

KIHEI RESORT

HOMEOWNERS ASSOCIATION Condominium Documentation

**777 South Kihei Road
Kihei, Maui, Hawaii 96753**

Declaration of Horizontal Property Regime (HPR)
Amendments (if any)

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RECORDATION REQUESTED BY:

CAROL SCHWITTE
PLANNING & DESIGN

65390-CH737
80-65391

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDS

80 JUN 19 10:01

AFTER RECORDATION, RETURN TO:

CAROL SCHWITTE PLANNING & DESIGN
1000 BISHOP ST

ATTN: LARRY T. TREUM

When Completed: Mail ()

Pick Up () Phone: 521-9200

11230
D.F. HUGHES, JR., REGISTRAR

DECLARATION OF HORIZONTAL PROPERTY REGIME

WHEREAS, GIBRALTAR MAUI PARTNERS, a registered Hawaii general partnership, (the "Developer"), with principal place of business and mailing address at 1620 Pioneer Plaza, 900 Fort Street, Honolulu, Hawaii 96813, is the owner in fee simple of the land described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Developer intends to develop the Property as a condominium project (the "Project") as more specifically described herein in accordance with plans incorporated herein by reference, filed in the Bureau of Conveyances of the State of Hawaii as Condominium File Plan No. 737 (the "Condominium Map").

NOW, THEREFORE, in order to create a condominium project the Developer hereby submits its interest in the Property to a Horizontal Property Regime as established by Chapter 514A, Hawaii Revised Statutes, as amended (the "Act"), and hereby and in furtherance thereof makes the following declarations as to divisions, limitations, restrictions, covenants and conditions, and hereby declares that the Property and the improvements constructed or to be constructed thereon are held and shall be held, conveyed, mortgaged, encumbered,

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leased, rented, used, occupied, and improved subject to the declarations, restrictions and conditions set forth herein and in the Bylaws (the "Bylaws") of the Association of Apartment Owners (the "Association") attached hereto and hereby made a part hereof, as the same may from time to time be amended, which declarations, restrictions and conditions shall constitute covenants running with the land, and shall be binding on and inure to the benefit of the Developer, all apartment owners and their respective heirs, personal representatives, successors and assigns, and all subsequent owners and lessees of all or any part of the Project and their respective heirs, personal representatives, successors and assigns.

1. Name. The Horizontal Property Regime established hereby shall be known as Kihei Resort.

2. Land Description. The land submitted to the Horizontal Property Regime is described in Exhibit "A".

3. Description of the Project and Apartments. The Project consists of five (5) two-story apartment building complexes containing sixty-four (64) condominium apartments, a resident manager's unit and a swimming pool-pavilion complex, all as more fully described in Exhibit "B" attached hereto and made a part hereof and as shown on the Condominium Map; provided, however, 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; and provided, further, that the Condominium Map 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.

4. Limits of Apartments. Each apartment shall be deemed to include: (i) any adjacent lanai to which such apartment has direct, exclusive access, (ii) all the walls and partitions which are not load-bearing within its perimeter walls, (iii) the inner decorated or finished surfaces of all walls, floors and ceilings, (iv) any doors, door frames, windows, window frames or panels along the perimeters, and (v) all fixtures originally installed therein. The respective apartments shall not be deemed to include: (a) the undecorated or unfinished surfaces of the perimeter walls, the interior load-bearing walls, or the party walls, (b) the undecorated or unfinished floors and ceilings surrounding each apartment, or (c) any pipes, shafts, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided.

5. Common Elements. The common elements will include the limited common elements described below, and all other portions of the Project, other than the apartments, including, specifically, but not limited to, the common elements mentioned in the Act which are actually constructed on the land, and all other portions of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use, and which are not included as part of an apartment, including but not limited to those common elements described in Exhibit "B".

6. Limited Common Elements. The portions of the common elements designated or set aside for the exclusive use

of certain apartments as limited common elements are described in Exhibit "B".

7. Percentage of Undivided Common Interest. The undivided percentage common interest in the common elements appurtenant to each apartment is described in Exhibit "B", and each apartment shall have such percentage in all common profits and expenses of the Project and for all other purposes including voting; provided, however, that the expenses for repairing or maintaining any of the limited common elements may be charged to the apartment owners to which such limited common elements are appurtenant in any equitable manner determined by the Board of Directors in its reasonable discretion.

8. Easements. The apartments and common elements shall have and be subject to the following easements:

a. Each apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, 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 for support;

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

maintenance thereof shall exist;

c. The Association shall have the right, to be exercised by its Board of Directors or the Managing Agent, to enter each apartment from time to time during reasonable hours as may be necessary for the operation of the Project, for painting the Project and other maintenance and repair, or for making emergency repairs in an apartment necessary to prevent damage to any apartments or common elements; and

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

9. Alteration and Transfer of Interests. The undivided interest in the common elements and other easements appurtenant to each apartment shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amendment to this Declaration duly recorded, which amendment shall contain the consent thereto by the holders of any first mortgage on such apartments as shown in the Association's record of ownership, or who shall have given the Board notice of their interest through the Secretary of the Association or the Managing Agent, and 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 such interest

or easements are not expressly mentioned or described in the conveyance or other instrument; provided, however, that the designation of parking stalls may be changed by the apartment owners pursuant to Section 514A-14 of the Act. The common elements shall remain undivided, and no right shall exist to partition or divide any portion thereof except as provided in the Act and as otherwise expressly provided herein.

10. Purposes and Uses. The Project and each of the apartments are intended for and shall be restricted to the following purposes and uses:

a. Each apartment shall at all times be used only as a private residential or vacation dwelling for the owner, his family, tenants and social guests, and for such other purposes which are compatible with the applicable zoning ordinances. The owners of the respective apartments may rent or lease their apartments to any persons on any long-term or short-term (including daily) basis for such residential or vacation use. The apartments shall not be used as an office or for any other commercial purpose. Notwithstanding any provision to the contrary, no apartment owner shall offer, sell or transfer any time-sharing interest in any apartment in the Project. As herein, the term "time-sharing interest" shall be deemed to include any interest in an apartment established on a fee, leasehold, right-to-use, license, partnership, association, membership in club, reservation or any other basis for use during any specified limited time period (periodically recurring or in the form of a floating period with a right-to-use by notification) set forth by contract or agreement.

b. No owner will suffer anything to be done or kept in an apartment or elsewhere which would jeopardize the sound-

ness of the Project, or which will interfere or unreasonably disturb the rights of other apartment owners, or which will increase the rate of fire insurance on the Project or the contents thereof, or which will reduce the value of the Project.

c. No apartment owner will, without the prior written consent of the Board of Directors, make any structural alterations within an apartment or any common element or make any alterations in or additions to the exterior of the Project (including awnings, jalousies, screens or air conditioners). The Board of Directors shall not unreasonably withhold or delay its consent, and shall have the obligation to answer any written request by an apartment owner for its consent to any structural alterations of his apartment within thirty (30) days after its receipt of such request describing the proposed alteration in reasonable detail, and the Board's failure to do so shall constitute its consent to the proposed alteration; provided, however, that the authorization for any such alterations shall be subject to the provisions of the Act, including without limitation, the provisions of Section 514A-89 of the Act.

d. The owner of any apartment will not, without the prior written consent of either the Board of Directors or the Managing Agent, display any sign or place any other thing in or upon any doors, windows, walls or other portions of the apartment or the common elements so as to be visible from the exterior; provided, however, that this restriction shall not apply to signs displayed by the Developer for sales purposes prior to the completion of sales of all apartments in the

Project.

11. Service of Process. Mr. Max Sherley, whose mailing address is 21 S. Hana Highway, Kahului, Maui, State of Hawaii, is hereby designated as the agent to receive service of process until such time as the Board of Directors and officers of the Association are elected, at which time and thereafter process may be served upon any officer of the Association.

12. Percentage of Votes Required for Rebuilding. In the event of damage or destruction of all or any part of the Project, and where an election is otherwise permissible under the other provisions of this Declaration and Bylaws, the Project shall be rebuilt, repaired or restored unless the owners of at least 75% of the interest in the common elements vote not to rebuild, repair or restore. There shall be an affirmative obligation to rebuild in the absence of such a vote not to rebuild. Notice of any event authorizing a vote under this section shall be given pursuant to Section 7 of Article VII of the Bylaws attached hereto as Exhibit "C."

13. Administration of Project. The administration of the Project shall be governed by this Declaration and the Bylaws attached hereto as Exhibit "C". Each apartment owner shall comply strictly with the Declaration and the Bylaws. Apartment owners acting for any purpose in connection with the common elements for the government, operation or administration of the Project and in accordance with the Declaration and with the Bylaws, shall be deemed to be acting as the Association, and specifically but without limitation the Association shall:

a. Make, build, maintain and repair all fences, sewers, drains, roads, curbs and sidewalks 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 common elements or any part thereof;

b. Keep all common elements in a strictly clean, orderly 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 common elements or the use thereof;

c. Well and substantially repair, maintain, amend, and keep all common elements with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein; and

d. Not at any time make or suffer any strip or waste or unlawful or improper or offensive use of the common elements.

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

15. Amendment. Except as otherwise expressly provided herein or in the Act, this Declaration may be amended by the vote of the apartment owners by at least seventy-five percent (75%) of the interest in the common elements, evidenced by an instrument in writing, signed and acknowledged by any two (2) officers of the Association, which amendment shall be effective upon its recording in the Bureau of Conveyances of the State of Hawaii; provided, however, notwithstanding the foregoing provision at any time prior to the first recording of a conveyance or transfer (other than for security) of an

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apartment and its appurtenances to a party not a signatory hereto, the Developer may amend this Declaration (including all exhibits) and the Bylaws in any manner, without the consent or joinder of any apartment purchaser or any other party. Notwithstanding the lease, sale or conveyance of any of the apartments, the Developer may amend this Declaration (and when applicable, the Condominium Map) to file the "as-built" verified statement required by Section 514A-12 of the Act (1) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans thereto filed fully and accurately depict layout, location, apartment numbers, and the dimensions of the apartments as-built, or (2) so long as the plans filed therewith involve only minor changes to the layout, location, or dimensions of the apartments as-built or any change in any apartment number; in addition, the Developer may amend this Declaration to substitute a new description of the land based on the consolidation of the two parcels described in Exhibit A pursuant to the ordinances of the County of Maui and any applicable State law. In case of a modification or amendment to the Bylaws, this Declaration shall be amended to set forth such modification or amendment pursuant to such percentage vote as required by the Bylaws which rendered the modification or amendment thereof effective.

IN WITNESS WHEREOF, the Developer has executed this instrument and adopted the Bylaws attached hereto this 2nd day of June, 1980.


GIBRALTAR MAUI PARTNERS

By KIMEI DEVELOPMENT CORPORATION,
General Partner

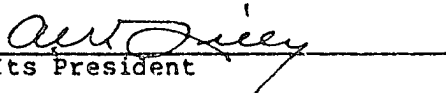
By William L. L.
its President

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By W.G.G. MAUI INC.,
General Partner

By 
Its President

By A.W.L. DEVELOPMENTS INC.,
General Partner

By 
Its President

Canada

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Province of British Columbia)

SS:

City of Vancouver)

On this 2nd day of JUNE, 1980, before me appeared W. GRANT GERRARD to me personally known, who, being by me duly sworn, did say that he is President of W.G.G. MAUI INC., a Hawaii corporation, a general partner of GIBALTAR MAUI PARTNERS, a registered Hawaii general partnership; that the seal affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors; and said W. GRANT GERRARD acknowledged such instrument to be the free act and deed of such corporation and partnership.



A Notary Public in and for the Province
of British Columbia

My commission is permanent

Canada

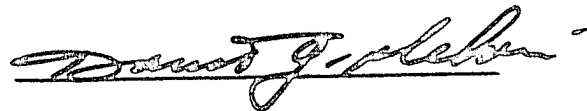
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Province of British Columbia

SS:

City of Vancouver

On this 2nd day of June, 1980, before me appeared ARTHUR W. LILLY to me personally known, who, being, by me duly sworn, did say that he is President of A.W.L. DEVELOPMENTS INC., a Hawaii corporation, a general partner of GIBRALTAR MAUI PARTNERS, a registered Hawaii general partnership; that the seal affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors; and said ARTHUR W. LILLY acknowledged such instrument to be the free act and deed of such corporation and partnership.



A Notary Public in and for the Province
of British Columbia

My commission is permanent

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STATE OF HAWAII

SS:

On this 4th day of June, 1980, before

Notary Public, State of Hawaii

My commission expires: 4/2/82



PARCEL FIRST:-

ALL of that certain parcel of land (being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa) being LOT 21-A of the Kaonoulu Beach Lots, the same being a portion of Lot 16-B and all of Lot 21 of the Kaonoulu Beach Lots, situate on the easterly side of Kihei Road, at Kaonoulu (Kihei), Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as per survey of Warren S. Unemori, Registered Professional Engineer & Land Surveyor, Certificate No. 1569, ES, dated April 8, 1980, as follows:

Beginning at a pipe at the northwest corner of this lot, the coordinates of which referred to Government Survey Triangulation Station "KALAEPOHAKU" being 5,934.06 feet South and 1,273.46 feet East and running by azimuths measured clockwise from True South:

1. 265° 20' 30" 360.56 feet along Lot 20, Kaonoulu Beach Lots to a pipe;
2. 281° 24' 30" 180.91 feet along Lot 16-B, Kaonoulu Beach Lots to a pipe;
3. 35° 35' 102.09 feet along Lot 1, Waiohuli-Keokea Beach Homesteads to a pipe;
4. 85° 20' 30" 464.87 feet along Lot 22-A, Kaonoulu Beach Lots to a pipe;
5. Thence along Kihei Road on a curve to the right with a radius of 11,439.16 feet, the chord azimuth and distance being: 173° 44' 18.5" 128.05 feet to the point of beginning and containing an area of 61,266 square feet.

PARCEL SECOND:-

ALL of that certain parcel of land (being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa), being LOT 22-A of the Kaonoulu Beach Lots, the same being a portion of Lot 16-B and all of Lot 22 of the Kaonoulu Beach Lots, situate on the easterly side of Kihei Road, at Kaonoulu (Kihei), Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as per survey of Warren S. Unemori, Registered Professional Engineer & Land Surveyor, Certificate No. 1569, ES, dated April 8, 1980, as follows:

Beginning at a pipe at the northwest corner of this lot, the coordinates of which referred to Government Survey Triangulation Station "KALAEPOHAKU" being 6,061.35 feet South and 1,287.42 feet East and running by azimuths measured clockwise from True South:

1. 265° 20' 30" 464.87 feet along Lot 21-A, Kaonoulu Beach Lots to a pipe;

2. 35° 35' 167.02 feet along Lot 1, Waiohuli-Keokea Beach Homesteads to a pipe;
3. 85° 20' 30" 351.98 feet along Lot 23, Kaonoulu Beach Lots to a pipe;
4. Thence along Kihei Road, on a curve to the right with a radius of 11,439.16 feet, the chord azimuth and distance being: 173° 05' 53.7" 127.59 feet along Kihei Road to the point of beginning and containing an area of 52,085 square feet.

SUBJECT, HOWEVER, to:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines of every description;
2. That certain Agreement dated May 23, 1979, made by and between the County of Maui, Department of Water Supply, and William Ling, General Partner of Gibraltar Maui Partners, recorded in the Bureau of Conveyances at Honolulu in Book 13745, Page 705;

BEING the same premises conveyed to Gibraltar Maui Partners, a registered Hawaii general partnership, by Deed dated June 22, 1979, recorded in said Bureau in Book 13847, Page 442.

EXHIBIT "B"
PHYSICAL DESCRIPTION

Description of Project and Apartments.

The Project consists of five (5) two-story apartment building complexes containing sixty-four (64) condominium apartments, a manager's unit and a swimming pool-pavilion complex. There are thirty-two (32) one bedroom apartments and thirty-two (32) two bedroom apartments in the Project. The five apartment building complexes are identified as Buildings I, II, III, IV and V, and are of wood construction with concrete block foundations, cement plaster with wood trims on the first floor, rough sawn wood siding on the second floor and concrete roof tile. The buildings contain no basements.

Buildings I and V are identical in structure, with each building containing six (6) one bedroom apartments on the first floor and six (6) two bedroom apartments on the second floor with mezzanine.

Building III contains four (4) one bedroom apartments on the first floor and four (4) two bedroom apartments on the second floor with mezzanine.

Buildings II and IV are identical in structure, with each building containing eight (8) one bedroom apartments on the first floor and eight (8) two bedroom apartments on the second floor with mezzanine.

Building VI is the manager's unit which is of wood construction with concrete block foundations, cement plaster with wood trims on the first floor, rough sawn wood siding on the second floor and concrete roof tile.

Building VII is the pavilion which is a part of the swimming pool complex which includes a swimming pool, equipment and storage facilities, shower and toilets, and a jacuzzi pool.

Buildings I, II, III, IV and V are arranged in a horseshoe pattern with the entry way to each apartment facing an interior courtyard area. Buildings VI and VII are also situated within the interior courtyard area. The buildings are numbered in a consecutive order beginning with the building located in the northwest corner of the Property.

There is a total of eighty-two (82) parking stalls (all standard size) in the Project, with eighteen (18) guest parking stalls and sixty-four (64) assigned parking stalls reserved for the exclusive use of the apartment owners.

There are eight (8) basic apartment model types in the Project:

Model A Apartments. The Model A apartments are end units located on the first floor of every apartment building

complex. Each Model A apartment has an interior living area of approximately 635 square feet, including a living room, kitchen with built-in breakfast counter, one bedroom, and a bathroom (with toilet and bathtub-shower combination). Each Model A apartment has a lanai off the living room area containing an area of approximately 67 square feet, together with an adjoining fenced-in court area of approximately 100 square feet which is a limited common element. Each Model A apartment has direct access to an entry way shared with the adjoining Model B apartment.

Model B Apartments. The Model B apartments are interior units located on the first floor of each apartment building complex. Each Model B apartment has an interior living area of approximately 621 square feet, including a living room, kitchen with built-in breakfast counter, one bedroom and a bathroom (with toilet and bathtub-shower combination). Each Model B apartment has a lanai off the living room area containing an area of approximately 67 square feet, together with an adjoining fenced-in court area of approximately 52 square feet which is a limited common element. Each Model B apartment has direct access to an entry way shared with the adjoining Model A, or in some cases Model C, apartment.

Model C Apartments. The Model C apartments are interior units located on the first floor of each apartment building complex and are identical to the Model B apartments except that the Model C apartments are in a reverse configuration from the Model B apartments. Each Model C apartment has direct access to an entry way shared with the adjoining Model D, or in some cases Model B, apartment.

Model D Apartments. The Model D apartments are end units located on the first floor of every apartment building complex and are identical to the Model A apartments except that the Model D apartments are in a reverse configuration from the Model A apartments. Each Model D apartment has direct access to an entry way shared with the adjoining Model C apartment.

Model E Apartments. The Model E apartments are end units located on the second floor of each apartment building complex. Each Model E apartment has an interior living area of approximately 838 square feet, including a dining-living area, a kitchen, two bedrooms and two bathrooms, each containing a toilet and bathtub-shower combination. Each Model E apartment is in a two-level configuration with the entry, dining-living area, kitchen, one bedroom and one bathroom on the lower level, and one bedroom and bathroom on the mezzanine. The lower level and the mezzanine are connected by an interior stairway. Each Model E apartment also has a lanai off the dining-living area containing approximately 67 square feet. Each Model E apartment has direct access to a stairway shared with the adjoining Model F apartment.

Model F Apartments. The Model F apartments are interior units located on the second floor of each apartment building complex. Each Model F apartment has an interior living area of approximately 824 square feet, including a dining-living area, a kitchen, two bedrooms and two bathrooms, each containing a toilet and bathtub-shower combination. Each Model F apartment is in a two-level configuration with the entry, dining-living area, kitchen, one bedroom and one bathroom on the lower level, and one bedroom and bathroom on the mezzanine. The lower level and the mezzanine are connected by an interior stairway. Each Model F apartment also has a lanai off the dining-living area containing an area of approximately 67 square feet. Each Model F apartment has direct access to a stairway shared with the adjoining Model E, or in some cases Model G, apartment.

Model G Apartments. The Model G apartments are interior units located on the second floor of each apartment building complex and are identical to the Model F apartments except that the Model G apartments are in a reverse configuration from the Model F apartments. Each Model G apartment has direct access to a stairway shared with the adjoining Model H, or in some cases Model F, apartment.

Model H Apartments. The Model H apartments are end units located on the second floor of each apartment building complex and are identical to the Model E apartments except that the Model H apartments are in a reverse configuration from the Model E apartments. Each Model H apartment has direct access to a stairway shared with the adjoining Model G apartment.

By way of summary, the square foot area of each apartment by model type is approximately as follows:

<u>Model Type</u>	<u>Interior Area</u>	<u>Lanai Area</u>	<u>Total</u>
A	635	67	702
B	621	67	688
C	621	67	688
D	635	67	702
E	838	67	905
F	824	67	891
G	824	67	891
H	838	67	905

The apartments by model type are shown below. The first digit identifies the location of the apartment on either the first or second floor. The letter following the third digit identifies the apartment model type.

Apartment Model Type

Apartment Nos.

A

Building I: 101A
 Building II: 107A
 Building III: 115A
 Building IV: 119A
 Building V: 127A

B	Building I:	102B, 104B
	Building II:	108B, 110B, 112B
	Building III:	116B
	Building IV:	120B, 122B, 124B
	Building V:	128B, 130B
C	Building I:	103C, 105C
	Building II:	109C, 111C, 113C
	Building III:	117C
	Building IV:	121C, 123C, 125C
	Building V:	129C, 131C
D	Building I:	106D
	Building II:	114D
	Building III:	118D
	Building IV:	126D
	Building V:	132D
E	Building I:	201E
	Building II:	207E
	Building III:	215E
	Building IV:	219E
	Building V:	227E
F	Building I:	202F, 204F
	Building II:	208F, 210F, 212F
	Building III:	216F
	Building IV:	220F, 222F, 224F
	Building V:	228F, 230F
G	Building I:	203G, 205G
	Building II:	209G, 211G, 213G
	Building III:	217G
	Building IV:	221G, 223G, 225G
	Building V:	229G, 231G
H	Building I:	205H
	Building II:	214H
	Building III:	218H
	Building IV:	226H
	Building V:	232H

The manager's unit (Building VI) has an interior area of approximately 836 square feet, including an office room, a dining-living room area, a kitchen, one bedroom, a bathroom, a lanai off the living room area containing an area of approximately 53 square feet, and a fenced-in court area of approximately 100 square feet, all of which are common elements.

Common Elements.

In addition to those common elements specified in paragraph 5 of the Declaration, the common elements include:

1. All of the land in fee simple;
2. All parking stalls (including the eighteen (18) guest parking stalls and the sixty-four (64) parking stalls assigned to the apartments as limited common elements);

3. The manager's unit (Building VI);

4. All facilities in the swimming pool-pavilion complex, which includes Building VII, a swimming pool, equipment and storage facilities, showers and toilets, and a jacuzzi pool; and

5. All landscaped areas, trash enclosures, roads, driveway areas, stairways, entry ways and fences (including the limited common elements described below).

Limited Common Elements

The limited common elements and apartments to which their use is reserved are:

1. Stairways and entry ways shall be limited common elements for the exclusive use of the apartments they serve.

2. The court area adjoining each Model A, B, C, and D apartment and the fence enclosing the court area shall be a limited common element reserved for the exclusive use of each Model A, Model B, C and D apartment.

3. The following numbered parking stalls as shown on the Condominium Map shall be assigned and reserved for the exclusive use of the following apartments:

<u>Parking Stall No.</u>	<u>Apartment No.</u>	<u>Parking Stall No.</u>	<u>Apartment No.</u>
7	101A	8	201E
9	102B	10	202F
81	103C	82	203G
17	104B	18	204F
19	105C	20	205G
21	106D	22	206H
26	107A	27	207E
28	108B	29	208F
30	109C	31	209G
32	110B	33	210F
34	111C	35	211G
36	112B	37	212F
38	113C	39	213G
40	114D	74	214H
67	115A	68	215E
69	116B	70	216F
71	117C	72	217G
73	118D	66	218H
60	119A	59	219E
62	120B	61	220F
64	121C	63	221G
75	122B	65	222F
77	123C	76	223G
25	124B	78	224F
23	125C	24	225G
90	126D	79	226H
15	127A	16	227E

<u>Parking Stall No.</u>	<u>Apartment No.</u>	<u>Parking Stall No.</u>	<u>Apartment No.</u>
13	128B	14	228F
11	129C	12	229G
5	130B	6	230F
3	131C	4	231G
1	132D	2	232H

Parking stall nos. 41-58 are reserved for guest parking.

Percentage of Undivided Interest.

The percentage of undivided interest in all the common elements appertaining to each apartment by model type is as follows:

<u>Model Type</u>	<u>Common Interest Percentage</u>	<u>No. of each Model Type</u>	<u>Total</u>
A	1.36	5	6.80
B	1.36	11	14.96
C	1.36	11	14.96
D	1.36	5	6.80
E	1.76	4	7.04
	*1.80	1	1.80
F	1.76	10	17.60
	*1.80	1	1.80
G	1.76	10	17.60
	*1.80	1	1.80
H	1.76	4	7.04
	*1.80	1	1.80
		64	100.00%

* These apartments are located in Building III as shown on the Condominium Map.

14799 56

Canada
Province of British
Columbia
City of Vancouver
Consulate General of the
United States of America

SS

Vice

I, ----Edmund P. Glowen, Jr.---- Consul of the
United States of America at Vancouver in the Province of
British Columbia, Canada, duly commissioned and qualified,
do hereby certify that -----DAVID G. MELVIN-----
before whom the annexed -----document-----
has been executed, was at the time he signed the annexed
certificate, a NOTARY PUBLIC at Vancouver
in the Province of British Columbia, Canada

IN WITNESS WHEREOF I have here
unto set my hand and affixed the
Seal of the Consulate General at
Vancouver, aforesaid, this 2nd.
day of June, 1980

Vice

Edmund P. Glowen, Jr.
Consul of the United States
of America

THIS DOCUMENT CONSISTS OF 56 PAGES 2

RECORDATION REQUESTED BY:
CADES SCHUTTE FLEMING + WRIGHT
1000 BISHOP STREET
HONOLULU, HI 96813

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

81- 60137

81 JUN 16 A8: 01

AFTER RECORDATION, RETURN TO:
CADES SCHUTTE FLEMING + WRIGHT
1000 BISHOP STREET
HONOLULU HI 96813
ph. 521-9200

LIBER 15614 / 74
C.F. NEUMANN III, REGISTRAR

Return by: Mail ()
Pick-up () Phone:

AMENDMENT TO DECLARATION
OF HORIZONTAL PROPERTY REGIME
OF "KIHEI RESORT"

WHEREAS, GIBRALTAR MAUI PARTNERS, a registered Hawaii general partnership, hereinafter called the "Developer", executed that certain Declaration of Horizontal Property Regime dated June 2, 1980 (the "Declaration") recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14799, Page 1, to create that certain horizontal property regime known as "Kihei Resort"; and

WHEREAS, the Developer has applied to the County of Maui and obtained the approval of the County of Maui for a consolidation of the two parcels of land covered by the Declaration; and

WHEREAS, the Developer reserved under PARAGRAPH 15 of the Declaration the right to amend the Declaration to substitute a new property description based on the consolidation of the two parcels of land.

NOW, THEREFORE, the Developer hereby amends the Declaration by deleting the Exhibit "A" attached to the Declaration and substituting in lieu thereof the Exhibit "A" attached hereto.

Except as hereby amended, the Declaration shall

15614 75

remain unmodified and continue to be in full force and effect.

IN WITNESS WHEREOF, the Developer has executed this instrument this 13 day of May, 1988.

GIBRALTAR MAUI PARTNERS

By KIHAI DEVELOPMENT CORPORATION
Its General Partner

By

William L. F.
Its President

By W.G.G. MAUI INC.
Its General Partner

By

M. K. K.
Its President

By A.W.L. DEVELOPMENT INC.
Its General Partner

By

A. W. L.
Its President

LS

Wally A. Sotomori
Notary Public, State of Hawaii
My commission expires: 11/11/89

15614 77

PROVINCE OF)
BRITISH COLUMBIA)

SS:

On this 13th day of MAY, ^{✓ 1981 ✓ *AM*} ~~1980~~, before
me appeared W. GRANT GERRARD to me personally known, who, being
by me duly sworn, did say that he is President of W.G.G. MAUI
INC., a Hawaii corporation, a general partner of GIBALTAR
MAUI PARTNERS, a registered Hawaii general partnership; that
the seal affixed to the foregoing instrument is the corporate
seal of such corporation, and that such instrument was signed
and sealed on behalf of such corporation by authority of its
Board of Directors; and said W. GRANT GERRARD acknowledged such
instrument to be the free act and deed of such corporation and
partnership.

David J. Hel...

A Notary Public in and for the
Province of British Columbia

15614 78

PROVINCE OF
BRITISH COLUMBIA

SS:

On this 13th day of MAY, ¹⁹⁸¹ ~~1980~~, before

me appeared ARTHUR W. LILLY to me personally known, who, being,
by me duly sworn, did say that he is President of A.W.L.
DEVELOPMENTS INC., a Hawaii corporation, a general partner of
GIBRALTAR MAUI PARTNERS, a registered Hawaii general partner-
ship; that the seal affixed to the foregoing instrument is
the corporate seal of such corporation, and that such instru-
ment was signed and sealed on behalf of such corporation by
authority of its Board of Directors; and said ARHTUR W. LILLY
acknowledged such instrument to be the free act and deed of
such corporation and partnership.

David J. Meli

A Notary Public in and for
Province of British Columbia

15614 79

Canada)
Province of British)
Columbia)
City of Vancouver) S.S.
Consulate General of the)
United States of America)

I, ----Robert L. Charlton--- Vice Consul of the United States
of America at Vancouver in the Province of British Columbia, duly
commissioned and qualified, do hereby certify that

-----David G. Melvin-----

before whom the annexed -----document-----

has been executed, was at the time he signed the annexed certificate,

a NOTARY PUBLIC at Vancouver

in the Province of British Columbia, Canada.

IN WITNESS WHEREOF I have here unto
set my hand and affixed the Seal of
the Consulate General at Vancouver,
this 14th. day of May, 1981.



Robert L. Charlton
Vice Consul of the United States of America

THIS DOCUMENT CONSISTS OF 7 PAGES 2

VAC-68

ALL of that certain parcel of land (being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa) being the consolidation of Lots 21-A and 22-A of Kaonoulu Beach Lots, situated on the easterly side of Kihei Road, at Kaonoulu (Kihei), Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as per survey of Warren S. Unemori, Registered Professional Engineer & Land Surveyor, Certificate No. 1569, ES, dated December 3, 1980, as follows:

Beginning at a pipe at the northwest corner of this lot, the coordinates of which referred to Government Survey Triangulation Station "KALAEPOHAKU" being 5,934.06 feet South and 1,273.46 feet East and running by azimuth measured clockwise from True South:

1. 265° 20' 30" 360.56 feet along Lot 20, Kaonoulu Beach Lots to a pipe;
2. 281° 24' 30" 180.91 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa to a pipe;
3. 35° 35' 269.11 feet along Lot 1, Waiohuli-Keokea Beach Homesteads to a pipe;
4. 85° 20' 30" 351.98 feet along Lot 23, Kaonoulu Beach Lots to a pipe;
5. Thence along Kihei Road on a curve to the right with a radius of 11,439.16 feet, the chord azimuth and distance being: 173° 25' 08.2" 255.64 feet along Kihei Road to the point of beginning and containing an area of 113,351 square feet.

SUBJECT, HOWEVER, to:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines of every description;
2. That certain Agreement dated May 23, 1979, made by and between County of Maui, Department of Water Supply, and William Ling, General Partner of Gibraltar Maui Partners, recorded in the Bureau of Conveyances at Honolulu in Book 13745, Page 705;
3. An eight (8) foot setback line parallel to Kihei Road for future road widening purposes;
4. That certain Subdivision Agreement (Three Lots or Less), dated April 28, 1980, made by and between the County of Maui and Gibraltar Maui Partners, recorded in said Bureau in Book 15092, Page 465;

BEING the same premises conveyed to Gibraltar Maui Partners, a registered Hawaii general partnership, by Deed dated June 22, 1979, recorded in said Bureau in Book 13847, Page 442.

5 (G) 136775
RECORDATION REQUESTED BY:

Cades, Schutte, Fleming & Wright

81- 84335 /

ORIGINAL

AFTER RECORDATION, RETURN TO:

Cades, Schutte, Fleming & Wright
1000 Bishop Street
Honolulu, Hawaii
Attn: Larry T. Takumi, Esq.
Phone No.: 531-8738

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 19 1981
8:01 A.M.

When Completed: Mail ()
Pick-up (X) Phone:

LIBER/PG 15764 /581
C. F. NEUMANN III, REGISTRAR

AMENDMENT OF
DECLARATION OF HORIZONTAL PROPERTY REGIME
AND CONDOMINIUM MAP

WHEREAS, GIBRALTAR MAUI PARTNERS, a registered Hawaii general partnership (the "Developer"), executed that certain Declaration of Horizontal Property Regime (the "Declaration") dated June 2, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Book 14799, Page 1, relating to that certain horizontal property regime known as "Kihei Resort" (the "Project"), and contemporaneously therewith, filed in said Bureau the building and floor plans of the Project as Condominium File Plan No. 737 (the "Condominium Map"); and

WHEREAS, construction of the improvements described in the Declaration has been completed so that it is timely to file a verified statement of a registered architect, as required by Section 514A-12, Hawaii Revised Statutes, as amended; and

WHEREAS, the Developer reserved the right under Paragraph 15 to amend the Declaration (and when applicable, the Condominium Map) to file such verified statement of the registered architect;

15764 582

NOW, THEREFORE, the Developer hereby amends the Declaration and the Condominium Map as follows:

1. The Condominium Map is amended by adding sheet A-2A to show the layout of Apartment Nos. 129C and 132D.

2. The Declaration is amended by incorporating the verified statement of a registered architect, attached hereto as Exhibit "A" and incorporated herein by reference, certifying that the building and floor plans heretofore filed as Condominium File Plan No. 737, as amended by sheet A-2A, fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

IN WITNESS WHEREOF, the Developer has executed this instrument as of August 17, 1981.

GIBRALTAR MAUI PARTNERS

By Kihei Development Corporation
Its General Partner

By 
Its President

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
)
)

SS:

15764 583

On this 17th day of August, 1981, before me appeared WILLIAM L. LING to me personally known, who, being by me duly sworn, did say that he is President of KIHEI DEVELOPMENT CORPORATION, a Hawaii corporation, a general partner of GIBRALTAR MAUI PARTNERS, a registered Hawaii general partnership; that the seal affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors; and said WILLIAM L. LING acknowledged such instrument to be the free act and deed of such corporation and partnership.

Lynette L. Isaacs *L.S.*
Notary Public, State of Hawaii

My commission expires: SEPTEMBER 6, 1984

ARCHITECT'S CERTIFICATE

15764 584

STATE OF HAWAII)
)
COUNTY OF MAUI) SS:

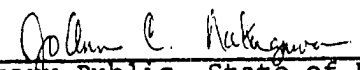
STANLEY S. GIMA, being first duly sworn, on oath
states as follows:

That he is a professional architect registered by
the State of Hawaii, Registration No. 2658;

That the building plans for the KIHAI RESORT condo-
minium project heretofore filed in the Bureau of Conveyances
of the State of Hawaii as Condominium File Plan No. 737, con-
sisting of Sheets A-1, A-2, A-3, A-5, A-7, A-8 and A-9, as
amended by Sheet A-2A, fully and accurately depict the layout,
location, apartment numbers and dimensions of the apartments
as built.


STANLEY S. GIMA

Subscribed and sworn to before
me this 14th day of March,
1981.


Notary Public, State of Hawaii
deputy John A. Krent
My commission expires: 7-16-82.

By-Laws of the Homeowners Association
Amendments (if any)

BYLAWS OF THE ASSOCIATION OF APARTMENT OWNERS
OF KIHAI RESORT

WHEREAS, GIBRALTAR MAUI PARTNERS (the "Developer"), is the owner in fee of the land (the "Land") described in the Declaration of Horizontal Property Regime (the "Declaration") to which these Bylaws of the Association of Apartment Owners of KIHAI RESORT (the "Bylaws") are annexed; and

WHEREAS, the Developer is desirous of submitting the Land and the buildings to be constructed thereon to a horizontal property regime by filing and recording a Declaration of Horizontal Property Regime and adopting these Bylaws, all as provided for by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended (the "Act");

NOW, THEREFORE, the Developer hereby declares that all of the property described above is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the following Bylaws, all of which are declared to be in furtherance of the plan set forth in the Declaration and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of such property. The Bylaws shall constitute covenants running with the land and apartments established thereon and shall be binding upon all parties having or acquiring any right, title or interest therein. The Developer, acting as the initial Association of Apartment Owners of the property, hereby approves and adopts these Bylaws pursuant to the Act.

ARTICLE I

INTRODUCTORY PROVISIONS

SECTION 1. Definitions. The terms used in these Bylaws shall have the meanings given to them in the Act, except as expressly provided otherwise. The term "common elements" means those elements designated in the Declaration as common elements. The term "Property" shall include the Land, the buildings and all other improvements thereon (including the Apartments and the common elements) and all easements, rights and appurtenances belonging thereto, and all other property affixed thereto and intended for use in connection therewith. The term "Rules and Regulations" refers to the Rules and Regulations for the conduct of occupants of the building adopted by the Board of Directors as hereinafter provided. "Owner" means any person, including the Developer, owning severally or as a cotenant an Apartment and the common interest appertaining thereto, provided, however, that to such extent and for such other purposes, including voting, as shall be provided by any lease of an apartment registered under Chapter 501 or recorded under Chapter 502 of the Hawaii Revised Statutes, the Lessee of such apartment shall be deemed to be the owner during the existence of such lease. The terms "Apartment Owners", "Association of Owners", "Association" and similar terms mean and refer to (except where such meaning would be clearly repugnant to the context)

the Association of Apartment Owners of Kihei Resort. The terms "Board" and "Board of Directors" mean and refer to the Board of Directors of the Association of Apartment Owners of Kihei Resort. "Project" means the property comprising the Kihei Resort condominium project. The terms "mortgagee of an Apartment", "Apartment mortgagee" and similar terms mean and refer to the mortgagees of the fee title or any recorded leasehold interest in an Apartment.

SECTION 2. Conflicts. These Bylaws are set forth to comply with the requirements of the Act. In case any of these Bylaws conflict with the Act or the Declaration, the provisions of the Act or the Declaration, as the case may be, shall control.

SECTION 3. Application. All present and future owners, mortgagees, tenants and occupants of Apartments and their guests and employees, and any other persons who may use the Property in any manner are subject to these Bylaws, the Declaration and the Rules and Regulations. The acceptance of an apartment deed or other conveyance instrument or the entry into a lease or the act of occupancy of an Apartment shall constitute an agreement that these Bylaws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

ARTICLE II

ASSOCIATION OF OWNERS

SECTION 1. Annual Meetings. The Developer or the Managing Agent shall call the first annual meeting of the Apartment Owners within one hundred eighty (180) days after recordation of the first apartment conveyance; provided that prior to such first annual meeting forty percent (40%) or more of the Project has been sold and recorded. If within one (1) year after recordation of the first apartment conveyance forty percent (40%) of the Project has not been sold and recorded, then the first annual meeting shall be held as soon as practicable thereafter upon the call of at least ten percent (10%) of the Owners. The term "sold and recorded" shall mean and refer to the sale of Apartments in the Project, and the recordation of apartment deeds transferring interests in an Apartment from the Developer to the Owner. At such meeting the Apartment Owners shall elect a Board of Directors. Thereafter, the annual meetings of the Apartment Owners shall be held on the first Monday of March of each succeeding year or at such other time as the Board of Directors may designate. At such meetings the Board of Directors shall be elected by ballot of the Apartment Owners in accordance with the requirements of Section 4 of Article III of these Bylaws. The Apartment Owners may transact such other business at such meetings as may properly come before them.

SECTION 2. Place of Meetings. Meetings of the

Apartment Owners shall be held at the address of the Project, or elsewhere within the State of Hawaii as determined by the Board of Directors, provided, however, that unless unusual conditions exist meetings shall not be held outside of the County of Maui.

SECTION 3. Special Meetings. Special meetings of the Apartment Owners may be held at any time upon the call of the President or any three (3) Directors or upon the written request of not less than twenty-five percent (25%) of the Owners.

SECTION 4. Notice of Meetings and Other Notices. Written notice of all meetings, annual or special, stating the place, day and hour of the meeting and whether it is annual or special and stating the items on the agenda for such meeting and containing a standard proxy form authorized by the Association, if any, and any other notices permitted or required to be delivered by these Bylaws shall be given by mailing such notice, postage prepaid, at least fourteen (14) days before the date assigned for the meeting to the Owners at their addresses at the Property or at the addresses given to the Board for the purpose of service of such notices. Upon written request for notices delivered to the Board, the holder of any duly recorded mortgage from an Owner may obtain a copy of any and all notices permitted or required to be given to the Owner whose interest is subject to such mortgage. Upon notice being given in accordance with the provisions hereof, the failure of any Owner to receive actual notice of any meeting shall not in any way invalidate the meeting or proceedings thereat. Each Owner shall keep the Board informed of any changes in address.

SECTION 5. Adjournment of Meetings. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the Owners present, whether or not a quorum is present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

SECTION 6. Voting. The total vote to which each Apartment is entitled shall be the vote assigned to such Apartment pursuant to the Declaration. Votes may be cast in person or by proxy by the respective Apartment Owners. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the vote for any Apartment owned or controlled by him in such capacity, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such Apartment in such capacity. The vote for any Apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and, in case of protest, each cotenant shall be entitled to only a share of such vote in proportion to his share of ownership in

such Apartment. The purchaser of an Apartment pursuant to an Agreement of Sale recorded in the Bureau of Conveyances of the State of Hawaii shall have all the rights of an Owner, including the right to vote, except as to those matters retained by the Seller under the Agreement of Sale pursuant to Section 514A-83 of Hawaii Revised Statutes, as amended ("HRS").

SECTION 7. Proxies and Pledges. The authority given by any Apartment Owner to another person to represent him at meetings of the Association shall be in writing, signed by such Owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a written instrument filed with the Secretary or by the death or incapacity of such Owner; PROVIDED, that a proxy given on a proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only and may designate any person as proxy and may be limited as the Owner desires and indicates. Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale of any Apartment or interest therein a true copy of which is filed with the Board through the Secretary or Managing Agent shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in like manner. Any one of two or more persons owning any Apartment may give or revoke a proxy for the entire vote of such Apartment or if so specified in the proxy, for a share of such vote in proportion to the share of ownership of the person or persons giving such proxy. Any proxy given by a cotenant or cotenants for only a share of an Apartment's vote in proportion to the share of ownership of such cotenant or cotenants shall be revocable only by such cotenant or cotenants. Any proxy given by a cotenant or cotenants for only a share of an Apartment's vote may be exercised to cast the entire vote for such Apartment in the absence of protest by another cotenant or the holder of a proxy from another cotenant, and, in case of such protest, each cotenant or holder of a proxy from a cotenant, as the case may be, shall be entitled to only a share of such Apartment's vote in proportion to the respective shares of ownership in such Apartment.

SECTION 8. Order of Business. The order of business at all meetings of the Apartment Owners shall be generally as follows:

- (a) Roll call;
- (b) Statement of Secretary attesting that proper notice of meeting was given;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Report of Board of Directors;
- (f) Reports of committees;

(g) Election of members of the Board of Directors (when so required);

(h) Unfinished business; and

(i) New business.

All meetings of the Association shall be conducted in accordance with Roberts Rules of Order, unless some other generally accepted rules for the conduct of meetings are adopted by a majority vote of the Owners.

SECTION 9. Cumulative Voting. Election of Directors shall be by cumulative voting, and each Owner may cast for any one or more nominees to the Board of Directors a vote equivalent to the vote which such Owner is entitled to multiplied by the number of Directors to be elected. Each Owner shall be entitled to cumulate his vote and give all thereof to one nominee or to distribute his vote in such manner as he shall determine among any or all of the nominees; and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of Directors to be elected, shall be deemed elected.

SECTION 10. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners having at least fifty percent (50%) of the total authorized votes of all Apartment Owners shall constitute a quorum at all meetings of the Apartment Owners. In the absence of a quorum at a meeting, a majority of those present may adjourn the meeting to another time, but it may not transact any further business and any such adjournment shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting date.

SECTION 11. Majority Vote. The vote of a majority of Apartment Owners at a meeting at which a quorum shall be present shall be binding upon all Apartment Owners for all purposes unless the Declaration or these Bylaws or Hawaii law requires a higher percentage.

SECTION 12. Majority of Apartment Owners. As used in these Bylaws, the term "majority of Apartment Owners" shall mean those Apartment Owners having more than fifty percent (50%) of the authorized votes present at any meeting of the Apartment Owners; and any specified percentage of the Owners means Owners having the specified percentage of the total votes in the Association.

SECTION 13. List of Members. The resident manager, if any, or Managing Agent, as referred to in Section 3 of Article III hereof, or Board of Directors shall keep an accurate and current list of members of the Association and their current addresses and the names and addresses of the vendees under agreements of sale, if any, covering any Apartment. The list shall be maintained at a place designated by the Board of Directors. In connection therewith each Owner

shall promptly cause to be duly recorded the apartment deed or other conveyance to him of such Apartment and shall file a copy of such document with the Board of Directors through the Managing Agent.

SECTION 14. Minutes of Meetings. The minutes of the meetings of the Apartment Owners and the Board of Directors shall be available for examination by Owners and their mortgagees at convenient hours at a place designated by the Board of Directors.

SECTION 15. Right of Inspection and Copying. The membership list described in Section 13 of this Article II, the minutes of meetings of the Association and the Board of Directors described in Section 14 of this Article II and the minutes of any meetings of any committees of the Board of Directors or of the Association shall be made available for inspection and copying by any Owner or by his duly appointed representative at any reasonable time and for a purpose reasonably related to his interest as an Owner at the office of the Association or at such other place within the Project as the Board of Directors shall prescribe. The Board of Directors shall establish reasonable rules with respect to notice to be given to the custodian of the records by the Owner desiring to make inspection, and the hours and days of the week when such inspection may be made and payment of the cost of reproducing copies of documents requested by the Owner. Every member of the Board of Directors shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts or copies of the documents.

ARTICLE III

BOARD OF DIRECTORS

SECTION 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors. The Board of Directors shall be composed of five (5) persons, all of whom shall be Owners, co-owners, vendees under an agreement of sale, or an officer of any corporate Owner of an Apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the Owners of an Apartment for this purpose. No resident manager of the Project shall serve on the Board of Directors.

SECTION 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things except such as by law, the Declaration or these Bylaws may not be delegated to the Board of Directors by the Apartment Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the common elements;

(b) Preparation annually of a budget of the common expenses required for the affairs of the Association (including, without limitation, the operation and maintenance of the Property) and determination of the amounts of monthly and special assessments;

(c) Levy and collection of monthly and special assessments of the common expenses and other charges payable by the Apartment Owners;

(d) Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the common elements;

(e) Adoption and amendment of the Rules and Regulations covering the details of the operation and use of the property, together with enforcement of the Rules and Regulations and applicable provisions of the Declaration and these Bylaws;

(f) Opening bank accounts on behalf of the Association of Apartment Owners and designating the signatories required therefor;

(g) Obtaining insurance for the Property, including the Apartments, pursuant to the provisions of Article VII hereof;

(h) Making additions and improvements to or alterations of the Property and repairs to and restoration of the Property in accordance with the other provisions of these Bylaws after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;

(i) Procuring legal and accounting services necessary or proper for the operation of the Project or the interpretation, enforcement or implementation of these Bylaws and any other material documents affecting the Project;

(j) Purchasing any other materials, supplies, furniture, labor and services, making repairs and structural alterations, and payment of all insurance premiums, taxes and assessments and other common expenses which the Board is required to secure, make or pay pursuant to these Bylaws or by law or which in its opinion shall be necessary or proper for the operation of the building or the enforcement of these Bylaws, provided that if any such materials, supplies, furniture, labor, services, repairs, structural alterations, insurance, taxes or assessments are required because of the particular actions or negligence of the Owners of particular Apartments, the cost thereof shall be specially assessed to the Owners of such Apartments;

(k) Payment of any amount necessary to discharge

any lien or encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the common elements rather than merely against the interest therein of particular Owners. If one or more Owners are responsible for the existence of any such lien, they shall be jointly and severally liable for the cost of discharging it and the costs incurred by the Board by reason of such lien;

(l) Maintenance and repair of any Apartment if such maintenance or repair is necessary, in the discretion of the Board, to protect the common elements or any other portion of the buildings and the Owner or Owners of said Apartment shall have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner or Owners, provided that the Board shall levy a special assessment against such Apartment for the cost of such maintenance or repair and any attorneys' fees and other expenses incurred in levying and collecting such special assessment;

(m) Purchasing or leasing or otherwise acquiring in the name of the Board of Directors or its nominee, corporate or otherwise, on behalf of all Apartment owners, any apartments;

(n) Purchasing Apartments at foreclosure or other judicial sales in the name of the Board of Directors or its nominee, corporate or otherwise, on behalf of all Apartment Owners;

(o) Notification in writing of all institutional holders of first mortgages on Apartments in the Project, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the Project if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00); and

(p) Notification in writing to the institutional holder of the first mortgage on any Apartment in the Project, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such Apartment which exceeds One Thousand Dollars (\$1,000.00).

SECTION 3. Employment of Managing Agent. Except as herein otherwise provided with respect to the initial Managing Agent, the Board of Directors shall at all times employ a responsible Managing Agent to manage and control the Property, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated by the Board. The compensation of the Managing Agent shall be specified by the Board.

The Managing Agent shall have such powers and

duties as may be necessary or proper in connection with (a) supervision of the immediate management and operation of the Project, (b) maintenance, repair, replacement and restoration of the common elements and any additions or alteration thereto, (c) the purchase, maintenance and replacement of any equipment, (d) provision for service of all utilities to the building and the various Apartments, (e) employment, supervision and dismissal of such personnel as it deems necessary for the maintenance and operation of the Project, (f) conclusion of contracts with others for the furnishing of such services as it deems proper for the Project, (g) preparation of a proposed budget and schedule of assessments, (h) collection of all assessments and payment of all bills, (i) purchase of such insurance as is contemplated by these Bylaws, (j) custody and control of all funds, (k) maintenance of books and records on a cash basis and (l) preparation of financial reports.

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

Upon written request of any Apartment owner, the Managing Agent shall deliver a written statement of the status of the account of such Apartment owner.

SECTION 4. Election and Term of Office. Election of Directors shall be by cumulative voting by secret ballot at each annual meeting of the Apartment Owners and any special meeting called for that purpose. At the first annual meeting of the Apartment Owners, the term of office of three members of the Board of Directors shall be fixed at two (2) years and the term of office of two members of the Board of Directors shall be fixed at one (1) year. After the expiration of the term of office of each of the initial members, each successor member of the Board of Directors shall be elected to serve for a term of two (2) years. Each member of the Board of Directors shall continue to exercise the powers and duties of the office until his successor shall have been elected by the Apartment Owners.

SECTION 5. Removal of Directors. At any regular or special meeting of Apartment Owners, any one or more of the members of the Board of Directors may be removed with or without cause by a majority of the Apartment Owners and a successor may then or thereafter be elected for the remainder of the term to fill the vacancy thus created; provided that an individual Director shall not be removed (unless the entire Board is removed) if Owners having sufficient votes to elect one Director by cumulative voting present at such meeting shall vote against his removal. Any member of the Board of Directors whose removal is proposed by the Apartment Owners shall be given an opportunity to be heard at the meeting. In addition, if any Director shall fail to attend four (4) consecutive regular meetings of the Board for any reason, the Board by a vote of a majority of the other members may remove him and select a replacement to serve his unexpired term.

SECTION 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Apartment Owners, shall be filled by a vote of a majority of the remaining members at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Directors for the remainder of the term of the member whose vacancy he fills or until a successor shall be elected at the next annual meeting of the Apartment Owners to fill the remainder of said term.

SECTION 7. Annual Meetings. The first meeting of the Board of Directors following the annual meeting of the Apartment Owners shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present thereat. At such meeting the Board shall elect the officers of the Association for the ensuing year. Notice of the annual Board of Directors meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting and may be included with any notice of the annual meeting of the Association.

SECTION 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place within the Project as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Unless the Board of Directors determines otherwise, meetings shall be held monthly. Notice of the time and place for each regular meeting of the Board of Directors shall be given to each member of the Board of Directors in writing at least three (3) business days prior to the day named for such meeting and shall be posted at a prominent place or places within the common elements at least three (3) days prior to the day named for such meeting.

SECTION 9. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days' written notice to each member of the Board of Directors, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice by the written request of at least two (2) members of the Board of Directors. Any notice of a special meeting shall be posted in a manner prescribed for regular meetings at least three (3) days prior to the day named for such meeting.

SECTION 10. Waiver of Notice. Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the timely receipt of such notice.

Attendance by a member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

SECTION 11. Rules of Order; Open and Executive Sessions. All meetings of the Board of Directors shall be conducted in accordance with Roberts Rules of Order or other accepted rules for the conduct of meetings adopted by the Association. Regular and special meetings of the Board of Directors shall be open to all Owners, provided, however, Owners who are not members of the Board of Directors may not participate in any deliberation or discussion of the Board of Directors unless expressly so authorized by the vote of a majority of a quorum of the Board of Directors. The Board of Directors may with the approval of a majority of a quorum of the Board of Directors adjourn a meeting and reconvene in executive or private session to discuss and vote upon personnel matters, pending or threatened litigation, and orders of business of a similar nature. The nature of any and all business to be considered in executive or private session shall first be announced in open session.

SECTION 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business; and the votes of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

SECTION 13. Compensation. No member of the Board of Directors shall receive any compensation from the Association for acting as such, but may be reimbursed for actual expenses incurred in the course of acting as such Director.

SECTION 14. Conflict of Interest. A member of the Board of Directors shall not vote or cast proxy at any meeting of the Board of Directors on any issue in which he has a conflict of interest.

SECTION 15. Liability and Indemnity of Officers and the Board of Directors. The officers of the Association and members of the Board of Directors shall not be liable to the Apartment Owners for any mistake of judgment or otherwise except for their own gross negligence or willful misconduct. The Association of Owners shall obtain and maintain at the Association's expense a policy of directors' and officers' liability insurance covering the officers and Directors of the Association and shall indemnify each officer and Director of the Association against all costs, expenses and liabilities,

including judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted or threatened in which he may be involved as a party or otherwise by reason of his being or having been such officer or Director, or by reason of any past or future action taken, authorized or approved by him or any omission to act as such officer or Director, whether or not he continues to be such officer or Director, or by reason of any past or future action taken, authorized or approved by him or any omission to act as such officer or Director, whether or not he continues to be such officer or Director at the time of the incurring or imposition of such costs, expenses or liabilities, but not including such costs, expenses or liabilities as shall relate to matters as to which he shall in such action, suit or proceeding be finally adjudged to be, or shall be, liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such officer or Director. In determining whether an officer or Director is liable by reason of gross negligence or willful misconduct toward the Association in the performance of his duties as such officer or Director in the absence of a final adjudication of the existence or nonexistence of such liability, the officers of the Association and the members of the Board of Directors and each Director may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights which any officer or Director may have and shall inure to the benefit of the heirs and personal representatives of each officer or Director.

SECTION 16. Fidelity Bonds. The Board of Directors shall require that all directors, officers, trustees, employees, volunteers, managers and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

ARTICLE IV

OFFICERS

SECTION 1. Designation. The principal officers

of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary. The President shall be a member of the Board of Directors but the other officers need not.

SECTION 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors and shall hold office at the pleasure of the Board of Directors.

SECTION 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

SECTION 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Apartment Owners and the Board of Directors. He shall have all of the general powers and duties which are incident to the office of President of a corporation organized under the laws of the State of Hawaii, including, but not limited to, the power to appoint committees from among the Apartment Owners from time to time as he may in his discretion decide to be appropriate to assist in the conduct of the affairs of the Association.

SECTION 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act temporarily in the place of the President. The Vice President shall also perform such other duties as shall be imposed upon him by the Board of Directors or by the President.

SECTION 6. Secretary. The Secretary shall keep the minutes of all meetings of the Apartment Owners and the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary of a corporation organized under the laws of the State of Hawaii. The duties of the Secretary may be delegated to and performed by the Managing Agent under the Secretary's supervision.

SECTION 7. Treasurer. The Treasurer shall be responsible for the keeping of full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He shall be responsible for the deposit of all moneys and other valuable effects of the Association in such depositories as may be designated by the Board of Directors; and he shall, in

general, perform all the duties incident to the office of Treasurer of a corporation organized under the laws of the State of Hawaii. The duties of the Treasurer may be delegated to and performed by the Managing Agent under the Treasurer's supervision.

SECTION 8. Agreements, Contracts, Deeds, Checks and Other Instruments. All agreements, contracts, deeds, leases, checks and other instruments of the Association, including any amendments to the Bylaws as hereafter provided, shall be executed by any two of the President, Vice President, Secretary or Treasurer, or by such other person or persons (including the Managing Agent) as may be designated by the Board of Directors.

SECTION 9. Compensation of Officers. No officer shall receive any compensation from the Association for acting as such, but may be reimbursed for actual expenses incurred in the course of acting as such officer.

SECTION 10. Auditor. The Board of Directors shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment may request, and the Association shall provide it with, a copy of any annual audited financial statement prepared for the Association.

ARTICLE V

MAINTENANCE AND ALTERATION OF PREMISES

SECTION 1. Maintenance and Repair of Apartments. Each Owner of an Apartment shall, at the Owner's expense, keep the Apartment and all fixtures and equipment therein in good order, condition and repair and do such repainting and redecorating as may be necessary to maintain the good appearance and condition of his Apartment. Each Owner shall be responsible for the maintenance, repair and replacement of any plumbing fixtures, water heater, heating or cooling equipment, lighting fixtures, refrigerator, garbage disposal, range and similar equipment installed in his Apartment and not part of the common elements.

SECTION 2. Lanais and Fences. Each Owner shall be responsible for the care and maintenance of any lanais which are included in his Apartment and court fences adjoining his Apartment. However, no Owner may paint or otherwise decorate his lanais or fences without prior approval by the Board of Directors. It is intended that the exterior of the buildings shall present a uniform appearance, and, to effect that end, the Board may require the painting of each lanai and court fence and regulate the type and color of paint to be used. The

Board is authorized to contract for the painting of all of the lanais and court fences and to make payment therefor out of the maintenance fund. No awnings, shades, jalousies or other device shall be erected or placed on the lanais so as to be visible from the exterior without written permission from the Board of Directors, provided, that this restriction shall not apply to signs displayed by the Developer for sales purposes prior to the completion of sales of the Apartments.

SECTION 3. Alterations and Additions to Apartments. Subject to the provisions of the Declaration and the Act, no Owner of an Apartment shall, without the prior written consent of the Board, make any structural alterations in or additions to his Apartment or make any alterations in (including painting, awnings, jalousies and screens) or additions to the exterior of his Apartment or to the common elements.

SECTION 4. Maintenance and Repair of Common Elements. All maintenance, repairs and replacements of the common elements, whether located inside or outside of the Apartments, shall be made only by or at the direction of the Board of Directors and be charged to all the Owners as a common expense; provided, that the costs of maintenance, repairs and replacements necessitated by the negligence, misuse or neglect of an identified Apartment Owner shall be charged to such Apartment Owner as a special assessment constituting a lien on such Owner's Apartment in accordance with Section 4 of Article VI hereof.

SECTION 5. Alteration of the Project. (a) Additions, alterations, repairs or improvements to the common elements of the Project may be made only by or at the direction of the Board of Directors, except as provided for in the Declaration. Subject to the provisions of the Declaration and the Act, no Owner may, except with the written permission of the Board of Directors, make any alteration, addition, repair or improvement to any of the common elements including, without limitation, common elements within, encompassing or adjacent to his Apartment, except that such approval shall not be required for additions, alterations, repairs or improvements required by law.

(b) Whenever in the judgment of the Board of Directors the common elements shall require additions, alterations, repairs or improvements with a total cost of less than Fifteen Thousand Dollars (\$15,000.00), the Board of Directors may proceed with such additions, alterations, repairs or improvements and shall assess the cost thereof as a common expense. Any additions, alterations, repairs or improvements costing in excess of Fifteen Thousand Dollars (\$15,000.00) may be made by the Board of Directors only after obtaining approval by a majority of the Owners.

ARTICLE VI COMMON EXPENSES, APARTMENT EXPENSES, TAXES AND ACCOUNTING

SECTION 1. Common Expenses. (a) Expenses Included. Accounting for common expenses shall commence with respect to

each Apartment as of the date of issuance by the appropriate County authority of a Certificate of Occupancy for the Project. Common expenses shall be assessed and paid as provided in subsection (b) below and shall include all charges for taxes (except real property taxes and other such 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 Owner), assessments, insurance (including fire and other casualty and liability insurance), costs of repair, reinstatement, rebuilding and replacement of the premises, costs of yard, janitorial and other similar services, wages, accounting and legal fees, management fees and other necessary expenses of upkeep, maintenance, management and operation actually incurred on or for the common elements and the cost of all utility services (including water, electricity, gas, garbage disposal and any similar services) unless separately metered, in which case the amounts shall be charged to each Apartment and shall be payable by the Owner of such Apartment. The common expenses may also include such amounts as the Board of Directors may deem proper to make up any deficit in the common expense assessments for any prior year and a reserve fund for the operation and maintenance of the property, including, without limitation, anticipated needs for working capital of the Project, and for replacements, repairs and contingencies.

(b) Method of Determining and Paying Assessments.

The Owner of each Apartment shall be liable for and pay a share of the common expenses in the proportion to his undivided interest in the common elements appurtenant to his Apartment. Assessments of common expenses shall be payable in monthly installments on the first day of each month, commencing with respect to each Apartment on the first day of the first month following issuance of a Certificate of Occupancy for the Project by the appropriate County agency. The Developer shall fix the rate of the monthly installments of common expenses until such rate shall be redetermined by the Board of Directors. The Board of Directors shall annually determine the rate of common expense assessments and shall send written notice to each Apartment Owner of the amount of the monthly installments applicable to such Owner's Apartment not less than fifteen (15) days in advance of the beginning of such annual assessment period. The Board of Directors may from time to time during any year increase the assessment rate or impose a special assessment to make up any existing deficiency whenever for any reason the rate then in effect shall prove inadequate, provided that the Board of Directors shall send to all Apartment Owners written notice of any such increase or special assessment not less than fifteen (15) days before the effective date of such increase or assessment. Any portion of an Owner's assessments used or to be used by the Association for capital improvements or any other capital expenditure shall not be treated as

income to the Association but shall be treated as a capital contribution by the Owners to the Association and shall be credited by the Association upon its books as paid-in-surplus. Payments of common expenses shall be made to the Board as agent of the Owners of the Apartments, and the Board shall transmit such payments on behalf of each such Owner to the third person entitled to such payments from each Owner.

SECTION 2. Payment as Agent. The Board will pay or cause to be paid, on behalf of the Owners, all common expenses. Each Owner, as principal, shall be liable for and pay his share, determined as provided in the Declaration, of all common expenses; and the Board shall be responsible, as agent for each Owner, only to transmit the payments made by the Owner to third persons to whom such payments must be made by the Owner. The Board collecting the common expenses shall not be liable for payment of such common expenses as principal but only as the agent of all Owners to transmit said payments to third persons to whom such payments must be made by the Owners.

SECTION 3. Taxes and Assessments. Each Owner of an Apartment shall be obligated to have the real property taxes for such Apartment and its appurtenant interest in the common elements assessed separately by the proper governmental authority and to pay the amount of all such real property taxes so determined. The foregoing sentence shall apply to all types of taxes which now are or may hereafter be assessed separately by law on each Apartment and the common interest in the common elements appertaining thereto or the personal property or any other interest of the Owner. Each Owner shall execute such documents and take such action as may be reasonably specified by the Board to facilitate dealing with the proper governmental authority regarding such taxes and assessments. Each Owner shall be obligated to pay to the Board his proportionate share of any assessment by the Board for any portion of taxes or assessments, if any, assessed against the entire premises or any part of the common elements as a whole and not separately, such payment to be made as directed by the Board. If, in the opinion of the Board, any taxes or assessments may be a lien on the entire premises or any part of the common elements, the Board may pay such taxes or assessments as part of the common expenses. Such assessments by the Board shall be secured by the lien created by Section 4 of this Article VI.

SECTION 4. Default in Payment of Assessments. Each monthly assessment and each special assessment shall be the separate, distinct and personal debt and obligation, as of the date of assessment, of the Owner against whom the same are assessed and, in the case of an Apartment owned by more than one person, shall be the joint and several obligation of such co-owners. Any assessment not paid within ten (10) days after the due date thereof shall accrue interest at the rate of

twelve percent (12%) per annum from such due date until paid. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies the Board of Directors may have, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits to enforce such assessment obligations. Each such action must be authorized by a majority of the Board at a regular or special meeting thereof, and any such suit may be instituted by any one member of the Board or by the Managing Agent if the latter is so authorized in writing. Each such action shall be brought in the name of the Board, and the Board shall be deemed to be acting on behalf of all the Owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for attorneys' fees in such amount as the court may adjudge against such defaulting Owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time within sixty (60) days after the occurrence of any such default, the Board (acting upon the authorization of the majority thereof at any regular or special meeting) may give a notice to the defaulting Owner (with a copy to the mortgagee of such Owner if such mortgagee has furnished its name and address to the Board) stating the date of the delinquency, the amount of the delinquency and making demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may file a claim of lien against the Apartment of such delinquent Owner. Such claim of lien shall state (i) the name of the delinquent Owner, (ii) a designation of the Apartment against which the claim of lien is made, (iii) the amount claimed to be due and owing (after the allowance of any proper offset), (iv) that the claim of lien is made by the Board pursuant to the terms of these Bylaws and the Act, and (v) that a lien is claimed against such Apartment in an amount equal to the net amount of the stated delinquency plus any accrued interest and costs of enforcement, including attorneys' fees, if any. Such claims of lien shall be signed and acknowledged by any two or more members of the Board or by the attorney for the Board and shall be dated as of the date of the execution by such attorney or the last such Board member to execute such claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, HRS. Each default shall constitute a separate basis for a claim of lien, but a single claim of lien may be filed with respect to more than one default.

For the purposes of this Section 4, a certificate executed and acknowledged or made under penalty of perjury by any two members of the Board shall be conclusive upon the Board and the Owners in favor of any and all persons who rely thereon in good faith as to the matters therein

contained, and any Owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his Apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00). If any claim of liens is recorded and thereafter the Board receives payment in full of the amount claimed to be due and owing, (including accrued interest and any costs of enforcement), then upon demand of the Owner and payment of a reasonable fee, not to exceed Ten Dollars (\$10.00), the Board, acting by any two members, shall execute, acknowledge and deliver to the Owner a release of lien, stating the date of the original claim of lien, the amount claimed, the book and page where such lien is recorded in the Bureau of Conveyances and that the lien is fully satisfied, released and discharged.

SECTION 5. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the Owner hereunder or to exercise any right or option herein contained or to serve any notice or to institute any action or summary proceeding shall not be construed as a waiver or a relinquishment for the future, of such covenant, option or right, but such covenant, option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the Owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach; and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in a resolution of the Board of Directors.

SECTION 6. Collection from Tenant. If the Owner at any time rents or leases his Apartment and defaults for a period of thirty (30) days or more in the payment of the Owner's share of the common expenses, the Board may, so long as such default continues, demand and receive from any renter or lessee (hereinafter in this paragraph referred to as "lessee") of the Owner occupying the Apartment the rent due or becoming due from such lessee to the Owner up to an amount sufficient to pay all sums due from the Owner, including interest and costs of enforcement if any; and any such payment of such rent to the Board by the lessee shall be a full and sufficient discharge of such lessee as between such lessee and the Owner to the extent of the amount so paid; but no such demand or acceptance of rent from any lessee shall be deemed to be a consent to or approval of any lease by the Owner or a release or discharge of any of the obligations of the Owner hereunder remaining unpaid or unperformed or an acknowledgment of surrender of any rights or duties hereunder. If the Board makes any such demand upon the lessee, the lessee shall not have the right to question the right of the Board to make such demand, but shall be obligated to make such payments to the Board as demanded by the Board with the effect as aforesaid; provided, that the Board may not exercise this right if a receiver has been appointed to take

charge of the premises pending a mortgage foreclosure or if a mortgagee is in possession pending a mortgage foreclosure.

SECTION 7. Books of Account. The Board, on behalf of all Owners, will maintain or cause to be maintained books of account of the common expenses in accordance with recognized accounting practices and will have such books of account available for inspection by any Owner or his authorized representative at reasonable business hours at the address of the Project or elsewhere in the State as determined by the Board of Directors.

SECTION 8. Audit. Within thirty (30) days after the end of each fiscal year of the Association, the Board will render or cause to be rendered to each Owner a statement (determined on a cash basis) of all receipts and disbursements, including a schedule of assessments received and receivable, during the preceding year. Any Owner may, at his expense, cause an audit or inspection to be made of the books and records of the Association.

ARTICLE VII

INSURANCE AND RESTORATION

SECTION 1. Fire and Extended Coverage Insurance. The Board shall procure and at all times maintain from a company or companies qualified to do business in Hawaii having a financial rating by Best's Insurance Reports of Class VI or better (and, if necessary to procure the required coverage, from other companies) a policy or policies (hereinafter in this Section 1 called the "Policy") of fire insurance, with extended coverage endorsement or such broader forms of protection as the Board shall determine, for an amount as nearly as practicable equal to the full replacement cost without deduction for depreciation, with an Inflation Guard Endorsement, covering the Apartments and fixtures therein and the buildings, fixtures and building service equipment and the common elements and, whether or not part of the common elements, all exterior and interior walls, floors and ceilings, in accordance with the as-built condominium plans and specifications, but excluding any improvements made by an Owner, which the Owner himself may insure, and excluding property of every kind and description while underground (meaning thereby, below the level of contiguous ground and covered by earth, except underground conduit or wiring therein when beneath the buildings), in the name of the Association of Apartment Owners. The Policy:

(a) Shall contain no provision limiting or prohibiting other insurance by the Owner of any Apartment, but shall provide that the liability of the insurer shall not be affected by, nor shall the insurer claim any right of set-off,

counterclaim, apportionment, proration, or contribution, by reason of any such other insurance;

(b) Shall 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, and, if obtainable, shall not relieve the insurer from liability by reason of any breach of warranty or condition caused by the Board or the Owner or tenant of any Apartment or by reason of any act or neglect of the Board or the Owner or tenant of any Apartment;

(c) Shall provide that the Policy may not be cancelled or substantially modified by the insurer except by giving to the Board and the Owner and any mortgagee of each Apartment who shall have requested such notice from the insurer thirty (30) days' written notice of such cancellation;

(d) Shall contain a provision waiving any right of the insurer to repair, rebuild or replace if a decision is made pursuant to Section 5 of this Article VII not to repair, reinstate, rebuild or restore the damage or destruction;

(e) Shall provide that any loss shall be adjusted with the insured and the Owner and mortgagee of any Apartment directly affected by the loss;

(f) Shall contain a standard mortgagee clause which:

(i) Shall name the holder of any mortgage affecting any Apartment whose name shall have been furnished to the Board and to the insurer;

(ii) Shall provide that the insurance as to the interest of the mortgagee shall not be invalidated by any act or neglect of the Board or the Owner or tenant of any Apartment;

(iii) Shall waive (A) any provision invalidating such mortgage clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, (B) any requirement that the mortgagee pay any premium (provided, that if the Board fails to pay any premium due or to become due under the Policy, the mortgagee may pay the same prior to termination of the Policy by reason of nonpayment of such premium), (C) any contribution clause and (D) any right to be subrogated to the right of any mortgagee against the Owner or tenant of any Apartment or the Board or to require an assignment of any mortgage to the insurer, except that the insurer will have the right of subrogation to the extent of insurance proceeds received by and retained by the mortgagee if the insurer shall claim no liability against the mortgagor or Owner, but without impairing the mortgagee's right to sue any person for any loss or deficiency not covered by the insurance proceeds.

(iv) Shall provide that, without affecting the protection afforded to the mortgagee by such mortgagee clause, any proceeds payable under such clause, if in excess of Ten Thousand Dollars (\$10,000.00), shall be payable to a corporate trustee selected by the Board who shall be a bank or trust company or real estate management company doing business in Honolulu having net assets of not less than Five Million Dollars (\$5,000,000.00), herein referred to as the "Insurance Trustee" or "Trustee"; and

(v) Shall provide that any reference to a mortgagee in the Policy shall include all mortgagees of any Apartment, in their order of priority;

(g) Shall provide flood insurance coverage under the provisions of the Federal Flood Disaster Protection Act of 1973, if the Project is located in an identified flood hazard area as designated by the Department of Housing and Urban Development, for the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended;

(h) Shall provide for payment of the proceeds to the Insurance Trustee if the total proceeds payable on account of any one casualty exceed Ten Thousand Dollars (\$10,000.00); and

(i) Shall require the insurer, at the inception of the Policy and on each anniversary date thereof, to provide the Board of Directors with a written summary, in layman's terms, of the Policy, which summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium and renewal dates, which information the Board of Directors shall provide to each Owner.

SECTION 2. Comprehensive Liability Insurance. The Board shall procure and maintain at the Association's expense from a company or companies qualified to do business in Hawaii (and, if necessary to procure the required coverage, from other companies) a policy or policies (hereinafter in this Section 2 called the "Policy") of public liability insurance to insure the Board, each Apartment Owner, and the Managing Agent and other employees of the Association of Apartment Owners against claims for personal injury, death and property damage arising out of the condition of the Property or activities thereon or construction work under a Comprehensive General Liability form, with minimum limits of not less than \$100,000 for damage to property, not less than \$300,000 for injury to one person and not less than \$1,000,000 for personal injury and property damage arising out of a single occurrence. The Policy:

(a) Shall, if obtainable, not relieve 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, or because of any breach of warranty or condition caused by the Owner of any Apartment or any act or neglect of the Owner or tenant of any Apartment;

(b) Shall provide that the Policy may not be cancelled by the insurer except by giving to the Board and to

the Owner of each Apartment and any mortgagee who shall have requested such notice of the insurer in writing thirty (30) days' written notice of such cancellation;

(c) Shall contain a waiver by the insurer of any right of subrogation to any right of the Board or the Owners against any of them or any other persons under them; and

(d) Shall contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other Owners.

SECTION 3. Insurance Against Damage to Exterior Glass and Additional Risks. The Board may procure insurance against damage to exterior glass and such additional risks as the Board may deem advisable for the protection of the Apartment Owners of a character normally carried with respect to properties of comparable character and use.

SECTION 4. Miscellaneous Insurance Provisions. The Board shall review at appropriate intervals in time the adequacy of its insurance program. At the request of any mortgagee of any Apartment, the Board shall furnish to such mortgagee a copy of the Policy described in Section 1 of this Article and of any other policy to which a mortgagee endorsement shall have been attached. Copies of every policy of insurance procured by the Board shall be available for inspection by an Apartment Owner (or purchaser holding a contract to purchase an interest in an Apartment) at the office of the Managing Agent. Any coverage procured by the Board shall be without prejudice to the right of the Owners of Apartments to insure such Apartments and the contents thereof for their own benefit at their own expense.

SECTION 5. Damage and Destruction. If any building is damaged by fire or other casualty which is insured against and said damage is limited to a single Apartment, the insurance proceeds shall be used by the Board or the Trustee for payment of the contractor retained by the Board to rebuild or repair such Apartment, including paint, floor covering and fixtures, in accordance with the original plans and specifications therefor. If the insurance proceeds are insufficient to pay all costs of repair, the remaining deficiency shall be paid from the maintenance fund. If the maintenance fund is insufficient for this purpose, the Board shall levy a special assessment on all the Owners of Apartments in the proportions prescribed pursuant to the Declaration for the allocation of common expenses.

If such damage extends to two or more Apartments or extends to any part of the common elements:

(a) If the Owners of the Apartments do not within sixty (60) days after such casualty or, if by such date the insurance loss has not been finally adjusted, within thirty (30) days after such final adjustment, agree in writing in accordance with the provisions of the Declaration and this Section 5 that the building or buildings or any portion thereof need not be rebuilt or repaired, or if the Owners at an earlier

date agree to rebuild immediately, then the Board shall contract to repair or rebuild the damaged portions of the building or buildings, including all Apartments so damaged, as well as common elements:

(i) In accordance with plans and specifications therefor which will restore the same in conformity with the design immediately prior to the destruction, or

(ii) If reconstruction in accordance with such design is not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be approved by the Board, provided that, if such modified plan eliminates any Apartment and such Apartment is not reconstructed, the Insurance Trustee shall pay to the Owner and mortgagee of such Apartment, as their interests may appear, the portion of the insurance proceeds allocable to such Apartment (less the proportionate share of such Apartment in the cost of debris removal) and shall disburse the balance of the insurance proceeds as hereinafter provided for the disbursement of insurance proceeds.

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 5. If the insurance proceeds are insufficient to pay all the costs of repairing and rebuilding all damaged Apartments as well as the common elements, the Board is expressly authorized to pay such costs in excess of the insurance proceeds from the maintenance fund, and if the maintenance fund is insufficient for this purpose, the Board shall levy a special assessment on the Owners of Apartments in the proportions prescribed pursuant to the Declaration for the allocation of common expenses. The special assessment shall be secured by the lien created under Section 4 of Article VI hereof.

If a decision is made in accordance with the Declaration, this section and the Act, not to repair or rebuild all or any lesser number of damaged or destroyed Apartments, the insurance proceeds allocable to any Apartment which is not to be rebuilt (hereinafter called an "eliminated Apartment"), less the proportionate share of such Apartment in the cost of debris removal, shall be paid to the Owner and any mortgagee of the eliminated Apartment as their interests may appear. The remaining insurance proceeds shall be paid to the Insurance Trustee, who shall apply such moneys to repair and rebuild any portion of the buildings that is to be reconstructed in accordance with this section. If a decision is made to eliminate an Apartment, the common interests and other rights of the remaining Apartment Owners in the Project shall be adjusted by amendment of the Declaration pursuant to Section 514A-13(b), HRS, and the Declaration; provided, that the common interest of any Owner shall not be altered without his consent. The owner of any eliminated Apartment shall be discharged from all Declaration. Alternatively, if the Declaration is not amended

so as to discharge the Owners of eliminated Apartments of all obligations to the Project and so as to adjust equitably the common interests appurtenant to those Apartments not eliminated, the Owner of any eliminated Apartment may, pursuant to Section 514A-92, HRS, convey his interest to the Board of Directors on behalf of all other Apartment Owners and thereby be discharged of all obligations to the Project. The Owner of any eliminated Apartment may, in addition to his allocable share of insurance proceeds, receive such reimbursement as the Board deems appropriate.

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

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

(ii) 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 (A) 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 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 and materials) and (B) 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;

(iii) 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 other evidence satisfactory to the Trustee showing that no mechanics', materialmen's or other lien or instrument for the retention or encumbrance of title shall have been filed since the commencement of the reconstruction work and permitted to remain undischarged of record with respect to the premises or any part of the work;

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

(v) The fees and expenses of the Trustee as determined by the Board 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;

(vi) The Trustee may impose other reasonable conditions consistent with the foregoing.

(c) Upon completion of the work and payment in full therefor, any remaining insurance proceeds then or thereafter in the hands of the Board or the Trustee shall be paid or credited to the Owners and mortgagees of the Apartments in proportion to the respective common interests appurtenant to the Apartments.

(d) To the extent that any loss, damage or destruction to the buildings or other property is covered by insurance procured by the Board, the Board shall have no claim or cause of action for such loss, damage or destruction against any Apartment Owner or lessee. To the extent that any loss, damage or destruction to the property of any Apartment Owner or lessee is covered by insurance procured by such Owner or lessee, such Owner or lessee shall have no claim or cause of action for such loss, damage or destruction against the Board, the Managing Agent, any other Apartment Owner, or the Association. All policies of insurance referred to in this paragraph (d) shall contain appropriate waivers of subrogation by the insurers.

SECTION 6. Disposition of Buildings. If the common elements of the Project suffer substantial damage within the meaning of Section 514A-21(a)(2), HRS, and if Apartment Owners holding seventy-five percent (75%) or more of the common interests of the Project shall agree in writing that the Project need not be rebuilt, any insurance proceeds shall be used to remove any remaining improvements on the land included in the Project, and the balance of such insurance proceeds, if any, shall be allocated among the Apartment Owners and their mortgagees, in accordance with the interest in the common elements appurtenant to each Apartment.

SECTION 7. Notice of Right to Vote Against Rebuilding. Within ten (10) days after the occurrence of any damage or destruction with respect to which some or all of the Apartment Owners will have the right, pursuant to Section 12 of the Declaration, to vote against any proposed rebuilding or restoration, the Board of Directors shall send notice to all such Owners so entitled to vote. Such notice shall recite the nature and extent of damage, the right of specified Owners to vote against rebuilding or restoration, the percentage of votes necessary to prevent rebuilding or restoration, the time when or within which any such vote must be cast, the place and manner in which any such vote must be cast, and any other information deemed relevant by the Board of Directors.

ARTICLE VIII

MORTGAGES

SECTION 1. Notice of Unpaid Common Expenses. The Board of Directors, whenever so requested in writing by a

purchaser or mortgagee of an interest in an Apartment, shall promptly report any then unpaid assessments for common expenses due from the Owner of the Apartment involved.

SECTION 2. Notice of Default. When giving notice to an Apartment Owner of a default in paying common expenses or other default, the Board of Directors, shall send a copy of such notice to each holder of a mortgage covering such Apartment or interest therein whose name and address has theretofore been furnished to the Board of Directors.

SECTION 3. Examination of Books. Each mortgagee of an Apartment shall be permitted to examine the books of account of the Association at reasonable times on business days, but not more often than once a month.

SECTION 4. Mortgage Protection. Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Apartment and its appurtenant interests in the common elements shall be subject and subordinate to, and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interests made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interests of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such Apartment if falling due after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the same manner as provided in Section 4 of Article VI hereof.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the Project as a whole.

(c) The Declaration and Bylaws shall not give an apartment owner or any other party priority over any rights of first mortgagees of Apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for losses to or a taking of apartment units, common elements or both.

(d) No amendment to this Section 4 shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances of the State of Hawaii prior to the recording and filing of such amendment who does not join in the execution thereof.

SECTION 5. Notice to Board of Directors. An Owner who mortgages his interest in an Apartment shall notify the Board of Directors of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of the note and mortgage with the Board of Directors. The Board of Directors shall maintain such information in a book entitled "Mortgages of Apartments".

ARTICLE IX

CONDEMNATION

In the event of a taking in condemnation or by eminent domain of part or all of the improvements of the Project, the proceeds of any award of compensation shall be payable to a condemnation trustee (the "Condemnation Trustee") which shall be a bank, trust company or real estate management company designated by the Board doing business in Hawaii and having net assets of not less than Five Million Dollars (\$5,000,000.00).

In the event all or any of the Apartments are taken and there is no final judicial determination of the amount of condemnation proceeds allocable to each Apartment so taken, the amount of the condemnation proceeds allocable to each Apartment (including the Apartment's appurtenant interest in the common elements) shall be determined by a real estate appraiser ("Appraiser") who shall be a member of the American Institute of Real Estate Appraisers, or any successor organization and who shall have acted on behalf of the Apartment Owners in the condemnation proceedings; or, if no such Appraiser shall have acted on behalf of the Apartment Owners or if more than one Appraiser shall have acted on behalf of the Apartment Owners, then an Appraiser with such qualifications shall be selected by the Board of Directors to determine the amount of condemnation proceeds allocable to each Apartment, subject to the right of the affected Apartment Owners, by majority vote within fifteen (15) days after all such affected Apartment Owners receive notice of the appointment of such Appraiser and their right to vote thereon, to require that the Appraiser consist of a panel of three (3) appraisers, in which event the Board of Directors shall select three (3) qualified appraisers to act as Appraiser, and the decision of any two (2) of them shall be the decision of the Appraiser.

If the entire Project is taken, the Condemnation Trustee shall pay to each Apartment Owner and mortgagee, as their interests may appear, the portion of the condemnation proceeds determined by the Appraiser to be allocable to the Owner's Apartment.

In the event of a partial taking of the Project in which (i) any Apartment is physically eliminated, or (ii) a portion thereof is eliminated and the remaining portion cannot be repaired or rebuilt in a manner satisfactory to the Owner of the Apartment and to the Board of Directors, then such apartment shall be removed from the Project and the Condemnation Trustee shall disburse to the Owner and any mortgagee of such Apartment, as their interests may appear, in full satisfaction of their interests in the Apartment, the portion of the proceeds of such award determined by the Appraiser to be allocable to such eliminated or removed Apartment after deducting the proportionate share of such Apartment in the cost of the debris removal.

In the event of any partial taking of the Project, the Board shall, subject to the provisions of the preceding sentence concerning removal of an Apartment, arrange for any necessary repair and restoration of the buildings and improvements remaining after the taking in accordance with the design thereof immediately prior to such condemnation or, if repair and restoration in accordance with such design are not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be approved by the Board and the mortgagee of record of each Apartment in the Project remaining after such taking. Such work shall be undertaken, and disbursements therefor shall be made, in the manner prescribed in Section 5(b) of Article VII hereof. If the sums held by the Condemnation Trustee are insufficient to pay the cost for such repair and restoration, the Board shall pay such excess costs from the maintenance fund; and, if the maintenance fund is insufficient for this purpose, the Board shall levy a special assessment on the Owners of the remaining Apartments in the proportions prescribed for their sharing of common expenses. Such special assessment shall be secured by the lien created under Section 4 of Article VI hereof.

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

ARTICLE X

GENERAL PROVISIONS

SECTION 1. Rules and Regulations. The Developer shall initially establish and the Board may thereafter establish and amend such Rules and Regulations as the Developer or the Board, as the case may be, may deem necessary for the operation and use of the common elements, including, without limitation, such aspects of the operation and use of the Apartments as may affect the operation and use of the common elements. The Rules and Regulations shall uniformly apply to and be binding upon all occupants of the Apartments; and each Owner shall abide by all such Rules and Regulations, as the same may from time to time be amended and shall see that the same are faithfully observed by the invitees, guests, employees, and tenants of the Owner.

SECTION 2. Abatement and Enjoinment of Violations by Apartment Owners. The violation of any of the Rules and Regulations, the breach of any of these Bylaws or the breach of any provision of the Declaration shall give the Board of Directors the rights in addition to any other rights set forth in these Bylaws:

(a) To enter the Apartment during reasonable hours in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Apartment Owner, any structure, thing or condition that may exist therein in violation of the Rules and Regulations, these Bylaws or the Declaration; and the Board of Directors shall not thereby be guilty of any trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be paid by the defaulting Apartment Owner on demand.

SECTION 3. Expenses of Enforcement. Every Owner shall pay to the Association promptly on demand all costs and expenses (including attorneys' fees) incurred by or on behalf of the Association in collecting any delinquent assessments against such Owner's Apartment, foreclosing the lien therefor or enforcing any provision of the Rules and Regulations, these Bylaws or the Declaration against such Owner or any occupant of such Owner's Apartment.

SECTION 4. Right of Access. The Managing Agent and any other person authorized by the Board of Directors or the Managing Agent shall have a right of access to any Owner's Apartment for the purposes of making inspections or correcting any condition existing in an Apartment and threatening another Apartment or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in an Apartment or elsewhere in any of the buildings, provided that requests for entry shall be made in advance and any such entry shall be at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be granted and effective immediately, whether the Owner is present at the time or not.

SECTION 5. Owners May Incorporate. All of the rights, powers, obligations and duties of the Owners imposed hereunder may be exercised and enforced by a nonprofit membership corporation formed by the Owners under the laws of the State of Hawaii for the purposes herein set forth. Such corporation shall be formed upon the written approval of seventy-five percent (75%) in interest of the voting Owners. The formation of such corporation shall in no way alter the terms, covenants and conditions set forth herein, and the Charter and Bylaws of such corporation shall be subordinated hereto and controlled hereby. Any action taken by such corporation in violation of any or all of the terms, covenants or conditions contained herein shall be void and of no effect.

SECTION 6. Grievances and Disputes. Whenever any grievance or dispute arises between any two or more Owners concerning the use, maintenance, repair, alteration or improvement of their Apartments, any aggrieved Owner may petition the Board, in writing, for a hearing by serving a copy of the petition on the President or the Managing Agent.

(a) The aggrieved party's petition should contain a concise statement of the facts of the dispute, the question to be resolved, any reference to laws, ordinances, the Declaration, Bylaws, Rules and Regulations or other authorities favoring his position and any other information which will assist the Board in its determination.

(b) Within five (5) days of the receipt by the President or the Managing Agent of the petition, the President shall set a time, place and date for a hearing on the petition and shall notify the aggrieved party thereof.

(c) A copy of the petition, together with a designation of the time, place and date of the hearing on the petition, must be served on all other parties to the dispute by the aggrieved person. Service may be accomplished by: (1) personal delivery of the petition to the residence of each of the other parties to the dispute, by leaving a copy thereof with an adult member of such residence at least ten (10) days before the hearing date; or (2) sending a copy of the petition to the other parties to the dispute by certified mail, return receipt requested, postmarked at least two (2) weeks (14 days) prior to the hearing date.

(d) At least three (3) members of the Board must be present at the hearing on the petition.

(e) Within fourteen (14) days of the hearing date, the Board must render a written decision on the resolution of the dispute. The decision may cite therein any applicable provisions of the Declaration, Bylaws, Rules and Regulations, laws, ordinances, etc. The decision of the Board shall be final and binding on all parties to the dispute.

(f) All parties to the dispute shall have an opportunity to be heard. The Board shall be the sole judge of the admissibility of any material to be presented and the manner of its presentation, the length of time to be allotted to each party to the dispute for presentation of his views and the credibility and weight to be accorded to all evidence presented.

(g) Any party to the dispute may submit a written rebuttal to the petition of the aggrieved party so long as service thereof is made in accordance with paragraph (c) hereof, upon all other parties to the dispute at least four (4) days before any hearing date.

(h) Any time periods stated herein may be changed by consent of the Board and all parties to the dispute.

SECTION 7. Representation of the Association and Owners. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more Owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one

Apartment, and on its or their half may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the right of any Owners individually to appear, sue or be sued. Service of process on two or more Owners in any such action, suit or proceeding may be made on the President or the Managing Agent.

SECTION 8. Notices. All notices to the Association shall be mailed or delivered to the Board of Directors, in care of the Managing Agent, or, if there is no Managing Agent, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate by notice in writing to all Owners and all mortgagees of Apartments. All notices to any Owner shall be mailed or delivered to the building or to such other address designated by him in writing given to the Board of Directors. Any notices to mortgagees of Apartments shall be sent by mail to their respective addresses, as designated by them in writing given to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received.

SECTION 9. Captions. The captions herein are inserted only as a matter of convenience and for reference and shall in no way define, limit or prescribe the scope of these Bylaws or the intent of any provision hereof.

SECTION 10. Gender. The use of any gender in these Bylaws shall be deemed to include either or both of the other genders and the use of the singular shall be deemed to include the plural whenever the context requires.

SECTION 11. Waiver. No restriction, condition, obligation or provision in these Bylaws shall be deemed abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

SECTION 12. Interpretation. The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform condominium complex whereby the Owners of Apartments shall carry out and pay for the operation and maintenance of the Project as a mutually beneficial and efficient establishment.

SECTION 13. Amendment. Except as otherwise provided herein, the provisions of these Bylaws, other than this section, may be amended pursuant to Section 514A-82, HRS, by the vote of Apartment Owners owning at least seventy-five percent (75%) of the common interest in the common elements, and evidenced by an instrument in writing, signed and acknowledged by any two officers of the Association of Apartment Owners, which amendment shall be effective upon recordation in the Bureau of Conveyances of the State of Hawaii; provided, however, that the legal effect of any such amendment shall be further subject to the requirements of paragraph 15 of the Declaration.

SECTION 14. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

The Developer hereby adopts the foregoing Bylaws as the Bylaws of the Association of Apartment Owners of Kihei Resort condominium project on behalf of the Association this 2nd day of June, 1980.

GIBRALTAR MAUI PARTNERS

By KIHEI DEVELOPMENT CORPORATION
General Partner

By William L. F.
Its President

By W. G. G. MAUI INC.
General Partner

By W. G. G.
Its President

By A. W. L. DEVELOPMENTS INC.
General Partner

By A. W. L.
Its President

4
727
84-145055
RECORDATION REQUESTED BY:

BRUCE C. DYNNAN, ESQ.

AFTER RECORDATION, RETURN TO:

DYNNAN, WAKAMURA, ELISHA & WAKATANI
737 Bishop Street, Suite 1850
Honolulu, Hawaii 96813

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDATION

84 DEC 22 P1: 53

18359 336

RECORDATION FEE

RETURN BY: MAIL () PICKUP (X)

AMENDMENT OF THE DECLARATION OF HORIZONTAL
PROPERTY REGIME AND BY-LAWS OF KIHAI RESORT

WHEREAS, by Declaration of Horizontal Property Regime dated June 2, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14799, Page 1 (hereinafter called the "Declaration"), Gilbralter Maui Partners, a registered Hawaii general partnership, the fee owner, did submit the property described in the Declaration to the provisions of Chapter 514A, Hawaii Revised Statutes; and

WHEREAS, the Declaration provided for the organization of the Association of Apartment Owners of Kihei Resort and established By-Laws therefor, which said By-Laws (hereinafter called the "By-Laws") were attached to the Declaration and incorporated therein by reference; and,

WHEREAS, Article X, Section 13 of the By-Laws provides that the By-laws may be amended by the vote of Kihei Resort apartment owners owning at least seventy-five percent (75%) of the common interest in the common elements of Kihei Resort;

WHEREAS, Section 15 of the Declaration provides that in the case of an amendment to the By-Laws, the Declaration shall be amended to set forth such amendment pursuant to such percentage vote as is required by the By-Laws for such amendment; and

WHEREAS, at the 1984 annual meeting of the Association of Apartment Owners of Kihei Resort, which meeting was duly held at the Kihei Community Center, Kihei, Maui, Hawaii, on

December 1, 1984, and was adjourned to December 6, 1984, at the offices of Turner Management Corporation, located at 1993 South Kihoi Road, Kihoi, Maui, Hawaii, it was voted by Kihoi Resort apartment owners owning more than seventy-five percent (75%) of the common interest in the common elements of Kihoi Resort, to amend the Declaration and By-Laws as hereinafter set forth.

NOW, THEREFORE, the Declaration and By-Laws are hereby amended as follows:

AMENDMENT NUMBER ONE

Article II, Section 8 of the By-Laws is amended to read as follows:

SECTION 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Unless the Board of Directors determines otherwise, meetings shall be held monthly. Notice of the time and place for each regular meeting of the Board of Directors shall be given to each member of the Board of Directors in writing at least three (3) business days prior to the day named for such meeting and shall be posted at a prominent place or places within the common elements at least three (3) days prior to the day named for such meeting.

AMENDMENT NUMBER TWO

Article III is amended by adding a new Section 17, to read as follows:

Section 17. Participation in Meetings by Telephone Conference. Any Director who is not physically in attendance at any annual, regular or special meeting of the Board of Directors, but who is in telephone contact with the other Directors during such meeting and is thereby able to participate in the discussions, reports, debates, votes, and other matters conducted thereat, shall be deemed to be in attendance at said meeting for all purposes, including but not limited to the purpose of establishing a quorum.

In all other respects, the Declaration and By-Laws, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

The undersigned Vice-President and Secretary of the Association hereby certify that the foregoing amendments were

18359 338

adopted at a duly held meeting of the Association of Apartment Owners of Kihei Resort, on December 6, 1984, by a vote of Kihei Resort apartment owners owning more than seventy-five percent (75%) of the common interest in the common elements of Kihei Resort.

IN WITNESS WHEREOF, the parties hereto have executed these presents this 19th day of December, 1984.

ASSOCIATION OF APARTMENT
OWNERS OF KIHAI RESORT

By: Susan Tonde Antoku
Its Vice-President

By: Keith M. Bana
Its Secretary

THE STATE OF HAWAII

COUNTY OF MAUI

)
) SS.

On this 19th day of December, 1984, before me appeared SUSAN TONDE ANTOKU, to me personally known, who being by me duly sworn, did say that she is the Vice-President of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.

Patricia M. Manaitz
Notary Public, State of Hawaii
My commission expires: 11/15/86

THE STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.

On this 27th day of December, 1984, before me appeared Keith M. Bana, to me personally known, who being by me duly sworn, did say that he is the Secretary of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that he executed the same as the free act and deed of said Association. Said Association has no seal.

Sherr Ann Y. Bush
Notary Public, State of Hawaii
My commission expires: 3/27/87

01- 5
RECORDATION REQUESTED BY:

BRUCE C. DINMAN, ESQ.

85- 24592

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDATION

AFTER RECORDATION, RETURN TO:

DINMAN, NAKAMURA, ELISHA & NAKATANI
737 Bishop Street, Suite 1850
Honolulu, Hawaii 96813

05 MAR 11 P 2: 37

18495 159

REGISTRAR

RETURN BY: MAIL () PICKUP (X)

AMENDMENT OF THE DECLARATION OF HORIZONTAL
PROPERTY REGIME AND BY-LAWS OF KIHAI RESORT

WHEREAS, by Declaration of Horizontal Property Regime dated June 2, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14799, Page 1 (hereinafter called the "Declaration"), Gilbralter Maui Partners, a registered Hawaii general partnership, the fee owner, did submit the property described in the Declaration to the provisions of Chapter 514A, Hawaii Revised Statutes; and

WHEREAS, the Declaration provided for the organization of the Association of Apartment Owners of Kihei Resort and established By-Laws therefor, which said By-Laws (hereinafter called the "By-Laws") were attached to the Declaration and incorporated therein by reference; and,

WHEREAS, Article X, Section 13 of the By-Laws provides that the By-laws may be amended by the vote of Kihei Resort apartment owners owning at least seventy-five percent (75%) of the common interest in the common elements of Kihei Resort;

WHEREAS, Section 15 of the Declaration provides that in the case of an amendment to the By-Laws, the Declaration shall be amended to set forth such amendment pursuant to such percentage vote as is required by the By-Laws for such amendment; and

WHEREAS, at the 1984 annual meeting of the Association of Apartment Owners of Kihei Resort, which meeting was duly held at the Kihei Community Center, Kihei, Maui, Hawaii, on

December 1, 1984, and was adjourned to December 6, 1984, at the offices of Turner Management Corporation, located at 1993 South Kihei Road, Kihei, Maui, Hawaii, it was voted by Kihei Resort apartment owners owning more than seventy-five percent (75%) of the common interest in the common elements of Kihei Resort, among other things, to amend Article III, Section 8 of the By-Laws as hereinafter set forth.

WHEREAS, by instrument dated December 19, 1984, and recorded at the Bureau of Conveyances of the State of Hawaii in Liber 18359, Page 336, the below-stated provision was incorrectly designated as Article II, Section 8 of the By-Laws, rather than as Article III, Section 8 of the By-Laws;

NOW, THEREFORE, Article III, Section 8 of the By-Laws is hereby amended to read as follows:

SECTION 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Unless the Board of Directors determines otherwise, meetings shall be held monthly. Notice of the time and place for each regular meeting of the Board of Directors shall be given to each member of the Board of Directors in writing at least three (3) business days prior to the day named for such meeting and shall be posted at a prominent place or places within the common elements at least three (3) days prior to the day named for such meeting.

The purported amendment to Article II, Section 8 of the By-Laws, as recited in the aforesaid instrument dated December 19, 1984 and recorded at the Bureau of Conveyances of the State of Hawaii in Liber 18359, Page 336, having not been voted upon by the Kihei Resort apartment owners, is null, void, and of no effect, and the pre-existing language of said Article II, Section 8 remains in full force and effect.

In all other respects, the Declaration and By-Laws, as amended, including but not limited to the addition of a new Section 17 to Article III of the By-Laws, as recited in the aforesaid instrument dated December 19, 1984 and recorded at

the Bureau of Conveyances of the State of Hawaii in Liber 18359, Page 336, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

The undersigned _____ and _____ of the Association hereby certify that the foregoing amendments were adopted at a duly held meeting of the Association of Apartment Owners of Kihei Resort, on December 6, 1984, by a vote of Kihei Resort apartment owners owning more than seventy-five percent (75%) of the common interests in the common elements of Kihei Resort.

IN WITNESS WHEREOF, the parties hereto have executed these presents this _____ day of _____, 198____.

ASSOCIATION OF APARTMENT
OWNERS OF KIHAI RESORT

By: Heath M. Debe
Its Secretary

By: Susan T. Antoku
Its Vice President

THE STATE OF HAWAII
COUNTY OF MAUI

)
) SS.
)

On this 8TH day of MARCH, 1985, before me appeared SUSAN T. ANTOKU, to me personally known, who being by me duly sworn, did say that s he is the VICE-PRESIDENT of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that s he executed the same as the free act and deed of said Association. Said Association has no seal.

Akioi Iwama
Notary Public, State of Hawaii
My commission expires: 12-13-88

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

On this 14th day of March, 1985, before me appeared Kiith M. Baba, to me personally known, who being by me duly sworn, did say that — he is the Secretary of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that — he executed the same as the free act and deed of said Association. Said Association has no seal.

Shirley Ann Y. Brook
Notary Public, State of Hawaii
My commission expires: 3/27/87

ALL OF THAT CERTAIN PARCEL OF LAND (PORTION OF THE LAND DESCRIBED IN AND COVERED BY ROYAL PATENT NUMBER 4475, LAND COMMISSION AWARD NUMBER 7713, APANA 43 TO V. KAMAMALU) SITUATE, LYING AND BEING ON THE NORTHEAST SIDE OF ROAD "F" (44 FEET WIDE), AND THE SOUTHEAST SIDE OF ROAD "D" (44 FEET WIDE), AT HOLUALOA 1ST, DISTRICT OF NORTH KONA, ISLAND, COUNTY AND STATE OF HAWAII, BEING LOT NUMBER 197, OF THE "ALII KAI SUBDIVISION", AND THUS BOUNDED AND DESCRIBED:

BEGINNING AT THE SOUTH CORNER OF THIS PARCEL OF LAND, IN THE NORTHEAST SIDE OF ROAD "F" (44 FEET WIDE). THE COORDINATES OF WHICH REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "KAHELO" BEING 2120.60 FEET SOUTH AND 3462.28 FEET EAST, AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 148° 08' 51.22 FEET ALONG THE NORTHEAST SIDE OF ROAD "F";
THENCE ALONG THE EAST CORNER OF ROADS "F" AND "D" ON A CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:
2. 191° 46' 15" 27.60 FEET;
3. 235° 24' 30" 100.17 FEET ALONG THE SOUTHEAST SIDE OF ROAD "D";
4. 328° 08' 75.96 FEET ALONG REMAINDER OF L.C. AW. 7713, APANA 43 TO V. KAMAMALU (LOT 198);
5. 58° 08' 119.11 FEET ALONG REMAINDER OF L.C. AW. 7713, APANA 43 TO V. KAMAMALU (LOT 196) TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 8,632 SQUARE FEET.

SUBJECT, HOWEVER, to:

- 1) TITLE TO ALL MINERALS AND METALLIC MINES RESERVED TO THE STATE OF HAWAII.
- 2) COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, AGREEMENTS, OBLIGATIONS AND OTHER PROVISIONS SET FORTH IN THE INSTRUMENT,
DATED : APRIL 12, 1966.
RECORDED : APRIL 22, 1966, IN LIBER 5310, PAGE 261,
IN THE BUREAU OF CONVEYANCES.
- 3) A MORTGAGE, TO SECURE AN INDEBTEDNESS OF THE AMOUNT STATED HEREIN AND ANY OTHER AMOUNTS PAYABLE UNDER THE TERMS THEREOF,
DATED : OCTOBER 10, 1977.
AMOUNT : \$48,250.00
MORTGAGOR : JOHN J.N. SPRINGER, SR. AND DOLORES F. SPRINGER, HUSBAND AND WIFE.
MORTGAGEE : WESTERN PACIFIC FINANCIAL CORPORATION, A CALIFORNIA CORPORATION.
RECORDED : OCTOBER 13, 1977, IN LIBER 12485, PAGE 186,
IN THE BUREAU OF CONVEYANCES.

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87-108916

RECORDATION
BUREAU OF CONVEYANCES
JUL 21 1987

RECORDATION REQUESTED BY:

37 JUL 21 P 1: 55

M. ANNE ANDERSON-METCALF, ESQ.

20922 668

RECORDATION

AFTER RECORDATION, RETURN TO:

DINMAN, NAKAMURA, ELISHA & NAKATANI
1850 Grosvenor Center
737 Bishop Street
Honolulu, Hawaii 96813

RETURN BY: MAIL () PICKUP (X)

AMENDMENT OF THE DECLARATION OF HORIZONTAL
PROPERTY REGIME AND BY-LAWS OF KIHEI RESORT

WHEREAS, by Declaration of Horizontal Property Regime dated June 2, 1980, recorded at the Bureau of Conveyances of the State of Hawaii (hereinafter referred to as the "Bureau of Conveyances") in Liber 14799, at Page 1, Gibraltar Maui Partners, a registered Hawaii general partnership, as owner and developer, did submit the property described in said Declaration to the provisions of the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended;

WHEREAS, said Declaration, as amended (hereinafter referred to as the "Declaration"), provided for the organization of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI RESORT (hereinafter referred to as the "ASSOCIATION") and established By-Laws therefor, which said By-Laws were attached to the Declaration and incorporated therein by reference;

WHEREAS, Article X, Section 13 of the By-Laws provides that the By-Laws may be amended by the vote of apartment owners owning at least seventy-five percent (75%) of the common interest in the common elements which amendment shall be effective upon the recording of an

instrument setting forth such amendment of the By-Laws at the Bureau of Conveyances;

WHEREAS, at an annual meeting of the ASSOCIATION, which meeting was duly held on October 11, 1986, it was voted by apartment owners owning at least seventy-five percent (75%) of the common interest in the common elements to amend the By-Laws as hereinafter set forth.

NOW, THEREFORE, the Declaration and By-Laws are hereby amended by amending the By-Laws as follows:

Article VI, Section 8 of the By-Laws is hereby amended to read as follows:

SECTION 8. Audit. Within thirty (30) days after the end of each fiscal year of the Association, the Board will render or cause to be rendered to each Owner a statement of all receipts and disbursements, including a schedule of assessments received and receivable, during the preceding year. Any Owner may, at his expense, cause an audit or inspection to be made of the books and records of the Association.

In all other respects, the Declaration and By-Laws of Kihei Resort, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

The undersigned officers of the ASSOCIATION hereby certify that the foregoing amendment was adopted at a duly held meeting of the ASSOCIATION on October 11, 1986 by the vote of apartment owners owning at least seventy-five percent (75%) of the common interest in the common elements of the Kihei Resort condominium project.

IN WITNESS WHEREOF, the parties hereto have
executed these presents this 22 day of June,
1987.

ASSOCIATION OF APARTMENT
OWNERS OF KIHEI RESORT

By Kenneth M. Bate
Its Vice President

By Diane H. Y. Lagy
Its President

STATE OF Hawaii)
 City of Honolulu) SS.
 COUNTY OF Honolulu)

On this 22 day of June, 1987, before me appeared Karla M. Baba, to me personally known, who being by me duly sworn, did say that he is the Vice President of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that he executed the same as the free act and deed of said Association. Said Association has no seal.

John R. Mijoch
 Notary Public, State of Hawaii
 My commission expires: 11-21-88

STATE OF FLORIDA)
 COUNTY OF BREVARD) SS.

On this 1 day of July, 1987, before me appeared DIANE H. KLAGGE, to me personally known, who being by me duly sworn, did say that SHE is the PRESIDENT DIANE H. KLAGGE of the Board of Directors of the Association of Apartment Owners of Kihei Resort; that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that SHE executed the same as the free act and deed of said Association. Said Association has no seal.

Phyllis A. Idem
 Notary Public, State of Florida

My commission expires: Notary Public, State of Florida at Large
My Commission Expires Sept. 15, 1988
BONDED THRU AGENT'S NOTARY BROKERAGE