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R-1012

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

FEB 12, 2002 09:00 AM

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/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

No. of Pages: 64

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Robert E. Rowland AAL
A Law Corporation
P. O. Box 455
Kahului, HI 96733

**SECOND RESTATED DECLARATION OF
CONDOMINIUM PROPERTY REGIME
OF KIHEI SHORES**

WHEREAS, by Declaration of Condominium Property Regime of Maui Court dated July 30, 1993, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-145239, together with Condominium Map No. 1920, the Condominium Property Regime known as Maui Court was created by Developer, Maui Court Apartment Limited Partnership, a Hawaii limited partnership; and

WHEREAS, said Declaration was amended by instruments dated January 24, 1994, recorded as Document No. 94-024300, dated December 28, 1995, recorded as Document No. 96-006815, dated June 12, 1996, recorded as Document No. 96-147675, dated August 31, 1994, recorded as Document No. 94-153400, and dated November 13, 2001, recorded as Document No. 2001-206742; and

WHEREAS, the By-Laws of the Association of Apartment Owners of Maui Court is dated July 30, 1993 and was recorded in said Bureau of Conveyances as Document No. 93-145240; and

WHEREAS, said Bylaws were amended by instruments dated February 7, 1994, recorded as Document No. 94-024301, dated August 31, 1994, recorded as Document No. 94-153401, and dated November 13, 2001, recorded as Document No. 2001-206743; and

WHEREAS, said Declaration and Bylaws are hereby restated by resolution adopted by the Board of Directors pursuant to §514A-82.2(a), Hawaii Revised Statutes, to set forth all of the above cited amendments to: Declaration - Paragraph 1 "Name", Paragraph 3 "Description of Apartments", Paragraph 5 "Limited Common Elements", Paragraph 7 "Easements", Paragraph 11 "Managing Agent and Service of Process", Paragraph 17 "Alteration of Project" Exhibit A, Exhibit B, and Exhibit C; and Bylaws - Article V, Section 5; and

WHEREAS, said Declaration and Bylaws are hereby restated as the Declaration of Condominium Property Regime and Bylaws by resolution adopted by the Board of Directors pursuant to §514A-82.2(b), Hawaii Revised Statutes, to conform with the provisions of Hawaii Revised Statutes Chapter 514A;

NOW, THEREFORE, pursuant to §514A-82.2(c), Hawaii Revised Statutes, BE IT RESOLVED that the Declaration of Condominium Property Regime and the Bylaws attached hereto, shall be, and hereby are, adopted as the Second Restated Declaration of Condominium Property Regime of Kihei Shores and Second Restated Bylaws of the Association of Apartment Owners of Kihei Shores.

Portions of said Declaration so restated solely for purposes of information and convenience pursuant to §514A-82.2(b), Hawaii Revised Statutes, are: Paragraph 4 "Common Elements"; Paragraph 12 "Common Expenses"; Paragraph 17 "Alteration of Project"; Paragraph 19 "Amendment of Declaration"; Paragraph 25 "Association Registration", Paragraph 26 "Waiver of Use of Common Elements, and Paragraph 27 "Restatement of Declaration".

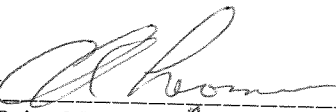
Portions of said By-Laws so restated solely for purposes of information and convenience pursuant to §514A-82.2(b), Hawaii Revised Statutes, are: Article I, Section 8 "Proxies"; Article II, Section 1 "Number and Qualifications"; Article IV, Section 10 "Audit"; and Article V, Section 8 "Record of Ownership".

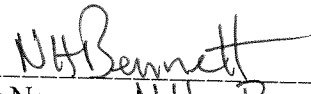
Said Second Restated Declaration and Second Restated Bylaws correctly set forth without change the corresponding provisions of the Restated Declaration of Condominium Property Regime, as amended, and the Restated Bylaws, and said Second Restated Declaration of Condominium Property Regime of Kihei Shores supersede the original Declaration of Condominium Property Regime and By-Laws, and all prior amendments thereto.

In the event of any conflict, the Second Restated Declaration and the Second Restated Bylaws attached thereto shall be subordinate to any cited statute, ordinance, rule or regulation and to the original Declaration of Condominium Property Regime and all prior amendments thereto.

The Second Restated Declaration of Condominium Property Regime, including the Second Restated Bylaws attached thereto, is hereby adopted this 13 day of November, 2001.

ASSOCIATION OF APARTMENT OWNERS
OF KIHEI SHORES

By 
Print Name Al Loeman
Its President

By 
Print Name NH. Bennett
Its Secretary

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 13 day of November, 2001, before me appeared N. H. Bennett, to me personally known, who, being by me duly sworn, did say that he is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES, an unincorporated association; that said instrument was signed on behalf of the Association of Apartment Owners of Kihei Shores by authority of its Board of Directors; and said person acknowledged said instrument to be the free act and deed of said Association of Apartment Owners of Kihei Shores.

Joanne K. Phillips
Notary Public, in and for said
County and State

Print Name: Joanne K. Phillips

My commission expires: 2/16/2002

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 13 day of November, 2001, before me appeared Al Looman, to me personally known, who, being by me duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES, an unincorporated association; that said instrument was signed on behalf of the Association of Apartment Owners of Kihei Shores by authority of its Board of Directors; and said person acknowledged said instrument to be the free act and deed of said Association of Apartment Owners of Kihei Shores.

Joanne K. Phillips
Notary Public, in and for said
County and State

Print Name: Joanne K. Phillips

My commission expires: 2/16/2002

**SECOND RESTATED DECLARATION
OF CONDOMINIUM PROPERTY REGIME
OF
KIHEI SHORES**

**SECOND RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF KIHEI SHORES**

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**SECOND RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF KIHEI SHORES**

WHEREAS, Maui Court Apartment Limited Partnership, a Hawaii limited partnership, whose post office address is 1270 Ala Moana Boulevard, Suite 100, Honolulu, Hawaii 96815 (hereinafter referred to as "Developer"), is the owner in fee simple of those certain parcels of land more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Land"); and

WHEREAS, Developer has created a condominium project (hereinafter referred to as the "Project"), by recording the Declaration of Condominium Property Regime of Maui Court (the "Declaration") dated July 30, 1993 in the Bureau of Conveyances of the State of Hawaii as Document No. 93-145239, as amended by the First Amendment to Declaration of Condominium Property Regime dated January 24, 1994 and recorded in the said Bureau as Document No. 94-024300, consisting of the Land and the improvements located thereon composed of ten (10) residential two-story buildings and sixteen (16) apartments (the "Apartment" or "Apartments"), each of which is a separate apartment, all as more specifically described herein and in accordance with plans incorporated herein by reference recorded in the Bureau of Conveyances of the State of Hawaii as Condominium Map No. 1920 (hereinafter called the "Condominium Map"). The Project also contains a recreation building and a manager's building, which are not apartments; and

WHEREAS, the Declaration was amended and restated by instrument dated August 31, 1994 and recorded as Document No. 94-153400; and

WHEREAS, the Association desires to restate the Declaration since the recording of the Amended and Restated Declaration on September 16, 1994;

NOW, THEREFORE, in order to restate the creation of a condominium project consisting of the Land and improvements now constructed and hereafter to be constructed thereon to be known as "KIHEI SHORES", (prior amendment dated November 13, 2001, recorded as Document No. 2001-206742) it is acknowledged that all of the Developer's interests in and to the Land and the improvements located thereon has been submitted to a condominium property regime in accordance with Chapter 514A, Hawaii Revised Statutes, as amended, (hereinafter referred to as the "Act") and that a condominium property regime with respect to the Land and the improvements now constructed (hereinafter collectively referred to as the "Property") has been established and in furtherance thereof the following declaration is made as to divisions, limitations, restrictions, covenants and conditions and the Property is held and shall be held, conveyed, mortgaged, encumbered, used, occupied and improved subject to the declarations, restrictions and conditions set forth herein and in the bylaws (hereinafter referred to as the "Bylaws") recorded as aforesaid concurrently herewith and made a part hereof, as the same may from time to time be amended in accordance with law and with this Declaration and Bylaws, which declarations, restrictions and

conditions shall constitute covenants running with the Land and shall be binding on and for the benefit of the parties hereto, their respective successors and assigns and all subsequent owners of all or any part of the Project and their respective heirs, personal representatives, successors and assigns.

1. Name. The condominium property regime established hereby shall be known as "KIHEI SHORES". (prior amendment dated November 13, 2001, recorded as Document No. 2001-206742) ✓

2. Land Description. The Land submitted to the condominium property regime is described in Exhibit A attached hereto and made a part hereof.

3. Description of Apartments.

(a) The number of Apartments and their location, approximate area, number of rooms and other data are more particularly described in Exhibit "B" which is attached hereto and made a part hereof.

(b) Each Apartment has immediate access to the driveway and other common elements of the Project.

(c) The approximate net living area of each Apartment consists of the enclosed portion of each such Apartment measured from the interior surface of such Apartment perimeter walls and is set forth on Exhibit "B". Areas of lanais or patios, if any, which are considered as a part of the Apartment are computed and reported separately from the enclosed Apartment or an apartment area and are set forth on Exhibit "B".

(d) Each Apartment shall include all walls, ceilings, floors, slabs, doors and door frames, window and window frames of the rental spaces and supporting beams and fixtures, if any, and all ducts, pumps, pipes, conduits, wires and other utility pipes running through such Apartment which do not serve or are not utilized by any other Apartment. Each Apartment shall not be deemed to include foundations and any pipes, wires, conduits or other utility lines running over, under or through such Apartment which are utilized by or which serve more than one Apartment, the same being deemed common elements as hereinafter provided. (prior amendment dated December 28, 1995, recorded as Document No. 96-006815)

4. Common Elements. One freehold estate is hereby designated in all common elements of the Project, which include all portions of the Project other than the Apartments (except as herein specifically included), and all other common elements mentioned in the Act which are actually included in the Project, including specifically without limitation:

(a) The Land in fee simple.

(b) The driveway located within the Project as outlined on Sheet No. 1 of the Condominium Map.

(c) Recreational areas located within the Project as outlined on Sheet No. 1 of the Condominium Map.

(d) Walls, fences and landscaping not located on limited common areas.

(e) The Managers Unit as shown on Sheet No. 1 of the Condominium Map.

(f) The Maintenance Building as shown on Sheet No. 1 of the Condominium Map.

(g) All sewer lines, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities and installations on, over, under and across the Project which serve more than one Apartment for services such as, but not limited to, electricity, water, gas, sewer, telephone, radio, television and cable television signal distribution.

(h) All areas, structures or facilities of the Project, within or outside of each Apartment, which are for common use or which serve more than one Apartment, such as electrical rooms, machine, mechanical and equipment rooms and the equipment and facilities therein, surveillance system and facilities, if any, hallways, balconies, lobbies, walkways and common ways, planters, landscaping, yards, storage areas, mail rooms, fences, retaining walls, refuse collection areas, driveways, parking structure and the guest and employee parking stalls therein.

(i) Any and all other apparatus and installations of common use and all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(j) The limited common elements described below.

(k) Designation of additional areas to be common elements or subject to common expenses shall require the approval of ninety percent of the apartment owners. (Hawaii Revised Statutes "HRS" § 514A-92.1)

5. Limited Common Elements. Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(a) Common elements of the Project which are rationally related to less than all of the Apartments shall be limited to the use of such Apartments.

(b) The mailboxes located at Manager's Building and corresponding to the Apartment number of each Apartment.

(c) The parking stall or stalls appurtenant to an Apartment shall be that stall or those stalls shown on the Condominium Map as having the same number as the Apartment. The right to designate some of the parking stalls as common elements and/or to reassign parking stalls to other Apartments in the Project as and when sales of Apartments are effected is hereby reserved by Developer. (prior amendment dated December 28, 1995, recorded as Document No. 96-006815)

6. Percentage of Undivided Common Interest. Each Apartment shall have appurtenant thereto an undivided interest in the common elements of the Project (hereinafter referred to as the "common interest") in the proportion set forth as Exhibit B hereto and the same percentage share in all common profits and expenses of the common elements of the Project and, except as herein expressly provided for, the same percentage interest for all other purposes, including, without limitation, voting.

7. Easements. In addition to any easements of record, the Apartments and common elements shall have and be subject to the following easements:

(a) Each Apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes as ingress to, egress from, drainage (whether natural or man-made), utility services for and support, maintenance and repair of such Apartment, in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements as provided herein, and in all other Apartments for the purposes of utility services for such Apartment, and the maintenance and repair of said utility services, including, without limitation, electricity, gas, water, sewage, telephone, radio, television and cable television.

(b) If any part of the common elements or limited common elements now or hereafter encroaches upon any Apartment, or if any Apartment now or hereafter encroaches upon any other Apartment or upon any portion of the common elements or limited common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any improvements of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments by any common element or limited common element upon any Apartment, by any Apartment on any common element or limited common element or by any Apartment upon any other Apartment due to such construction shall be permitted, and valid easements for such encroachments and maintenance thereof shall exist.

(c) The Apartment owners and the Association of Apartment Owners of Maui Court (hereinafter referred to as the "Association") shall have the irrevocable right, to be exercised by the Board of Directors of the Association (the "Board") and its employees and agents, to enter each Apartment and the limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project, for making emergency repairs therein necessary

to prevent damage to any Apartments or common elements, or for preventing, correcting and protecting against flooding and erosion.

(d) Each Apartment owner shall have an easement in common with the owners of all other Apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other Apartments and serving such owner's Apartment. Each Apartment shall be subject to an easement in favor of the owners of all other Apartments to use and for access to the pipes, wires, ducts, cables, conduits, public utility lines and other common elements serving such other Apartments and located in such Apartment.

(e) The Association shall have the right, exercisable by its Board of Directors, to grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across, or through the common elements of the Project for any reasonable purpose, which may include, but shall not be limited to, those purposes which are necessary to the operation, care, upkeep, maintenance or repair of any Apartment, the common elements or any limited common element or any easements for utilities or for any public purpose.

(f) The Association shall have the right, exercisable by its Board of Directors, to transfer, cancel, relocate and otherwise deal with any easement over, under, across or through any lands adjacent to the Project, which may be appurtenant to the Land, for any reasonable purpose, which may include, but shall not be limited to, any of the same purposes set forth in paragraph (e) above, or for the reason that any owner of any such lands adjacent to the Project exercises any right to require the relocation of any such easement.

(g) The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon any portion of the Project, including the common elements, limited common elements and any Apartment, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punchlist items in the common elements, limited common elements of any Apartment. Such easement shall terminate twenty-four (24) months after the later to occur of: (i) the date of filing in said Recording Office of the first Apartment Deed covering an Apartment in the Project; or (ii) the date of substantial completion (as said term is used in Chapter 507, Part I, Hawaii Revised Statutes) of the improvement to be completed or corrected.

(h) Developer hereby reserves unto itself the right to conduct extensive sales activities on the Project, including the use of model Apartments and rental spaces, sales and management offices, parking stalls within the exclusive control of Developer for parking for prospective purchasers and extensive sales displays and activities until the earlier to occur of (a) thirty-six (36) months from the date of the recording in the Bureau of Conveyances of the State of Hawaii of the first conveyance of an Apartment, or (b) the closing of the sale of the last unsold Apartment in the Project. In the event that Developer is unable to sell all of the Apartments within said 36-month period, Developer shall have the right to conduct sales activities on the Project until the closing of the sale of the last unsold Apartment in the Project; provided that such sales activities

are conducted in an unobtrusive manner which will not unreasonably interfere with the use, possession, and aesthetic enjoyment of the Project by the other Apartment owners. Notwithstanding anything to the contrary contained hereinabove in this paragraph, in the event that Developer's mortgage lender or any successor to or assignee of Developer's mortgage lender shall acquire any portion of the Project in the course of any foreclosure or other legal proceeding or by an assignment in lieu of foreclosure, such mortgage lender, its successors and assigns, shall have the right to conduct such sales activities on the Project as hereinabove described until all of the Apartments have been sold and closed.

(i) deleted because of deletion of Exhibit "C" pursuant to prior amendment dated December 28, 1995, recorded as Document No. 96-006815.

8. Alteration and Transfer of Interest. Except as otherwise expressly set forth and reserved in this Declaration, (a) the common interest and easements appurtenant to each Apartment and its respective rental spaces shall have a permanent character, shall not be altered without the prior written consent of all owners of Apartments and/or rental spaces affected thereby, as expressed in an amendment to this Declaration duly filed and recorded as aforesaid, and all holders of first mortgages in the Project, shall not be separated from such Apartment and shall be deemed to be conveyed, leased or encumbered with such Apartment even though not expressly mentioned or described in the conveyance or other instrument, and (b) the limited common elements and the common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by the Act.

9. Purposes and Restrictions.

(a) No Apartment shall be used in connection with the carrying on of any business, trade or profession whatsoever. The Apartments shall not be rented for transient or hotel purposes, which are defined as: (i) rental for any period less than thirty (30) days or (ii) any rental in which the occupants of an Apartment are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The Apartments in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-share purpose or under any time-sharing plan, arrangement or program, including, without limitation, any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, without limitation, any plan, program or arrangement under which the right to use, occupy, own or possess an Apartment or Apartments in the Project 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. The respective Apartment owners shall otherwise have the absolute right to rent or lease such Apartments subject to all provisions of the Act, this Declaration and the Bylaws.

(b) The owner of an Apartment shall not use the same for any purpose which will injure the reputation of the Project. Except as provided in this Declaration, such owner shall not do or suffer anything to be done or be kept in, on, or around said Apartment or elsewhere which will jeopardize the safety or soundness of the Property, or interfere with or unreasonably disturb the rights of other owners, or increase the premiums for fire insurance or any other form of insurance paid by the Association or any other Apartment owner, or which will materially alter, hinder, interfere with or create flooding or a flooding hazard on the Project, material erosion of the natural environment or which will reduce the value of any Apartment, common element, or limited common element appurtenant to the Apartment of any other owner, or impair any easement or hereditament or alter the appearance of the exterior of such owner's Apartment or limited common element without conforming to the provisions of the Act, the Bylaws, the House Rules, if any, promulgated thereunder and this Declaration.

(c) The owner of an Apartment shall not, except as specifically permitted herein, without the prior written consent of the Board, make any alterations of or any additions to the exterior of the Apartment or to any other portion or portions of the limited common elements appurtenant thereto or the common elements unless otherwise specifically permitted herein or in the Bylaws, and by applicable zoning and building rules, regulations and laws.

(d) The owner of an Apartment shall not sell less than such owner's entire Apartment and any appurtenant limited common element. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Act, this Declaration, the Bylaws and the House Rules promulgated thereunder and that the failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing and a copy of each lease shall be filed with the Association.

(e) Notwithstanding anything to the contrary contained in this Declaration, the Bylaws, and/or the House Rules, handicapped occupants of rental spaces shall: (a) be permitted to make reasonable modifications to their rental spaces and/or the common elements, at their expense, if such modifications are necessary to enable them to use and enjoy their rental spaces and/or the common elements, as the case may be; and (b) be allowed reasonable exemptions from this Declaration, the Bylaws, and/or the House Rules, if necessary, to enable them to use and enjoy their rental spaces and/or the common elements, provided that any handicapped occupant desiring to make such modifications or desiring such an exemption shall so request, in writing. That request shall set forth, with specificity, and in detail, the nature of the request and the reason that the requesting party needs to make such modification or to be granted such an exemption. The Board of Directors shall not unreasonably withhold or delay its consent to such request, and any such request shall be deemed to be granted if not denied in writing, within forty-five (45) days of the Board's receipt thereof.

10. Administration of Project. Administration of the Project shall be vested in the Association, consisting of all Apartment owners of the Project, in accordance with the Bylaws. Operation of the Project and maintenance, repair, replacement and restoration of the common

elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Act, this Declaration, the Bylaws and the House Rules. Specifically, but without limitation, the Association shall:

(a) Keep all common elements of the Project 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 for the time being applicable to the Project or the use thereof.

(b) Well and substantially repair, maintain, amend and keep all common elements of the Project, with all necessary separations and amendments whatsoever, in good order and condition except as otherwise provided herein, and maintain and keep the Land and all adjacent land between any street boundary of the Project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation, and replant the same as may be necessary, and repair and make good all defects in the common elements of the Project herein required to be repaired by the Association, of which notice shall be given by any owner or his agent, within thirty (30) days after the giving of such notice; provided that the Association shall not be deemed to be in default of its obligations hereunder with regard to any defect not made good or repair not effected within thirty (30) days of receiving notice thereof so long as it has undertaken a good faith effort to make good such defect or effect such repair within such time. If the Association shall fail to perform its obligations as herein set forth, any Apartment owner may enforce such obligations of the Association.

(c) Before commencing or permitting construction of any improvements on the Project, obtain a bond or certificate thereof naming as obligees collectively all Apartment owners and their respective mortgagees as their interests may appear, in a penal sum of not less than one hundred percent (100%) of the cost of such construction and with a corporate surety authorized to do business in Hawaii, guaranteeing completion of such construction free and clear of all mechanic's and materialmen's liens.

(d) Observe any setback line affecting the Project as may be shown in the Condominium Map or required to be observed by any law, ordinance or rule of governmental authority, and not erect, place or maintain any building or other structure whatsoever except approved fences or walls between any street boundary of the Project and the setback line along such boundary.

(e) Have the right, to be exercised by the Board or its managing agent, to enter any Apartments and limited common elements from time to time during reasonable hours for periodic inspections as may be necessary or appropriate in connection with the operation of the Project or for emergency repairs therein required to prevent damage to any Apartments, common elements or limited common elements or for the installation, repair or replacement of common elements.

(f) Except as otherwise specifically provided herein, not erect or place on the Project any building or structure, including fences and walls, nor make additions or structural alterations to or exterior changes of any common elements or limited common elements of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications prepared by a licensed architect first approved in writing by the Board.

(g) Not make or suffer any strip or waste or unlawful, improper or offensive use of the Project.

(h) Have the right to borrow money for the purpose of repair, replacement and maintenance, operation or administration of the common elements of the Project or the making of any additions, alterations or improvements thereto, upon terms and conditions acceptable to the Board in the exercise of its sole discretion, subject, however, to the provisions of this subparagraph 10(h). 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 Project; provided, however, that Apartment owners representing fifty-one percent (51%) of the common interest shall first give written consent to such borrowing, having been first notified of the purpose and use of the funds.

(i) Coordinate the provision of refuse service by the County of Maui within the Project, if necessary, including, without limitation, the enforcement of parking restrictions within the Project to facilitate such service.

11. Managing Agent and Service of Process. Operation of the Project may be conducted for the Association by a responsible managing agent (hereinafter referred to as the "Managing Agent") which shall be appointed by the Board in accordance with the Bylaws, except that the initial Management Agreement may be appointed by Developer. Chaney Brooks & Company, whose address is 667 Front Street, #129, Lahaina, Hawaii 96761, is the initial Managing Agent and is hereby authorized to receive service of legal process in all cases provided in the Act. In addition, a service of legal process may be served upon any member of the Board who has a residence or place of business within the County of Maui. If Developer or any affiliate of Developer acts as the first managing agent for the Association following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. The identity of the managing agent as Developer or Developer's affiliate shall be disclosed to the Association no later than the first meeting of the Association. An affiliate of, or person affiliated with Developer is a person that directly or indirectly controls, is controlled by, or is under common control with Developer. (prior amendment dated December 28, 1995, recorded as Document No. 96-006815)

12. Common Expenses.

(a) All charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration of the Project, including, without limitation, the

operation thereof, all maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto, all labor, services, materials, supplies and equipment therefor, all utilities to be provided on a common meter basis, all liability whatsoever for loss or damage arising out of or in connection with the common elements or any accident, fire, nuisance thereof, all real property taxes (except real property taxes and such other taxes [including, without limitation, taxes and special assessments referenced in Section 514A-6 of the Act, and any successor statutes] which are or may hereafter be assessed separately on each Apartment and the interest in the common elements appertaining thereto or the personal property or other interest of an owner), and all premiums for hazard and liability and other insurance herein required with respect to the Project, shall constitute common expenses of the Project, and all Apartment owners shall be severally liable for such common expenses in the same proportion as their common interests.

(b) All costs and expenses of all limited common elements, including, without limitation, maintenance, repair, replacement, additions and improvements, shall be charged to and paid by the owner of the Apartment to which the limited common element is appurtenant.

(c) The Board shall prepare and adopt an annual operating budget and distribute it to the Apartment owners. At a minimum, the budget shall include the following:

(1) The estimated revenues and operating expenses of the Association;

(2) Information as to whether the budget has been prepared on a cash or accrual basis;

(3) The replacement reserves of the Association as of the date of the budget;

(4) The estimated replacement reserves the Association will require to maintain the common elements based on a reserve study performed by the Association;

(5) A general explanation of how the estimated replacement reserves are computed; and

(6) The amount the Association must collect for the fiscal year to fund the estimated replacement reserves.

(7) Information as to whether the amount the Association must collect for the fiscal year to fund the estimated replacement reserves was calculated using a percent funded or cash flow plan. The method or plan shall not circumvent the estimated replacement reserves amount determined by the reserve study prepared pursuant to paragraph (c)(4) above. (HRS § 514A-83.6(7))

(d) The Association shall assess the Apartment owners to fund a minimum of fifty percent (50%) of the estimated replacement reserves or fund one hundred percent (100%) of the replacement reserves when using a cash flow plan. For each fiscal year the Association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves as determined by the Association plan. (HRS § 514A-83.6(b))

(e) The Association shall compute the estimated replacement reserves by a formula which is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the common elements. The estimated replacement reserves shall include:

(1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and

(2) Separate, designated reserves for each part of the common element for which capital expenditures or major maintenance will exceed \$10,000. Parts of the common element for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.

(f) The Association nor Apartment owners, director, officer, managing agent, or employee of the Association who makes a good faith effort to calculate the estimated replacement reserves for the Association shall be liable if the estimate subsequently proves incorrect.

(g) The Board may not exceed its total adopted annual operating budget by more than twenty percent (20%) during the fiscal year to which the budget relates, except in emergency situations. Prior to the imposition or collection of an assessment under this subparagraph, the Board shall pass a resolution containing the written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(h) "Capital expenditure" means an expense which results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset which extends the life of an existing asset for a period greater than one year.

(i) "Cash flow plan" means a minimum twenty-year projection of the Association's future income and expense requirements to fund fully its replacement reserves requirements each year during the twenty-year period, except in an emergency; provided that it does not include a projection of special assessments or loans during that twenty-year period, except in an emergency. (HRS § 514A-83.6(j))

“Emergency situation” means any extraordinary expense:

- (1) Required by an order of a court;
- (2) Necessary to repair or maintain any part of the common element where a threat to personal safety is discovered;
- (3) Necessary to repair any part of the common element that could not have been reasonably foreseen by the Board in preparing and distributing the annual operating budget;
- (4) Necessary to respond to any legal or administrative proceeding brought against the Association that could not have been reasonably foreseen by the Board in preparing the annual operating budget; or
- (5) Necessary for the Association to obtain adequate insurance for Property which the Association must insure. (HRS § 514A-83.6(j)(5))

“Major maintenance” means an expenditure for maintenance or repair which will result in extending the life of an asset for a period greater than one year.

“Replacement reserves” means funds for the upkeep, repair, or replacement of the common elements.

(j) The Board shall from time to time assess the common and limited common expenses set out in this paragraph against all the Apartments according to their respective obligations therefor, and the unpaid amount of such assessments against any Apartment shall constitute a lien against such Apartment which may be foreclosed by the Board or Managing Agent as provided by the Act, provided that thirty (30) days’ prior written notice of intention to foreclose shall be mailed, postage prepaid, to all persons having any interest in such Apartment as shown in the Association’s record of ownership. Suit to recover any money judgment for unpaid common or limited common expenses shall be maintainable without foreclosing or waiving the lien securing the same. If any such unpaid amounts should prove uncollectible, then such amounts shall be deemed to be a common expense of the Project, collectible from all of the owners of Apartments in the Project and to be shared in the same manner as the other common expenses are shared.

13. Compliance with the Declaration, Bylaws and Act. All Apartment and rental space owners, their tenants, families, employees, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the Bylaws, the Act, and all agreements, decisions and determinations of the Association as are lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, and any other remedies available in law or in equity, maintainable by the Board or Managing Agent on behalf

of the Association or, in a proper case, by any aggrieved Apartment owner. All costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the Association for (a) collecting any delinquent assessments against any owner's Apartment, (b) foreclosing any lien thereon, or (c) enforcing any provision of the Declaration, Bylaws, House Rules, the Act or the rules of the Real Estate Commission of the State of Hawaii, against an Apartment owner, occupant, tenant, employee of an owner or any other person who may in any manner use the Property shall be promptly paid by such person or persons on demand to the Association; provided that if the claims upon which the Association takes any action are not substantiated, all costs and expenses, including reasonable attorney's fees, incurred by such person or persons as a result of the action of the Association, shall be promptly paid on demand to such person or persons by the Association.

14. Insurance. Without prejudice to the right of each Apartment owner to insure such Apartment owner's own Apartment and appurtenant limited common elements for such Apartment owner's own benefit, the Association at its common expense shall at all times:

(a) Keep all common elements and, whether or not part of the common elements, all exterior and interior walls, floors and ceilings of the Project insured in accordance with the as-built condominium plans and specifications against loss or damage by fire, and against flood under the Federal Flood Disaster Protection Act if the Land is located in an identified flood hazard area as designated by the Federal Department of Housing and Urban Development. If necessary, such flood insurance shall meet all applicable Federal National Mortgage Association ("FNMA") requirements as they exist from time to time, in an amount as near as practicable to the full replacement cost thereof without deduction for depreciation, by blanket policy or policies with an Agreed Amount Endorsement or its equivalent, if available, and if required by FNMA, Demolition and Contingent Liability from Operation of Building Laws Endorsements, an Increased Cost of Construction Endorsement and such other endorsements as are necessary, in the name of the Association and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and shall pay all premiums on such insurance when due and all fees and expenses of such trustee in connection with such services.

In every case of such loss or damage all insurance proceeds shall be used with all reasonable speed by the Board on behalf of the Association for rebuilding, repairing or otherwise reinstating the affected common elements and, whether or not part of the common elements, all affected exterior and interior walls, floors and ceilings, in a good and substantial manner according to the original plan and elevation thereof or such modified plans as shall conform as neatly as practicable to the original plans and elevation consistent with laws and ordinances then in effect, as first approved by all parties in interest thereby directly affected (including any mortgagees), and the Association at its common expense shall make up any deficiency in such insurance proceeds.

(b) Procure and maintain at all times comprehensive general liability insurance, including protection against water damage liability, liability for non-owned and hired

automobiles and liability for property of others, covering all common areas of the Project with a Severability of Interest Endorsement which would preclude the insurer from denying the claim of an Apartment owner because of the negligent acts of the Association or another Apartment owner, covering all Apartment owners, the Association and its Board of Directors, officers and employees with respect to the Project, in a responsible insurance company authorized to do business in Hawaii with minimum limits of not less than \$1,000,000.00 for injury to one or more persons in any one accident or occurrence and \$500,000.00 for property damage. From time to time, the Board shall effect such higher minimum coverages as the Board may require, having due regard for the then prevailing prudent business practices in the State of Hawaii.

(c) If the Project has six or more Apartments, procure and maintain at all times fidelity coverage in an amount not less than that specified by the applicable provisions of the Act to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association, which fidelity bonds shall meet the following requirements:

(1) All such fidelity bonds shall name the Association as an obligee;
and

(2) Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(d) Every policy of insurance required under subparagraphs 14(a), 14(b) or any other provision of this Declaration shall:

(1) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right to set-off, counterclaim, apportionment, proration or contribution by reason of any other insurance obtained by or for any Apartment owner;

(2) Contain no provision relieving the insurer from liability for loss occurring while the hazard to the Project is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the Board or any Apartment owner or any other person under either of them;

(3) Provide that such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium), except by the insurer giving at least thirty (30) days' prior written notice thereof to the Board and every other person in interest who shall have requested such notice of the insurer;

(4) Contain a waiver by the insurer of any right of subrogation to any right of the Board, the Association or Apartment owners against any of them or any other persons

claiming under either of them and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insureds;

(5) Contain a provision requiring the insurer, at the inception of the policy and on each anniversary date thereof, to provide the Board with a written summary, in layman's terms, of the policy, which summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premiums, and renewal dates, which information shall be provided by the Board to each Apartment owner;

(6) Provide that, notwithstanding any provisions in any policy of property insurance which gives the insurer the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written consent of the Board or when in conflict with any insurance trust agreement to which the Association may be a party or any requirement of law; and

(7) Contain a standard mortgagee clause which shall:

(i) Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Apartment of the Project in their respective order and preference, whether or not named therein, and the holders of mortgages, if any, affecting the fee simple interest in the Land;

(ii) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Developer or Apartment owners or any persons under any of them;

(iii) Waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause; and

(iv) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board.

15. Uninsured Casualty. If at any time or times any Apartment shall be damaged to any extent or destroyed by any casualty not herein required to be insured against, such Apartment's owner(s) shall promptly and diligently rebuild, repair, or restore such Apartment according to the original plan and elevation thereof or such other plan as otherwise provided herein, and such restoration shall be at such Apartment owner's expense.

16. Condemnation.

(a) In case at any time or times the Project or any part thereof shall be required, taken or condemned by any authority having the power of eminent domain, each Apartment

owner whose Apartment has been so taken shall be paid out of the proceeds of the condemnation award the amount shown in such award for the value of such owner's Apartment so taken, provided that such Apartment owner shall use said proceeds promptly and to the extent necessary for restoring or replacing said Apartment unless such restoration or replacement is impractical for the purpose of residential use in the circumstances; provided further that in the event of such impracticality the condominium property regime hereby created shall be terminated and the remaining Apartments, if there is more than one Apartment, and/or land which are not so required, taken or condemned shall immediately upon such termination be inclusively reconstituted as a new condominium property regime under the same terms and conditions (except for those Apartments and/or land which are taken or required) as the previous condominium property regime hereby created. Provided further that in the event of such impracticality, termination and reconstitution of the Association, the newly reconstituted Association shall remove all debris upon the Property, less the land taken, and restore the Property, less the land taken, to good, orderly condition and even grade at the expense of the newly reconstituted Association.

(b) In case at any time or times any common element or any part thereof shall be required, taken or condemned by any authority having the power of eminent domain, all compensation and damages from such taking shall be used promptly by the Board to the extent necessary for restoring or replacing such common elements to substantially the same condition prior to such condemnation on the remaining land unless such restoration or replacement is impractical in the circumstances; provided that in the event the amount of such proceeds is insufficient to cover the cost of such common element's restoration or replacement, then the Association, or the newly reconstituted Association (in the event of termination of this condominium property regime and the immediate reconstitution of a new condominium property regime in accordance with paragraph 16(a) above) shall at its common expense make up any deficiency in the condemnation proceeds for said restoration or replacement of the condemned common element.

17. Alteration of Project.

(a) Except as otherwise expressly set forth and reserved in this Declaration, restoration or replacement of the Project or of any structure or other facility thereof which is a common element or construction of any additional structure or structural alterations or additions to any structure which is a common element different in any substantial and material respect from the Condominium Map shall be undertaken by the Association or any Apartment owner(s) only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of not less than seventy-five percent (75%) of the Apartment owners, and promptly upon completion of such restoration, replacement or construction the Association shall duly record and file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer. Any additions to or alterations of any Apartment made within such Apartment shall be permitted without the consent of the Board or any other Apartment owner, except that if such additions or alterations would jeopardize the soundness or safety of the Project, reduce the value thereof, violate the uniform external appearance of the Apartments, or impair any easement, then the prior consent of seventy-five percent (75%) of all

Apartment owners, together with the consent of all other Apartment owners directly affected thereby, shall be first obtained.

(b) Notwithstanding anything to the contrary contained herein, the owners of all Apartments shall have the right at any time and from time to time, at their respective sole cost and expense, without the consent or joinder of any other Apartment owners, but with the consent of the Board, and any mortgagee of an Apartment in which such work is being performed, to install, maintain, remove, and rearrange partitions and other improvements from time to time within such Apartments, and to paint, paper, panel, plaster, tile, finish, and do or cause to be done such other work on the ceilings, floors and walls within any such Apartment and to finish, alter or substitute any plumbing, electrical or other fixtures attached to said ceilings, floors and walls as shall be appropriate for the utilization of such Apartment by such owner or the tenants or lessees thereof (provided, that such plumbing and electrical alterations and/or substitutions shall not adversely affect the plumbing and electrical systems of the Project as determined by the Board in the exercise of its sole discretion). Any of the foregoing provisions to the contrary notwithstanding, any such alteration shall be performed under the supervision of a licensed architect and be strictly in accordance with the requirements of applicable law, and prior to commencing any alteration of a common element, an owner (i) shall secure a performance and payment bond naming as obligees, said owner and collectively the owners of all other Apartments, the Association and any affected mortgagees, as their interests may appear, in a penal sum of not less than one hundred percent (100%) of the cost of any construction, guaranteeing the payment of funds in an amount necessary to ensure the completion thereof free and clear of all mechanics' and materialmen's liens, and that any such construction will be carried out in strict compliance with all applicable laws, and (ii) provide comprehensive general liability insurance insuring said owner and collectively all the owners of all other Apartments, the Association and any affected mortgagees, as their interests may appear, against loss or damage from excavation, pile driving, loss of subterranean support and other hazards normally insured against in the construction industry; provided, further, that the approval of any other Apartment owner, mortgagee or other lienholder shall not be required to perform the alterations permitted herein, but the approval of the Board shall be required to perform the alterations permitted herein, which such approval shall be given provided that such owner complies with all of the terms and conditions relating to such alterations set forth herein. Provided, that no work shall be done which would jeopardize the soundness or safety of the Project, reduce the value thereof, detract from the external appearance of the Apartments, or impair any easement, without in every such case the prior written consent of the mortgagees of such Apartments, the Board and all other Apartment owners directly affected thereby (as determined by the Board).

(c) Any part of the common elements of the Project which, because of the alterations as provided for in this paragraph 17, serve or are used exclusively by one Apartment or less than all of the Apartments shall become limited common elements appurtenant to and for the exclusive use of such Apartment or Apartments and any costs in connection therewith shall be borne as provided in paragraph 12 hereof.

(d) deleted because of deletion of Exhibit "C" pursuant to prior amendment dated December 28, 1995, recorded as Document No. 96-006815.

(d) No owner of an apartment shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of seventy-five percent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that nonmaterial structural additions to the common elements, including, without limitation, the installation of solar energy devices, or additions to or alteration of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the Board of Directors of the Association and such percentage, number, or group of apartment owners as may be required by the Declaration or Bylaws. "Nonmaterial structural additions to the common elements", as used in this section, means a structural addition to the common elements which does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any non-consenting owner of the use or enjoyment of any part of property, or directly affect any non-consenting owner. For purposes of this section, "solar energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation; provided that if the equipment sold cannot be used as a solar device without its incorporation with other equipment, it must be installed in place and ready to be made operational in order to qualify as a "solar energy device." (HRS § 514A-89)

18. Arbitration. To the extent not prohibited by Part VII of the Act, any dispute arising under this Declaration or any agreement incidental or ancillary to this Declaration shall be submitted to binding arbitration pursuant to the rules of the American Arbitration Association (hereinafter referred to as the "AAA") then in effect and the provisions of this paragraph 18. Any person that submits any issue or dispute to binding arbitration shall promptly so notify the other party in writing. Claims or disputes involving \$100,000 or less shall be heard by a single arbitrator. Claims involving more than \$100,000 or non-monetary issues shall be heard by a panel of three (3) arbitrators, which panel shall not include an attorney. The arbitrators shall be selected by the AAA upon receiving notice from either party that a dispute exists. The decision of a majority of such arbitrators shall be final, conclusive and binding on the parties hereto. Each party shall pay its own costs and expenses and the costs and expenses of its witnesses and attorneys. All other costs and expenses shall be shared equally by the parties. In the event of the failure, inability or refusal of any arbitrator to act, a new arbitrator shall be appointed in such arbitrator's stead by the AAA. An award so rendered shall be binding in all aspects and shall be subject to the provisions of Chapter 658, Hawaii Revised Statutes, as the same may be amended from time to time; provided, however, that no such award shall provide for an award of punitive damages.

19. Amendment of Declaration. Except as otherwise provided herein or in the Act, this Declaration may be amended by a vote or written consent (HRS § 514A-11(11)) of the Apartment owners of seventy-five percent (75%) of the interests in the common elements effective only upon filing and recordation of an instrument as aforesaid setting forth such amendment and vote, duly executed by such owners.

20. Developer's Right to Retain or Acquire Apartment Ownership. Developer reserves the right to retain or acquire the ownership of any number of Apartments or their respective rental spaces in the Project. Developer shall be entitled to make such use of the Apartments or rental spaces retained or acquired as Developer, in its sole discretion, sees fit; provided that Developer complies with all rules and regulations established for the governance of the Project.

21. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of this Declaration or the intent of any provision hereof.

22. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

23. Definitions. All terms used herein and in the Bylaws which are identical to terms used in the Act shall, except where clearly repugnant to the context, have the same meanings as are attributed to them in said Act. The terms "owner", "Apartment owner" and "rental space owner" as referred to herein shall mean the owner of an Apartment and/or a rental space whether singly or jointly, partnerships, corporations or other legal entities or their heirs, personal representatives, successors and assigns or the heirs and assigns of the survivor as the case may be. The term "majority" or "majority of owners" herein means the owners of Apartments and/or rental space to which are appurtenant more than fifty percent (50%) of the common interests, and any specified percentage of Apartment and/or rental space owners means the owners of Apartments and/or rental space to which are appurtenant such percentage of the common interests as established by this Declaration.

24. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

25. Association Registration. The Association shall register with the Real Estate Commission as provided in Section 514A-95.1, Hawaii Revised Statutes, as amended, and to comply with all requirements and impositions therein set forth. (HRS § 514A-95.1)

26. Waiver of Use of Common Elements. No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or

enjoyment of any of the common elements or by abandonment of his apartment. Subject to such terms and conditions as may be specified in the Bylaws, any apartment owner may, by conveying his apartment and his common interest to the Board of Directors on behalf of all other apartment owners, exempt himself from common expenses thereafter accruing. (HRS § 514A-92)

27. Restatement of Declaration. The Association may at any time restate this Declaration, the Bylaws or other Exhibits to this Declaration to set forth all amendments thereof or to conform with Chapter 514A, Hawaii Revised Statutes, or any other statute, ordinance, rule or regulation enacted by any governmental authority. Such restated Declaration and/or Bylaws shall be approved by resolution adopted by the Board of Directors and shall be as fully effective for all purposes as if adopted by the vote or written consent of the apartment owners. Such document restated pursuant to this Paragraph shall identify each portion so restated and shall contain a statement that such portions have been restated solely for purposes of information and convenience, identify the statute, ordinance, rule, regulation, or prior amendment, implemented by the amendment, and that in the event of any conflict, the restated Declaration or Bylaws shall be subordinate to the cited statute, ordinance, rule, regulation, original Declaration or Bylaws and all prior amendments. It shall further state that the restated Declaration or By-laws correctly set forth without change the corresponding provisions of the Declaration or Bylaws, as amended, and that upon recordation thereof in the Bureau of Conveyances, the restated Declaration or Bylaws shall supersede the original Declaration or Bylaws and all prior amendments thereto. (HRS § 514A-82.2)

EXHIBIT A

PARCEL FIRST:

ALL of that certain parcel of land (portion of the land described in and covered by Land Patent Grant Number 5008 to Henry Waterhouse Trust Co., Limited) situate at Kamaole (Kihei), Kula, Island and County of Maui, State of Hawaii, being LOT "C", and thus bounded and described as follows:

Beginning at the Northwest corner of this parcel of land, on the Easterly boundary of proposed 10-ft. Road Setback Line (Lot E), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAMAOLE" being 5,044.88 feet South and 1,028.95 feet East, and running by azimuths measured clockwise from True South:

1. 274° 25' 10" 1,594.09 feet along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited;
2. 354° 54' 353.17 feet along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited;
3. 94° 25' 10" 772.87 feet along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited;
4. 174° 54' 312.61 feet along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited;
5. 94° 25' 10" 800.51 feet along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited;
6. Thence along the remainder of Grant 5008 to H. Waterhouse Trust Co., Limited, on a curve to the left with a radius of 20.00 feet, the azimuth and distance of the chord being:
71° 30' 05" 15.58 feet;
7. 168° 35' 47.88 feet along the proposed Easterly boundary of Kihei Road to the point of beginning and containing an area of 6.933 acres.

PARCEL SECOND

TOGETHER WITH AN EASEMENT for road purposes, to be used enjoyed in common with others entitled thereto, over and across a 25 foot strip beginning at the Southwesterly corner of Lot 2-C of the Magamine Subdivision and running along the Southerly boundary of said Lot 2-C to Lot 2-B and along the Easterly boundary of said Lot 2-C; provided, however, that if and when the proposed government highway shall be constructed and completed and access to said Lot 2-B made available, then in such event all private easement rights in said roadway over Lot 2-C shall automatically terminate.

Being a portion of the land conveyed to Maui Court Apartment Limited Partnership, a Hawaii limited partnership, by the following:

Deed from KPA Joint Venture, a Hawaii general partnership, dated December 19, 1990, recorded in the Bureau of Conveyances as Document No. 90-195322; and

Deed from Dujardin General Partnership, a Hawaii general partnership, dated January 31, 1991, recorded in the Bureau of Conveyances as Document No. 91-013112.

(prior amendment dated December 28, 1995, recorded as Document No. 96-006815)

EXHIBIT "B"

Apartment Locations, Apartment Numbers of Bedrooms and Baths,
Net Areas, Lanai Areas, Total Areas, Common Interests and
Parking Stall Assignments

* Handicap units

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/ Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
A	A 001	579/35	1/1	1	0.0034
A	A 002	698/53	2/2	1	0.0041
A	A 003	698/53	2/2	1	0.0041
A	A 004	698/53	2/2	1	0.0041
A	A 005	698/53	2/2	1	0.0041
A	A 006	698/53	2/2	1	0.0041
A	A 007	698/53	2/2	1	0.0041
A	A 101	597/35	1/1	1	0.0041
A	A 102	597/35	1/1	1	0.0036
A	A 103 (H) *	719/53	2/1	1	0.0036
A	A 104 (H) *	719/53	2/1	1	0.0043
A	A 105	719/53	2/2	1	0.0043
A	A 106	719/53	2/2	1	0.0043
A	A 107	719/53	2/2	1	0.0043
A	A 108	719/53	2/2	1	0.0043
A	A 201	597/35	1/1	1	0.0043
A	A 202	597/35	1/1	1	0.0036
A	A 203	719/53	2/2	1	0.0036
A	A 204	719/53	2/2	1	0.0043
A	A 205	719/53	2/2	1	0.0043
A	A 206	719/53	2/2	1	0.0043
A	A 207	719/53	2/2	1	0.0043
A	A 208	719/53	2/2	1	0.0043
A	A 301	597/35	1/1	1	0.0043
A	A 302	597/35	1/1	1	0.0036
A	A 303	719/53	2/2	1	0.0036
A	A 304	719/53	2/2	1	0.0043
A	A 305	719/53	2/2	1	0.0043
A	A 306	719/53	2/2	1	0.0043
A	A 307	719/53	2/2	1	0.0043
A	A 308	719/53	2/2	1	0.0043
31		21,291/1,517		31	0.1270

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/ Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
B	B 001	698/53	2/2	1	0.0041
B	B 002	698/53	2/2	1	0.0041
B	B 003	698/53	2/2	1	0.0041
B	B 004	698/53	2/2	1	0.0041
B	B 005	698/53	2/2	1	0.0041
B	B 006	698/53	2/2	1	0.0041
B	B 101	719/53	2/2	1	0.0043
B	B 102	719/53	2/2	1	0.0043
B	B 103	719/53	2/2	1	0.0043
B	B 104	719/53	2/2	1	0.0043
B	B 105	719/53	2/2	1	0.0043
B	B 106	719/53	2/2	1	0.0043
B	B 201	719/53	2/2	1	0.0043
B	B 202	719/53	2/2	1	0.0043
B	B 203	719/53	2/2	1	0.0043
B	B 204	719/53	2/2	1	0.0043
B	B 205	719/53	2/2	1	0.0043
B	B 206	719/53	2/2	1	0.0043
B	B 301	719/53	2/2	1	0.0043
B	B 302	719/53	2/2	1	0.0043
B	B 303	719/53	2/2	1	0.0043
B	B 304	719/53	2/2	1	0.0043
B	B 305	719/53	2/2	1	0.0043
B	B 306	719/53	2/2	1	0.0043
24		17,130/1,272		24	0.1020

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/ Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
C	C 001	698/53	2/2	1	0.0041
C	C 002	698/53	2/2	1	0.0041
C	C 003	698/53	2/2	1	0.0041
C	C 004	698/53	2/2	1	0.0041
C	C 005	698/53	2/2	1	0.0041
C	C 006	698/53	2/2	1	0.0041
C	C 007	698/53	2/2	1	0.0041
C	C 008	698/53	2/2	1	0.0041
C	C 101	719/53	2/2	1	0.0043
C	C 102	719/35	2/2	1	0.0043
C	C 103	719/53	2/2	1	0.0043
C	C 104	719/53	2/2	1	0.0043
C	C 105	719/53	2/2	1	0.0043
C	C 106	719/53	2/2	1	0.0043
C	C 107	719/53	2/2	1	0.0043
C	C 108	719/53	2/2	1	0.0043
C	C 201	719/53	2/2	1	0.0043
C	C 202	719/53	2/2	1	0.0043
C	C 203	719/53	2/2	1	0.0043
C	C 204	719/53	2/2	1	0.0043
C	C 205	719/53	2/2	1	0.0043
C	C 206	719/53	2/2	1	0.0043
C	C 207	719/53	2/2	1	0.0043
C	C 208	719/53	2/2	1	0.0043
C	C 301	719/53	2/2	1	0.0043
C	C 302	719/53	2/2	1	0.0043
C	C 303	719/53	2/2	1	0.0043
C	C 304	719/53	2/2	1	0.0043
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	28	19,964/1,466		28	0.1188
D	D 101	719/53	2/2	1	0.0043
D	D 102	719/35	2/2	1	0.0043
D	D 103	719/53	2/2	1	0.0043
D	D 104	719/53	2/2	1	0.0043
D	D 105	719/53	2/2	1	0.0043
D	D 106	719/53	2/2	1	0.0043
D	D 107	719/53	2/2	1	0.0043
D	D 108	719/53	2/2	1	0.0043
D	D 109	719/53	2/2	1	0.0043
D	D 110	719/53	2/2	1	0.0043
D	D 201	719/53	2/2	1	0.0043
D	D 202	719/53	2/2	1	0.0043
D	D 203	719/53	2/2	1	0.0043
D	D 204	719/53	2/2	1	0.0043
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	14	10,666/724		14	0.0602

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
E	E 101	1035/52	3/2	1	0.0062
E	E 102	1035/52	3/2	1	0.0062
E	E 103	1035/52	3/2	1	0.0062
E	E 104	1035/52	3/2	1	0.0062
E	E 105	1035/52	3/2	1	0.0062
E	E 106	1035/52	3/2	1	0.0062
E	E 107	1035/52	3/2	1	0.0062
E	E 108	1035/52	3/2	1	0.0062
E	E 109	1035/52	3/2	1	0.0062
E	E 201	1035/52	3/2	1	0.0062
E	E 202	1035/52	3/2	1	0.0062
E	E 203	1035/52	3/2	1	0.0062
E	E 204	1035/52	3/2	1	0.0062
E	E 205	1035/52	3/2	1	0.0062
E	E 206	1035/52	3/2	1	0.0062
E	E 207	1035/52	3/2	1	0.0062
E	E 208	1035/52	3/2	1	0.0062
E	E 209	1035/52	3/2	1	0.0062
E	E 301	1035/52	3/2	1	0.0062
E	E 302	1035/52	3/2	1	0.0062
E	E 303	1035/52	3/2	1	0.0062
E	E 304	1035/52	3/2	1	0.0062
E	E 305	1035/52	3/2	1	0.0062
E	E 306	1035/52	3/2	1	0.0062
E	E 307	1035/52	3/2	1	0.0062
E	E 308	1035/52	3/2	1	0.0062
E	E 309	1035/52	3/2	1	0.0062
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	27	27,945/1,404		27	0.1674
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F	F 101	599/35	1/1	1	0.0034
F	F 102	719/53	2/2	1	0.0043
F	F 103	719/53	2/2	1	0.0043
F	F 104	719/53	2/2	1	0.0043
F	F 105	719/53	2/2	1	0.0043
F	F 106	719/53	2/2	1	0.0043
F	F 107	719/53	2/2	1	0.0043
F	F 108	719/53	2/2	1	0.0043
F	F 109	719/53	2/2	1	0.0043
F	F 110	719/53	2/2	1	0.0043
F	F 111	719/53	2/2	1	0.0043
F	F 201	599/53	1/1	1	0.0034
F	F 202	719/53	2/2	1	0.0043
F	F 203	719/53	2/2	1	0.0043
F	F 204	719/53	2/2	1	0.0043
F	F 205	719/53	2/2	1	0.0043
F	F 206	719/53	2/2	1	0.0043
F	F 207	719/53	2/2	1	0.0043
F	F 208	719/53	2/2	1	0.0043
F	F 209	719/53	2/2	1	0.0043
F	F 210	719/53	2/2	1	0.0043
F	F 211	719/53	2/2	1	0.0043
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	22	15,578/1,201		22	0.0928

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/ Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
G	G 101	1035/53	3/2	1	0.0062
G	G 102	1035/53	3/2	1	0.0062
G	G 201	1035/53	3/2	1	0.0062
G	G 202	1035/53	3/2	1	0.0062
G	G 301	1035/53	3/2	1	0.0062
G	G 302	1035/53	3/2	1	0.0062
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	6	6,210/318		6	0.0372
H	H 001	728/58	2/2	1	0.0043
H	H 002	728/58	2/2	1	0.0043
H	H 003	728/58	2/2	1	0.0043
H	H 004	728/58	2/2	1	0.0043
H	H 005	728/58	2/2	1	0.0043
H	H 006	728/58	2/2	1	0.0043
H	H 007	728/58	2/2	1	0.0043
H	H 008	728/58	2/2	1	0.0043
H	H 009	728/58	2/2	1	0.0043
H	H 010	728/58	2/2	1	0.0043
H	H 101 (H)*	733/58	2/1	1	0.0044
H	H 102	733/58	2/2	1	0.0044
H	H 103	733/58	2/2	1	0.0044
H	H 104	733/58	2/2	1	0.0044
H	H 105	733/58	2/2	1	0.0044
H	H 106	733/58	2/2	1	0.0044
H	H 107	733/58	2/2	1	0.0044
H	H 108	733/58	2/2	1	0.0044
H	H 109	733/58	2/2	1	0.0044
H	H 110	733/58	2/2	1	0.0044
H	H 201	733/58	2/2	1	0.0044
H	H 202	733/58	2/2	1	0.0044
H	H 203	733/58	2/2	1	0.0044
H	H 204	733/58	2/2	1	0.0044
H	H 205	733/58	2/2	1	0.0044
H	H 206	733/58	2/2	1	0.0044
H	H 207	733/58	2/2	1	0.0044
H	H 208	733/58	2/2	1	0.0044
H	H 209	733/58	2/2	1	0.0044
H	H 210	733/58	2/2	1	0.0044
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	30	21,940/1,740		30	0.1310

<u>Bldg.</u>	<u>Residential Apartment</u>	<u>Net Living Area (sq.ft.) - Lanai</u>	<u>No. of Rooms/ Baths</u>	<u>Parking Stalls</u>	<u>% Common Interest</u>
I	I 001	1031/65	3/2	1	0.0061
I	I 002	1031/65	3/2	1	0.0061
I	I 101	1035/65	3/2	1	0.0062
I	I 102	1035/65	3/2	1	0.0062
I	I 201	1035/65	3/2	1	0.0062
I	I 202	1035/65	3/2	1	0.0062
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	6	6,202/390		6	0.0370

J	J 001	728/58	2/2	1	0.0043
J	J 002	728/58	2/2	1	0.0043
J	J 003	728/58	2/2	1	0.0043
J	J 004	728/58	2/2	1	0.0043
J	J 005	728/58	2/2	1	0.0043
J	J 006	728/58	2/2	1	0.0043
J	J 007	728/58	2/2	1	0.0043
J	J 008	728/58	2/2	1	0.0043
J	J 009	728/58	2/2	1	0.0043
J	J 010	728/58	2/2	1	0.0043
J	J 101	733/58	2/2	1	0.0044
J	J 102	733/58	2/2	1	0.0044
J	J 103	733/58	2/2	1	0.0044
J	J 104	733/58	2/2	1	0.0044
J	J 105	733/58	2/2	1	0.0044
J	J 106	733/58	2/2	1	0.0044
J	J 107	733/58	2/2	1	0.0044
J	J 108	733/58	2/2	1	0.0044
J	J 109	733/58	2/2	1	0.0044
J	J 110	733/58	2/2	1	0.0044
J	J 111	681/44	1/1	1	0.0044
J	J 201	733/58	2/2	1	0.0044
J	J 202	733/58	2/2	1	0.0044
J	J 203	733/58	2/2	1	0.0044
J	J 204	733/58	2/2	1	0.0044
J	J 205	733/58	2/2	1	0.0044
J	J 206	733/58	2/2	1	0.0044
J	J 207	733/58	2/2	1	0.0044
J	J 208	733/58	2/2	1	0.0044
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	29	21,155/1,624		29	0.1266

(prior amendment dated June 12, 1996, recorded as Document No. 96-147675)

EXHIBIT C

(Deleted per prior amendment dated December 28, 1995, recorded as Document No. 96-006815)