	6	317	0	0	317
11	1	1/1	6	884	0	0	884
12	1	1/1	6	815	0	0	815
PH-01	1	2/2.5	46/47	1,960	0	0	1,960
PH-02	1	2/2.5	46/47	2,115	0	526	2,115
PH-03	1	2/2.5	46/47	1,927	0	587	1,927
PH-04	1	4/4.5	46/47	2,633	0	373	2,633
PH-05	1	4/4.5	46/47	2,611	0	363	2,611
PH-06	1	4/4.5	46/47	2,517	0	0	2,517
PH-07	1	4/4.5	46/47	2,613	0	476	2,613
PH-08	1	4/4.5	46/47	2,378	0	487	2,378
PH-09	1	2/2.5	46/47	1,802	0	433	1,802
PH-10	1	3/2.5	46/47	2,495	0	390	2,495
PH-11	1	2/2.5	46/47	1,796	0	0	1,796

DESCRIPTION OF FLOOR PLANS

RESIDENTIAL APARTMENTS

Type 1 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms (the larger of which has a walk-in closet), two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,364 square feet.

Type 2 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms (the largest of which has a walk-in closet), two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,561 square feet.

Type 2L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,527 square feet, and a lanai of approximately 46 square feet.

Type 3 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,162 square feet.

Type 3L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,120 square feet, and a lanai of approximately 49 square feet.

Type 4 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 4L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 5 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 5L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 6 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,157 square feet.

Type 6L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,113 square feet, and a lanai of approximately 49 square feet.

Type 7 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,151 square feet.

Type 7L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen with pantry, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,108 square feet, and a lanai of approximately 49 square feet.

Type 8 apartments: Each apartment is a single-story apartment. Each apartment contains seven (7) rooms, including two (2) bedrooms (the larger of which has a walk-in closet), two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,518 square feet.

Type 8L apartments: Each apartment is a single-story apartment with a limited common element lanai. Each apartment contains seven (7) rooms, including two (2) bedrooms (the larger of which has a walk-in closet), two (2) bathrooms, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 1,461 square feet, and a lanai of approximately 71 square feet.

Type 9 apartments: Each apartment is a single-story apartment. Each apartment contains eight (8) rooms, including three (3) bedrooms (the largest of which has a walk-in closet), two (2) bathrooms, a kitchen, a living/dining room and a laundry/utility room, and has a foyer. Each apartment has a net living area of approximately 1,392 square feet.

Type 10 apartments: Each apartment is a single-story studio apartment. Each apartment contains three (3) rooms, including a bedroom/living room, one (1) bathroom, and a foyer. Each apartment has a net living area of approximately 317 square feet.

Type 11 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 884 square feet.

Type 12 apartments: Each apartment is a single-story apartment. Each apartment contains five (5) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room, and a foyer. Each apartment has a net living area of approximately 815 square feet.

Type PH-01 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms (the larger of which has a walk-in closet), two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,960 square feet.

Type PH-02 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms (the largest of which has a walk-in closet), two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,115 square feet, and a roof top lanai of approximately 526 square feet.

Type PH-03 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms (the largest of which has a walk-in closet), two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,927 square feet, and a roof top lanai of approximately 587 square feet.

Type PH-04 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms, four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,633 square feet, and a roof top lanai of approximately 373 square feet.

Type PH-05 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms (the largest of which has a walk-in closet), four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,611 square feet, and a roof top lanai of approximately 363 square feet.

Type PH-06 apartment: The apartment is a two-story apartment. Each apartment contains thirteen (13) rooms, including four (4) bedrooms (two of which have walk-in closets), four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,517 square feet.

Type PH-07 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms (the largest of which has a walk-in closet), four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,613 square feet, and a roof top lanai of approximately 476 square feet.

Type PH-08 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains thirteen (13) rooms, including four (4) bedrooms (the largest of which has a walk-in closet), four and a half (4-½) bathrooms, a kitchen (with pantry), a living room, a dining room, and a foyer. The apartment has a net living area of approximately 2,378 square feet, and a roof top lanai of approximately 487 square feet.

Type PH-09 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains eight (8) rooms, including two (2) bedrooms (the largest of which has two walk-in closets), two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 1,802 square feet, and a roof top lanai of approximately 433 square feet.

Type PH-10 apartment: The apartment is a two-story apartment with a limited common element roof top lanai. Each apartment contains nine (9) rooms, including three (3) bedrooms (the largest of which has a walk-in closet), two and a half (2-½) bathrooms, a kitchen, a living/dining room, and a foyer. The apartment has a net living area of approximately 2,495 square feet, and a roof top lanai of approximately 390 square feet.

Type PH-11 apartment: The apartment is a two-story apartment. Each apartment contains nine (9) rooms, including two (2) bedrooms (the largest of which a walk-in closet), two and a half (2-½) bathrooms, a kitchen, a living room, a dining room, and a foyer. The apartment has a net living area of approximately 1,796 square feet.

COMMERCIAL APARTMENTS

1. Commercial Apartment Type C-1 is an unimproved loft space. The apartment has approximately 13,353 net square feet.
2. Commercial Apartment Type C-2 is an unimproved loft space. The apartment has approximately 7,163 net square feet.

EXHIBIT "B-2"

(Common Elements)

One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically, but not limited to:

1. The Land in fee simple;
2. All yards, grounds, trees, gardens, walkways, walkway railings, gates, landscaping, recycling area, trash bins, telephone room, car wash area, fire control rooms, mechanical rooms, emergency exits and stairways, and refuse facilities not located within an Apartment;
3. All roads, driveways, access lanes, paved areas, ramps and loading areas and the porte cochere;
4. All guest and accessible guest parking stalls and parking areas, including roadway areas, which shall not be designated as Limited Common Elements; provided the use of Accessible Guest Parking Stall(s) shall be governed by the applicable rules and regulations set forth in the House Rules;

The following parking stalls are designated as "Guest" parking stalls:

1048G	1049G	1050G	1051G	1052G	1053G	1056G	1057G	1058G	1059G
1060G	1061G	1062G	1063G	1064AG	1065AVG	1066G	1067G	1068G	1069G
1070G	1071G	1072G	1073G	1074G	1075G				

5. All parking stall designated as loading areas not assigned to the apartments;

The following parking stalls are designated as "Loading Area" parking stalls:

1107L	1108L	1109L	1110L	1111L
-------	-------	-------	-------	-------

6. Any swimming pool, appurtenant deck, tennis court(s), barbecue areas, dog park, function rooms, restroom facilities and recreational areas and facilities, if any, located on the sixth floor of the Platform.
7. All restroom facilities not located within an Apartment;
8. Unassigned storage areas, if any, to the extent the use of the same has not been assigned to an owner by the Declarant or the Board;
9. All foundations, floor slabs, columns, girders, beams, supports, perimeter, party and load bearing walls and partitions (excluding the finishes thereon), roofs, lobby areas, stairways (excluding any private stairway located within and serving only an Apartment), elevators, walkways, corridors, ramps, loading areas, elevator lobby areas, entrances, entry ways and exits of the Project, the conference room, all storage rooms not located within an apartment, all maintenance rooms, all elevator machine rooms, all mechanical rooms, all electrical rooms and all trash rooms;
10. All vents, shafts, sewer lines, water lines, pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations on, above, over, under and across the Project to the point of their respective connections to Improvements comprising a part of the Apartments or the Limited Common Elements appurtenant thereto, which serve more than one Apartment, including, without limitation, those providing electricity, light, gas (if any), water, air conditioning, sewer, refuse, drainage, irrigation, telephone, and radio and television signal distribution (if any); and
11. Any and all other apparatus and installations existing for common use by more than one (1) Apartment, and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

EXHIBIT "B-3"

(Limited Common Elements)

Limited Common Elements.

Certain parts of the Common Elements, herein called the "Limited Common Elements", are hereby designated and set aside for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as follows:

1. Each residential Apartment shall have for its exclusive use one (1) or more parking stalls ("Residential Parking Stall(s)", attached storage units, if any, as shown on the Condominium Map and reflected in the chart contained in this Exhibit and as may be designated by amending and/or supplementing the Declaration.
2. Each commercial Apartment shall have for its exclusive use at least four (4) parking stalls, as shown on the Condominium Map and reflected in the chart contained in this Exhibit and shall also have additional "Declarant Reserved Stalls" (as defined in the Declaration), all of which are reserved for use and assignment by the Developer/Declarant for use and assignment to apartment owners within this Project by amending and/or supplementing the Declaration.
3. Those residential Apartments with lanais, roof top lanais, and courtyards shown on the Condominium Map (collectively "lanais") shall have for their exclusive use the lanais as noted in the Declaration and as shown on the Condominium Map, from the exterior surface of all perimeter walls which separate the interior of the Apartments from the lanais to the interior edge of the exterior railings or other boundaries of the lanais. All net lanai floor areas are not exact but are approximations based on the floor plans of the subject lanais and the Apartments to which they are appurtenant.
4. Storage areas shown on the Condominium Map bearing the same number (preceded by "S-") as the adjacent parking stall shall be appurtenant to the Apartment to which the parking stall is assigned and may not be separated from the parking stall bearing the same number.
5. Residential Apartment Limited Common Elements.

Certain parts of the Common Elements, herein called the "Residential Apartment Limited Common Elements", are hereby designated and set aside for the exclusive use of the residential Apartments only, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Residential Apartment Limited Common Elements as follows:

- a. Elevators (and corresponding elevator lobbies) identified as elevator numbers 1, 2, 3, and 4, as shown on the Condominium Map, which access the residential apartments only;
 - b. The common areas/amenities on the fourth floor (shown as the "Amenity Area" on the Condominium Map) including the screening room and meeting rooms, if any.
6. Parking Stalls
 - a. Residential Apartment Parking Stall Assignments

Each apartment shall have appurtenant to it the exclusive right to use at least one (1) parking stall(s) as designated by Supplemental Declaration or amendment to the Declaration. The current assignment of parking stalls, which shall change and should not be relied upon, follows:

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
501	4001	N/A	908	4106	N/A
502	4147	N/A	909	4105	N/A
503	4146	N/A	1001	4104	N/A
504	4145	N/A	1002	4103	N/A
505	4144	N/A	1003	4102	N/A
506	4143	N/A	1004	4101	N/A
507	4142	N/A	1005	4100	N/A
601	4140	N/A	1006	4099	N/A
602	4141	N/A	1007	4098	N/A
603	4138	N/A	1008	4097	N/A
604	4137	N/A	1009	4096	N/A
607	4136	N/A	1101	4095	N/A
608	4135	N/A	1102	4094	N/A
609	4134	N/A	1103	4029	N/A
610	5118	N/A	1104	4088	N/A
611	5119	N/A	1105	4089	N/A
612	5120	N/A	1106	4092	N/A
701	4133	N/A	1107	4075	N/A
702	4132	N/A	1108	4074	N/A
703	4131	N/A	1109	4073	N/A
704	4130	N/A	1201	4072	N/A
705	4129	N/A	1202	4071	N/A
706	4128	N/A	1203	4070	N/A
707	4127	N/A	1204	4069	N/A
708	4126	N/A	1205	4067	N/A
709	4125	N/A	1206	4065	N/A
801	4124	N/A	1207	4068	N/A
802	4123	N/A	1208	4064	N/A
803	4122	N/A	1209	4061	N/A
804	4121	N/A	1401	4060	N/A
805	4120	N/A	1402	4059	N/A
806	4119	N/A	1403	4058	N/A
807	4118	N/A	1404	4057	N/A
808	4117	N/A	1405	4056	N/A
809	4116	N/A	1406	4055	N/A
901	4115	N/A	1407	4054	N/A
902	4114	N/A	1408	4053	N/A
903	4113	N/A	1409	4052	N/A
904	4112	N/A	1501	4051	N/A
905	4111	N/A	1502	4050	N/A
906	4013	N/A	1503	4049	N/A
907	4018	N/A	1504	4048	N/A

STALL ASSIGNMENTS SHALL CHANGE. THESE ARE TENTATIVE PARKING STALL ASSIGNMENTS. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
1505	4047	N/A	2008	3136	N/A
1506	4046	N/A	2009	3135	N/A
1507	4045	N/A	2101	3134	N/A
1508	4044	N/A	2102	3132	N/A
1509	4043	N/A	2103	3131	N/A
1601	4042	N/A	2104	3130	N/A
1602	4041	N/A	2105	3129	N/A
1603	4040	N/A	2106	3128	N/A
1604	4039	N/A	2107	3127	N/A
1605	4038	N/A	2108	3126	N/A
1606	4037	N/A	2109	3125	N/A
1607	4036	N/A	2201	3124	N/A
1608	4035	N/A	2202	3123	N/A
1609	4034	N/A	2203	3122	N/A
1701	4033	N/A	2204	3121	N/A
1702	4032	N/A	2205	3120	N/A
1703	4031	N/A	2206	3119	N/A
1704	4030	N/A	2207	3118	N/A
1705	4093	N/A	2208	3117	N/A
1706	4109	N/A	2209	3116	N/A
1707	4110	N/A	2301	3115	N/A
1708	4015	N/A	2302	3114	N/A
1709	4004	N/A	2303	3113	N/A
1801	4003	N/A	2304	3112	N/A
1802	4002	N/A	2305	3111	N/A
1803	3006	N/A	2306	3110	N/A
1804	3005	N/A	2307	3109	N/A
1805	3004	N/A	2308	3108	N/A
1806	3003	N/A	2309	3107	N/A
1807	3002	N/A	2401	3106	N/A
1808	3001	N/A	2402	3105	N/A
1809	3153	N/A	2403	3104	N/A
1901	3152	N/A	2404	3103	N/A
1902	3151	N/A	2405	3102	N/A
1903	3150	N/A	2406	3101	N/A
1904	3149	N/A	2407	3100	N/A
1905	3148	N/A	2408	3099	N/A
1906	3147	N/A	2409	3098	N/A
1907	3146	N/A	2501	3097	N/A
1908	3145	N/A	2502	3096	N/A
1909	3144	N/A	2503	3095	N/A
2001	3143	N/A	2504	3094	N/A
2002	3142	N/A	2505	3093	N/A
2003	3141	N/A	2506	3092	N/A
2004	3140	N/A	2507	3073	N/A
2005	3139	N/A	2508	3072	N/A
2006	3138	N/A	2509	3071	N/A
2007	3137	N/A	2601	3070	N/A

STALL ASSIGNMENTS SHALL CHANGE. THESE ARE TENTATIVE PARKING STALL ASSIGNMENTS. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
2602	3069	N/A	3101	3007	N/A
2603	3068	N/A	3102	2041	N/A
2604	3067	N/A	3103	2040	N/A
2605	3066	N/A	3104	2039	N/A
2606	3065	N/A	3105	2038	N/A
2607	3064	N/A	3106	2031	N/A
2608	3063	N/A	3107	2030	N/A
2609	3062	N/A	3108	2108	N/A
2701	3061	N/A	3109	2107	N/A
2702	3060	N/A	3201	2106	N/A
2703	3059	N/A	3202	2105	N/A
2704	3058	N/A	3203	2104	N/A
2705	3057	N/A	3204	2103	N/A
2706	3052	N/A	3205	2102	N/A
2707	3051	N/A	3206	2101	N/A
2708	3050	N/A	3207	2100	N/A
2709	3049	N/A	3208	2098	N/A
2801	3048	N/A	3209	2097	N/A
2802	3047	N/A	3301	2096	N/A
2803	3046	N/A	3302	2095	N/A
2804	3045	N/A	3303	2094	N/A
2805	3044	N/A	3304	2093	N/A
2806	3043	N/A	3305	2092	N/A
2807	3042	N/A	3306	2091	N/A
2808	3041	N/A	3307	2090	N/A
2809	3040	N/A	3308	2089	N/A
2901	3039	N/A	3309	2088	N/A
2902	3038	N/A	3401	2087	N/A
2903	3037	N/A	3402	2086	N/A
2904	3036	N/A	3403	2085	N/A
2905	3035	N/A	3404	2084	N/A
2906	3034	N/A	3405	2083	N/A
2907	3033	N/A	3406	2082	N/A
2908	3032	N/A	3407	2081	N/A
2909	3031	N/A	3408	2080	N/A
3001	3030	N/A	3409	2079	N/A
3002	3029	N/A	3501	2078	N/A
3003	3028	N/A	3502	2077	N/A
3004	3027	N/A	3503	2076	N/A
3005	3026	N/A	3504	2075	N/A
3006	3011	N/A	3505	2074	N/A
3007	3010	N/A	3506	2073	N/A
3008	3009	N/A	3507	2072	N/A
3009	3008	N/A	3508	2071	N/A

STALL ASSIGNMENTS SHALL CHANGE. THESE ARE TENTATIVE PARKING STALL ASSIGNMENTS. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

APT. NO.	STALL NO. 1	STALL NO. 2	APT. NO.	STALL NO. 1	STALL NO. 2
3509	2070	N/A	4106	4020T	4021T
3601	2069	N/A	4107	4026T	4027T
3602	2068	N/A	4108	4024T	4025T
3603	2067	N/A	4109	4022T	4023T
3604	2066	N/A	4201	4016T	4017T
3605	2065	N/A	4202	4076T	4077T
3606	2064	N/A	4203	3090T	3091T
3607	2063	N/A	4204	3088T	3089T
3608	2062	N/A	4205	3084T	3085T
3609	2061	N/A	4206	3082T	3083T
3701	2060	N/A	4207	3080T	3081T
3702	2057	N/A	4208	3078T	3079T
3703	2056	N/A	4209	3076T	3077T
3704	2055	N/A	4301	3074T	3075T
3705	2054	N/A	4302	3014T	3015T
3706	2053	N/A	4303	3012T	3013T
3707	2052	N/A	4304	3024T	3025T
3708	2051	N/A	4305	3022T	3023T
3709	2050	N/A	4306	3020T	3021T
3801	2049	N/A	4307	3018T	3019T
3802	2048	N/A	4308	3016T	3017T
3803	2047	N/A	4309	2036T	2037T
3804	2046	N/A	4401	2034T	2035T
3805	2045	N/A	4402	2032T	2033T
3806	2044	N/A	4403	2028T	2029T
3807	2043	N/A	4404	2026T	2027T
3808	2042	N/A	4405	2024T	2025T
3809	4148	N/A	4406	2022T	2023T
3901	1031T	1032T	4407	2020T	2021T
3902	4011T	4012T	4408	2018T	2019T
3903	4009T	4010T	4409	2013T	2014T
3904	4007T	4008T	4501	2011T	2012T
3905	4005T	4006T	4502	1027T	1028T
3906	5070T	5071T	4503	1025T	1026T
3907	5068T	5069T	4504	1023T	1024T
3908	5064T	5065T	4505	1021T	1022T
3909	5062T	5063T	4506	1019T	1020T
4001	5060T	5061T	4507	1017T	1018T
4002	5058T	5059T	4508	1015T	1016T
4003	5056T	5057T	4509	1013T	1014T
4004	5054T	5055T	4601	2015	2016
4005	5005T	5006T	4602	2009	2017
4006	5003T	5004T	4603	2007	2008
4007	5001T	5002T	4604	2005	2006
4008	4107T	4108T	4605	2003	2004
4009	4090T	4091T	4606	2001	2002
4101	4086T	4087T	4607	1010	1011

STALL ASSIGNMENTS SHALL CHANGE. THESE ARE TENTATIVE PARKING STALL ASSIGNMENTS. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

4102	4084T	4085T	4608	1008	1009
4103	4082T	4083T	4609	1006	1007
4104	4080T	4081T	4610	1004	1005
4105	4078T	4079T	4611	1001	1002

TENTATIVE PARKING STALL ASSIGNMENT. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

B. Commercial Apartment Parking Stall Assignments

1. Commercial Apartment No. 101 shall have appurtenant to it the exclusive right to use parking stall nos. 1033, 1034, 1035 and 1036, and shall have assigned to it 97 total additional "Declarant Reserved Parking Stalls", all of which are reserved for use and assignment by the Developer/Declarant for use and assignment to apartment owners within this Project, by amending and/or supplementing the Declaration:

1003A	1012	1029	1030	1037	1038	1039	1040	1041	1042	1043
1044	1045	1046	1047	1054AV	1055AV	1076	1077	1078	1079	1080
1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091
1092	1093	1094	1095	1096	1097	1098C	1099	1100	1101	1102
1103	1104	1105	1106	2010A	2058A	2059A	2099C	5037	5038	5039
5040	5041	5042	5043	5044C	5045	5046	5047	5048	5049	5050
5051	5052	5053	5066	5067	5072	5073	5074	5075	5076	5077
5078	5079	5080	5081	5082	5083	5084	5085	5086	5087	5088
5089A	5090	5091	5092	5093	5094	5095	5098	5099		

2. Commercial Apartment No. 301 shall have appurtenant to it the exclusive right to use parking stall nos. 3053C, 3054C, 3055C and 3056C, and shall have assigned to it 97 total additional "Declarant Reserved Parking Stalls", all of which are reserved for use and assignment by the Developer/Declarant for use and assignment to apartment owners within this Project, by amending and/or supplementing the Declaration:

3086	3087	3133A	4014A	4019	4028	4062C	4063C	4066C	4139A	4149
4150	4151	4152	4153	4154A	4155	4156	4157	4158	4159	4160
4161	4162	4163	4164	5007	5008	5009	5010	5011	5012	5013
5014	5015	5016	5017	5018	5019	5020	5021	5022	5023	5024
5025	5026	5027	5028	5029	5030	5031	5032	5033	5034	5035
5036	5096	5097	5100	5101	5102	5103	5104	5105	5106	5107
5108	5109	5110	5111	5112	5113	5114	5115	5116	5117A	5121
5122	5123	5124	5125	5126	5127	5128	5129	5130	5131	5132A
5133	5134	5135	5136	5137	5138	5139	5140	5141		

Notes: A parking stall marked with a "C", as shown on the list above, indicates a parking stall that is "compact" in size. A parking stall marked with a "T", as shown on the list above, indicates a tandem parking stall. A parking stall marked with a "A", as shown on the list above, indicates an "accessible" parking stall. A parking stall marked with an "AV" on the list above, indicates an accessible van parking stall. A parking stall marked with a "G" indicates the parking stalls designated as "Guest" parking stalls. The additional "C", "T", "A", "AV", "G" or other markings appearing on the list above and/or the Condominium Map are for informational purposes only and do not constitute part of the legal identification of a parking stall, the sole means of legal identification being the numerical designation of the parking stall.

STALL ASSIGNMENTS SHALL CHANGE. THESE ARE TENTATIVE PARKING STALL ASSIGNMENTS. FINAL ASSIGNMENT TO BE MADE BY SUPPLEMENTAL DECLARATION OR AMENDMENT TO THE DECLARATION.

EXHIBIT "C"

(Common Interests)

Apartment Type	Commercial Apartment Number	Percent Common Interest
C-1	101	0.004275
C-2	301	0.004275

Apt. Type	Residential Apartment Number	Percent Common Interest
1	501, 601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601, 3701, 3801, 3901, 4001, 4101, 4201, 4301, 4401, 4501	0.002777
2	502, 602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602, 2702, 2802, 2902, 3002, 3102	0.003178
2L	3202, 3302, 3402, 3502, 3602, 3702, 3802, 3902, 4002, 4102, 4202, 4302, 4402, 4502	0.003202
3	503, 603, 703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603, 2703, 2803, 2903, 3003, 3103, 3203, 3303	0.002365
3L	3403, 3503, 3603, 3703, 3803, 3903, 4003, 4103, 4203, 4303, 4403, 4503	0.002380
4	504, 604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504	0.002355
4L	3604, 3704, 3804, 3904, 4004, 4104, 4204, 4304, 4404, 4504	0.002365
5	505, 705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605, 1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605, 2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605, 3705	0.002355
5L	3805, 3905, 4005, 4105, 4205, 4305, 4405, 4505	0.002365
6	506, 706, 806, 906, 1006, 1106, 1206, 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506	0.002355
6L	3606, 3706, 3806, 3906, 4006, 4106, 4206, 4306, 4406, 4506	0.002365

7	507, 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307	0.002343
7L	3407, 3507, 3607, 3707, 3807, 3907, 4007, 4107, 4207, 4307, 4407, 4507	0.002355
8	608, 708, 808, 908, 1008, 1108, 1208, 1408, 1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508, 2608, 2708, 2808, 2908, 3008, 3108	0.003089
8L	3208, 3308, 3408, 3508, 3608, 3708, 3808, 3908, 4008, 4108, 4208, 4308, 4408, 4508	0.003119
9	609, 709, 809, 909, 1009, 1109, 1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209, 2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409, 3509, 3609, 3709, 3809, 3909, 4009, 4109, 4209, 4309, 4409, 4509	0.002834
10	610	0.000645
11	611	0.001799
12	612	0.001659
PH1	4601	0.003990
PH2	4602	0.004305
PH3	4603	0.003923
PH4	4604	0.005360
PH5	4605	0.005315
PH6	4606	0.005124
PH7	4607	0.005319
PH8	4608	0.004841
PH9	4609	0.003668
PH10	4610	0.005079
PH11	4611	0.003656

For Residential Limited Common Elements:

Apt. Type	Residential Apartment Number	Percent Common Interest
1	501, 601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601, 3701, 3801, 3901, 4001, 4101, 4201, 4301, 4401, 4501	0.002801
2	502, 602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602, 2702, 2802, 2902, 3002, 3102	0.003205
2L	3202, 3302, 3402, 3502, 3602, 3702, 3802, 3902, 4002, 4102, 4202, 4302, 4402, 4502	0.003230
3	503, 603, 703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603, 2703, 2803, 2903, 3003, 3103, 3203, 3303	0.002386
3L	3403, 3503, 3603, 3703, 3803, 3903, 4003, 4103, 4203, 4303, 4403, 4503	0.002400
4	504, 604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504	0.002375
4L	3604, 3704, 3804, 3904, 4004, 4104, 4204, 4304, 4404, 4504	0.002387
5	505, 705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605, 1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605, 2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605, 3705	0.002375
5L	3805, 3905, 4005, 4105, 4205, 4305, 4405, 4505	0.002386
6	506, 706, 806, 906, 1006, 1106, 1206, 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506	0.002375
6L	3606, 3706, 3806, 3906, 4006, 4106, 4206, 4306, 4406, 4506	0.002386
7	507, 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307	0.002363
7L	3407, 3507, 3607, 3707, 3807, 3907, 4007, 4107, 4207, 4307, 4407, 4507	0.002375
8	608, 708, 808, 908, 1008, 1108, 1208, 1408, 1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508, 2608, 2708, 2808, 2908, 3008, 3108	0.003117
8L	3208, 3308, 3408, 3508, 3608, 3708, 3808, 3908, 4008, 4108, 4208, 4308, 4408, 4508	0.003145

9	609, 709, 809, 909, 1009, 1109, 1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209, 2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409, 3509, 3609, 3709, 3809, 3909, 4009, 4109, 4209, 4309, 4409, 4509	0.002858
10	610	0.000651
11	611	0.001815

12	612	0.001673
PH1	4601	0.004024
PH2	4602	0.004342
PH3	4603	0.003956
PH4	4604	0.005406
PH5	4605	0.005361
PH6	4606	0.005168
PH7	4607	0.005365
PH8	4608	0.004882
PH9	4609	0.003700
PH10	4610	0.005123
PH11	4611	0.003687

EXHIBIT "D"

DESCRIPTION OF MAINTENANCE RESPONSIBILITIES

I	II	III	IV	V
ITEMS	COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	RESIDENCE COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	CERTAIN OTHER COMPONENTS UNDER RESIDENCE OWNER'S RESPONSIBILITY WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENT
A) Plumbing and related systems & components thereof.	All maintenance, repair & replacement of portions of plumbing serving more than one Residence regardless of cause. Water damage to common elements or Residences other than to the Residence which is the primary source of the problem through the negligence of the occupants of such Residence(s).	If any, same as in Column II, provided that the expense may be assessed to the affected Residences at the election of the Board of Directors as a Benefited Assessment.	Only to the extent that a malfunction or threat of same has originated outside the Residence in which the malfunction occurs or may occur.	All portions within a Residence including fixtures & appliances attached thereto. Water damage to an Residence when the primary source of such problem is through the negligence of the occupants of that Residence.

I	II	III	IV	V
B) Electrical & related systems & components thereof excluding appliances, fixtures & lights serving only one Residence.	All, in all regards.	All, in all regards, from the common side of the Residence service panel.		All, in all regards (regardless of ownership), for items serving only one Residence and located within the Residence (on the Residence side of the Residence's electrical panel, including the panel itself). This includes switches, wall sockets, circuit breakers and any other items which serve one Residence but lie outside its legally defined boundaries of the Residence.
C) Heating, ventilating & cooling systems & components thereof which serve the separate Residences, including dryer ducts.	All, in all regards, serving more than one Residence, as a common expense. Vent connections including regular inspection of same.	If any, same as in Column II. All, in all regards, serving more than one Residence at the Residence owner's expense.	All, in all regards, at the Residence owner's expense.	All, in all regards, serving only one Residence, including water heaters, air conditioners and related items. Maintenance, repairs and replacement may be performed by Association at Residence owner's expense.
D) Parking stalls.	All surface parking stalls and roofs in all regards.	All underground parking stalls in all regards.	--	--
E) Storage Cubicles (if any).	All, in all regards except routine cleaning.	--	--	Routine cleaning. Within the boundary of Residence or if assigned to the Residence.

I	II	III	IV	V
F) Community Storage (if any).	All, in all regards except routine cleaning.	-	--	--
G) Refuse collection "system" located on common elements.	All, in all regards.	-	--	--
H) Grounds, including all landscaping, irrigation and paving areas (sidewalks) and other improvements lying outside the main walls of the building and all underground utility systems.	All - Association responsible for removal of all landscaping and irrigation features within 2 feet of any building regardless of its location within a common area or private yard area. Regular inspection of drainage facilities.	Paving, privacy fences, gates, and lanai railings treated as a general common expense.	--	Maintenance and replacement of plantings and improvements approved by the Association and located inside lanai privacy screening structures (railings).
I) Building, exterior roof, vertical walls, foundation, elements including lanais, all concrete components, post-tension tendon anchorages.	All, in all regards, with certain exceptions expressed elsewhere herein regarding routine cleaning. -All maintenance inspection and repair required at stages within time limits provided in the reserve study commission by the Association. -Regular cleaning and touch-up repairing as required; complete repainting at least every 5 years or such shorter period specified in the	-	Lanais and court yard areas as provided in Column II, including railings, fencing and necessary upkeep to upper floor compartments.	See other categories. Routine interior cleaning of lanais and court yard areas.

I	II	III	IV	V
	<p>reserve study.</p> <ul style="list-style-type: none"> -Quarterly inspection of caulking at all building entry points and maintenance and recaulking as required to ensure buildings are weather tight. -Quarterly termite and pest (rodents, etc.) inspection of grounds, buildings, interiors of Residences, foundations, lanai and fencing slabs and treatment and/or extermination as required. -Complete retreatment against risk of termite and pest infestation at least every 3 years or more commonly if required to maintain warranty of service provided. -Regular inspection and cleaning of gutters and downspouts servicing the buildings. -It is extremely important that the waterproofing at 			

I		<p>II</p> <p>the exterior perimeter slab edges of the building be properly maintained throughout the life of the building to prevent corrosion damage of the post tension tendon anchorages.</p> <p>-it is extremely important that all concrete surfaces exposed to weather, soil, water, or salt spray be maintained properly throughout the life of the building to prevent corrosion damage to the reinforcing steel in the concrete. All waterproofing, sealers, paint, etc., should be maintained on these concrete surfaces.</p> <p>-When and where corrosion damage to reinforcing steel or structural steel is discovered, proper repairs should be performed as soon as practical to minimize further damage to the</p>	III	IV	V
---	--	---	-----	----	---

I	II structural element.	III	IV	V
J) Windows and Doors.	All which do not serve a Residence, in all regards.	All, in all regards except routine cleaning.	All, in all regards, including community-wide exterior cleaning (if elected by Board). Excludes routine cleaning serving one Residence and all items specified in Column V unless undertaken on a community-wide basis.	Routine cleaning, provided, however, that all rollers, locks, handles, tracks and appurtenant hardware associated with all windows, doors and exterior garage doors, all sliding screen doors, front screen doors and all glass and window screens shall be the responsibility of the Residence owners.

(i) NOTES REGARDING MAINTENANCE
RESPONSIBILITIES

This chart and the titles and headings used herein are not intended to describe or encompass all maintenance functions nor to delineate all respective responsibilities between the Residence owners, severally, and the Association. The placement of responsibility under any specific column does not always accurately reflect the precise character and nature of ownership. The appropriate sections of the Declaration determine ownership. In many cases maintenance responsibility is allocated to the Residence Owners Association to ensure central maintenance responsibility, uniformity and quality of repair, and to protect community health and safety. Where such maintenance is required due to the negligent or wrongful act or omission of an Residence owner (or such Residence owner's household, tenants, employees, agents, visitors or guests, or pets, the Association will perform the necessary maintenance at the sole expense of the Residence owner.

Column I: Items. Items appearing in this column are illustrative and not exhaustive.

Column II: Common Elements Under Association Responsibility. Responsibility for determining and providing for the maintenance, repair and replacement requirements of the common elements and determining the costs thereof shall be primarily the responsibility of the Board of Directors and such designees to which it may delegate certain such responsibilities.

Column III: Limited Common Elements Under Association Responsibility. Responsibility for determining the maintenance, repair and replacement requirements of the limited common elements shall be a shared responsibility between the Board of Directors and the Residence owner of an Residence to which a specific limited common element is exclusively appurtenant; provided, however, that the Board shall have the final responsibility for determining the need for and accomplishing such maintenance, repair and replacement activities.

Column IV: Residence Components Under Association Responsibility. The items in this column are legally and by definition a part of an Residence but are attached or directly connected to or associated with the common elements and common expense items in such a way that a clear distinction between Residence owner and Association responsibility cannot be made. Moreover, such items frequently involve matters of concern relative to the general health, safety and welfare of all of the occupants of the building. Thus, certain costs which appear to benefit a single Residence owner but which affect other Residence owners are declared a common expense, especially when the correct functioning of an activity or element is integral to or supportive of the legally defined common elements and common expenses.

Column V: Certain Other Components Under Residence Owner's Responsibility Without Respect to Ownership of the Component. The items in this column are not intended to be exclusive and all-encompassing and do not affect responsibilities expressly provided for otherwise in the Declaration.

THE KO'OLANI
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR PERIOD ENDED 06/30/2006

BLD ACCT: 250 CORP NO: 00
 CURRENT MONTH: ACTUAL BUDGET VAR BUD % ACTUAL YEAR TO DATE: BUDGET VAR BUD % FISCAL BEG: 1

	ACTUAL	BUDGET	VAR	BUD %	ACTUAL	BUDGET	VAR	BUD %
CASH RECEIPTS:								
5100 MAINTENANCE FEES	14,083.77	175,650	-161,566	8.0	533,538.04	175,650	357,888	303.8
5216 START UP FEES	15,129.34	0	15,129		534,583.61	0	534,584	
5290 INTEREST FROM CHECKING	81.90	0	82		154.70	0	155	
5780 DEVELOPER'S FUNDING	.00	0	0		45,138.85	0	45,139	
TOTAL CASH RECEIPTS	29,295.01	175,650	-146,355	16.7	1,113,415.20	175,650	937,765	633.9

CASH DISBURSEMENTS:

	ACTUAL	BUDGET	VAR	BUD %	ACTUAL	BUDGET	VAR	BUD %
UTILITIES:								
6010 ELECTRICITY	.00	30,600	-30,600		.00	30,600	-30,600	
6020 TELEVISION	11,795.53	8,500	3,296		11,795.53	8,500	3,296	
6050 GAS	277.80	4,500	-4,222		277.80	4,500	-4,222	
6060 TELEPHONE	344.18	1,500	-956		344.18	1,500	-956	
TOTAL UTILITIES	12,417.51	44,900	-32,482	27.7	12,417.51	44,900	-32,482	27.7

BUILDING MAINTENANCE:

	ACTUAL	BUDGET	VAR	BUD %	ACTUAL	BUDGET	VAR	BUD %
6220 CONTRACT-CLEANING SERVICE	23,437.35	15,000	8,437		23,437.35	15,000	8,437	
6350 CONTRACT-SECURITY	20,900.13	18,001	2,899		20,900.13	18,001	2,899	
6510 AIR CONDITIONING	.00	1,374	-1,374		.00	1,374	-1,374	
6530 CLEANING SUPPLIES	1,140.24	800	340		1,140.24	800	340	
6540 ELEVATOR	.00	5,675	-5,675		.00	5,675	-5,675	
6550 GROUNDS	.00	800	-800		.00	800	-800	
6560 ELECTRICAL/LIGHTING	.00	1,500	-1,500		.00	1,500	-1,500	
6570 PLUMBING	.00	500	-500		.00	500	-500	
6580 POOL	.00	1,000	-1,000		.00	1,000	-1,000	
6590 PAINT	.00	100	-100		.00	100	-100	
6600 PEST CONTROL	.00	1,665	-1,665		.00	1,665	-1,665	
6620 REFUSE	1,764.57	2,450	-685		1,764.57	2,450	-685	
6630 SECURITY EQUIPMENT	.00	1,000	-1,000		.00	1,000	-1,000	

THE KO'OLANI
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR PERIOD ENDED 06/30/2006

BLD ACCT: 250-CORP-NO:00	CURRENT MONTH		YEAR TO DATE		FISCAL BEG: 1			
	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET		
6660 FIRE SYSTEMS	.00	400	-400		.00	400	-400	
6670 BUILDING REPAIRS	.00	1,150	-1,150		.00	1,150	-1,150	
6680 HEAT PUMP	.00	965	-965		.00	965	-965	
6690 MISC REPAIRS & PURCHASES	.00	400	-400		.00	400	-400	
6700 BLDG MAINT-TOOLS & EQUIP	.00	200	-200		.00	200	-200	
6710 BLDG MAINT-OTHER	.00	1,000	-1,000		.00	1,000	-1,000	
TOTAL BUILDING MAINTENANCE	47,242.29	63,547	-16,305	74.3	47,242.29	63,547	-16,305	74.3
PROFESSIONAL SERVICES:								
6810 ADMIN SUPPLIES & SVCS	601.07	1,000	-399		601.07	1,000	-399	
6812 ASSOCIATION ADMIN EXPENSE	195.00	800	-605		195.00	800	-605	
6850 MANAGEMENT SERVICES	1,249.99	5,000	-3,750		2,499.98	5,000	-2,500	
6880 LEGAL FEES	.00	500	-500		.00	500	-500	
TOTAL PROFESSIONAL SERVICES	2,046.06	7,300	-5,254	28.0	3,296.05	7,300	-4,004	45.2
PAYROLL & BENEFITS:								
7010 PAYROLL-MANAGER	17,544.88	4,410	13,135		53,585.57	4,410	49,176	
7020 PAYROLL-MAINTENANCE	17,554.75	9,400	8,155		40,250.25	9,400	30,850	
7060 PAYROLL-OFFICE	.00	3,600	-3,600		.00	3,600	-3,600	
7070 WORKERS COMPENSATION	.00	2,330	-2,330		.00	2,330	-2,330	
7080 TDI	.00	270	-270		.00	270	-270	
7090 HEALTH CARE	2,267.20	1,500	767		2,834.00	1,500	1,334	
7100 PAYROLL TAXES	3,491.88	1,340	2,152		9,365.70	1,340	8,026	
7140 PAYROLL PREPARATION	247.20	200	47		247.20	200	47	
7180 MANAGER HOUSING EXPENSE	.00	2,500	-2,500		.00	2,500	-2,500	
TOTAL PAYROLL	41,105.91	25,550	15,556	160.9	106,282.72	25,550	80,733	416.0
OTHER EXPENSES:								
7311 INSURANCE-PROPERTY	35,100.20	13,626	21,474		35,100.20	13,626	21,474	

PREPARED FOR
1169 WAINANO STREET
HONOLULU, HI

96814

PAGE: A- 3

THE KO'OLANI
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR PERIOD ENDED 06/30/2006

PREPARED BY
HAWAIIANA MANAGEMENT CO., LTD.

BLD ACCT: 280 CORP NO:00

ACTUAL BUDGET VAR ACTUAL BUDGET VAR ACTUAL BUDGET VAR ACTUAL BUDGET VAR

	ACTUAL	BUDGET	VAR	ACTUAL	BUDGET	VAR	ACTUAL	BUDGET	VAR	ACTUAL	BUDGET	VAR
7316 INSURANCE-LIABILITY	4,743.60	1,977	2,767	4,743.60	1,977	2,767	4,743.60	1,977	2,767	4,743.60	1,977	2,767
7321 INSURANCE-FLOOD-GENERAL	.00	4,021	-4,021	.00	4,021	-4,021	.00	4,021	-4,021	.00	4,021	-4,021
7336 INSURANCE-DRG-GENERAL	329.00	137	192	329.00	137	192	329.00	137	192	329.00	137	192
7331 INSURANCE-FIDELITY-GENERA	.00	456	-456	.00	456	-456	.00	456	-456	.00	456	-456
7336 INSURANCE B&M	91.80	999	-907	91.80	999	-907	91.80	999	-907	91.80	999	-907
7341 INSURANCE-UMBRELLA-GENERA	2,080.00	867	1,213	2,080.00	867	1,213	2,080.00	867	1,213	2,080.00	867	1,213
7371 UNINSURED EXPENSES	.00	500	-500	.00	500	-500	.00	500	-500	.00	500	-500
7550 MISCELLANEOUS EXPENSE	75.00	0	75	75.00	0	75	75.00	0	75	75.00	0	75
7685 DEVELOPER'S EXPENSES	.00	0	0	576.79	0	576.79	576.79	0	577	576.79	0	577
TOTAL OTHER EXPENSES	42,419.60	22,583	19,837	42,996.39	22,583	20,413	42,996.39	22,583	20,413	42,996.39	22,583	20,413
TOTAL OPERATING EXPENSES	145,231.37	163,880	-18,649	212,234.96	163,880	48,355	212,234.96	163,880	48,355	212,234.96	163,880	48,355
OPERATING SURPLUS/DEFICIT	-115,936.36	11,770	-127,706	985.0	901,180.24	889,410	985.0	901,180.24	889,410	985.0	901,180.24	889,410
CAPITAL IMPR & MAJOR REP & REPL:												
TOTAL CAP IMPR & MAJOR REP & RE	.00	0	0	.00	0	0	.00	0	0	.00	0	0
TOTAL CASH DISBURSMENTS	145,231.37	163,880	-18,649	212,234.96	163,880	48,355	212,234.96	163,880	48,355	212,234.96	163,880	48,355
CHANGE IN SECURITY DEPOSITS	1,325.00	0	1,325	1,325.00	0	1,325	1,325.00	0	1,325	1,325.00	0	1,325
CHANGE TO TOTAL CASH & RESERVE	-114,611.36	11,770	-126,381	902,505.24	11,770	890,735	902,505.24	11,770	890,735	902,505.24	11,770	890,735

FISCAL BEG: 1

--- PREPARED FOR ---
1389 WALDMAN STREET
HONOLULU, HI
PAGE: A- 4

96874

**THE KO'OLANI
RESERVE STATEMENT
AS OF 06/30/2006**

--- PREPARED BY ---
HAWAIIANA MANAGEMENT CO., LTD.

BLD NUM: 250 CORP. NO: 00

FISCAL BEG: 1 PAGE: A- 4

INDIVIDUAL RESERVES BY ACCOUNT

PREPARED FOR
 1189 WAIYANG STREET
 HONOLULU, HI
 PAGE: A- 5

96874

THE KO'OLANI
 RESERVE STATEMENT
 AS OF 06/30/2006

PREPARED BY
 HAWAIIANA MANAGEMENT CO., LTD.

BLD NUM: 250 CORP. NO:00

FISCAL BEG: 1 PAGE: A- 5

	BEGINNING BALANCE	TRANSFERS TO/(FROM)	ENDING BALANCE
RESERVES BY INSTITUTION			
TOTAL RESERVES	1,017,116.60	-114,611.36	902,505.24
OPERATING ACCOUNT	1,017,116.60	-114,611.36	902,505.24
TOTAL CASH & RESERVES	.00	1,325.00	1,325.00
LESS: SECURITY DEPOSITS			
TOTAL ASSOC. CASH & RESERVES	1,017,116.60	-115,936.36	901,180.24
MEMO:			

COMMUNITY RULES

FOR

KO'OLANI

[[On Association Letterhead]]

Association of Apartment Owners of Ko'olani
1189 Waimanu Street
Honolulu, HI 96814

Dear Owner:

It is my pleasure to welcome you to the Ko'olani. Our goal at the Ko'olani is to provide all Owners with a superior level of service to enhance your lifestyle.

As members of a condominium association, there are certain responsibilities and procedures that you and your neighbors are requested to abide by to ensure the most enjoyable living experience by everyone.

In our efforts to keep you informed of your responsibilities, we would like to bring to your attention these Community Rules for Ko'olani and the Architectural Guidelines, which are designed to maintain the Ko'olani as Honolulu's premier condominium estate.

Please review the following documents carefully. If you have any questions or suggestions, please don't hesitate to contact me personally at (808) _____.

Sincerely,

Managing Agent

TABLE OF CONTENTS

1.	WELCOME!	1
2.	CONTACT INFORMATION	1
3.	DEFINITIONS	1
4.	COMMUNITY DOCUMENTATION.....	1
	4.1 Authority	1
	4.2 Enforcement	2
	4.3 Community Documents	2
	4.4 The Declarations	3
	4.5 Other Documents.....	3
	4.6 General.....	3
	4.7 Amendments	3
5.	GENERAL PROVISIONS	4
	5.1 Description of the Community	4
	5.2 Keys & Access Devices	4
	5.3 Entry to Building	4
	5.4 Elevators	4
	5.5 Rubbish Disposal.....	5
	5.6 Fire and Smoke Alarm	5
	5.7 Deliveries.....	6
	5.8 Reserved.....	6
	5.9 Reserved.....	6
	5.10 Employees of the Association.....	6
6.	PARKING AREAS, ROADWAYS AND VEHICLES.....	7
	6.1 Owner Parking.....	7
	6.2 Guest Parking.....	7
	6.3 Maintenance of Parking stalls/Driveways.....	7
	6.4 Observance of Signs	7
	6.5 No Impeding of Access.....	7
	6.6 Parking in Proper Place	7
	6.7 Condition of Vehicles	8
	6.8 Towing of Vehicles.....	8
	6.9 Vehicle Washing.....	8
7.	UTILITIES AND SERVICES	8
	7.1 Water.....	8
	7.2 Electricity	8
	7.3 Telephone/DSL.....	8
	7.4 Television	9
8.	MOVING POLICY	9
	8.1 Prior to Move	9
	8.2 General Rules for Moving & Deliveries	10
	8.3 What the Owner Can Expect	11
	8.4 Insurance Requirements.....	11

9.	COMMON AREAS	11
9.1	General.....	11
9.2	Use of Common Areas	12
9.3	Exercise Room and Club Facility	12
9.4	Swimming Pool and Spa.....	12
9.5	Tennis Courts	13
9.6	Pergola/Barbeque Areas/Courtyard	14
9.7	Protection of Common Areas.....	14
9.8	Lost Property	14
9.9	Soliciting	14
9.10	Signs	14
9.11	Fireworks.....	15
9.12	Storage Lockers	15
9.13	Public Ways.....	15
9.14	Guest Units.....	15
9.15	Dress Code.....	16
10.	APARTMENTS AND EXCLUSIVE USE LANAIS.....	16
10.1	Occupancy of Apartments.....	16
10.2	Rentals/Temporary Occupancy.....	17
10.3	Nameplates	17
10.4	Security	17
10.5	Emergencies.....	17
10.6	Electronic Equipment.....	17
10.7	Appliances	18
10.8	Water Facilities	18
10.9	Aesthetics.....	18
10.10	Apartment Sales	18
10.11	Right and Duty of Owner to Insure.....	18
10.12	Entertaining	19
10.13	Clothes Lines.....	19
10.14	Draperies	19
10.15	Access to Apartments.....	19
10.16	Observance of Law.....	19
10.17	Exclusive Use Lanais.....	19
10.18	Maintenance	20
11.	PETS	21
11.1	Permitted Pets	21
11.2	Pet Play Area.....	21
11.3	Registration	22
11.4	Disposal of Animal Waste.....	22
11.5	Damage.....	22
11.6	Nuisance; Removal.....	22
12.	NOISE, NUISANCES AND HAZARDS.....	22
12.1	Hazards; Unlawful Activities.....	22
12.2	Nuisances.....	22
12.3	Disturbances.....	22
13.	DESIGN GUIDELINES.....	23

**COMMUNITY RULES
FOR
KO'OLANI**

1. WELCOME!

These Community Rules for Ko'olani will serve to acquaint you with your Apartment, the building, building management, and various things you should know to make your living experience at the Ko'olani (the "Community") as complete and comfortable as possible.

You should become familiar with the entire manual and its contents. In particular, you should read Section 8 regarding Moving Policies prior to planning your move. The Owner and user restrictions applicable to the Common Areas and to Apartments are covered in Sections 9 and 10, and Pets are discussed in Section 11. The Architectural Guidelines and rules for construction work ("Architectural Guidelines") are referenced in Section 13 and are attached as Appendix A.

2. CONTACT INFORMATION

The address and contact information for the Association (defined below) and the Community's Managing Agent are:

ASSOCIATION

The Association of Apartment Owners of
Ko'olani
1189 Waimanu Street
Honolulu, HI 96814
Attn: _____
(808) _____ tel.
(808) _____ fax

MANAGING AGENT

Hawaiiana Management Company, Ltd.
(company name)
711 Kapiolani Boulevard, Suite 700
Honolulu, HI 96813
Attn: _____
(808) 593-9100 tel.
(808) _____ fax

3. DEFINITIONS

Defined terms are often capitalized in these Community Rules and, unless the context clearly requires otherwise, shall have the meaning given to such term in the Declaration (defined below).

4. COMMUNITY DOCUMENTATION

4.1 Authority

The right and duty to administer the Community is vested in the Association of Apartment Owners of Ko'olani (the "Association") and the Board of Directors (the "Board") in

accordance with the Declaration of Condominium Property Regime for Ko'olani (the "Declaration") and the By-Laws of the Association of Apartment Owners of Ko'olani (the "Bylaws"), which are recorded with the Land Court of Hawaii or the Bureau of Conveyances of Hawaii. The authority for these Community Rules (these "Rules") and their binding nature upon each Owner is found in Section 5.1 of the Bylaws. All Owners, "Occupants" (persons other than Owners who occupy an Apartment or who are lessee of a Commercial Apartment) and their guests (a person who resides other than at the Community and visits the Community for a period of time at the invitation of an Owner or Occupant) are bound by these Rules and by standards of reasonable conduct, ~~whether covered by these Rules or not~~; provided, however, neither the Board nor the Managing Agent shall be responsible for any noncompliance with or violation of these Rules by Owners, Occupants, or guests.

4.2 Enforcement

4.2.1 The Managing Agent is authorized by the Board to enforce these Community Rules. If a violation occurs and the Managing Agent has approached the offender with no results, the matter will be brought to the attention of the Board for further action.

4.2.2 Violation of any of these Community Rules shall give the Board and Sunset Heights Hawaii, LLC, a Delaware limited liability, and its assigns (the "Declarant") the right, but not the obligation, to take any one or more of the following actions, concurrently or separately, and without waiving any other rights or remedies available to the Board or the Declarant:

4.2.2.1 Enter the Apartment in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Apartment Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof and the Board or the Managing Agent shall not thereby be deemed guilty in any manner of trespass.

4.2.2.2 To impose fines against the defaulting Owner for each violation in accordance with Bylaws. Violations that continue for periods in excess of those specified in the Bylaws will be considered new violations subject to additional fines.

4.2.2.3 Record and foreclose claims of lien in the manner provided at law for the foreclosure of mortgages.

4.2.2.4 Submit the dispute to mediation or arbitration, or otherwise seek to enjoin, abate or remedy by appropriate legal proceedings either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting Owner.

4.2.2.5 Take such other actions as are permitted by the Declaration, the Bylaws, other Community Documents, or at law or in equity.

4.3 Community Documents

Buyers are strongly encouraged to carefully read the Community Documents. The documents include, but are not limited to:

- The Declaration (establishes the condominium community known as the Ko'olani);
- The Bylaws (sets out the duties and responsibilities of the Association and its members);
- These Community Rules (sets out the rules concerning use of Apartments and Common Area property applicable to Owner and others);
- The *Public Report for Ko'olani* (the "Public Report") (the public disclosure document filed with the Real Estate Commission with respect to the Community); and
- *Declaration of Merger of Phases for Ko'olani* (the "Declaration of Merger") (allows the merger of additional phases, properties or projects).

4.4 The Declarations

All of the above documents are incorporated into these Community Rules by this reference. When you purchase an Apartment, you will be subject to the Declaration and you will automatically become a member of the Association. *The Community and your use of it* will also be subject to the *Declaration of Merger* (the "Declaration of Merger") that allows the merger of additional phases, properties or projects. The Declaration and Declaration of Merger may be referred to collectively herein as the "Declarations." The Declarations set forth, among other items, use restrictions, maintenance responsibilities, and architectural control provisions over your Apartment and the Community.

4.5 Other Documents

The documents described above are not intended to include all of the documents and agreements to which you, your Apartment, and the Community will be subject. There may be other recorded and unrecorded documents and agreements that are not specifically referred to above or that may be created by the Association or the Declarant before or after you have purchased your Apartment (the "Other Agreements"). The Declarations, Bylaws, Community Rules, Architectural Guidelines, and Other Agreements are sometimes referred to collectively as the "Community Documents" in these Community Rules.

4.6 General

These Rules are intended to supplement the provisions of the Declaration and the Bylaws, and every effort shall be made to give full meaning to the provision of all applicable documents. To the extent that any provision of the Declaration or Bylaws conflict with a provision of these Rules, the Declaration shall first control, then the Bylaws, then these Rules.

4.7 Amendments

These Rules may be amended by the Declarant, acting as the Association, at any time prior to the first meeting of the Board of Directors and thereafter, only by the Board at a duly called meeting, as provided in the Bylaws, and shall become effective when notice thereof is delivered to the Owners.

5. GENERAL PROVISIONS

5.1 Description of the Community

The Community is a multi-story condominium community located at 1189 Waimanu Street, Honolulu, HI 96814. The Community is a mixed-use project having 370 residential apartments and 2 Commercial Apartments (including the Club, if any) (each, an "Apartment"), together with an attached parking garage and related facilities. The Association, through the Board and the Managing Agent, are responsible for the overall management of the Community and enforcement of the Declaration, By-Laws, these Community Rules, and Other Agreements. Each Owner has been given copies of the above documents and should be familiar with their contents.

The Managing Agent and all employees of the building operate under policies and procedures adopted by the Board. The primary responsibility of building management and employees is to serve you and the other Owners by following these procedures.

5.2 Keys & Access Devices

5.2.1 Each Owner, upon the close of escrow or shortly thereafter, will receive appropriate keys and access devices, as determined by the Board.

Building Management
5.2.2 Additional devices are available upon request with proper identification to the Managing Agent. An additional charge may be required for additional elevator and building entry access devices.

5.2.3 It is recommended that access devices not be issued to regular guests, invitees, etc. Temporary access devices are available upon request for extended visitors.

Building Management
5.2.4 If locks are changed or re-keyed, Owners are urged to supply the Managing Agent with a working copy of keys to their Apartment. The Association or the Managing Agent will use these keys for emergency access only. Be reminded that any delays in entering any Apartment for emergency purposes can result in additional damages (e.g., water) and liability exposure to you, the Owner.

5.3 Entry to Building

BR
The front lobby entrance is for the exclusive use of Owners and their guests. All deliveries must be made using the loading docks and service entrance located on parking level 1 or through the front service entrance for large items with the prior approval of the Managing Agent. All other ground level entries to the building are locked from outside entry and/or are electronically monitored. Pool area access is achieved from level 6. Owners desiring to access the parking garage may do so by using the building elevators or using the stairwells near the east or west ends of the building.

5.4 Elevators

Owner's access devices are restricted to their respective Apartment as well as any exterior entrance monitored electronically. Although the service elevator is a passenger elevator for use by all Owners, it is primarily for the use of building staff, vendors, contractors, deliveries, move-ins, and for transporting pets and bicycles to and from Owner's residences.

5.5 Rubbish Disposal

Disposal of rubbish is accomplished through the trash chute located in the trash room on each level. General rules to follow:

5.5.1 Individual residence trash compactors are prohibited. The excessive weight and size of compacted trash would cause damage and/or an obstruction of the trash chute.

5.5.2 All refuse placed in the trash chute should be secured in leak-proof plastic bags.

5.5.3 The Community's trash chute is not designed to accommodate recyclables. A blue recycling container is expected to be provided in each trash room on each floor.

5.5.4 Bags should be limited in size to 15" x 18". Trash bags should not be forced through the trash chute opening.

5.5.5 Heavy objects, boxes, packing materials, Styrofoam, or any other material that can expand, should not be put down the trash chute. Please feel free to contact the building's Managing Agent to arrange for necessary disposal of these items. Heavy objects thrown down the trash chute can cause injury to building personnel servicing the bins.

5.5.6 Under no circumstances should any trash items be left in residential corridors.

5.6 Fire and Smoke Alarm

The Community is equipped with a fire life safety system which can be activated manually by call stations or automatically by smoke detectors or sprinklers located throughout the common areas, air conditioning and exhaust duct systems, and within each residential Apartment. A loud electronic alarm accompanied by an automated audio evacuation announcement will sound within the Apartment and common areas in which any of these detection devices are triggered. Common area alarms will be accompanied by a strobing light. The fire life safety system in the fire control room will identify the location where an alarm has been triggered, automatically dial the central monitoring station located off-site, and the Honolulu Fire Department will be dispatched automatically. An in-house investigation pursuant to the Emergency Evacuations Procedures Manual will be conducted simultaneously. False alarms should be reported immediately to the front desk. **WARNING:** The smoke detectors are very sensitive and could be activated by dust, sanding, painting, etc. Contractors should be completely familiar with "Contractor Rules" contained in the Architectural Guidelines. Smoke detector "bagging" is recommended during construction and/or remodeling, however must be in accordance with the guidelines specified in the Architectural Guidelines.

Do not panic during an alarm. Simply exit into your service hallway, proceed to the exit stairwells, and proceed to the floor specified in the Emergency Evacuation Procedures. Please wait there until the "all clear" has been announced via the voice annunciating system through which emergency instructions can be broadcast to all areas of the building. You may also be provided the "all clear" by in-house personnel responding to the evacuation floor to obtain a head count of evacuees.

Upon publication, please take the time to carefully view the **EMERGENCY EVACUATION PROCEDURES MANUAL** for further clarification of emergency systems and evacuation protocol.

5.7 Deliveries

AM
Parcels, certified letters, and registered mail addressed to individual Owners in the Community will be accepted by the front desk personnel or Resident Manager or Managing Agent and either held in the parcel room at the lobby level, or placed into your mailbox by the USPS mail carrier. Owners will be notified of all deliveries, and may request for building staff to deliver the item(s) to the individual Owner's Apartment. Owners who do not want front-desk personnel to accept parcels, registered and certified mail on their behalf, should notify the Managing Agent in writing.

Owners are requested to notify the Managing Agent (or Front Desk personnel) of any anticipated delivery of large items (larger than hand carried parcels) so that proper arrangements can be made to accept and deliver such items. Owners are requested to advise vendors of delivery procedures in the Community. Please remember: deliverymen will be allowed access to the building only with prior authorization from Owners and only through the service elevator.

5.8 Reserved.

5.9 Reserved.

5.10 Employees of the Association

5.10.1 The Association's maintenance employees, if any, will use every effort to effectively care for the grounds of the Community. Every Owner or Occupant is to do his or her part and to use his or her influence on all members of his or her household to do their part towards abating unsightliness on the Community.

5.10.2 Maintenance employees of the Association are under the sole direction of the Board and the Managing Agent; and during prescribed hours of work, they shall not be diverted to the private business or employment of any individual Owner or Occupant.

5.10.3 No Owner or Occupant may require an employee of the Association to leave the common elements of the Community or to perform any personal tasks.

5.10.4 No Owner, tenant or guest shall reprimand any employee or staff of the Association at any time. An Owner should direct any complaints and/or suggestions to the Property Manger.

5.10.5 Owners are requested to report any abuse or vandalism, etc., by employees, staff or other Owners, guests, and vendors/contractors, immediately to the Managing Agent.

6. PARKING AREAS, ROADWAYS AND VEHICLES

6.1 Owner Parking

All residents may utilize valet parking 24 hours/day 7 days/week.

All Owners are assigned at least one (1) parking stalls per Apartment. If you have more than one vehicle and want to rent a parking stall from another Owner, or if you are interested in renting out an available parking stall, please contact the Managing Agent. SM

All vehicles, and any changes to parking stall assignments, must be registered with the Association for emergency purposes. Each Apartment will be assigned two gate "clickers."

Residents using the valet service should contact the Front Desk or Valet 15 minutes prior to departure for vehicle retrieval.

6.2 Guest Parking

Guest parking is available on the first floor. Guest must register their vehicles with the Resident Manager or ~~Managing Agent~~. Owners must validate guest parking privileges by their guests. (

6.3 Maintenance of Parking stalls/Driveways

Owners and Occupants shall be responsible for the cleanliness of their respective parking stalls, including the removal of any grease build-up. No personal items, such as lumber, crates, potted plants, furniture or recreational equipment, shall be permitted in the parking stalls, driveways or other portions of the parking garage, except as permitted by the Architectural Guidelines.

6.4 Observance of Signs

Drivers within the Community shall observe all traffic signs posted on the Community, whether by the appropriate authorities of the City and County of Honolulu or by the Association. Vehicles shall travel at no greater than five (5) miles per hour while within the Community, except if otherwise posted.

6.5 No Impeding of Access

No vehicles belonging to an Owner or Occupant or to a family member, tenant, guest, or employee of an Owner or Occupant shall be stopped or parked so as to extend into any portions of the driveways, roadways or sidewalks, or impede or prevent ready access to any driveway, entrance or any exit from the Community by another vehicle.

6.6 Parking in Proper Place

No parking is allowed on any roadway or driveway except in designated areas (e.g., designated assigned guest parking stalls and parking permitted zones on public streets). The use of "handicap" guest stalls is restricted to guests with disabilities using vehicles with the appropriate county handicap placard. No boats, non-vehicular, or personal items may be stored within the parking garage. Vehicles parked in unauthorized stalls (which include vehicles not

B/M
parked entirely within an assigned parking stall) may be towed away at the expense of the Owner or operator thereof. Vehicles belonging to guests shall be parked only in the parking stalls designated for visitor parking. It is the responsibility of each Owner and Occupant to inform his or her guests not to park in vacant stalls, other than those designated for visitor parking, unless prior arrangements have been made with the Owner of the parking stall for such use. Use of visitor parking stalls by an Owner or Occupant shall be permitted only with special permission from the Board or the ~~Managing Agent~~. No overnight parking shall be allowed in the guest parking stalls, except by with the permission of the Board or the ~~Managing Agent~~.

6.7 Condition of Vehicles

No major repairs to automobiles, motorcycles, or other motor vehicles shall be permitted within the Community. No racing of motors shall be permitted, and all motor vehicles shall be equipped with quiet mufflers. All vehicles parked in the Community shall be in operating condition with a current vehicle registration and safety sticker required by law.

6.8 Towing of Vehicles

The Board and the Managing Agent are authorized to have towed away or removed at the Owner's expense any vehicle or equipment parked, located, or used in violation of these Rules and shall not be subject to any claim for liability or damage in the exercise of such authority.

6.9 Vehicle Washing

Washing of cars, boats, motorcycles, and other vehicles or items is only allowed for vehicles and items belonging to Owners, Occupants, and guests and only in the designated car wash area on parking level 1. Owners and Occupants using the car wash area must remove the vehicle or other item after the washing is completed and must leave the car wash area in a clean condition. No dumping of towels, rubbish, debris, or other refuse is permitted at the car wash area.

7. UTILITIES AND SERVICES

7.1 Water

Domestic water is supplied by the building and is centrally metered.

out

7.2 Electricity

Each Apartment is individually metered. Electrical service is available through the Hawaii Electric Company. Services should be transferred into the Owner's/Owner's name by close of escrow. Within three business days after closing escrow, services in the Developer's name will be disconnected.

7.3 Telephone/DSL

Telephone is available through Verizon. Hawaiian Telecom

7.4 Television

Each Apartment in the Community is pre-wired for cable television service. Basic cable television service is provided to each Apartment through Oceanic Cable. Expanded cable services can be obtained by calling Oceanic Cable at 625-8100.

8. MOVING POLICY

8.1 Prior to Move

Owners are required to do the following prior to moving in to or out of the Community. Please read and follow all instructions carefully.

^{BM}
8.1.1 Owners must contact the ~~Managing Agent~~ to schedule a move-in/out date. No move-ins/outs will be scheduled until the ~~Managing Agent~~ has reviewed and approved all details of the move. _{BM}

^{BM}
8.1.2 Owners must receive a confirmed date and time for move-in/out from the ~~Managing Agent~~ prior to scheduling the move. _{BM}

^{BM}
8.1.3 Because it is essential for the ~~Managing Agent~~ to properly staff for all moves, it is imperative that all moves be conducted on a strict schedule. In an effort to keep this schedule, Owners must have their moving company contact the ~~Managing Agent~~ to arrange a visit to the Community to become familiar with facility rules and procedures for moves, as well as the time restrictions for each move. The moving company must be aware that any delays in the moving process may result in a monetary penalty. Monetary penalties are established to defray/offset additional costs incurred by the Association. _{BM}

8.1.4 Although the industry standard is to provide two (2) individuals to facilitate a move, we recommend that your moving company adequately staff your move-in with three (3) or more individuals. We also recommend that you choose a moving company that is familiar with moving into high-rise buildings and the delays that can often arise when dealing with the special protection requirements, specific loading/unloading conditions, and the use of high-rise elevators. In addition, at this time, your moving company will be advised of parking restrictions.

8.1.5 48 hours prior to the move, your moving company must provide the Certificate of Insurance in accordance with the insurance requirements set forth in Section 8.4. No mover will be allowed access to the building unless this certificate has been provided to the Association and the ~~Managing Agent~~ as required by Section 8.4. _{BM}

8.1.6 It is the Owner's responsibility to ensure that the moving company coordinates all aspects of the move with the ~~Managing Agent~~, and that the moving company receives and acknowledges a copy of the moving procedures and understands its responsibilities and liabilities prior to the move. _{BM}

8.1.7 In order to protect the wall, floor and elevator surfaces, Owners should instruct the moving company to wrap ALL furniture with bubble wrap or moving blankets. It is recommended that the movers wrap all furniture prior to arrival in the Community. This should improve their efforts to work within the specified move-in/out window. All dollies, handcarts, etc.

must have padded bumpers on exposed edges. All plants must be bagged to prevent soil spillage.

8.1.8 Please advise your mover that a complete "walk-through" will be conducted by in-house personnel to identify all existing damages prior to each move, as well as a final walk-through after the move to identify new damages.

8.1.9 Pursuant to the Community Documents, Owners are responsible for the behavior of, and liable for any damages resulting from, tenants, guests, invitees, vendors (movers), contractors, etc. Owners will be responsible for any damages caused by their tenant's actions, including damages caused by a tenant's move. Be advised that the Association may require a deposit to be held or cashed in advance to guarantee payment in the event of damages, and has the right to assess you for any and all damages that occur during the move. Although an Owner may "self-move", the Association must disclose the potential risk and liability in the event of damage to common areas and/or injury to your movers, other Owners, and/or yourself. The Board urges you to engage the services of a professional and insured (including a current workers' compensation insurance policy) moving company.

8.2 General Rules for Moving & Deliveries

8.2.1 Hours. Initially, a maximum of one move will be permitted per day, including weekends. Each scheduled move-in must occur and must be completed between the hours of 10:00am and 6:00pm. Thereafter, a maximum of one move will be permitted per day. No moves will be permitted on weekends or holidays without prior approval.

8.2.2 Accessibility. All moves must be made through the loading docks and service entrance on parking level 1 to the service elevator. All items must then be taken to the appropriate floor and then directly through the corridor to the Owner's Apartment. Due to the fire code restrictions, as well as the increased potential for injuries, movers should measure all doors, access ways, elevators, etc., prior to the move to assure clearance and avoid unnecessary moving expenses. Under no circumstances will any items be stored in any hallways during the move, nor shall any items be moved through the lobby or on passenger elevators.

8.2.3 Large Objects. Special requirements for moving unusually large or heavy items should be coordinated with the ~~Managing Agent~~.

8.2.4 Corridors. The moving company is required to protect the surfaces of corridors by placing plywood/masonite board over the carpeted floor. Movers should pay special attention to protecting corners, doors, and all surfaces within the common areas. It is suggested that the moving company protect the hard surface flooring in the vestibule of the Apartment in a similar manner.

8.2.5 Disposal of Moving Materials. The moving company must remove all moving materials (cartons, packing papers, boxes, etc.) from all common areas and surfaces at the conclusion of the move. Under no circumstances should any moving materials be placed or forced into the trash chute or left in the trash room or corridors. This is also a serious violation of fire/safety regulations and the rules of the building.

8.3 What the Owner Can Expect

Owners can expect the following from the ^{BA} Managing Agent and staff during and at the conclusion of their move: (

^{BA} 8.3.1 The ~~Managing Agent~~ will schedule each move. (

^{BA} 8.3.2 ~~Managing Agent~~ and/or contracted security personnel will coordinate moving van parking upon arrival. (

8.3.3 Please make sure you have adequate moving assistance. Community personnel are not available to assist movers with the removal of any mover's boxes, crates, packing materials, etc!

8.4 Insurance Requirements

8.4.1 A certificate of insurance evidencing the existence of the insurance policies required by this Section 8.4 must be submitted at least 48 hours prior to each move to the ~~Managing Agent~~ of the Association ^{at} to the Association and the Managing Agent at the addresses listed above. (BA

8.4.2 The certificate must show that the Association of Apartment Owners of Ko'olani and Sunset Heights Hawaii, LLC ^{BA} have been named as additional insureds and must further provide evidence of the following insurance coverages: ^{BA} * and the Managing Agent.

8.4.2.1 Commercial General Liability Insurance, including Non-owned and Hired Auto Liability, with at least a \$1,000,000.00 limit. This coverage should be endorsed to be PRIMARY and NOT CONTRIBUTORY with the Associations' own policies.

8.4.2.2 Workers Compensation Insurance coverage in accordance with statutory limits.

8.4.2.3 Employee Dishonesty Bond Coverage, extending ^{to} protect the Associations' property, or Apartment Owners' property. This needs a special legal obligation clause to cover property of others stolen by the movers' employees. (

8.4.2.4 All policies need to contain a waiver of subrogation in favor of both the Association of Apartment Owners of Ko'olani and Sunset Heights Hawaii, LLC. ^{BA} + the Managing Agent (

9. COMMON AREAS

9.1 General

9.1.1 The Declaration, Bylaws and other Community Documents are detailed and comprehensive and contain a number of provisions restricting an Owners use of the Owner's Apartment, Limited Common Elements and other Community Property. PLEASE READ YOUR -COMMUNITY DOCUMENTS THOROUGHLY.

9.1.2 Owners are responsible for their guests' and/or lessees' compliance with the use restrictions contained in the Declaration, the Bylaws these Community Rules, the

Architectural Guidelines and other Community Documents and direct them to the Managing Agent for any clarification.

9.1.3 Owners are advised of the following:

W A R N I N G

BE ADVISED THAT THE KO'OLANI HAS BEEN BUILT USING A POST-TENSION CONCRETE SYSTEM THAT INVOLVES PLACING HUNDREDS OF STEEL CABLES UNDER HIGH TENSION IN THE CONCRETE SLAB (CEILINGS, FLOORS, AND BALCONIES). THEREFORE, ANY ATTEMPT TO PIERCE, PENETRATE, SAW, CUT, DRILL, OR ALTER YOUR CEILINGS AND FLOORS COULD DAMAGE THE INTEGRITY OF THE SYSTEM AND/OR CAUSE SERIOUS INJURY OR DAMAGE TO PERSONS AND PERSONAL PROPERTY AND IS EXPRESSLY PROHIBITED EXCEPT AS OTHERWISE PERMITTED BY THE BOARD OR ARCHITECTURAL COMMITTEE. ALL CONCRETE SURFACES WILL EXPERIENCE NON-STRUCTURAL CRACKING THAT MAY BE VISIBLE TO OWNERS AND REQUIRE COSMETIC REPAIRS.

SMOKING IS STRICTLY PROHIBITED IN ALL INTERIOR COMMON AREAS

Any damage to the building, recreational facilities, equipment or any other common area property caused by an Owner, an Owner's occupants or an Owner's employees, guests/invitees, or contractors shall be considered the responsibility of the Owner and all costs of resulting repairs and/or replacements shall be borne and assessed against such Owner's account.

9.2 Use of Common Areas

DM / Common areas may only be used for their respective uses as designed and/or as designated by the Board or the Managing Agent. The common areas, including, but not limited to, the swimming pool, exercise room, and other recreational areas and rooms of the project are intended only for the enjoyment of Owners and their guests. Some facilities may be reserved through the ~~Managing Agent~~ on a first-come-first-serve basis.

9.3 Exercise Room and Club Facility

Use of the exercise room is prohibited to persons under the age of sixteen (16). For our safety, no bare feet are allowed. Music must be kept to a low level. Owners are requested to bring a towel and to wipe down the equipment after each use.

Access to the Club Facilities is limited to members only. ⁶¹¹ The ~~Managing Agent~~ has available for your inspection membership criteria and conditions.

9.4 Swimming Pool and Spa

9.4.1 The pool and spa rules are posted on the pool gates and walls. Admittance to these facilities is restricted. Pool hours are from 5:00 a.m. to midnight daily. The pool is to be used at your own risk.

9.4.2 All persons must shower before entering the pool and spa.

9.4.3 Persons under the age of thirteen (13) must be accompanied by an adult responsible for their conduct and safety.

9.4.4 No diving, jumping, running, pushing, ball-playing, loud, or boisterous conduct is permitted.

9.4.5 Water toys (e.g. noodles, surfboards, boogie boards, rafts, etc) are not allowed in the spa or pool. However, water workout flotation belts or water wings are allowed.

9.4.6 The life preserver on the wall is to be used only for aid in lifesaving.

9.4.7 Bathing suits are required when in the pool. No street cloths are allowed in water and no nudity will be permitted. Sandals are recommended while walking around the pool deck. No child is allowed in the pool or spa in diapers. Children under the age of 3 must wear leak-proof protective swimwear. Parents whose children have accidents in the pool are responsible for all cleanup costs.

9.4.8 No glassware or sharp objects are allowed in the pool area. and all trash must be disposed of properly.

9.4.9 NO PETS are allowed inside the fenced area of the pool, except "specially trained animals" as defined in the Bylaws.

9.5 Tennis Courts

9.5.1 The tennis courts may be used between the hours of 9:00 a.m. and 10: p.m. each day. No light of the tennis courts shall be allowed past 10:0 p.m. each evening.

9.5.2 The following rules shall pertain to use of the tennis courts and the tennis court area:

9.5.2.1 Shoes with hard soles, raised heels or cleats, animals, bicycles, skates, skateboards, and baby carriages are prohibited.

9.5.2.2 Leaning on the net is prohibited.

9.5.2.3 Playing on a wet court is prohibited.

9.5.2.4 A reservation for a one (1) hour period may be made at the Managing Agent's office during regular business hours or with the security office when the Managing Agent's office is closed, not more than three (3) days in advance. If after the reserved period has elapsed no one is waiting to play, play may continue until fifteen (15) minutes after any player without a reservation arrives at the court, or until the later of the arrival of a player holding a reservation for the court.

9.5.2.5 Players must wait their reserved time or unreserved turn in person.

9.5.2.6 Players who do not have a reservation may play for a one (1) hour period on a first come, first served basis, provided that such players shall relinquish the court to

any player holding a reservation at such player's reserved time. If after the one (1) hour period has elapsed no one is waiting to play, play may continue until fifteen (15) minutes after another player without a reservation arrives at the court, or until the later of the arrival of a player holding a reservation of the court.

9.5.2.7 Except for any lone player playing on the court during a reserved time, a lone player must relinquish the court to multiple players who are waiting to use the court.

9.5.3 Anyone violating these rules may be asked by the ^{BM} Managing Agent or security officer to leave the area.

9.6 Pergola/Barbeque Areas/Courtyard

9.6.1 Reservations are available through the ^{BM} Managing Agent on a "first-come-first-serve" basis.

9.6.2 The Pergola, barbeque areas and courtyard are available for use between 8:00 a.m. and midnight. A fee and a deposit may be required for the exclusive use of these facilities or areas. Designated areas of the Courtyard may be reserved as well for certain events, however, no use will be allowed before 10:00 a.m. on weekends and holidays, nor beyond 10:00 p.m. nightly. Doors from interior common areas to the courtyard must remain closed after 10:00pm.

9.6.3 Please note that amplified music is not allowed in the courtyard.

9.7 Protection of Common Areas

Furniture, furnishings and equipment, if any, of the common elements have been provided for the safety, comfort and convenience of all residents and guests and, shall not be altered, extended or removed or transferred to other areas without permission from the Board or the ~~Managing Agent~~ ^{BM}.

9.8 Lost Property

Neither the Board nor the Managing Agent or ~~resident manager~~ ^{BM}, if any, shall be responsible for packages or other deliveries or personal property left at doors of Apartments or any other undesignated place on the Community, or left with any employee of the Association.

9.9 Soliciting

No soliciting of goods and services, or religious or political activities shall be permitted on or at the Community unless approved by the Board.

9.10 Signs

No Owner or Occupant may erect, affix or place any signs or other advertising materials in front of or on the common elements or Exclusive Use Lanais or Rooftop Lanais visible from any point outside of his or her Apartment, without the prior approval of the Board or unless permitted by the Architectural Committee.

9.11 Fireworks

There shall be no shooting of fireworks of any type at anytime in, from or around the Community.

9.12 Storage Lockers

9.12.1 Material shall be stored only within assigned storage lockers.

BA 9.12.2 The keys to the unassigned storage locker rooms are available from the ~~Managing Agent~~ and they shall be returned immediately after use.

9.12.3 Flammable liquids or other materials deemed hazardous to life or property shall not be stored in lockers.

9.12.4 Surfboards and similar bulky objects shall be kept only in storage lockers or in an assigned slot in the surfboard rack and shall not be carried through the lobby or in elevators at any time.

9.12.5 Appliances stored in the storage lockers shall not be plugged into electrical sockets.

9.12.6 Items shall not be stored to a height above the crosspiece of the locker in areas having a sprinkler system.

9.13 Public Ways

The sidewalks, driveways and passageways of the Community must not be obstructed or used for purposes other than ingress and egress. Items of personal property shall not be left, parked or allowed to stand in any part of the common elements, parking lots or common driveways so as to interfere with ingress and egress. Items left in violation of this section will be removed at the Owner's risk and expense at the direction of the Board. Surfboards and bicycles and related items shall not be left or allowed to stand on any part of the Community, other than within the confines of an Apartment or any storage area set aside or assigned for such purposes. Bicycles, roller skates, skateboards and similar vehicles or items shall not be operated on walkways or sidewalks or within the parking areas.

9.14 Guest Units

9.14.1 Use. Guest Units may only be made available to family members and guests of Owners. No fee, compensation, reimbursement or other remuneration for the use of a Guest Unit may be charged by an Owner to a guest on account of the reservation or use of the Guest Unit. No more than four (4) guests shall be permitted for sleeping purposes in any Guest Unit.

BH 9.14.2 Reservations. Owners may make reservations of Guest Units available through the ~~Managing Agent~~ on a "first-come-first-serve" basis. No reservation may be made for longer than ___ nights. The ~~Managing Agent~~ may charge a \$___ deposit to the Owner at the time of taking the reservation, which will be non-refundable in the event the Guest Unit is not returned in a clean and sanitary condition, suitable for use by the next guest.

9.14.3 Smoking. No smoking of any kind is allowed in any Guest Unit.

9.14.4 Pets. No pets of any kind, except "specially trained animals" as defined in the Bylaws, are allowed in any Guest Unit.

9.14.5 No Housekeeping. No housekeeping or maid services are provided. Linens will be provided at the commencement of a reservation and must be returned by the Owner within 24 hours of the end of a reservation period.

9.14.6 Owner Responsible. The Owner will be personally responsible for any costs incurred by the Association to clean or repair damages to the Guest Unit or to repair or replace any furnishings or amenities provided in the Guest Unit, which shall be due upon written notice from the ~~Managing Agent~~. Failure to pay any such cleanup or repair costs when due shall entitle the Association to assess such costs as a Special Assessment, and entitle the Association to such remedies and rights as are provided in the Declaration.

9.15 Dress Code

All Owners and guests are required to wear appropriate clothing while in any of the common areas, including shirts and shoes. Bare feet and bathing suits are not allowed at any time in any of the common areas except the pool. No wet clothes are permitted in any common areas of the building. Sandals are strongly recommended on the pool deck.

10. APARTMENTS AND EXCLUSIVE USE LANAIS

10.1 Occupancy of Apartments

10.1.1 Record of Occupants. Each Owner and Occupant shall file his or her name, address and phone number with the Board or the ~~Managing Agent~~ upon purchasing or taking occupancy of an Apartment.

10.1.2 Number of Occupants. Occupancy is limited to no more than two (2) persons per bedroom in each Residence, not including children under the age of five (5) years, but in no event shall the number of Occupants per bedroom exceed three (3), including children under the age of five (5) years.

10.1.3 Absent Owner. An Owner shall be responsible for designating a local agent (a real estate broker, corporation, firm or individual authorized in writing to act on behalf of any Apartment owner) to represent his or her interest if he or she will be absent from the Residence for more than thirty (30) days. The Owner shall file with the ~~Managing Agent~~ his or her address and telephone number and the address and telephone number of the agent. At his or her expense, the Owner shall have his or her agent or some other designated person conduct periodic inspections of the closed Apartment, assuming responsibility for the contents of the Apartment.

10.1.4 Children. An Occupant of the Community shall be responsible for the conduct of his or her children at all times and shall ensure that their behavior is neither offensive to any Occupant nor damaging to any portion of the Community. Children are not permitted to play in the parking areas.

10.1.5 Guests. Owners and Occupants are responsible at all times for the reasonable conduct of their guests.

10.2 Rentals/Temporary Occupancy

10.2.1 Use By Lessees, Tenants and Guests. Owners who permit occupancy of their Apartment by others shall convey a copy of these Rules to the Occupant. Each Owner shall be responsible for the actions or omissions of all Occupants of his or her Apartment and their guests.

10.2.2 Conduct of Tenants and Guests. An Owner shall, upon the request of the Board, immediately abate and remove, at the Owner's expense, any structure, thing or condition that may exist with regard to the occupancy of an Apartment by the Owner's tenants or guests contrary to the intent and spirit of these Rules. If the Owner is unable to control the conduct of the tenants or guests, the Owner shall, upon request of the Board, immediately remove such tenants or guests from the Community, without compensation for lost rentals or any other damage resulting from such removal.

10.2.3 Appointment of Local Agent. Owners shall be responsible for designating a local agent to represent the Owners' interests if the Owner's residence is outside the State of Hawaii. Such Owners shall file with the Board the name, address and telephone number of the agent.

*Dupl.
10.1.5*

10.2.4 Notice. The Board shall be notified by the Owner or the Owner's agent of the name and duration of stay of any tenant or guest.

*2
BA*

10.3 Nameplates

Nameplates and names, including those affixed to mailboxes, shall be placed only in places and in the form approved by the Board.

10.4 Security

Owners, Occupants or guests who entrust the key to an Apartment, vehicle or other item of personal property to an employee of the Board or of the ~~Managing Agent~~^{BA}, do so at the sole risk of such Owner or Occupant or guest and neither the Board nor the ~~Managing Agent~~^{BA} shall be liable for any resulting injury, loss or damage of any nature whatsoever.

10.5 Emergencies

If the immediate services of the police department, the fire department, an ambulance or doctor are required, the desired agency or person should be called directly. Any emergency, particularly such emergencies as flooding, fire, theft, etc., should also be brought to the attention of the Managing Agent or the ~~resident manager~~^{BA}, if any. *Notify security for access.*

10.6 Electronic Equipment

All radio, television or other electronic equipment of any kind or nature installed or used in each Apartment shall fully comply with all rules, regulations, requirements or recommendations of the public authorities having jurisdiction and the Owner shall be liable for

any damage or injury caused by any radio, television or other electronic equipment in such Owner's Apartment.

10.7 Appliances

Owners manuals for appliances have been provided to all Owners and should be reviewed thoroughly. These manuals should be retained by each Owner and transferred to new buyers. Owners should adhere to maintenance requirements specified in each manual for warranty and safety purposes.

10.8 Water Facilities

Toilets, sinks, and other water or sewer facilities in the Community shall not be used for any purpose other than those for which they were designed. Sweepings, rubbish, rags or other articles shall not be thrown into such facilities. Any damage resulting from misuse of any toilets, sinks or other water facilities in an Apartment shall be repaired by the Owner of such Apartment at his or her sole expense.

10.9 Aesthetics

No Owner or Occupant shall permit an unsightly condition to be maintained in open view from such Owner's Apartment, Exclusive Use Lanai or any limited common elements appurtenant thereto or any adjoining common area of the Community. For the purpose of this provision, "unsightly condition" includes, but is not limited to, the following: litter; trash containers, except as specifically provided; broken or excessively scarred furniture; inoperative or broken machinery or equipment or parts thereof; non-decorative gear, equipment, cans, bottles, ladders, crates or barrels; unshaded or improperly shaded lights that create objectionable glare; and weeds, untrimmed and other uncultivated plant life. No shades, awnings or window guards shall be used without the prior approval of the Board. Garments, rugs, mops or other objects shall not be dusted or shaken from windows and lanais or cleaned by beating or sweeping on the lanais or any exterior part of the buildings. Without limiting the foregoing, nothing shall be hung from windows or Exclusive Use Lanais.

10.10 Apartment Sales

While selling an Apartment, public open houses are expressly prohibited. A broker's open house is permitted and must be attended by licensed real estate agents only. Agents will be required to sign in prior to admittance. Apartments for sale must be shown to prospective buyers by appointment only.

10.11 Right and Duty of Owner to Insure

The Association maintains a blanket insurance policy that protects the Association, its employees, and the building. It does not protect the personal property of individual Owners or any improvements made to the Apartment by the Owner.

10.11.1 Owners are urged to obtain and review their insurance coverage prior to moving in and to confirm that their Apartment and personal property is properly covered for loss due to casualty or theft.

10.11.2 Each Owner is strongly encouraged to obtain insurance on his or her personal property, on all improvements made by the Owner (or previous Owner) to his or her Apartment, and upon all other property within the Apartment, and public liability insurance as such Owner may deem desirable to cover his or her individual liability for damage to persons or property occurring inside the individual Apartment or elsewhere upon the project.

10.11.3 All employees of the Association are covered by the building's blanket liability and Workers Compensation insurance policies only during their scheduled hours of work in the Community. Should an Owner in the Community employ any employee during off-duty hours, it is with the understanding that the Association incurs no liability from the acts or omissions of such employee during off-duty hours.

10.12 Entertaining

In an effort to improve service, Owners are requested to provide the Managing Agent with a list of all guests prior to a scheduled event involving 20 or more individuals.

10.13 Clothes Lines

No clothes lines or other outside clothes drying or airing facilities shall be permitted on any part of the common elements or lanais so as to be visible from other Apartments or the common elements of the Community.

10.14 Draperies

No draperies shall be permitted which are visible from outside an Apartment. No under drapes shall be permitted which differ in color from the neutral casement draperies originally provided with the apartment.

10.15 Access to Apartments

The Managing Agent is not required to give access to an Apartment without the written permission of the Owner thereof, a registered Agent of the Owner or a registered Occupant.

10.16 Observance of Law

Each Owner and Occupant will at all times keep his or her Apartment in a strictly clean and sanitary condition and will observe, perform and abide by all laws, ordinances, rules and regulations now or hereafter made by any governmental authority and all restrictions, covenants, conditions, and provisions of the Declaration, the Bylaws, these Rules and any agreements, decisions and determinations duly made by the Association.

10.17 Exclusive Use Lanais

10.17.1 Furnishing Exclusive Use Lanais. Only appropriate furniture and small plants shall be placed on Exclusive Use Lanais, and any unsightly or disturbing items shall be removed at the request of the Managing Agent. Small trees or plants over 5 feet high which may shed leaves on other Exclusive Use Lanais or encourage nesting of birds are not permitted. All plants shall be placed in containers so as to prevent the dripping of water or soil onto other Apartments or the common areas and no excessive watering shall occur.

10.17.2 No Unsightly Objects. Towels, bathing apparel, swimming, snorkeling, surfing or body boarding gear, clothing and other unsightly objects shall not be placed on Exclusive Use Lanais or windows so as to be in view from outside the building or from any other Apartment.

10.17.3 No Discarded Objects. The throwing of cigarettes, matches or any other objects from Exclusive Use Lanais, windows or fire escape balconies or the use of any type of fireworks, including sparklers, anywhere within the building or on the building grounds is expressly prohibited.

10.17.4 Barbeques. No fire or barbecuing is permitted on any Exclusive Use Lanai.

10.17.5 Banners and Flags. Appropriate banners commemorating holidays or festivals may be displayed on the celebrated day. The United States and Hawaii State flags may be displayed at all times.

10.17.6 Birds. Birds shall not be fed on Exclusive Use Lanais or window ledges, nor shall any structure or plants be placed or left on Exclusive Use Lanais or window ledges which might encourage the nesting of birds. Owners of unoccupied Apartments shall take action to make sure that no bird nesting occurs.

10.17.7 Cleaning of Exclusive Use Lanais. Care must be taken when cleaning Exclusive Use Lanais and window ledges to prevent water from dripping or pouring onto other Exclusive Use Lanais or window ledges or running down the exterior of the building.

10.17.8 Windbreaks. Lanai windbreaks of 1/8 inch or thicker clear plastic sheets installed with aluminum fastenings are approved. The plastic is to be fastened on the inside of the Exclusive Use Lanai railing. No other finish or decoration of any kind is permitted on the clear plastic sheets.

10.17.9 Awnings.

10.17.9.1 Design and Material. Lanai sun awnings of the design and material approved by the Board Directors may be installed in the manner and at locations approved in accordance with the Architectural Guidelines. No other style or design awnings are authorized for installation, and any nonconforming awnings are to be replaced only with the approved type.

10.17.9.2 Maintenance of Awnings. When an awning is installed, the owner shall assume responsibility for proper maintenance. Awnings which present an unsightly appearance because of dirt, rips in the material, or for any other reasons, shall, upon written request by the Resident Manager, Board of Directors or the Managing Agent, be cleaned, repaired, or removed immediately.

10.18 Maintenance

10.18.1 Maintenance of Apartments

10.18.1.1 Every Owner shall at all times promptly perform all repair and maintenance work within his or her Apartment and appurtenant Exclusive Use Lanai, if

applicable, for which the Owner is responsible pursuant to the Declaration and the Bylaws, and shall be responsible for all loss and damage, including loss or damage to any common element or any other Apartment, caused by his or her failure to do so.

10.18.1.2 No Owner shall interfere with any other Owners' use of any maintenance easement or right of access that may affect the Owner's Exclusive Use Lanai. Such maintenance easement exists for the benefit of the adjacent Apartment and the maintenance of that Apartment.

10.18.2 Painting. It is intended that the structures of the Community shall present a uniform appearance and to that end, the Board may require the painting of exterior walls of all or part of any structure or Apartment and regulate the type and color of paint used. The Board is authorized to contract for said painting and to make payment therefor out of the maintenance fund in the case of common elements, Exclusive Use Lanais or limited common elements and in the case of individual Apartments, the Board shall individually charge such sums to the respective Owners.

10.18.3 Structural Changes. No structural changes of any type shall be permitted to an Apartment except as permitted under the Declaration, the Bylaws and/or the Architectural Guidelines. No additions or alterations to the original design of an Apartment, which are visible from the exterior of any Apartment, shall be permitted except as authorized pursuant to the Declaration, the Bylaws or the Architectural Guidelines. The addition of air conditioner units is considered an alteration for the purposes of these Rules.

10.18.4 Antenna. No private radio, satellite dish, television or other outdoor antenna will be erected or installed on or anywhere within, or attached to or protruding from, the Apartments or the common elements, except as expressly permitted in the Architectural Guidelines.

11. PETS

11.1 Permitted Pets

Only those animals permitted by the Bylaws may be kept by Owners or Occupants in their Apartments. Except when in transit, pets (other than specially trained animals) shall not be allowed on any common area other than the "Pet Park" on the recreation deck level which may be designated on the Condominium Map as the pet play area. Any pet (other than a specially trained animal) in transit through the common areas must be carried whenever practicable or on a leash which keeps the pet within three feet (3') of its handler's feet. Pets shall not be allowed to come into contact with persons other than the handlers thereof, except as permitted by such other persons.

11.2 Pet Play Area

Pets are allowed in the pet play area only when on a leash in the control of their Owner or handler. Owners must exercise caution bringing their pets into the pet play area when other pets are already using the pet play area.

11.3 Registration

The Owner or Occupant of any Apartment in which a pet is to be kept pursuant to these Rules shall register the pet with the Board or the ~~Managing Agent~~ ^{dy} prior to or immediately upon bringing such pet onto the Community.

11.4 Disposal of Animal Waste

Owners are responsible for the immediate and proper disposal of all animal wastes from any location on the Community, including from the pet play area. The Board may impose a fine or other sanction, including the forfeiture of the right of such Owner or animal to use the pet play area, for failure to promptly and properly dispose of animal wastes.

11.5 Damage

Any personal injury or property damage to the structures, grounds, flooring, walls, trim, finish, tile, carpeting, stairs or other portion of the Community caused by a pet will be the full responsibility of the pet owner and the Owner of the Apartment in which the pet is kept.

11.6 Nuisance; Removal

Any pet that is a nuisance or causes unreasonable disturbance to any Occupant or causes damage to the Community shall be removed by its Owner or by the Occupant of the Apartment in which it is kept promptly upon the request of the Board.

12. NOISE, NUISANCES AND HAZARDS

12.1 Hazards; Unlawful Activities

No Owner or Occupant shall use or permit to be brought into the buildings or common areas of the Community anything deemed hazardous to life, limb or property, such as gasoline, kerosene, naphthalene or other combustibles of like nature, nor any gunpowder, fireworks or other explosives. No activity shall be engaged in and no substance introduced into or manufactured within the Community that might result in a violation of the law or in the cancellation of the insurance or increase the insurance rates on the Community, if any.

12.2 Nuisances

No nuisances shall be allowed on the Community and no activity or condition shall be allowed which is improper or offensive in the opinion of the Board or which is in violation of the Declaration, the Bylaws or these Rules or which unreasonably interferes with or is an unreasonable annoyance to the peaceful possession or proper use of the Community by other Owners and Occupants.

12.3 Disturbances

Owners and Occupants shall not cause excessive noise of any kind and shall be considerate of other Occupants at all times. Occupants shall not make or cause, or permit their families or their guests to make or cause, noises which will unreasonably annoy or interfere with the rights, comfort and convenience of other Occupants.

13. DESIGN GUIDELINES

All improvements and modifications to Apartments must be constructed in accordance with the rules, regulations and requirements set forth in the Design Guidelines attached hereto as Appendix A.

Ko'olani AOA

Insurance Summary

Date Prepared: December 7, 2005

Insurance Associates, Inc.

800 Bethel Street, Suite #200

Honolulu, HI 96813

Agent: Sue Savio

Direct Line: 808-526-9271

Direct Fax: 808-792-5371

E-mail: sue@ia-hawaii.com

Coverage	Limits	Term	Policy Period	Annual Premium	Insurance Company	Comments
Property		Annual	To be determined	\$ 148,000	Fireman's Fund Ins Co of HI	
Building Replacement Cost	\$ 148,000,000					
Business Personal Property	\$ 500,000					
Deductible (all other perils excluding hurricane)	\$ 5,000					
Hurricane Deductible (2% of the building value)	\$ 2,960,000					
Comprehensive General Liability		Annual		\$ 22,500	Fireman's Fund Ins Co of HI	
General Aggregate	\$ 2,000,000					
Products and Completed Operations Aggregate	\$ 2,000,000					
Personal & Advertising Injury	\$ 1,000,000					
Each Occurrence	\$ 1,000,000					
Fire Damage (any one fire)	\$ 50,000					
Medical Expense (any one person)	\$ 5,000					
Hired/Non-Owned Automobile (occurrence)	\$ 1,000,000					
Commercial Umbrella		Annual		\$ 10,400	Chubb Insurance Company	Provides coverage above the Directors' & Officers' Policy
Each Occurrence	\$ 25,000,000					
Liability Aggregate Limit	\$ 25,000,000					
Retained Limit	\$ 0					
Boiler and Machinery		Annual		\$ 7,534	Fireman's Fund Ins Co of HI	
Covered Amount	\$ 140,000,000					
Deductible	\$ 5,000					
Directors' and Officers' Liability		Annual		\$ 1,645	Great American Insurance Company	Includes coverage for the Management Company
Each Occurrence	\$ 1,000,000					
General Aggregate	\$ 1,000,000					
Deductible	\$ 1,000					
Fidelity Bond		Annual		\$ 459	Great American Insurance Company	
Deductible	\$ 1,000					
Flood Insurance		Annual			National Flood Insurance Program	Info sent separately
Covered Amount	\$ 93,000,000					
Deductible						
Workers' Compensation	Statutory	Annual		\$12,750	Based on \$200,000 payroll	
Temporary Disability Insurance (TDI)	Statutory	Annual	Continuous until cancelled	Based on Payroll Audit		

This summary is a brief outline of your insurance policies and is a matter of information only. It does not amend, extend or alter the coverage's afforded by the companies. You must refer to the provisions found in your policies for the details of your coverage's, terms, conditions and exclusions that apply.



Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-9100
Fax: (808) 593-6333

CONDOMINIUM, CO-OP AND PUD
DISCLOSURE CHECK-LIST
(FOR LENDERS)

The following information contained in this disclosure statement is current as of this date. Certain elements of information contained in this disclosure are subject to change at any time in the future.

PROJECT NAME: KO'OLANI

APARTMENT NO: _____ TMK: (1)-2-3-4-73

ADDRESS: 1177 Queen Street, Honolulu, HI 96814

1. MANAGEMENT OF THE ASSOCIATION

- A. Has the Homeowner's Association been in control of the operations of the project for more than two (2) years?
NO
- B. The property is managed by: HAWAIIANA MANAGEMENT CO, LTD
711 Kapiolani Blvd., Suite 700, Honolulu, Hawaii 96813

*NOTE: This Property/Association is managed by a professional management company. If a lender desires evidence of the relationship between the property and the Management Company, a Certificate or Affidavit signed by an officer will be provided as proof attesting to this relationship. A copy of the Management agreement will not be provided.

2. FINANCIAL

- A. Percentage of apartment owners more than one (1) month delinquent in maintenance fees: 0%
- B. Number of foreclosures in the project during the past twelve (12) months: NONE
- C. Any special assessments being currently charged to each unit: NONE

CONDOMINIUM, CO-OP AND PUD
DISCLOSURE CHECK-LIST FOR LENDERS
Page Two

3. OCCUPANCY

- A. Total number of units in the complex: 372
- B. Owner Occupancy percentage: 17%
- C. To the best of our knowledge, the following number of units have been sold to bonafide purchasers other than the developer(s). 369 units have cleared escrow.
- D. Does any single entity, individual or group own more than 10% of the total units in the project: NO
- E. Is any part of the building used for commercial purposes? YES, 2 commercial units.
- F. Is a majority of the units in this complex operated on time share basis? NO
- G. Does the project operate a hotel or rental pool? NO
- H. Are units in the project owned fee simple rather than leasehold? YES

4. LEGAL

- A. Is there any existing litigation? Not to my knowledge.
- B. Is the project subject to phasing or add-ons not yet completed? Yes, but timeline is unknown, there is a merger clause in the Declaration.
- C. Is the Board of Directors' approval required of purchasers? NO

5. INSURANCE

- A. Insurance Carrier: Insurance Asscoiates
Name of Agent: Sue Savio Phone : 526-9271

FOR THE BOARD OF DIRECTORS
KO'OLANI

Dated: August 1, 2006



John Schick, PCAM®, CMCA®
Special Projects Manager
HAWAIIANA MANAGEMENT COMPANY, LTD.



HAWAIIANA

Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-9100

Fax: (808) 593-6333

PROPERTY INFORMATION FORM

(To be used in conjunction with RR105a Sellers' Real Property Disclosure Statement-
Condominium/Co-op/PUD/and other Homeowner Organization)

Disclaimer: The use of this form is not intended to identify the real estate license as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by real estate licensees who are members of the National Association of REALTORS® and who subscribe to its Code of Ethics.

Completion Date: August 31, 2006

Name of Property: KO'OLANI

All references hereafter to the word "Property" shall refer to the above.

Property Address: 1177 Queen Street, Honolulu, HI 96814

Property Tax Map Key: (1)-2-3-4-73

This property is managed by a licensed real estate broker. Yes No. If a licensed real estate broker, is managing agent registered with the Real Estate Commission as a Condominium Managing Agent? Yes No.

Name of Managing Agent: HAWAIIANA MANAGEMENT COMPANY, LTD.
Managed by this Managing Agent since: INCEPTION

Managing Agent provides (Check those services that apply):

- Administrative Management Services
- Fiscal Management Services
- Physical Management Services
- Other Management Services -

A. GENERAL & LEGAL

Total number of units: 372 Number of guest parking stalls available: 36

If applicable, what percentage of Condominium Apartments has been sold and conveyed (excluding to the Developer)? 98 %

If applicable, what approximate percentage of Condominium Apartments is owner-occupied? 17 %.

Approximately how many foreclosures have been filed by the Board of Directors during the past twelve (12) months? 0.

What approximate percentage of owners is more than one month delinquent in maintenance fees? 0 %.

If answer is "yes", using the SAME number below, describe in the space provided.

- | Yes | No | NTMK (Not to my knowledge) | | |
|-------------------------------------|-------------------------------------|-------------------------------------|------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (1) | Within the past year, has the Board of Directors had discussions with the lessor regarding the purchase of the leased fee interest in the land? <input checked="" type="checkbox"/> Property is Fee Simple. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (2) | Is this Property subject to phasing or development of additional increments? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (3) | Has the Owners Association or Corporation been in control of the operations of the Property for less than two (2) years? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | (4) | Are there any lawsuits, arbitration or mediation actions affecting this Property and/or Association other than delinquent owner maintenance fees?
Attorney for Association of Apartment Owners:
_NOTE: Any attorney fees or other costs incurred for further answering this inquiry shall not be at the expense of the Association of Apartment Owners, nor of the Managing Agent. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (5) | If property is a Condominium, does any single entity, individual or partnership own more than 10 percent of the common interest of this property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (6) | Are any Association or Corporation approvals required for transfer of Ownership? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (7) | Is a resident manager's apartment a part of the common elements, or is one owned by the Association or Corporation (does not apply to Planned Unit Developments) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (8) | Is a time share operation existing at this Property? Name of operator: |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (9) | Is there a hotel, transient vacation rental operation, or other organized rental program at the Property? Name of operator? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (10) | Are there commercial apartments, lots or commercial use of the common areas or common elements at the Property? |

Number of Questions answered "YES" and Explain:

(2) Yes, but timeline is unknown, there is a merger clause in the Declaration.

(3) new project just finishing.

(5) 369 units have cleared escrow.

(10) 2 commercial units.

B. INSURANCE

Name of Insurance Company or Agency/Broker: INSURANCE ASSOCIATES

Name of Insurance Agent: Sue Savio

Phone: 526-9271

***Certificate of Insurance should be requested directly from the insurance agent.**

****If answer is "yes", using the SAME number below, describe in the space provided.****

- Yes No NTMKNote: In case of Planned Unit Development, questions #13 to #15 apply to common areas only.
- | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (11) | Is the Property located in a designated Flood Hazard Zone? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (12) | Is this Property covered by Flood Insurance? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (13) | Is this Property located in a tsunami inundation area? |

Number of Questions answered "YES" and Explain:

(12) Flood Insurance is in place.

C. FINANCIAL

Financial statements are prepared monthly and are on a cash basis.

Apartment maintenance fees include:

- Water & Sewer
- Hot Water
- Electricity
- Gas
- Air Conditioning
- Cable TV Signal
- Parking
- Recreation/Community Association Dues
- Lease Rent
- Real Property Tax
- Other: Refuse Collection
- Other:maintenance & utilities for the common areas

****If answer is "yes", using the SAME number below, describe in the space provided.****

- | Yes | No | NTMK | |
|--------------------------|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (14) Has the Association or Corporation Board of Directors approved a maintenance fee increase, special assessment, or loan? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (15) Are any special assessments or loans in effect at this time? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (16) Are any assessments required to be paid in full at the time of conveyance of ownership? |

Number of Questions answered "YES" and Explain:

D. PROPERTY CONDITION

- There is Reserve Plan Data for any major repairs required or planned with respect to the common elements/common areas of the Property.
- There is no Property Reserve Study available. (Construction not completed)

E. DISCLAIMER

While not guaranteed, the information contained in this Property Information Form is based on information reasonably available to the Managing Agent at the time this form was completed. It has been provided by the Managing Agent at Owner/Seller's request and is believed to be current and correct to the best of the Managing Agent's knowledge at the time this form was completed. All persons relying upon the information contained herein are advised that the information provided cannot be considered a substitute for a careful inspection of the Property and the Property's governing documents, meeting minutes, financial documents and other documentation; and that they should refer to qualified experts in the various professional fields, including but not limited to attorneys, Certified Public Accountants, architects, engineers, contractors and other appropriate professionals for a detailed evaluation of areas where additional clarification or information is desired. The person or entity completing the form is doing so only as an accommodation to the parties and shall not be held liable for any errors or omissions whatsoever. The person or entity completing this form is not required to and has not completed any special investigation, and is only reporting facts already known to that person or entity or readily available. Specifically and without limitation, the person or entity completing the form has not reviewed any records except official records of meetings in the possession of that person or entity and only for the current year. Where the answer to a question is not applicable, unknown or is otherwise unanswerable, it has been marked "NTMK". Where the Managing Agent has marked "NTMK" or "NO" in response to a question concerning property condition, it must be recognized that this does not mean there may not be a defect which an expert could

Agent has marked "NTMK" or "NO" in response to a question concerning property condition, it must be recognized that this does not mean there may not be a defect which an expert could discover or the passage of time would reveal. Likewise, a problem could be more serious than the Managing Agent, the Association, the Corporation or its Board of Directors knows. All such persons having access to this Property Information Form understand and acknowledge that this Property Information Form is not a warranty or guaranty of any kind by the Managing Agent, the Association or its Board of Directors.

*On-Site Manager's Name : Don Higgins
Phone No. : 597-8207

FOR THE BOARD OF DIRECTORS
KO'OLANI

Date: August 1, 2006



John Schick, PCAM®, CMCA®
Special Projects Manager
HAWAIIANA MANAGEMENT COMPANY, LTD.