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CASTLE & COOKE LAND COMPANY, INC.
P.O. Box 2990
Honolulu, Hawaii 96802

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Tax Map Key No. (1) 3-9-008-061

DECLARATION OF CONDOMINIUM PROPERTY REGIME

OF

LALEA AT HAWAII KAI - PHASE III

THIS DOCUMENT CONTAINS 56 PAGES

NOT FOR REAL ESTATE TRANSACTIONS

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NOT FOR REAL ESTATE TRANSACTIONS

WHEREAS, CASTLE & COOKE HOMES HAWAII, INC., a Hawaii corporation, whose principal place of business is 650 Iwilei Road, Honolulu, Hawaii 96817, and whose post office address is P. O. Box 2780, Honolulu, Hawaii 96803, hereinafter referred to as the "Developer", is the owner in fee simple of certain real property situated at Maunalua, City and County of Honolulu, State of Hawaii, hereinafter referred to as the "Land", as more particularly described in Exhibit "A" attached hereto and hereby made a part hereof; and

WHEREAS, Developer intends to improve the Land by constructing thereon certain improvements in accordance with plans and specifications therefor filed in the Bureau of Conveyances of the State of Hawaii as Condominium File Plan 2707, hereinafter referred to as the "Condominium Map", which Condominium Map is hereby incorporated herein by reference;

NOW, THEREFORE, in order to create a condominium project consisting of said Land and the improvements constructed or to be constructed thereon (hereinafter called the "Project"), the Developer hereby submits said property and all of its interests therein to a Condominium Property Regime established by the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, hereinafter sometimes referred to as the "Condominium Property Act", and in furtherance thereof makes the following declarations as to divisions, limitations, restrictions, covenants and conditions, and hereby declares and agrees that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, restrictions and conditions set forth herein and in the By-Laws of the Association of Apartment Owners of LALEA at Hawaii Kai - Phase III (hereinafter referred to as the "By-Laws") recorded in the Bureau of Conveyances of the State of Hawaii concurrently herewith, as the same may be amended from time to time, which declarations, restrictions, and conditions shall constitute covenants running with the land and shall be binding on and for the benefit of the Developer and its successors and assigns, and all subsequent owners, lessees and sublessees of all or any part of the Project and their respective heirs, devisees, personal representatives, successors and assigns:

A. NAME OF PROJECT. The Condominium Property Regime established hereby shall be known as "LALEA AT HAWAII KAI - PHASE III".

B. DESCRIPTION OF LAND. All of the Land described in Exhibit "A" attached hereto is hereby submitted to the Condominium Property Regime.

C. DESCRIPTION OF BUILDINGS. There will be constructed on the Land, six (6) separate 2-story residential buildings, without basements, designated as Buildings 16 to 21, inclusive, all as shown on the Condominium Map. Buildings 16 and 19 each will contain thirteen (13) residential apartments. Buildings 18, 20 and 21 each will contain eleven (11) residential apartments. Building 17 will contain six (6) residential apartments. The apartments will be located in the buildings as set forth in Exhibit "B" attached hereto and hereby made a part hereof.

The buildings will be constructed primarily of wood and galvanized light gauge steel, but will also contain gypsum board, hardboard siding, asphalt shingles, glass and other allied construction materials.

In addition to the buildings, the Project will contain thirty-six (36) regular size, uncovered parking stalls [five (5) of which are guest parking stalls], twenty-one (21) compact size, uncovered parking stalls [seven (7) of which are guest parking stalls], and thirty-nine (39) uncovered, tandem parking stalls.

D. DIVISION OF PROJECT. The Project is hereby divided into the following separate freehold estates:

1. Apartments. Sixty-five (65) separate freehold estates are hereby established in the spaces within the perimeter walls, floors and ceilings of each of the sixty-five (65) apartments in the Project, as shown on the Condominium Map.

The sixty-five (65) apartments in the Project are identified by apartment number and apartment type on the Condominium Map and are located in the Project as shown on the Condominium Map. There are sixteen (16) two bedroom/one bath apartments, thirty-two (32) two bedroom/two bath apartments, and seventeen (17) three bedroom/two and one-half bath apartments in the Project. The floor plans of each of the apartments are as shown on the Condominium Map. Subject to the provisions of Section R of this Declaration, the apartments are described as follows:

Each Type A1 and Type A1R apartment will have two (2) bedrooms, one (1) bathroom, a living/dining room and a kitchen.

Each Type B, Type BR, Type C and Type CR apartment will have two (2) bedrooms, two (2) bathrooms, a living/dining room, a kitchen, a storage closet and a one-car garage. Initial purchasers of these apartment types will have an option to delete a bedroom and add a den in lieu thereof.

Each Type D1 and Type D1R apartment will have three (3) bedrooms, two and one-half (2-1/2) bathrooms, a living/dining room, a kitchen, a storage closet and a one-car garage.

Each Type EE and Type EER apartment will have three (3) bedrooms, two and one-half (2-1/2) bathrooms, a living/dining room, a kitchen and a one-car garage.

Subject to the provisions of Section R of this Declaration, each apartment will have the number of rooms and approximate net living floor area in square feet as set forth in Exhibit "B" attached hereto.

The approximate net living floor areas set forth in Exhibit "B" are based on measurements taken from the interior surface of all perimeter walls, except that no reduction is made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls. The approximate net garage floor areas set forth in Exhibit "B" are based on measurements taken from the interior surface of all perimeter walls which do not separate the interior of the apartments from the garages, from the exterior surface of all perimeter walls which separate the interior of the apartments from the garages, and from the interior edge of the garage doors, walls or other exterior boundaries of the garages. All floor areas set forth in Exhibit "B" are not exact but are approximations based on the floor plans of each type of apartment. All floor areas set forth in Exhibit "B" have also been rounded to the next lowest full square foot where the approximation of such floor areas exceed a square foot by any fraction of a square foot.

The measurements set forth in Exhibit "B" do not follow the designation of the limits of the apartments (the legally designated areas of the apartments) set forth below and the floor areas set forth in Exhibit "B" may be greater than the floor areas of the apartments as so designated and described below.

Each of the apartments will have immediate access to the walkways, stairways, roadways and/or other common areas of the Project and to the public roads.

Notwithstanding the floor areas set forth in Exhibit "B" and the manner in which such floor areas are measured, the respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, footings, supports, roofs and ceilings located within or at the perimeter of or surrounding such apartment. any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes or air exhaust running through or otherwise located within such apartment which are utilized for or serve more than one apartment, all of which are deemed common elements as hereinafter provided. Each apartment shall be deemed to include all of the walls and partitions which are not load-bearing and which are within its perimeter walls; the inner decorated or finished surfaces of all walls, floors, roofs and ceilings; all windows, window frames, louvers (if any), shutters (if any), doors and door frames along the perimeter of the apartment; the garage (if any) as shown on the Condominium Map; and all of the fixtures and appliances originally installed therein.

Should the descriptions and divisions set forth in this Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map, however, is intended to show only the layout, location, apartment numbers and dimensions of the apartments and elevations of the buildings and is not intended and shall not be deemed to contain or make any other representation or warranty.

2. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, being described and referred to herein as "common elements", including specifically, but not limited to:

(a) Said Land in fee simple;

(b) All foundations, columns, girders, beams, footings, floor slabs, supports, unfinished perimeter, party and load-bearing walls and partitions, roofs, stairways, walkways, corridors, ramps, fences (if any), entrances, entryways and exits of all buildings of the Project;

(c) All walkways, roadways, sidewalks, perimeter walls, retaining walls, fences (if any), gates (if any), yard areas, driveways, parking areas (other than the garages which are part of the respective apartments), loading zones, yards, grounds, landscaping, trash enclosures, mail kiosks and mailboxes;

(d) All pipes, cables, conduits, ducts, sewer lines, sewage treatment equipment and facilities (if any), electrical equipment, electrical closets, communications rooms, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas (if any), sewer, water, telephone and television signal distribution (if any);

(e) The thirty-six (36) regular size, uncovered parking stalls [five (5) of which are guest parking stalls], twenty-one (21) compact size, uncovered parking stalls [seven (7) of which are guest parking stalls], and thirty-nine (39) uncovered, tandem parking stalls, located in the parking areas of the Project, all as shown on the Condominium Map;

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

(g) The limited common elements described in Paragraph 3 of Section D hereinbelow.

3. 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) Each of the parking stalls, other than the parking stalls designated on the Condominium Map as guest parking stalls and the parking stalls located within the Parking Easement Area (as defined in Section F of this Declaration),

shall be a limited common element appurtenant to and reserved for the exclusive use of the apartment to which it is assigned, as set forth in Exhibit "B" attached hereto;

(b) Each of the yard areas within the Project (each of which shall consist of a yard and a lanai and some of which may include a storage closet as shown on the Condominium Map), designated on the Condominium Map as Yard Areas Y162 to Y164, inclusive, Y167, Y170, Y173 to Y177, inclusive, Y180 to Y182, inclusive, Y185, Y188, Y191 to Y194, inclusive, Y197, Y200, Y203 to Y206, inclusive, Y209, Y212, Y215 to Y217, inclusive, Y220, Y223 and Y226, shall be a limited common element appurtenant to and reserved for the exclusive use of the apartment to which it is assigned, as set forth in Exhibit "B" attached hereto;

(c) Any walkway, stairway, entrance, exit, or steps which would normally be used only for the purposes of ingress to and egress from a specific apartment or apartments shall be a limited common element appurtenant to and reserved for the exclusive use of such apartment or apartments;

(d) Any mailbox assigned to an apartment by the Developer or the Association of Apartment Owners of the Project shall be a limited common element appurtenant to and reserved for the exclusive use of such apartment.

E. COMMON INTEREST. Except as otherwise provided in Section S or in any other Section of this Declaration, each apartment shall have appurtenant thereto an undivided percentage interest in the common elements of the Project, hereinafter referred to as the "common interest", and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting, as set forth in Exhibit "B" attached hereto.

F. EASEMENTS. In addition to any easements described in Exhibit "A" attached hereto and to the exclusive easements established in the limited common elements, the apartments and common elements shall also have and be subject to the following easements:

1. Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes; and in all other apartments and common elements of the building in which it is located or any adjacent buildings for support.

2. If any part of the common elements now or hereafter encroaches upon any apartment or limited common element, or if any apartment now or hereafter encroaches upon any other apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof shall and does exist so long as such encroachment continues. In the event the buildings of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements or of any apartment due to such construction shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist for so long as such encroachment exists.

3. The Association of Apartment Owners of the Project shall have the irrevocable right, to be exercised by its Board of Directors or the Managing Agent, to have access to each apartment and/or 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 the inspection, installation, repair, maintenance or replacement of any common elements.

4. The Association of Apartment Owners of the Project shall have the right, exercisable by its Board of Directors, to designate, 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 easements for utilities or for any public purpose.

5. The Association of Apartment Owners of the Project 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 of the Project, for any reasonable purpose, which may include, but shall not be limited to, any of the same purposes set forth in Paragraph 4 of this Section 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.

6. Until December 31, 2002, the Developer shall have the right to conduct extensive sales activities utilizing the common elements and any apartment(s) still owned by the Developer, including the use of model apartments, sales and management offices, and extensive sales displays and activities.

7. Until December 31, 2002, the Developer, its agents, employees, contractors, licensees, successors and assigns shall have a nonexclusive easement over the common elements of the Project, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punchlist items in the common elements.

8. The Developer, its successors and assigns shall have a nonexclusive easement for access and utilities purposes over, under, across, along, upon and through the roadways which are included in the common elements of the Project, including, without limitation, Easements A-1 and A-3, as shown on File Plan 2179 filed in the Bureau of Conveyances of the State of Hawaii; together with the right to grant to the owner or owners from time to time of all or any portion of the land described in said Exhibit "C" and/or any public or private utility or other corporation, partnership, individual or entity, easements for such access and utilities purposes over, under, across, along, upon and through the roadways which are included in the common elements of the Project, including, without limitation, Easements A-1 and A-3, as shown on File Plan 2179 filed in said Bureau.

9. The Developer, its successors and assigns shall have a nonexclusive easement for drainage purposes over, under, across, along, upon and through Easements D-2 and D-6 as shown on File Plan 2179 filed in said Bureau (the "Drainage System Area"), together with the right to grant to the owner or owners of the land described in Exhibit "C" and/or any public or private utility or other corporation, partnership, individual or entity, easements for such drainage purposes over, under, across, along, upon and through Easements D-2 and D-6 as shown on File Plan 2179 filed in said Bureau.

10. The Developer, its successors and assigns shall have an exclusive easement for parking purposes over and upon Easements PS-8, PS-9 and PS-10, as shown on survey prepared by Laurance M. Masuda, Licensed Professional Land Surveyor with M&E Pacific, Inc., dated September 4, 1997, as set forth in instrument dated October 3, 1997, recorded in said Bureau as Document No. 97-135199 (the "Parking Easement Area"), together with the right to grant to the owner or owners from time to time of all or any portion of the land described in Exhibit "C" of the Declaration of Easements for such parking purposes over and upon Easements PS-8, PS-9 and PS-10, as shown on survey prepared by Laurance M. Masuda, Licensed Professional Land Surveyor with M&E Pacific, Inc., dated September 4, 1997, as set forth in instrument dated October 3, 1997, recorded in said Bureau as Document No. 97-135199; provided, however, that the foregoing easement rights of Developer (but not the easement rights of any other persons) shall terminate upon transfer by Developer of all of its right, title and interest in and to the land described in said Exhibit "C".

11. The Developer, its successors and assigns shall have nonexclusive easements for electrical, gas, telephone, cable television, communications and other utility purposes, and easements for sanitary sewer, drainage and drainline, waterline, and flowage purposes over, under, across, along, upon and through the Land, including but not limited to any and all Easements shown on File Plan 2179 filed in said Bureau, together with the right to designate easements for the aforesaid purposes, if necessary or desirable, subject to the reasonable consent of the Association of Apartment Owners as to location, and together also with rights of reasonable access thereto in connection with the exercise of said easement rights, and to grant to the owner or owners from time to time of all or any portion of the land described in Exhibit "C", the State of Hawaii, the City and County of Honolulu, the Board of Water Supply of the City and County of Honolulu, East Honolulu Community Services, Inc., their respective successors and assigns, any other appropriate governmental agency, and/or any other public or private utility or other corporation, partnership, individual or entity, easements for the purpose of providing such services over, under, across, along, upon and through the Land under the usual terms and conditions required by the grantee of such easement rights; provided, however, that such easement rights must be exercised in such manner as to not unreasonably interfere with the use of the Land by the apartment owners and those claiming by, through or under

the apartment owners, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements the Land shall be promptly restored by and at the expense of the person owning and exercising such easement rights to substantially the condition of the Land immediately prior to the exercise thereof; and the acceptance or acquisition by any party of any interest in the Project shall constitute an undertaking and agreement by such party (a) to join in and execute, upon request, any and all documents designating and/or granting any such easements, and (b) to perform and carry out at such party's expense, or to cause the Association of Apartment Owners to perform and carry out as a common expense, any obligation in any such grant of easement rights, or in any grant of easement specifically referred to in this Declaration, any obligation with respect to providing and maintaining any screening or landscaping or similar requirements to facilities within the Land which may now or hereafter be required by law, ordinance or governmental agency.

12. The Project is served, in whole or in part, by a private storm drainage system (the "Private Drainage System"). Pursuant to Section 14-12.12, Revised Ordinances of Honolulu 1990, as amended, the City and County of Honolulu (the "City") granted the Developer a license to connect the Private Drainage System to the City's storm sewer system. The terms and conditions of the license are set forth in an agreement signed by the Developer and approved by the City on March 6, 1996 (the "Drainage Agreement"). The Drainage Agreement provides, in part, as follows:

(a) The licensee (the "Licensee") shall bear the entire cost of engineering, construction and maintenance of the Private Drainage System.

(b) The Licensee shall indemnify and hold the City free and harmless from all suits and actions caused by the Licensee's acts or failure to act in connection with engineering, construction and maintenance of the Private Drainage System and its connection to the City drainage system.

(c) Construction of the Private Drainage system shall be made in accordance with plans and specifications approved by the Director and Chief Engineer, City and County of Honolulu, and subject to the Licensee's compliance with all applicable statutes, ordinances, and rules and regulations of Federal, State or City agencies having the effect of the law.

(d) Prior to any construction work, the Licensee shall obtain a permit to excavate the public right-of-way from the Division of Engineering, Department of Public Works, City and County of Honolulu.

(e) In the event any portion of the City's drainage system is damaged or destroyed during the construction of the private drain connection, the Licensee shall bear the entire cost of engineering and construction, or replacement of the damaged facility.

(f) No additions or alterations to the Private Drainage System will be made without the prior written consent of the City.

(g) The Private Drainage System shall remain the Licensee's property and the Licensee will be solely responsible for the maintenance and upkeep of the Licensee's property.

(h) In the event the Private Drainage System within the public right-of-way shall at any time interfere with any public use, the Licensee will relocate the Private Drainage System at the Licensee's expense.

(i) Any time the Licensee or anyone using the Licensee's property discharges pollutants or other objectionable material into the City drainage system which exceed applicable water standards of the State of Hawaii as identified in Section 11-54-4, Hawaii Administrative Rules, or otherwise misuses the system, or causes a violation of any provisions of the City National Pollutant Discharge Elimination System Permit, the violation shall be deemed a violation of the subject ordinance and the City, by written notice, may terminate the license.

(j) In the event the Licensee's discharge into the City drainage system includes storm water associated with industrial activity as defined in the Federal regulations, the Licensee shall obtain a National Pollutant Discharge Elimination System Permit and shall provide data on the characterization of the constituents, quantity of the effluent and discharge at the Licensee's expense within one (1) year after the date of connection, and annually thereafter or as the need may arise as determined by the Director and Chief Engineer.

(k) The Director and Chief Engineer, or his authorized representative, may during reasonable hours and upon notification to the Licensee enter any building or

premises in the discharge of his official duties, inspect or investigate, measure or test any effluent that is discharged into a private drainage system connected directly or indirectly to the City drainage system.

Each apartment owner acknowledges and agrees that the Developer hereby reserves the right to transfer or cause to be transferred to the Association some or all of the obligations, responsibilities and liabilities of the Licensee under the Drainage Agreement, and each owner and the Association shall execute any and all documents required by the Developer or the City to transfer such obligations, responsibilities and liabilities from the Developer to the Association. At the request of the Developer or the City, the Association shall enter into a new drainage system agreement with the City, which new agreement will supersede the Drainage Agreement. From and after any transfer to the Association of the Licensee's obligations and liabilities under the Drainage Agreement, or from and after termination of the Drainage Agreement and the execution of a new drainage system agreement by and between the Association and the City, each apartment owner and the Association shall indemnify and hold harmless the Developer, its affiliates, successors and assigns, from and against any and all claims and demands for damages or otherwise in connection with the Association's performance of its obligations as Licensee under the Drainage Agreement, or under any new drainage system agreement by and between the Association and the City, or under any permit issued to the Association in connection with the Private Drainage System. The acceptance or acquisition by any party of any interest in the Project shall constitute an undertaking and agreement by such party to execute any document or instrument necessary or appropriate, as determined by the Developer in its sole and absolute discretion, for the purpose of carrying out the provisions of this paragraph, and shall constitute an appointment by such party of the Developer as the true and lawful attorney-in-fact of such party to execute, acknowledge, deliver and record any and all such instruments. Said power of attorney shall be coupled with an interest and irrevocable, and shall not be affected by the disability of such party.

The Developer covenants and agrees with each apartment owner and the Association that as of the date of this Declaration, construction of the Private Drainage System is complete and all costs and expenses arising in connection with such construction have been paid.

G. ALTERATION AND TRANSFER OF INTERESTS.

Except as otherwise provided in Section S or in any other Section of this Declaration, the common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby as expressed in an amendment to this Declaration duly recorded in the Bureau of Conveyances of the State of Hawaii, shall not be separated from the apartment to which they appertain, 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. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Condominium Property Act.

H. PURPOSES AND RESTRICTIONS AS TO USE.

1. The apartments shall at all times be used only for residential or lodging purposes and shall be subject to any special use or occupancy requirements or restrictions on transfer set forth in the apartment deed conveying the apartment. If an apartment owner rents his apartment to any third party, the owner shall provide each rental tenant with a copy of this Declaration, the By-Laws and the Rules and Regulations and shall require each tenant to sign a written statement acknowledging that such tenant has received and read this Declaration, the By-Laws and the Rules and Regulations and agrees to comply fully therewith. An owner who rents his apartment shall at all times remain primarily and severally liable to all other apartment owners and to the Association for any failure on the part of such owner's tenant(s) to observe and comply with all provisions of this Declaration, the By-Laws, the Rules and Regulations and all other applicable laws. No apartment may be used for time sharing, as a rooming house, for bed and breakfast purposes, or for or in connection with the carrying on of any business, trade or profession except for such business and business related uses as are permitted by applicable zoning and defined in the Land Use Ordinance of the City and County of Honolulu as "Home Occupations". Other than the foregoing restrictions (including restrictions contained in the apartment deed conveying an apartment), the owners of the respective apartments shall have the absolute right to lease the same, provided that such lease is in writing and for a term of not less than thirty (30) days, and is expressly made subject to the covenants and restrictions contained in this Declaration, the By-Laws and the Rules and Regulations.

2. The Association of Apartment Owners of the Project and any apartment owner shall not suffer anything to be done or kept in his apartment or elsewhere in the Project which will (a) jeopardize the soundness of any building in the Project, (b) interfere with or otherwise unreasonably disturb the rights of other owners and occupants, (c) obstruct any walkway, stairway or corridor of any building, (d) increase the rate of fire or extended coverage insurance on any building or the contents thereof, or (e) reduce the value of any building.

3. Except as otherwise expressly provided in Section R of this Declaration, an apartment owner shall not, without the prior written consent of the Board of Directors of the Association, make any structural alteration in or additions to the apartment, make any interior alterations in or additions to the apartment visible from the exterior of the apartment, or make any alterations in or additions to the exterior of the apartment or to any other portion or portions of the common elements.

4. Notwithstanding anything contained hereinabove to the contrary, the Developer shall have the right to conduct extensive sales activities at and in the Project, including the use of model apartments, sales and management offices, and extensive sales displays and activities as set forth in Paragraph 6 of Section F of this Declaration.

5. As to all Type C and Type CR apartments located on the second floor of the residential buildings (the "Second Floor Apartments"), hard floor surfaces shall be limited to the areas of the entry foyer, the kitchen and the dining area, and vinyl flooring shall be required for the bathrooms, as provided in the original construction of the respective apartments. The owners of the Second Floor Apartments shall be required to utilize continuous carpet and pad over all other floor surfaces of such apartments, or to utilize such other flooring materials and/or systems which meet the acoustic standards of an Acoustic Impact Isolation Class of IIC 45 or better (ASTM Designation E497).

6. Notwithstanding anything to the contrary contained in this Declaration, the By-Laws or the Rules and Regulations, owners with disabilities shall be allowed reasonable exemptions from this Declaration, the By-Laws and the Rules and Regulations, when necessary to enable them to use and enjoy their apartments and the common elements, provided that any owner with a disability desiring

such an exemption shall make such request, in writing, to the Board. The request shall set forth, with specificity and in detail, the nature of the request and the reason that the requesting party needs to be granted such an exemption. The Board 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, or within forty-five (45) days of the Board's receipt of additional information reasonably required by the Board in order to consider such request, whichever shall last occur.

I. ADMINISTRATION OF PROJECT. Administration of the Project shall be vested in its Association of Apartment Owners, herein called the "Association," consisting of all apartment owners of the Project, in accordance with the By-Laws of the Association. Operation of the Project and maintenance, repair, replacement and restoration of the apartments, common elements, and any additions and alterations thereto, shall be in accordance with the provisions of said Condominium Property Act, this Declaration and the By-Laws, and specifically but without limitation the Association shall:

1. Make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the Project or any part thereof.

2. 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; provided, however, that unless otherwise specifically provided in Paragraph 4 of this Section I, the owner of each apartment shall be primarily responsible to keep such apartment and the yard area, if any, appurtenant to such apartment in such clean and sanitary condition.

3. Well and substantially repair, maintain, amend and keep all common elements of the Project with all necessary reparations and amendments whatsoever in good order and condition, except as otherwise provided herein; provided, however, that unless otherwise specifically provided in Paragraph 4 of this Section I, the owner of each apartment shall be primarily responsible to well and substantially repair, maintain, amend and keep such apartment and the yard area, if any, appurtenant to such apartment

with all such necessary reparations and amendments whatsoever in good order and condition.

4. Regularly inspect, maintain, paint, resurface and/or replace the exterior surfaces of all perimeter walls of the buildings and the exterior surfaces of all exterior doors, window frames, trim, fences and walls in the buildings, with the right to regulate the design and appearance of such exterior surfaces, the types of surfaces, and the types and colors of paint or other materials to be used, and with the right to enter, and permit entry by its contractors into, any apartment or limited common elements appurtenant thereto from time to time during reasonable hours as may be necessary for the performance of such inspection, maintenance, painting, resurfacing or replacement. Payment for any such inspection, maintenance, painting, resurfacing or replacement shall be made out of the general maintenance fund of the Association; provided, however, that any such inspection, maintenance, painting, resurfacing or replacement necessitated by the negligence, misuse or neglect of an apartment owner or occupant or any person under either of them shall be charged to such apartment owner or the apartment owner of the apartment of such occupant, as a special assessment secured by the lien created under Section K of this Declaration.

5. Maintain and keep said 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 apartment owner or his agent.

6. 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 of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with Section R of this Declaration and in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect, if so required by the Board of Directors of the Association, and approved by the Board of Directors of the Association, and complete any such improvements diligently after commencement thereof.

7. Before commencing or permitting construction of any improvement on or to the Project where the cost thereof exceeds Twenty-Five Thousand and No/100 Dollars (\$25,000.00) or such other amount as may be determined by the Board of Directors from time to time, obtain a performance and lien payment bond naming as obligees, the Board of Directors of the Association, the Association, and collectively all apartment owners and their respective mortgagees of record, as their respective interests may appear, with a responsible corporate surety authorized to do business in the State of Hawaii, guaranteeing the full and faithful performance of the contract for such construction free and clear of all mechanics' and materialmen's liens for such construction and the payment of all subcontractors, labor and materialmen, including mechanics' and materialmen's liens arising under Section 514A-16 of the Hawaii Revised Statutes, as the same may be amended from time to time, for a penal sum of not less than one hundred percent (100%) of the cost of such construction.

8. Have the irrevocable right, to be exercised by its Board of Directors or Managing Agent, to have access to any apartment or limited common elements appurtenant thereto from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein required to prevent damage to any apartments or common elements or for the installation, repair or replacement of any common elements.

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

10. Not commit any act or neglect whereby the Project or any part thereof at any time becomes subject to any attachment, judgment, lien, charge or encumbrance whatsoever.

11. Comply with all encumbrances, restrictive covenants and agreements, and setback lines affecting the use of the Land upon which the Project is situated which are referred to or described in Exhibit "A" attached hereto or otherwise affect the Land from time to time.

12. Be bound by the waivers of claims, rights of action and suits against the Developer, its successors and assigns, contained in the apartment conveyances by the Developer to purchasers of apartments in the Project, and the Association shall not bring against the Developer, 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 conveyances.

13. Well and substantially repair maintain, amend and keep the Drainage System Area with all necessary reparations and amendments whatsoever in good order and condition.

14. Maintain and keep the parkways adjoining the Land in compliance with the Landscape Maintenance Agreement dated April 29, 1996, between Developer and the Mariner's Ridge Maintenance Association recorded in said Bureau of Conveyances as Document No. 96-061153, as amended from time to time.

J. MANAGING AGENT AND SERVICE OF PROCESS.

Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent which shall be appointed by the Association in accordance with the By-Laws, except that the initial Managing Agent shall be appointed by the Developer. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Condominium Property Act. In addition, process may be served upon any member of the Board of Directors of the Association who has a residence or place of business within the City and County of Honolulu, State of Hawaii. Richard K. Mirikitani, whose principal place of business is at 650 Iwilei Road, Honolulu, Hawaii 96817, and whose post office address is P. O. Box 2780, Honolulu, Hawaii 96803, is hereby designated as the agent to receive service of process until such time the Developer designates a successor agent to receive service of process or such time as the Board of Directors of the Association is elected, whichever shall first occur.

K. COMMON EXPENSES.

1. Except as otherwise provided herein, all charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration of the Project, including without limitation of the generality of the foregoing, all charges for taxes (except real property taxes and such other taxes which are or may hereafter be assessed separately on each apartment and the common interest in the common elements appertaining thereto or the personal property or any other interest of the apartment owner), assessments, insurance, including fire and other casualty and liability insurance required to be maintained by the Association pursuant to Section L of this Declaration, any liability whatsoever for loss or damage arising

out of or in connection with the common elements or any accident, fire or nuisance thereon, costs of repair, reinstatement, rebuilding, replacement, and restoration of the common elements of the Project and any additions and alterations thereto, yard, janitorial and other similar services, wages, accounting and legal fees, management fees and other necessary expenses of upkeep, maintenance, management and operation incurred on or for the common elements of the Project, and the cost of all utility services, including water, electricity, gas, garbage disposal, telephone and other similar services, unless separately metered or assessed, the wages of the resident manager, if any, the cost of leasing the resident manager's apartment, if any, costs of maintaining and keeping the parkways adjoining the Land in compliance with the Landscape Maintenance Agreement, and all other sums designated as common expenses under the Condominium Property Act, this Declaration and the By-Laws, shall constitute common expenses of the Project for which all apartment owners shall be severally liable in proportion to the common interests appurtenant to their respective apartments; PROVIDED, HOWEVER, that all charges, costs and expenses incurred by the Association only for or in connection with any of the limited common elements, including without limitation of the generality of the foregoing, all costs of maintenance, repair, replacement, additions and improvements to the limited common elements, shall constitute limited common expenses of the Project for which only the owners of the apartments to which such limited common elements are appurtenant shall be severally liable in proportion to the ratio that their respective common interests bear to the sum of the common interests of the apartments to which such limited common elements are appurtenant (such charges, costs and expenses incurred only for or in connection with any of the limited common elements are hereinafter called "limited common expenses"); and PROVIDED, FURTHER, HOWEVER, that all charges, costs and expenses incurred by the Association which are necessitated by the negligence, misuse or neglect of an apartment owner or occupant or any person under either of them shall be charged to such apartment owner or the apartment owner of the apartment of such occupant, as a special assessment secured by the lien created under this Section K.

2. No apartment owner may exempt himself from liability for his contribution toward the common expenses or limited common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment.

3. The Board of Directors of the Association (herein sometimes called the "Board") shall from time to time assess the common expenses and limited common expenses against all the apartments in their respective proportionate shares as set forth in this Section K. All sums chargeable as common expenses or limited common expenses to any apartment but unpaid shall constitute a lien on such apartment prior to all other liens, except only (i) liens for taxes and assessments lawfully imposed by governmental authority against such apartment and (ii) liens for sums unpaid and costs and expenses, including attorneys' fees, on any mortgage of record which was recorded prior to the recordation of a notice of a lien by the Association. Such lien for an unpaid assessment may be foreclosed by suit by the Board or the Managing Agent on behalf of the Association, in like manner as the foreclosure of a mortgage of real property, 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 by 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 such apartment at foreclosure sale and to acquire, hold, lease, mortgage and convey such apartment. Action to recover a money judgment for unpaid common expenses or limited common expenses shall be maintainable without foreclosing or waiving the lien securing such expenses.

4. When the mortgagee of a mortgage of record or other purchaser of any apartment acquires title to such apartment as a result of a forfeiture or as a result of foreclosure of the mortgage or a conveyance in lieu of foreclosure, such mortgagee or purchaser and their respective heirs, devisees, personal representatives, successors and assigns shall not be liable for the share of the common expenses, limited common expenses or assessments chargeable to such apartment which became due prior to such acquisition of title. Such unpaid share shall be deemed common expenses collectible from all apartment owners, including such mortgagee or such other purchaser and their respective heirs, devisees, personal representatives, successors and assigns.

5. In a voluntary conveyance the grantee of an apartment shall be jointly and severally liable with the grantor for all unpaid common expenses, limited common expenses or assessments chargeable to such apartment up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. However, any such grantor or grantee shall be entitled to a statement from the Managing Agent or the Board setting forth the amount of the unpaid common expenses, limited common expenses or assessments chargeable to such apartment, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the 30-day period immediately preceding the date of such statement, the grantee shall not be liable for, nor shall the apartment conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in the statement.

6. No apartment owner shall withhold any assessment claimed by the Association. An apartment owner who disputes the amount of an assessment may request a written statement clearly indicating:

(a) The amount of common expenses or limited common expenses included in the assessment, including the due date of each amount claimed;

(b) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment;

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

(d) That under Hawaii law, an apartment owner has no right to withhold assessments for any reason;

(e) That an apartment owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of the Association's assessment, provided the apartment owner immediately pays the assessment in full and keeps assessments current; and

(f) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.

Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.

7. An apartment owner who pays the Association the full amount 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 apartment owner and the Association are unable to resolve the dispute through mediation, either party may file for arbitration under part VII of the Condominium Property Act; provided that an apartment owner may only file for arbitration if all amounts claimed by the Association are paid in full on or before the date of filing. If the apartment 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 apartment owner pays all Association assessments within thirty (30) days of the date of suspension, the apartment owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all Association assessments by the end of the 30-day period, the Association may ask the arbitrator to dismiss the arbitration proceedings. The apartment owner shall be entitled to a refund of any amounts paid to the Association which are not owed.

L. INSURANCE - CASUALTY AND LIABILITY.

1. The Association, at its common expense, shall at all times keep the buildings and all improvements, fixtures, common elements and whether or not part of the common elements, all exterior and interior walls, fences, gates, exterior doors, exterior glass, floors, roofs, ceilings, skylights (if any), fixtures, and mechanical and electrical equipment of the Project, in accordance with the as-built plans and specifications thereof, insured against loss or damage by fire and other damages under the Insurance Services Office, Inc. (ISO) condominium association coverage special form or equivalent or such broader forms of protection as the Board of Directors of the Association shall determine, in a responsible insurance company authorized to operate in the State of Hawaii having a financial rating by Best's Insurance Reports of Class A VI or better, in the name of the Association of Apartment Owners. Such insurance shall be in an amount equal to the sum of (a) an amount as near as practicable to the full replacement cost of all common elements and, whether or not part of the common elements, all exterior and interior

walls, floors and ceilings, and (b) an amount sufficient (as determined by the Board) to adequately protect all other portions of the buildings and all other fixtures, improvements and equipment covered by such insurance, without deduction for depreciation, and with an inflation guard endorsement and a water damage endorsement. Such insurance shall be payable in case of loss to such bank or trust company authorized to do business in the State of Hawaii as the Board of Directors of the Association shall designate (herein sometimes called the "Trustee") for the custody and disposition as hereinafter provided of all proceeds of such insurance, and the Association shall from time to time cause to be deposited with each mortgagee of record of any interest in an apartment, at least fifteen (15) days prior to the effective date or renewal date of such policies, true copies of such insurance policies or current certificates thereof, all without prejudice to the right of each apartment owner to insure his apartment for his own benefit. If any apartment owner shall notify the Association that such owner wishes to increase the amount of coverage for his apartment provided by such insurance, the Association shall obtain an endorsement to such policy providing for such increased coverage (if obtainable), and the increase in the premium as a result of such endorsement shall be specially assessed against such apartment, and said special assessment shall be secured by the lien created under Section K of this Declaration. Every such policy of insurance shall

(a) If obtainable, provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of any other insurance obtained by or for any apartment owner;

(b) Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board of Directors of the Association, the Managing Agent, any apartment owner or any other persons under any of them or because of any breach of warranty or condition or any other act or neglect by the Board of Directors of the Association, the Managing Agent, any apartment owner or any other persons under any of them;

(c) Provide that such policy may not be canceled or reduced by amount or type of coverage, whether or not requested by the Board of Directors of the Association, except by the insurer's giving at least sixty (60)

days' prior written notice thereof to the Board of Directors of the Association, any mortgagee of record of any interest in any apartment, and every other person in interest who shall have requested such notice of the insurer;

(d) If obtainable at reasonable cost, contain a waiver by the insurer of any right of subrogation to any right of the Board of Directors of the Association, the Association, the Managing Agent, or any of the apartment owners against any of them or any other persons under them;

(e) Contain a waiver by the insurer of any right to deny liability because of vacancy of any apartment or apartments;

(f) If obtainable at reasonable cost, contain a "severability of interest" endorsement precluding the insurer from denying the claim of the Board of Directors of the Association, the Association, the Managing Agent, or any apartment owner because of negligent acts of any of the others;

(g) Contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the Board of Directors of the Association with a written summary in layman's terms of the policy. The summary shall include the type of policy, a description of the coverage and limits thereof, amount of annual premium and renewal date(s). The Board of Directors of the Association shall provide this information to each apartment owner;

(h) Contain a standard mortgagee clause which shall:

(1) 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;

(2) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, the Association, the Managing Agent, any apartment owner or any other persons under any of them;

(3) 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

(4) 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,

(i) Contain a provision waiving any right of the insurer to repair, rebuild or replace if a decision is made pursuant to this Declaration and the by laws not to reinstate, rebuild or restore the damage or destruction;

(j) Shall satisfy all other requirements for insurance under said Condominium Property Act or other applicable federal, state or local law; and

(k) If obtainable, shall be accompanied by the certificate of a licensed insurance broker or agent certifying that the policy complies with and satisfies all of the requirements hereinabove set forth.

2. The Board of Directors of the Association, on behalf of the Association and at its common expense, shall also effect and maintain at all times a commercial general liability insurance policy written on an occurrence form to include coverage for premises and operations, independent contractors, products and completed operations, personal and advertising injury, blanket contractual liability, and fire legal liability with the following minimum limits:

Bodily Injury and Property Damage

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 Products and Completed Operations

Personal and Advertising Injury

\$1,000,000 per person/organization
\$1,000,000 general aggregate

Fire Legal Liability

\$100,000 any one fire
\$100,000 general aggregate

The policy shall cover the Board of Directors of the Association, the Association, all apartment owners, the Managing Agent and its employees, and the employees of the Association with respect to the Project, and it shall be issued by a responsible insurance company authorized to operate in the State of Hawaii having a financial rating by Best's Insurance Reports of Class A VI or better. The Board of Directors of the Association may from time to time increase the limits of insurance with due regard to then prevailing prudent business practice in the State of Hawaii as reasonably adequate for the Board's, the Association's, all apartment owners', the Managing Agent's and its employees' and the employees of the Association's protection, and shall from time to time cause to be deposited with each mortgagee of record of any interest in an apartment, at least fifteen (15) days prior to the effective date or renewal date of such policies, true copies of such insurance policies or current certificates thereof, all without prejudice to the right of the apartment owners to maintain additional liability insurance for their respective apartments. Each such policy of insurance shall:

(a) If obtainable, contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the buildings, whether or not within the control or knowledge of the Board of Directors of the Association, the Managing Agent or any apartment owner or any other persons under any of them or because of any breach of warranty or condition or any other act or neglect by the Board of Directors of the Association, the Managing Agent or any apartment owner or any other persons under any of them;

(b) Provide that the policy and the coverage provided thereunder may not be canceled or substantially modified by the insurer except by the insurer giving to the Board of Directors of the Association, every apartment owner, every mortgagee of record of any interest in any apartment and every other person in interest who shall have requested such notice from the insurer, sixty (60) days' prior written notice of such cancellation or modification;

(c) If obtainable at a reasonable cost, contain a waiver by the insurer of any right of subrogation to any right of the Board of Directors of the Association, the Managing Agent, the Association or any of the apartment owners against any of them or any other persons under them; and

(d) If obtainable at a reasonable cost, contain a "severability of interest" endorsement precluding the insurer from denying the claim of the Board of Directors of the Association, the Association, the Managing Agent or any apartment owner because of negligent acts of any of the others.

3. The Board of Directors of the Association may also procure insurance against such additional risks as the Board of Directors may deem advisable for the protection of the apartment owners of a character normally carried with respect to properties of comparable character and use in the State of Hawaii.

4. The Board of Directors of the Association will review not less frequently than annually the adequacy of its insurance program and shall report in writing its conclusions and action taken on such review to each apartment owner and to each mortgagee of record of any interest in an apartment which shall have requested a copy of such report. In conducting the review discussed in the immediately prior sentence, the Board of Directors may consult with its insurer or other insurance consultant. The Board of Directors of the Association shall increase the limits of all insurance from time to time so that the same are not less than such limits as are being carried generally for similar properties in the area. Copies of every policy of insurance procured by the Board of Directors of the Association shall be available for inspection by any apartment owner (or purchaser holding a contract to purchase an interest in an apartment) at the office of the Managing Agent.

5. Any insurance coverage procured by the Board of Directors of the Association shall be without prejudice to the right of any apartment owner to insure his apartment, the limited common elements appurtenant thereto, and the contents thereof for his own benefit and at his own expense.

6. Any insurance coverage required in this Section L shall be subject to availability with responsible insurance companies authorized to do business in the State of Hawaii. Where such coverage is not available, or is not available at a reasonable cost, then the Board shall substitute such other insurance coverage as is acceptable to institutional lenders for apartments in projects similar in construction, location and use.

M. INSURED CASUALTY.

1. If the Project is damaged by fire or other casualty which is insured against and said damage is limited to a single apartment and/or the limited common elements appurtenant thereto, all of the insurance proceeds shall be used by the Trustee for payment of the contractor employed by the Board of Directors of the Association to rebuild or repair such apartment and/or limited common elements, including paint, floor covering and fixtures, in accordance with plans and specifications therefor which will restore the same to the design immediately prior to destruction, or if reconstruction in accordance with said plans and specifications is not permissible under the laws then in force, in accordance with such plans and specifications as shall be previously approved by the Board of Directors of the Association and any mortgagee of record of any interest in the apartment so damaged.

2. If such damage extends to two or more apartments and/or the limited common elements appurtenant thereto, or to any other common elements, the Board of Directors of the Association shall thereupon contract to repair or rebuild the damaged portions of any building or buildings, including all apartments and limited common elements so damaged, as well as the common elements, in accordance with plans and specifications therefor which will restore the same to the design immediately prior to destruction, or if reconstruction in accordance with said design is not permissible under the laws then in force, in accordance with such modified plans as shall be previously approved by the Board of Directors of the Association and any mortgagee of record of any interest in an apartment directly affected thereby; provided that in the event said modified plans eliminate any apartment and such apartment is not reconstructed the Trustee shall pay the owner of said apartment and any mortgagee of record of any interest in said apartment, as their interests may appear, the portion of said insurance proceeds allocable to said apartment (less the proportionate share of said apartment in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds.

3. Prior to the commencement of any rebuilding or repair pursuant to this Section M, the Board of Directors or the apartment owner contracting for such rebuilding or repair shall comply with all of the requirements of Paragraph 6 of Section I of this Declaration.

4. The insurance proceeds shall be paid by the Trustee to the contractor employed for such work, in accordance with the terms of the contract for such construction and in accordance with the terms of this Section M. If the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding any common elements, the Board of Directors of the Association shall levy a special assessment on the owners of all apartments in proportion to their respective common interests. Any costs in excess of the insurance proceeds for the repairing and/or rebuilding of any apartment shall be specially assessed against such apartment and said special assessment shall be secured by the lien created under Section K of this Declaration.

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

(a) An architect or engineer (who may be an employee of the Board of Directors) shall be in charge of the work;

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

(c) Each request shall be accompanied by waivers of liens satisfactory to the Trustee, covering that part of the work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Trustee, that there has not been filed with respect to the premises any mechanics' or other lien or instrument for the retention of title with respect to any part of the work not discharged of record;

(d) 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 to render occupancy of the premises legal;

(e) The fees and expenses of the Trustee as determined by the Board of Directors and the 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 the hands of the Trustee; and

(f) Such other conditions not inconsistent with the foregoing as the Trustee may reasonably request

6. Upon completion of the work and payment in full therefor, any remaining proceeds of insurance then or thereafter in the hands of the Board of Directors of the Association or the Trustee shall be paid or credited to the owners of the apartments and the holders of any mortgages on the apartments, as their interests may appear, in proportion to the respective common interests appurtenant to each apartment.

7. To the extent that any loss, damage or destruction to any buildings or other property is covered by (or, under Paragraph 1 of Section L of this Declaration, should have been covered by) insurance procured by the Board of Directors of the Association, the Board of Directors of the Association shall have no claim or cause of action for such loss, damage or destruction against any apartment owner (other than for any special assessment levied pursuant to Paragraph 4 of this Section M). To the extent that any loss, damage or destruction to the property of any apartment owner is covered by insurance procured by such apartment owner, such apartment owner shall have no claim or cause of action for such loss, damage or destruction against the Board of Directors of the Association, the Managing Agent or any other apartment owner or any person claiming under any of them.

N. UNINSURED CASUALTY. In case at any time or times any improvements of the Project shall be substantially damaged or destroyed by any casualty not insured against, such improvements shall be rebuilt, repaired or restored unless seventy-five percent (75%) of all apartment owners vote not to rebuild, repair or restore. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or

destroyed, according to the original plans and specifications thereof or such other plans and specifications first approved in the same manner as provided in Paragraph 6 of Section I of this Declaration. Unless such 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 thereof to good order and condition and even grade.

O. CONDEMNATION.

1. In case at any time or times the Project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, all compensation and damages payable for or on account of the Land, the buildings and other improvements of the Project shall be payable to such bank or trust company authorized to do business in the State of Hawaii as the Board shall designate as trustee for all apartment owners and mortgagees of record affected thereby, according to the loss or damage to their respective apartments and appurtenant common interests, and shall be used promptly by the Association to the extent necessary for restoring or replacing said buildings and other improvements on the remaining Land according to modified plans and specifications therefor first approved as herein provided, unless such restoration or replacement is impractical in the circumstances. In the event of a partial taking in which any apartment is eliminated or not restored, the trustee shall disburse the portion of the proceeds of such award allocable to said apartment less the proportionate share of said apartment in the cost of debris removal, to the owner and mortgagee, if any, of said apartment, as their interests may appear. The condemnation trustee shall disburse the remainder of the proceeds of such award payable for or on account of said buildings and other improvements to the contractor engaged in such repair and restoration in the same manner funds are disbursed for repair and restoration work under Section M above, and in the event such proceeds are insufficient to pay the costs thereof the Board of Directors of the Association shall levy a special assessment or assessments on the owners of the apartments in the same manner as set forth in Paragraph 4 of Section M hereof in case of damage by fire or other casualty and said special assessment or assessments shall be secured by the lien created under Section K hereof. Unless such restoration or replacement is undertaken within a reasonable time after such condemnation, the Association at its common expense shall remove

all remains of such improvements so taken or condemned and restore the site thereof to good order and condition and even grade. In the event the sums received by the Trustee are in excess of the cost of repairing, restoring or removing said buildings and other improvements, such excess proceeds shall be divided between the owners of the apartments and any mortgagees of the apartments, as their interests may appear.

2. In case at any time or times only a leasehold interest in the Project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, then and in every such case, notwithstanding the foregoing provisions of Paragraph 1 of this Section O, all compensation and damages payable for or on account of such leasehold interest shall be payable to the apartment owners affected by such taking or condemnation and any mortgagees of such apartments, provided, however, that such taking or condemnation shall not affect the obligations of such apartment owners under this Declaration.

P. PARTIAL RESTORATION. Restoration of the Project with less than all of the apartments after casualty or condemnation may be undertaken by the Association only pursuant to an amended declaration, duly adopted by the affirmative vote of all of the apartment owners and by all holders of liens affecting all or any part of the Project, (i) removing the Project from the condominium property regime established by the execution and recordation of this Declaration, (ii) reconstituting all of the remaining apartments and common elements to be restored as a new condominium property regime, and (iii) providing for payment to the owner of each apartment not to be restored the agreed value of such apartment and the common interest appurtenant thereto.

Q. DETERMINATION AGAINST RESTORATION. When an election is permissible under the terms of this Declaration, the Project shall be repaired, rebuilt or restored in the event of damage or destruction to all or any part of the buildings and common elements, unless, within ninety (90) days after such damage or destruction, it is determined by the vote of seventy-five percent (75%) of the apartment owners (including the owners of seventy-five percent (75%) of the damaged or destroyed apartments) that the Project not be so repaired, rebuilt or restored.

R. ALTERATION OF PROJECT.

1. Except as otherwise provided herein or in the By-Laws, restoration, repair or replacement of the Project or of any building or other facility or construction of any additional building or structural alteration or addition to any structure, different in any material respect from said Condominium Map of the Project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, 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 holders of all liens affecting any of the apartments, and in accordance with all of the requirements of Paragraph 6 of Section I of this Declaration, and promptly upon completion of such restoration, replacement or construction, the Association shall duly 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; PROVIDED, HOWEVER, that notwithstanding any other provision in this Declaration to the contrary, the owner of an apartment may make any alterations or additions within an apartment and the owner of any two adjoining apartments may alter or remove all or portions of the intervening walls, at such owner's expense, if such alterations or additions are not visible from the exterior of the apartments and if the structural integrity of the building is not thereby affected. The alterations or additions permitted by the immediately preceding proviso shall require only the written approval thereof, including approval of the apartment owner's plans therefor, by the holders of first mortgage liens affecting such apartment (if the lien holders require such approval), by the appropriate agencies of the State of Hawaii and the City and County of Honolulu if such agencies so require, by the Board of Directors of the Association (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other apartment owners thereby directly affected (as determined in a reasonable manner by the Board of Directors of the Association) and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered. Prior to the termination of the common ownership of any two adjoining apartments, if the intervening walls shall have been altered or removed pursuant to the foregoing provision and any entrances sealed, the owner of such apartment shall restore such intervening walls and entrances to substantially the same condition in which they existed prior to such alteration or removal.

2. Notwithstanding any other provision in this Declaration to the contrary, prior to (a) the time that all apartments in the Project have been sold and recorded and (b) the recordation by the Developer of the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of said Condominium Property Act (but in no event later than December 31, 2002), the Developer shall have the right to make alterations in the Project (and to amend this Declaration and the Condominium Map accordingly) without the approval, consent or joinder of any apartment owner, 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 Project which is not sold and recorded; or to make other alterations in the Project (and to amend this Declaration and the Condominium Map accordingly) without the approval, consent or joinder of any apartment owner, which make minor changes in any apartment in the Project or the common elements which do not affect the physical location, design or size of any apartment which has been sold and recorded; PROVIDED, HOWEVER, that any such changes shall be reflected in an amendment to the Declaration as provided in Paragraph 3 of Section T of this Declaration. As used herein the term "sold and recorded" shall mean and refer to the sale of apartments in the Project and the recordation in the Bureau of Conveyances of the State of Hawaii of apartment conveyances transferring interests in the apartments from the Developer to parties not signatory to this Declaration.

3. Each Type B, Type BR, Type C and Type CR apartment in the Project will be offered to initial purchasers with an optional floor plan which deletes a bedroom and adds a den in lieu thereof. The basic floor plan and the optional floor plan for each of these apartment types are shown on the Condominium Map. Notwithstanding any other provision in this Declaration to the contrary, prior to the time that all apartments in the Project have been sold and recorded, the Developer shall have the right to make alterations in the Project (and to amend this Declaration and the Condominium Map accordingly) without the approval, consent or joinder of any apartment owner, to construct or modify each Type B, Type BR, Type C and Type CR apartment in accordance with the respective optional floor plans shown on the Condominium Map; PROVIDED, HOWEVER, that any such changes shall be reflected in an amendment to the Declaration as provided in Paragraph 5 of Section T of this Declaration. As used herein the term "sold and recorded" shall mean and refer to the sale of apartments in the Project and the recordation in the Bureau

of Conveyances of the State of Hawaii of apartment conveyances transferring interests in the apartments from the Developer to parties not signatory to this Declaration.

S. MERGER OF ADDITIONAL INCREMENTS.

1. Merger of Project with Additional Phases.

The provisions of that certain Declaration of Merger of Condominium Phases (hereinafter referred to as the "Declaration of Merger") recorded or to be recorded in the Bureau of Conveyances of the State of Hawaii concurrently herewith, as it may be amended from time to time, are incorporated into this Declaration and made a part hereof and shall govern in the event of a conflict with the provisions of this Declaration and the By-Laws. The Declaration of Merger, among other things, gives the Developer the right, in its sole and absolute discretion, to cause and effect an administrative merger or mergers of the Project with a condominium project or projects located or to be located on lands (or a portion or portions thereof) adjacent to the Land of the Project, which adjacent lands are described in Exhibit "C" attached hereto and hereby made a part hereof, as part of the same incremental plan of development of the Project such that the use of the respective common elements, the respective common expenses and the management of the respective affairs of the Project and the additional phases are shared, and the administration of the Project and the additional phases is unified under one association of apartment owners, but the ownership interests of the apartment owners in the Project and the additional phases are not altered or affected. The Declaration of Merger also gives the Developer the right, in its sole and absolute discretion, to cause and effect an ownership merger or mergers of the Project and the additional phases, as an alternative to an administrative merger or mergers of the Project and the additional phases, to provide for the common ownership of the Project and the additional phases, by all of the apartment owners of the Project and the additional phases. Upon an ownership merger, all of the apartments in the merged phases shall be treated as though they were all included in a single condominium project (the "Merged Project"), all common elements of the merged phases will become the common elements of the Merged Project, and each apartment owner's percentage of undivided interest in the common elements and in all common profits and expenses will be altered from the percentage set forth in Exhibit "B" of this Declaration to the applicable percentage to be set forth in the Certificate of Ownership Merger recorded by the Developer in accordance with the Declaration of Merger.

2. No Obligations Regarding Other Phases.

Nothing in this Section 5 as to merger shall be construed as a representation or warranty by Developer that any of the other phases will be developed or merged with the Project, or to require Developer to develop any of the other phases or to merge any of the other phases into the Project, or to prohibit Developer from dealing freely with the property described in Exhibit "C" attached hereto, including, without limitation, developing the whole or any part of such property for a purpose inconsistent with the merger of such property into the Project.

3. Easements for Construction and Sale of Other Phases.

In connection with, and only to the extent necessary for, the development, construction and sale of apartments and common elements in any of the other phases as aforesaid, the Developer, its employees, agents and contractors, shall have the right to enter upon the common elements of the Project for all purposes reasonably necessary for or useful to (a) the construction and completion of any of the other phases according to plans and specifications or amended plans and specifications approved by the officer of the City and County of Honolulu having jurisdiction over the issuance of building permits, (b) the sale of apartments in any of the other phases, (c) the connection of the apartments and common elements in any of the other phases, to utilities serving the Project, and (d) the relocation or realignment of any existing easements, rights-of-way or utilities, provided that any such relocation or realignment shall not materially impair or interfere with the use and enjoyment of any apartment in the Project. The Developer shall have, and hereby reserves, an easement over, under and across the common elements of the Project for the purposes of commencing and completing all work connected with or incidental to the development, construction and sale of the apartments and other improvements contemplated for any of the other phases, together with the right, in the form of an easement, to create and cause noise and other nuisances necessitated by and resulting from any work connected with or incidental to the development, construction and sale of the apartments and improvements contemplated for any of the other phases. The Developer 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 Project, easements over, under, across, along, upon and through the common elements for ingress and egress purposes, access purposes, parking purposes, recreation purposes, electrical, gas, communications and other utility

purposes, sanitary sewer, drainage and drainline, water-line, 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 Project or the common elements.

4. Easements for Sales Activities. Until December 31, 2002, the Developer shall have the right to conduct extensive sales activities utilizing the common elements of the Merged Project and any apartment(s) still owned by the Developer, including the use of model apartments, sales and management offices, and extensive sales displays and activities.

5. Easements for Completion of Improvements. Until December 31, 2002, the Developer, its agents, employees, contractors, licensees, successors and assigns shall have a nonexclusive easement over the common elements of the Merged Project, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punchlist items in the common elements of the Merged Project.

6. Easements in favor of Developer and Owner or Owners of the Land Described in Exhibit "C". The Developer has certain easements over, under, across, along, upon and through the Land, together with the right to grant some or all of said easements to the owner or owners from time to time of all or any portion of the land described in Exhibit "C". These easements include (a) nonexclusive easements for access and utilities purposes over, under, across, along and upon the roadways which are included in the common elements of the Project (the "Roadway Areas"), (b) nonexclusive easements for drainage purposes over, under, across, along, upon and through the Drainage System Area, and (c) exclusive easements for parking purposes over and upon the Parking Easement Area (the Roadway Areas, the Drainage System Area, the Parking Easement Area and all other easement areas subject to easements in favor of the Developer are herein collectively called the "Easement Areas"). The Association, and not the Developer, is responsible for the maintenance, repair, replacement and restoration of the Easement Areas. Notwithstanding the foregoing, in the event the Project is merged with any of the other phases, upon such merger the responsibility for the maintenance, repair, replacement and restoration of the

Easement Areas will be determined in accordance with the provisions of the Declaration of Merger.

T. AMENDMENT OF DECLARATION.

1. Except as otherwise provided herein or in said Condominium Property Act, this Declaration may be amended by the affirmative vote or written consent of the owners of apartments to which are appurtenant seventy-five percent (75%) of the common interests, and shall be effective only upon the recordation in the Bureau of Conveyances of the State of Hawaii of an instrument setting forth such amendment and vote or written consent duly executed by the proper officers of the Association; provided, however, that this Section T and any other provision herein which gives the Developer any right or authority can be amended only if, in addition to such vote or written consent of the apartment owners, Developer or its successors or assigns gives written consent to such amendment; provided further, however, that the approval of eligible holders of first mortgages (as defined below) on apartments to which at least fifty-one percent (51%) of the votes of units subject to mortgages held by such eligible holders are allocated shall be required to materially amend any provision herein, or to add any material provisions hereto, which establish, provide for, govern or regulate any of the following: (a) voting; (b) assessments, assessment liens or subordination of such liens; (c) reserves for maintenance, repair and replacement of the common elements; (d) insurance or fidelity bonds; (e) right of use of the common elements; (f) responsibility for maintenance and repair of the several portions of the Project; (g) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (h) boundaries of any apartment; (i) the interests in the common elements or limited common elements; (j) convertibility of apartments into common elements or of common elements into apartments; (k) leasing of apartments; and (l) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her apartment. To qualify as an "eligible holder of first mortgage", a first mortgagee must have made a written request to the Association for timely written notice of proposed amendments to the condominium instruments. In the event that an eligible holder of first mortgage fails to appear at a meeting of the Association at which amendments to this Declaration are proposed and considered, or fails to file a written response with the Association within thirty (30) days after it receives proper notice of the proposed amendment, delivered by

certified or registered mail, with a "return receipt" requested, then and in any such event the approval of such amendments by such eligible holder of first mortgage shall be conclusively assumed. Notwithstanding the foregoing, at any time prior to the recordation in the Bureau of Conveyances of the first apartment conveyance in favor of a party not a signatory to this Declaration, the Developer hereby reserves the right to amend this Declaration, the By-Laws and the Condominium Map in any manner, without the approval, consent or joinder of any other person.

2. Notwithstanding the foregoing and until the recordation in said Bureau of Conveyances of apartment conveyances or agreements of sale with respect to all of the apartments in the Project, in favor of parties not a signatory to this Declaration, the Developer hereby reserves the right to amend this Declaration, the By-Laws and the Condominium Map, without the approval, consent or joinder of any purchaser of an apartment or any of the persons then owning or leasing any apartment, to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Project or any of the apartments, by any institutional lender lending funds on the security of the Project or any of the apartments, or by any governmental agency; 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.

3. Notwithstanding the foregoing and notwithstanding the recordation of any apartment conveyances or agreements of sale with respect to any or all of the apartments in favor of any person, the Developer hereby reserves the right to successively amend this Declaration (including the By-Laws and, when applicable, the Condominium Map), without the approval, consent or joinder of any purchaser of an apartment or any of the persons then owning or leasing any apartment, to file the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of said Condominium Property Act, (i) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout,

location, apartment numbers and dimensions of the apartments as built, or (ii) so long as any plans filed there-with involve only changes to the layout, location, apartment numbers or dimensions of or other changes to the apartments and common elements as built which the Developer is permitted to make in accordance with Paragraph 2 of Section R of this Declaration.

4. Notwithstanding the foregoing, apartment owners shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of this Declaration and the respective deed(s) involved. The amendment need only be signed by the owners (and their respective mortgagees, if any) of the apartments whose parking stalls are being changed. The amendment shall be effective only upon recordation in the Bureau of Conveyances of the State of Hawaii. Notwithstanding the foregoing, the Developer hereby reserves the right to amend this Declaration, without the approval, consent or joinder of any other person, to change the designation of parking stalls which are appurtenant to apartments owned by the Developer. The amendment need only be signed by the Developer and shall be effective upon recordation in the Bureau of Conveyances.

5. Notwithstanding the foregoing and notwithstanding the recordation of any apartment conveyances or agreements of sale with respect to any or all of the apartments in favor of any person, the Developer hereby reserves the right to successively amend this Declaration (including the By-Laws and, when applicable, the Condominium Map), without the approval, consent or joinder of any purchaser of an apartment or any of the persons then owning or leasing any apartment, or any other person, to make such amendments necessary or appropriate to reflect such alterations in the Project which the Developer is permitted to make in accordance with Paragraph 3 of Section R of this Declaration.

U. COMPLIANCE WITH DECLARATION AND BY-LAWS.

All apartment owners, their tenants, lessees, families, servants, guests, invitees, licensees, employees, and any other persons who may in any manner use the Project, or any part thereof, shall be bound by and subject to the provisions of said Condominium Property Act and to the provisions of this Declaration, the By-Laws of the Association, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time. All apartment owners, their tenants, lessees, families, servants, guests, invitees, licensees, employees, and any

other persons who in any manner use the Project, or any part thereof, shall comply strictly with the By-Laws and with the Rules and Regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration. 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 Managing Agent or the Board of Directors of the Association on behalf of the Association or by the Developer or, in a proper case, by an aggrieved apartment owner.

In the event of the failure of any apartment owner to comply fully with any of the foregoing within thirty (30) days after written demand therefor by the Board of Directors of the Association, the Board of Directors shall promptly give written notice of such failure to the holder of any mortgage of such apartment as shown in the Association's record of ownership or who has given the Board of Directors notice of its interest through the Secretary of the Association or the Managing Agent.

All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association or the Board of Directors for:

1. collecting any delinquent assessments against any owner's apartment; or
2. foreclosing any lien thereon; or
3. enforcing any provision of this Declaration, the By-Laws, the Rules and Regulations adopted pursuant to the By-Laws or said Condominium Property Act; or
4. enforcing the rules of the Real Estate Commission of the State of Hawaii

against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the Project shall be promptly paid on demand to the Association by such person or persons; provided that if the claims upon which the Association or Board of Directors takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any such person or persons as a result of the action of the Association or Board of Directors, shall be promptly paid on demand to such person or persons by the Association.

If any claim by an owner is substantiated in any action against the Association, any of its officers or directors, or the Board of Directors to enforce any provision of this Declaration, the By-Laws of the Association, the Rules and Regulations adopted pursuant thereto, or the Condominium Property Act, then all reasonable and necessary expenses, costs and attorneys' fees incurred by the owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless: (i) the owner first shall have demanded and allowed reasonable time for the Board of Directors to pursue such enforcement; or (ii) the owner demonstrates to the satisfaction of the court that a demand for enforcement made to the Board of Directors would have been fruitless.

The acceptance of an apartment conveyance, agreement of sale, mortgage or rental agreement, or the entering into occupancy of any apartment in the Project, shall constitute an agreement that the provisions of this Declaration, the By-Laws of the Association and the Rules and Regulations adopted pursuant thereto, as each may be amended from time to time, are accepted, ratified and will be strictly complied with by an apartment owner, his tenants, lessees, family, servants, guests, invitees, licensees and employees, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such apartment as though such provisions were recited and stipulated at length in each and every apartment conveyance, agreement of sale, mortgage or rental agreement thereof.

The Association shall be bound by the waivers of claims, rights of action and suits against the Developer, its successors and assigns, contained in the apartment conveyances by the Developer to purchasers of apartments in the Project, and the Association shall not bring against the Developer, 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 conveyances.

V. SECURITY. Neither the Developer nor the Association shall be considered in any way an insurer or guarantor of security within the Project and each apartment owner agrees not to hold the Developer or the Association liable for any loss or damage such apartment owner or anyone else may suffer by reason of a failure to provide adequate security or from the ineffectiveness of any security measures undertaken at the Project. Each apartment owner assumes all risk of injury, loss or damage that

may arise due to a failure to provide adequate security or from the ineffectiveness of any security measures undertaken at the Project. By acquiring an interest in an apartment in the Project, each apartment owner acknowledges and agrees that neither the Developer nor the Association has made any representations or warranties, either express or implied, about any security measures at the Project and such apartment owner has not relied upon any such representations or warranties.

W. MEDIATION/ARBITRATION OF CERTAIN DISPUTES INVOLVING THE DEVELOPER OR DEVELOPMENT TEAM MEMBERS. If any dispute or claim arises in connection with the design, development, construction, sale, marketing, financing, warranties, or any other activity or matter relating to the Project, between one or more apartment owners and/or the Association, on the one hand, and the Developer, on the other hand (a "Dispute"), and the parties to such Dispute are unable to resolve the Dispute through negotiation, the apartment owner(s), the Association and the Developer will attempt in good faith to settle such Dispute by non-binding mediation conducted in Honolulu, Hawaii. The mediation shall be conducted under the Commercial Mediation Rules of the American Arbitration Association ("AAA") except as may be inconsistent with this section; provided, however, that the parties may agree on the selection of a single mediator instead of having a mediator appointed by AAA, and the parties may agree to use a recognized mediation service other than AAA. The costs for the mediator shall be shared equally by the parties, and each party shall be responsible to pay all other fees and costs, including attorneys' fees, that it incurs in connection with the mediation. At the Developer's option, the mediation shall include any of Developer's agents, architects, consultants, engineers, contractors, subcontractors, suppliers, representatives or other third parties (the "Other ADR Parties") as parties.

If the parties are unable to resolve the Dispute through mediation as provided in the preceding section within 30 calendar days after either party's written request to the other to commence the mediation process, then such Dispute shall be decided in Honolulu, Hawaii, by neutral binding arbitration. The arbitration shall be conducted before a single arbitrator acting under the Commercial Arbitration Rules of the AAA, except as may be inconsistent with this section; provided, however, that the parties may agree on the selection of a single arbitrator instead of having an arbitrator appointed by AAA, and the parties may agree to use a recognized arbitration service other than AAA. Judgment upon an award rendered by the

arbitrator may be entered in any court having jurisdiction thereof in accordance with Chapter 658 of the Hawaii Revised Statutes. The costs for such arbitrator shall be shared equally by the parties, and each party shall be responsible to pay all other fees and costs, including attorneys' fees, that it incurs in connection with the arbitration. No punitive damages shall be awarded in any Dispute involving an apartment owner, the Association, the Developer or any Other ADR Parties. At Developer's option, the arbitration shall include any of the Other ADR Parties as parties.

X. MEDIATION/ARBITRATION OF DISPUTES CONCERNING THE CONDOMINIUM PROPERTY ACT, THIS DECLARATION, THE BY-LAWS, THE RULES AND REGULATIONS AND OTHER MATTERS. If a dispute arises concerning or involving one or more apartment owners and the Association, the Board, the Managing Agent or one or more other apartment owners relating to the interpretation, application or enforcement of the Condominium Property Act or this Declaration, the By-Laws or the Rules and Regulations, or relating to a determination of the value of an apartment pursuant to Section P of this Declaration, the parties involved in such dispute shall first try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, at the request of any party, any remaining unresolved controversy, shall be submitted to arbitration as provided by Section 514A-121 of the Condominium Property Act. Nothing in this paragraph shall be interpreted to require the arbitration of any dispute which is either exempt from arbitration pursuant to Section 514A-121 of the Condominium Property Act or determined to be unsuitable for arbitration pursuant to Section 514A-122 of the Condominium Property Act.

Y. CHANGES IN LAW. In the event any change in the Condominium Property Act shall result in a conflict or inconsistency between the provisions of this Declaration and the Condominium Property Act, the provisions of the Condominium Property Act shall prevail.

Z. 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 therein.

AA. 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 the number of violations or breaches which may occur.

AB. 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 this Declaration or the intent of any provision hereof.

AC. DEFINITIONS. The terms "majority" or "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests. The term "apartment conveyance" herein means an apartment deed conveying an apartment in the Project, together with the common interest appurtenant thereto, to the purchaser thereof. References to "Developer" shall include the Developer and its successors and assigns.

IN WITNESS WHEREOF, the Developer has executed these presents this 26th day of March, 1998.

CASTLE & COOKE HOMES HAWAII, INC.

By Roland Kim
Its Vice President ROLAND KIM

By Michael Y. W. Lum
Its Vice President MICHAEL Y. W. LUM

Developer

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

On this 26th day of March, 1998,

before me appeared ROLAND KIM and

MICHAEL Y. W. LUM, to me personally known, who,
being by me duly sworn, did say that they are the
Vice President and Vice President
respectively, of CASTLE & COOKE HOMES HAWAII, INC.,
Hawaii corporation; that said instrument was signed in
behalf of said corporation by authority of its Board of
Directors; and said officers acknowledged said instrument
to be the free act and deed of said corporation.

Cynthia K. Kadleau
Notary Public, State of Hawaii

My commission expires: 3/24/2002

EXHIBIT "A"

That certain parcel of land situate at Maunaloa, City and County of Honolulu, State of Hawaii, more particularly described as Lot 1-C of "LALEA AT HAWAII KAI" as shown on File Plan 2179, filed in the Bureau of Conveyances of the State of Hawaii, area 3.944 acres, more or less.

TOGETHER WITH the following:

1. A nonexclusive, appurtenant easement for access and utilities purposes over, under, across, along, upon and through Easement A-1, as shown on File Plan 2179, filed in said Bureau of Conveyances; PROVIDED, HOWEVER, that in the event that said easement or portion thereof shall be conveyed to the State of Hawaii, the City and County of Honolulu or other governmental authority and dedicated to public use, said easement or portion thereof so conveyed and dedicated shall immediately terminate.

2. A nonexclusive, appurtenant easement for park purposes over and upon Easement P-2, as shown on File Plan 2179 filed in said Bureau of Conveyances.

3. A nonexclusive, appurtenant easement for recreation purposes over and upon Easement P-1, as shown on File Plan 2179 filed in said Bureau of Conveyances.

4. A nonexclusive, appurtenant easement for drainage purposes over, under, across, along, upon and through Easements D-2, D-5, D-6 and D-7, as shown on File Plan 2179 filed in said Bureau of Conveyances.

5. A nonexclusive, appurtenant easement for water purposes over, under, across, along, upon and through Easement W-2, as shown on File and upon Easement W-2, as shown on File Plan 2179 filed in said Bureau of Conveyances.

6. A nonexclusive, appurtenant easement for sewer purposes over, under, across, along, upon and through Easement S-2, as shown on File Plan 2179 filed in said Bureau of Conveyances.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all minerals and metallic mines.

2. Grant dated May 1, 1969, recorded in Liber 6542 at Page 182, in favor of Hawaiian Electric Company, Inc., a Hawaii corporation, granting an easement for utility purposes; as amended by instrument recorded in Liber 8197 at Page 137.

3. Grant dated February 17, 1972, recorded in Liber 8197 at Page 137, in favor of Hawaiian Electric Company, Inc., a Hawaii corporation, granting an easement for utility purposes.

4. Grant dated May 28, 1974, recorded in Liber 10448 at Page 200, in favor of the City and County of Honolulu, granting an easement for flowage purposes.

5. Unilateral Agreement and Declaration for Conditional Zoning dated July 3, 1986, recorded in Liber 19645 at Page 696.

6. Declaration of Restrictive Covenants (Private Park) dated June 3, 1991, recorded as Document No. 91-119313, as amended.

7. Reservation contained in reservation 1 of Exhibit A of Limited Warranty Deed dated September 29, 1992, recorded as Document No. 92-186490 (but excluding the areas described in Exhibit A-2 hereto).

8. Terms and provisions of unrecorded Agreement dated August 17, 1994 as disclosed by Limited Warranty Deed dated December 20, 1994, recorded as Document No. 94-207355.

9. Covenants in Limited Warranty Deed dated December 20, 1994, recorded as Document No. 94-207355.

10. East Honolulu Community Services, Inc.'s Development Sewer Connection Agreement dated December 16, 1994, recorded as Document No. 94-207356.

11. Declaration of Restrictive Covenants (Private Park) dated November 13, 1995, recorded as Document No. 96-061152, as amended from time to time.

12. Landscape Maintenance Agreement dated April 29, 1996, between Castle & Cooke Homes Hawaii, Inc. and Mariner's Ridge Maintenance Association, recorded as Document No. 96-061153, as amended from time to time.

13. Easements "A-1" and "A-3" for access and utility purposes, as shown on File Plan 2179.

14. Easements "D-2" and "D-6" for drainage purposes, as shown on File Plan 2179.

15. Easements "PS-4", "PS-5", "PS-6" and "PS-7" for parking purposes, as shown on File Plan 2179.

16. Declaration of Merger of Condominium Phases dated June 24, 1996, recorded as Document No. 96-091382, as amended from time to time.

17. Grant dated July 15, 1996, recorded as Document No. 96-112110, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated, granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate transformer vault sites, pull boxes, hand holes, and underground wire lines, etc. for transmission and distribution of electricity.

18. Agreement for Issuance of Conditional Use Permit Under Section 4.40-21 of the Land Use Ordinance (LUC) dated July 15, 1996, recorded as Document No. 96-112769.

19. Easements "PS-8", "PS-9" and "PS-10" for parking purposes, as shown on survey prepared by Laurance M. Masuda, Licensed Professional Land Surveyor with M&E Pacific, Inc., dated September 4, 1997, as set forth in instrument dated October 3, 1997, recorded as Document No. 97-135199.

EXHIBIT "B"

Apt. No.	Apt. Type	Bldg. No.	Parking Stall No(s).	Yard Area No.	No. of Rooms in Apt.	Approx. Net Living Floor Area in Sq. Ft.	Approx. Net Garage Floor Area in Sq. Ft.	Common Interest
162	D1	16	143C	Y162	8	1113	282	1.78035%
163	D1R	16	142	Y163	8	1113	282	1.78034%
164	B	16	T229	Y164	6	908	224	1.45243%
165	C	16	T230	--	6	947	241	1.51481%
166	A1	16	231, 300	--	5	850	--	1.35965%
167	B	16	T232	Y167	6	908	224	1.45243%
168	C	16	T233	--	6	947	241	1.51481%
169	A1	16	234C, 314	--	5	850	--	1.35965%
170	BR	16	T236	Y170	6	908	224	1.45243%
171	CR	16	T235	--	6	947	241	1.51481%
172	A1R	16	313, 245C	--	5	850	--	1.35965%
173	D1R	16	237C	Y173	8	1113	282	1.78034%
174	D1	16	238	Y174	8	1113	282	1.78035%
175	D1	17	246C	Y175	8	1113	282	1.78035%
176	D1R	17	243	Y176	8	1113	282	1.78034%
177	BR	17	T240	Y177	6	908	224	1.45243%
178	CR	17	T239	--	6	947	241	1.51481%
179	A1R	17	241, 244C	--	5	850	--	1.35965%
180	EE	17	T242	Y180	8	1158	249	1.85233%
181	EER	18	T247	Y181	8	1158	249	1.85233%
182	B	18	T249	Y182	6	908	224	1.45243%
183	C	18	T250	--	6	947	241	1.51481%
184	A1	18	248, 251	--	5	850	--	1.35965%
185	B	18	T252	Y185	6	908	224	1.45243%
186	C	18	T253	--	6	947	241	1.51481%

Apt. No.	Apt. Type	Bldg. No.	Parking Stall No(s).	Yard Area No.	No. of Rooms in Apt.	Approx. Net Living Floor Area in Sq. Ft.	Approx. Net Garage Floor Area in Sq. Ft.	Common Interest
187	A1	18	254C, 315	--	5	850	--	1.35965%
188	BR	18	T256	Y188	6	908	224	1.45243%
189	CR	18	T255	--	6	947	241	1.51481%
190	A1R	18	257, 316	--	5	850	--	1.35965%
191	EE	18	T258	Y191	8	1158	249	1.85233%
192	D1	19	262	Y192	8	1113	282	1.78035%
193	D1R	19	263	Y193	8	1113	282	1.78034%
194	B	19	T276	Y194	6	908	224	1.45243%
195	C	19	T277	--	6	947	241	1.51481%
196	A1	19	317C, 320	--	5	850	--	1.35965%
197	B	19	T279	Y197	6	908	224	1.45243%
198	C	19	T280	--	6	947	241	1.51481%
199	A1	19	278, 318	--	5	850	--	1.35965%
200	BR	19	T283	Y200	6	908	224	1.45243%
201	CR	19	T282	--	6	947	241	1.51481%
202	A1R	19	281C, 319	--	5	850	--	1.35965%
203	D1	19	150C	Y203	8	1113	282	1.78035%
204	D1R	19	151C	Y204	8	1113	282	1.78034%
205	EE	20	T284	Y205	8	1158	249	1.85233%
206	BR	20	T286	Y206	6	908	224	1.45243%
207	CR	20	T287	--	6	947	221	1.51481%
208	A1R	20	285, 288	--	5	850	--	1.35965%
209	BR	20	T289	Y209	6	908	224	1.45243%
210	CR	20	T290	--	6	947	241	1.51481%
211	A1R	20	291C, 296	--	5	850	--	1.35965%
212	B	20	T293	Y212	6	908	224	1.45243%
213	C	20	T292	--	6	947	241	1.51481%
214	A1	20	294, 297	--	5	850	--	1.35965%
215	EER	20	T295	Y215	8	1158	249	1.85233%

Apt. No.	Apt. Type	Bldg. No.	Parking Stall No(s).	Yard Area No.	No. of Rooms in Apt.	Approx. Net Living Floor Area in Sq. Ft.	Approx. Net Garage Floor Area in Sq. Ft.	Common Interest
216	EE	21	T301	Y216	8	1158	249	1.85233%
217	BR	21	T303	Y217	6	908	224	1.45243%
218	CR	21	T304	--	6	947	241	1.51481%
219	A1R	21	299C, 302	--	5	850	--	1.35965%
220	BR	21	T306	Y220	6	908	224	1.45243%
221	CR	21	T307	--	6	947	241	1.51481%
222	A1R	21	298, 305	--	5	850	--	1.35965%
223	B	21	T310	Y223	6	908	224	1.45243%
224	C	21	T309	--	6	947	241	1.51481%
225	A1	21	308C, 311	--	5	850	--	1.35965%
226	EER	21	T312	Y226	8	1158	249	1.85233%

NOTE: All parking stalls beginning with the letter "T" are tandem stalls.

All other parking stalls are non-tandem stalls.

All parking stalls ending with the letter "C" are compact size stalls.

All other parking stalls are regular size.

Parking stall nos. 259, 260 and 261 are reserved for the exclusive use of the Developer and/or the owner or owners from time to time of all or any portion of the land described in Exhibit "C" of this Declaration.

Initial purchasers of Type B, Type BR, Type C and Type CR apartments have certain options to modify their floor plans in the manner described in this Declaration. In the event that the floor plans are modified pursuant to exercise of such options, the number of rooms in the various apartment types will remain the same.

EXHIBIT "C"

PHASE I

That certain parcel of land situate at Maunaloa, City and County of Honolulu, State of Hawaii, more particularly described as Lot 1-A of "LALEA AT HAWAII KAI", as shown on File Plan 2179, filed in the Bureau of Conveyances of the State of Hawaii, area 6.294 acres, more or less.

PHASE II

That certain parcel of land situate at Maunaloa, City and County of Honolulu, State of Hawaii, more particularly described as Lot 1-B of "LALEA AT HAWAII KAI", as shown on File Plan 2179, filed in the Bureau of Conveyances of the State of Hawaii, area 6.899 acres, more or less.

ADDITIONAL PHASE

That certain parcel of land situate at Maunaloa, City and County of Honolulu, State of Hawaii, more particularly described as Lot 1-D of "LALEA AT HAWAII KAI", as shown on File Plan 2179, filed in the Bureau of Conveyances of the State of Hawaii, area 5.512 acres, more or less.

NOT FOR REAL ESTATE TRANSACTIONS