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TITLE OF DOCUMENT:

**BYLAWS OF THE ASSOCIATION
 OF APARTMENT OWNERS OF
 THE WEST MAUI BREAKERS**

PARTIES TO DOCUMENT:

DECLARANTS: Douglas E. Myers and

3702 LOWER HONOAPIILANI, LLC a Colorado limited liability
 company

TAX MAP KEY(S): (2) 4-3-6: 02 & 69 (This document consists of 56 pages.)

**BYLAWS OF THE ASSOCIATION
OF APARTMENT OWNERS OF
THE WEST MAUI BREAKERS**

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**BYLAWS OF THE ASSOCIATION
OF APARTMENT OWNERS OF
THE WEST MAUI BREAKERS**

Douglas E. Myers and 3702 Lower Honoapiilani, LLC, (collectively the "Declarant"), owner of the land described in Exhibit "A" of the Declaration of Condominium Property Regime of The West Maui Breakers ("the Declaration"), of even date and which is recorded in the Bureau of Conveyances of the State of Hawaii concurrently herewith, hereby submits the Condominium Property Regime described in said Declaration to the following Bylaws, which are dated February 25, 2005.

A. INTRODUCTORY PROVISIONS

1. Authority for Bylaws. The Declarant, acting as the present Association of Apartment Owners of the Project, hereby approves and adopts these Bylaws pursuant to the Act. These Bylaws amend and restate in their entirety the Restated and Amended By-Laws of the Association of Kahekili Grove dated May 16, 1989, and recorded in the Bureau in Liber 23208, page 41.

a. Definitions. The terms used herein with initial capital letters shall have the meanings given to them in the Declaration, except as expressly otherwise provided herein.

b. Purpose of Bylaws; Covenants to Run with the Land. The Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following Bylaws all of which are declared and agreed to be in furtherance of the plan set forth in the Declaration, to constitute a Condominium Property Regime under the Act and for the purposes of enhancing and perfecting the value, desirability and attractiveness of the Project. These Bylaws shall run with the Land and Apartments and shall be binding upon all parties having or acquiring any right, title or interest therein.

c. Conflicts. These Bylaws are set forth to comply with the Declaration and the requirements of the Act and Title 16, Chapter 107 of the Hawaii Administrative Rules. In any case where any of these Bylaws conflict with the provisions of the Declaration, the Act or said rules, the provisions of the Declaration, the Act, or said rules, as the case may be, shall control and the Board shall be authorized to act in accordance with such provisions of the Declaration, the Act, or said rules.

d. Binding Effect of Bylaws on Owners, Mortgagees and Lessees. All present and future Owners, mortgagees, vendors and vendees under Agreements of Sale, tenants and occupants of Apartments and their

employees, invitees and any other persons who may use any part of the Project in any manner are subject to these Bylaws, the Declaration and the House Rules.

The acceptance of an Apartment Deed, or conveyance or mortgage or Agreement of Sale or the entering into of a lease or the act of occupancy of an Apartment shall constitute an acceptance, ratification and agreement to comply with the provisions of these Bylaws, the House Rules and the Declaration, as the same may be amended from time to time.

B. ASSOCIATION OF APARTMENT OWNERS

1. Purpose and Voting. The Association shall be organized and operated for the purposes of managing, maintaining, acquiring, constructing and caring for the Association property which includes the Common Elements, funds and other property held by the Association or the nominee of the Association, property owned by one (1) or more Apartment Owners, but held by the Association, property within or forming part of the Project privately held by one (1) or more Apartment Owners, but which may be subject to a common maintenance assessment by the Association for such purposes as insurance, and property owned by a government agency, public utility or other third party and used for the benefit of the Association or one (1) or more Apartment Owners.

Each Apartment Owner shall be a member of the Association and shall be entitled to that fraction of the total vote of all of the Apartment Owners which equals the percentage of the Common Interest appurtenant to such Apartment as set forth in the Declaration. Votes may be cast in person or by proxy by the respective Apartment Owners. The vendee of an Apartment pursuant to a recorded Agreement of Sale shall have the right to vote unless the vote is retained by the vendor as may be provided in said Agreement of Sale pursuant to Section 514A-83 of the Act. 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 co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such Apartment. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association, the percentage of vote for any Apartment owned or controlled by him in such capacity, provided that he shall first present satisfactory written evidence to the secretary of the Board or the Managing Agent that he owns or controls such Apartment in such capacity. Corporations, general partnerships, limited partnerships and limited liability companies that are Owners shall designate an officer, general partner or managing member for the purpose of exercising the vote; such representative of an Owner which is a corporation, general partnership, limited partnership, or limited liability company shall present satisfactory written evidence to the Secretary or the Managing Agent of their designation as representative.

In the absence of a challenge to such capacity, a written statement signed by an executor, administrator, guardian, trustee, officer of a corporation, partner of a partnership, or officer or member of a limited liability company shall constitute satisfactory written evidence; such statement shall be delivered to the Secretary or the Managing Agent not later than 4:30 p.m. on the second business day prior to the date of the meeting to which the written statement pertains and shall be effective until changed, revoked, or superseded. No vote allocated (if ever) to any area that constitutes a Common Element, regardless of whether it is so designated in the Declaration, shall be cast at any Association meeting.

2. Quorum of Association. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners of Apartments to which are appurtenant at least fifty percent (50%) of the Common Interest shall constitute a quorum at all meetings of the Association.

3. 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 Owners for all purposes, except where a higher percentage vote is required in the Declaration or these Bylaws or by law.

4. Majority of Apartment Owners. As used in these Bylaws, the term "Majority of Apartment Owners" shall mean Owners of Apartments to which are appurtenant more than fifty percent (50%) of the Common Interest.

5. Proxies and Pledges.

a. A proxy, to be valid, must be delivered to the Secretary of the Association or the Managing Agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: the name of the Association, the date of the meeting of the Association, the printed name and signature of the person or persons giving the proxy, the Apartment or Apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments and may be limited as the Apartment Owner desires and indicates.

b. All proxy forms shall, at a minimum, contain four boxes wherein an Owner may indicate that the Owner desires the proxy to be given (1) to the Board or a specific individual whose name is printed by the Owner next to the box for purposes of establishing a quorum only, (2) to a specific individual whose name is printed by the Owner next to the box, (3) to the Board as a whole to be voted based on the preference of a majority of the Board, or (4) to the Board with each member thereof present at the meeting to vote an equal share of the proxy. A proxy form which does not have one of these four

boxes marked shall be considered a proxy given to the Board for purposes of establishing a quorum only. A complete, reliable reproduction of an entire proxy, including a fax copy, may be used in lieu of the original proxy for all purposes for which the original proxy could be used. No proxy shall be irrevocable unless coupled with a financial interest in the Apartment. Proxies shall be revoked by writing filed with the Secretary or by the death or incapacity of such Owner or by the attendance of such Owner at the meeting.

c. Voting rights transferred or pledged by a recorded lease, mortgage, 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. Nothing contained in this Section 6 or Section 7, below, shall affect the holder of any proxy under a first mortgage of record encumbering an Apartment or under an Agreement of Sale affecting an Apartment.

6. Prohibited Proxy Practices.

a. No Resident Manager, or Managing Agent shall solicit, for use by such manager or Managing Agent, any proxies from any Apartment Owner, nor shall he cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

b. No Director who uses Association funds to solicit proxies shall vote any such proxies for the election or reelection of any Director at any Association meeting unless the proxy form specifically authorizes such vote for the election or reelection of Directors and the Board first posts notice of such intention to solicit proxies in prominent locations within the Project at least thirty (30) days prior to its solicitation of proxies; provided that if the Board receives within seven (7) days of the posted notice a request by any Owner for use of Association funds to solicit proxies accompanied by a statement, the Board shall:

(1) Mail to all Owners a proxy form containing either the names of all Owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or

(2) Mail to all Owners a proxy form containing no names, but accompanied by a list of names of all Owners who have requested the use of Association funds for soliciting proxies and their statements. The statement shall not exceed one hundred words and shall indicate the Owner's qualifications to serve on the Board and reasons for wanting to receive proxies.

c. No officer of the Association may use Association funds to solicit proxies; provided that if any member of the Board shall post notice

of intention to solicit proxies as provided in Section B.7(b), such officer shall have the same rights as any other Owner to request the use of Association funds to solicit proxies.

7. Place of Meetings. All meetings of the Association shall be held at such place within the Project, or as close thereto as may be practical within the County of Maui, as may be designated by the Board.

8. First Annual Meeting. The first annual meeting of the Apartment Owners shall be held as called by the Declarant and shall be held not later than (1) one hundred and twenty days after the date on which Apartment Deeds for seventy five percent (75%) of the Apartments in the Project have been recorded in the Bureau of Conveyances, (2) one hundred eighty (180) days after recordation of the first Apartment Deed, provided that Apartment Deeds for not less than forty percent (40%) of the Apartments in the Project have been recorded in the Bureau of Conveyances, or (3) three years after the recordation of the first Apartment Deed, whichever occurs first. If Apartment Deeds for less than forty percent (40%) of the Apartments in the Project shall not have been recorded within one (1) year of the recordation of the first Apartment Deed, an annual meeting shall be called if ten percent (10%) of the Apartment Owners so request in writing. At such meeting the Apartment Owners shall elect a Board. Prior to that time, the Association shall consist solely of the Declarant which shall have authority to act in all matters as the Association.

9. Annual Meetings. All annual meetings of the Association (after the first annual meeting) shall be held within one hundred and twenty (120) days following the close of the calendar year or at such other time as the Board shall from time to time determine. Not less than thirty (30) days prior to each such annual meeting, the Board shall make available to each Apartment Owner a copy of the Association's annual audit report, or if the same is not then available, an unaudited financial statement, and the Annual Budget and reserve study prepared pursuant to Section F.8 of these Bylaws. Any audit reports not made available at the annual meeting will be made available in accordance with the provisions of the Act. At such meetings the Board shall be elected by ballot of the Apartment Owners in accordance with the requirements of Section C.1. The Apartment Owners may transact such other business at such meetings as may properly come before them.

10. Regular Meetings. In addition to annual meetings as provided in Section 10, the Board by resolution or a Majority of the Apartment Owners by petition may establish regular meetings at semiannual, quarterly, or other regular intervals.

11. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or of any two (2) Directors, or upon the written request of Owners of Apartments to which are appurtenant at

least twenty-five percent (25%) of the Common Interest to the Managing Agent, on behalf of the Board.

12. Notice of Meetings and Other Notices. Written notice of all meetings, annual, regular, special or otherwise, stating the date, time and place of the meeting and whether it is annual, regular or special and stating briefly the business proposed to be transacted thereat and items on the agenda for such meeting, and a standard proxy form authorized by the Board, 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 of the Apartments at their address at the Project or at the address 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 any Owner of an Apartment may obtain, at such Owner's expense, a copy of any and all notices permitted or required to be given to the Owner of an Apartment, whose interest is subject to said mortgage. Upon notice being given in accordance with the provisions hereof, the failure of any Owner of an Apartment to receive actual notice of any meeting shall not in any way invalidate the meeting or the proceedings thereat. Each such Owner shall keep the Board informed of any changes in address.

13. Adjournment of Meetings. If any meeting of Apartment Owners cannot be held because a quorum is not present, a majority of the holders of the Common Interest who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

14. Conduct of Meetings and Order of Business. All meetings of the Association shall be conducted in accordance with the most current edition of Robert's Rules of Order. The order of business at all meetings of the Apartment Owners shall be as follows: (a) Determination of Quorum; (b) Proof of notice of meeting; (c) Adoption of meeting rules; (d) Approval of minutes of preceding meeting; (e) Reports of Officers; (f) Reports of committees; (g) Election of inspectors of election (when so required); (h) Election of members of the Board (when so required); (i) Unfinished business; (j) New business; and (k) Adjournment.

15. Annual Registration. The Association shall be registered with the Real Estate Commission in accordance with the Act. The registration shall be in the form required by said Commission and shall include proof of fidelity bond coverage (Section C.14, below), registration fee, names and positions of those persons who handle the Association's funds, name of the Managing Agent, postal address of the Project and name, business address and telephone numbers of the designated contact person for the Association.

C. BOARD OF DIRECTORS

1. Number and Qualification. The affairs of the Project shall be governed by a Board of Directors who shall owe a fiduciary duty to the Association. The Board shall be composed of nine (9) persons unless the number of Board members is changed by amendment of these Bylaws by vote of the Owners in accordance with Section 82(a)(1)(B) of the Act and Section J.15 of these Bylaws. Each member of the Board shall be an Owner, co-Owner, a vendee under Agreement of Sale, or designated officer, general partner, member, or manager of an Owner which is a corporation, general partnership, limited partnership, or limited liability company. There shall not be more than one representative on the Board from any one Apartment. Neither the Resident Manager of the Project, nor any employee of the Managing Agent shall serve on the Board.

2. Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Project in compliance with all governmental requirements and for the maintenance, upkeep and repair of the Project in good order and condition and may do all such acts and things except as by law or by the Declaration or by these Bylaws may not be delegated to the Board by the Apartment Owners. The Board shall have all rights set forth in the Act subject to any and all approval requirements as set forth in the Act, the Declaration and these Bylaws. A Director shall not cast any proxy vote at any Board meeting, nor shall a Director vote at any Board meeting on any issue in which the Director has a conflict of interest. The Director shall disclose the nature of any conflict of interest prior to a vote at the Board meeting, and the minutes of the meeting shall record the fact that a disclosure was made. The powers and duties of the Board shall include, but shall not be limited to, the following:

a. Enforcing the provisions of the Declaration, these Bylaws and the House Rules;

b. Making payment of all taxes and assessments which are or could become a lien on the Project, the Common Elements or Limited Common Elements or some portion thereof. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and costs incurred by the Board by reason of such lien or liens;

c. Delegating of its powers to committees, agents, officers, representatives and employees;

d. Contracting for materials and/or services for the Common Elements or the Association, provided that any contract for goods or services, other than the contract for elevator maintenance services and cable

television service, shall provide that such contract may be terminated by either party thereto, without the necessity of cause and without penalty, upon not more than ninety (90) days' written notice.

e. Contracting for fire, casualty, liability and other insurance on behalf of the Association, pursuant to the provisions of Section G hereof;

f. Exercising its right, pursuant to Section J.7 of these Bylaws, of entry in or upon any privately owned Apartment at any time and from time to time and without liability to any Owner for trespass or other consequential damage, but only where necessary (in connection with construction, maintenance or repair) to protect the Common Elements and Limited Common Elements, or any Apartment or Apartments;

g. Making repairs to Apartments, or Limited Common Elements for which an Apartment Owner is responsible for repairing, if for any reason an Owner fails or refuses to maintain and repair such Apartment, or Limited Common Element, within a reasonable time after written notice of the necessity of such maintenance or repair is delivered by the Board to said Owner, provided that the Board shall levy a special assessment against such Apartment for the cost of such maintenance or repair;

h. Making a determination of the Common Expenses and special assessments required for the affairs of the Project, including, without limitation, the operation and maintenance of the Project;

i. Collecting the Common Expenses and special assessments from the Apartment Owners;

j. Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements, including a Resident Manager and Managing Agent;

k. Subject to the provisions of Section J.1 of these Bylaws, adoption and amendment of House Rules covering the details of the operation and use of the Common Elements of the Project;

l. Opening bank accounts on behalf of the Association and designating the signatories required therefor;

m. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, purchasing in the name of the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners, Apartments offered for sale or lease for use by the Resident Manager or other person or persons engaged in the operation, repair or maintenance of the

Project, but, except as provided in Section 2(n) immediately below, only with prior approval of Apartment Owners owning not less than sixty-five percent (65%) of the Common Interest;

n. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, purchasing of Apartments at foreclosure or other judicial sale in the name of the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners, without securing the prior approval of the Owners. Any Apartment acquired pursuant to this Section or the preceding Section 2(m) shall be treated as an Apartment for all purposes, and the expense of leasing, acquiring, maintaining or operating any such Apartment by the Board shall be a Common Expense;

o. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, selling, leasing, subleasing, mortgaging, voting the votes appurtenant to, or otherwise dealing with Apartments acquired by the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners;

p. Incorporating the Association and organizing corporations to act as designees of the Board in acquiring title to or leasing of Apartments on behalf of all Apartment Owners;

q. Making of repairs, additions and improvements to or alterations of the Project and repairs to and restoration of the Project in accordance with the other provisions of these Bylaws;

r. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to the exercise of such power, the Board may borrow funds from time to time on behalf of the Association from one (1) or more lenders for (i) the repair, replacement, maintenance, operation, or administration of the Common Elements, or (ii) the making of additions, alterations, or improvements to the Common Elements. The prior approval of a Majority of Apartment Owners shall be required if the principal amount borrowed for such purposes, in the aggregate, is less than or equal to the amount determined by multiplying the number of Apartments in the Project by \$20,000. The prior approval of Apartment Owners owning not less than sixty-five percent (65%) of the Common Interest shall be required for any borrowings in excess of such amount. The cost of any such borrowing, including without limitation, any principal, interest, loan fees or other expense, shall be a Common Expense;

s. Procuring legal and accounting services, including Opinions of Counsel, necessary or proper in the operation of the Project or the enforcement of the Declaration, these Bylaws, or the Act;

t. Paying for all Common Expenses which the Board is required to pay for pursuant to the terms of these Bylaws or by law or which in the Board's opinion shall be necessary or proper for the operation of the Project or for the enforcement of these Bylaws, provided that if any such payment is required because of the negligence or other misconduct of the Owners of particular Apartments, the cost thereof shall be specially assessed to such Owners;

u. Keeping, maintaining and making available for inspection and copying in the manner set forth in the Act the records required by the Act, the Declaration and these Bylaws to be kept, maintained and made available for inspection and copying, including, without limitation, the following: (i) financial records (Section F.14); (ii) record of mortgagees (Section H.1); (iii) membership documents (Section J.18); and (iv) Project documents (Section J.19).

v. Reviewing for the purpose of approval or disapproval of any Owner's request to alter the Owner's Apartment.

w. Representing the Owners in all proceedings, negotiations, settlements, and agreements relating to any taking by condemnation or by eminent domain affecting the Project.

3. Managing Agent.

a. The Board shall at all times employ a responsible Managing Agent duly qualified to act as a Managing Agent under the requirements of the Act to manage and control the Project, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to said Managing Agent by the Board; provided that the term of any such management contract shall be limited to a duration of one (1) year, except with the approval of a Majority of Apartment Owners, provided further that such management contract shall also comply with Section C.2(d). If Declarant or a division, subsidiary or affiliate of Declarant acts as the first Managing Agent, such management contract shall be subject to termination by either party thereto on not more than sixty (60) days' written notice.

b. The Managing Agent shall have such powers and duties as may be necessary or proper in connection with (i) supervision of the immediate management and operation of the Project, (ii) maintenance, repair, replacement and restoration of the exterior of the building(s) and other Common Elements and any additions or alteration thereto, (iii) purchase, maintenance and replacement of any equipment, (iv) servicing of all utilities to the building(s) and the various Apartments, (v) employment, supervision and dismissal of such personnel as it deems necessary for the maintenance and operation of the Project, (vi) contracting with others for the furnishing of such services as it deems

proper for the Project, (vii) preparation of a proposed budget and schedule of assessments, (viii) collection of assessments, and payment of bills to third parties, (ix) purchase of such insurance as is contemplated by these Bylaws, and (x) custody and control of all funds and maintenance of books and records and preparation of financial reports.

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

d. Upon written request of any Owner or prospective purchaser of an Apartment or the holder, insurer or guarantor of a mortgage of an interest in any Apartment and upon payment of a reasonable charge therefor, the Managing Agent shall deliver to such party a certified statement of the status of the account of such Apartment.

e. The appointment and terms of compensation of the Managing Agent (other than the initial Managing Agent) shall be submitted to the Association for approval at each annual meeting but if not ratified by a majority of the Apartment Owners, such contract shall be deemed terminated ninety (90) days after such non-ratification by the Association, and the Board shall give prompt written notice thereof to the Managing Agent and appoint a qualified successor Managing Agent subject to ratification by the Association in the manner set forth above. In no event shall the contract with any Managing Agent (other than the initial Managing Agent) be for a term exceeding three years and any such contract shall be subject to termination, without penalty, by either party thereto on not more than ninety (90) days written notice.

f. The Managing Agent, subject to the direction of the Board, may represent the Apartment Owners or any two or more Apartment Owners similarly situated, as a class, in any action, suit, or other proceeding concerning the Apartment Owners, the Common Elements, or more than one (1) Apartment, or the Association.

4. Election and Term of Office. In order to provide staggered terms that ensure continuity on the Board, at the first annual meeting of the Association of Apartment Owners, three (3) Directors shall be elected for terms of three (3) years, three (3) Directors shall be elected for terms of two (2) years, and three (3) Director shall be elected for terms of one (1) year. The three (3) candidates receiving the highest numbers of votes at such meeting shall receive the three-year terms, the three (3) candidates receiving the next highest numbers of votes shall receive the two-year terms, and the three (3) candidates receiving the next highest numbers of votes shall receive the one-year terms. At the expiration of the term of office of each Director, each Director's successor shall be elected to serve a term of three (3) years.

Each member of the Board shall continue to exercise the powers and duties of the office until his successor shall have been elected by the Apartment Owners.

5. Removal of Members of the Board. Members of the Board may be removed for cause for any of the following reasons: (a) Failure to permit Apartment Owners to attend or speak at meetings of the Board as provided in the Act, the Declaration, or these Bylaws; (b) Failure to comply with the notice and posting requirements or the requirement to call meetings as in this Act; (c) Failure to record the vote of each Board member as provided in this Act; or (d) Failure to provide Owners with records as provided in this Act. Any Apartment Owner who is aggrieved by any of the foregoing acts or omissions by any member of the Board shall have, in addition to any rights granted under the Act, the right to file a written demand to the Board setting forth the particulars of the Act or omission and the relief or other corrective action requested. The Board shall act upon such demand within a reasonable time, in no event to exceed forty-five (45) days from the receipt of the demand, and shall advise the complaining party in writing of its actions. The Board shall have the power in acting upon such demand to take all appropriate action to resolve the matter, including, without limitation, removing the member of the Board, taking corrective action or rejecting the demand.

At any regular or special meeting of Apartment Owners, any one or more of the members of the Board may be removed with or without cause by a Majority of the Apartment Owners, and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created; provided, however, that an individual member of the Board may not be removed (unless the entire Board is removed) if Owners having sufficient votes to elect one member of the Board by cumulative voting (assuming an election for all three Board seats) are present in person or by proxy at such meeting and vote against his removal. If such removal and replacement is to occur at a special Association meeting, the call for such meeting shall be by the President or by a petition to the Secretary or Managing Agent signed by Owners of Apartments as shown in the Association's record of ownership, to which not less than twenty-five percent (25%) of the Common Interest is appurtenant; and provided further that if the Secretary or Managing Agent shall fail to send out the notices for the special meeting within fourteen (14) days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of Section B.13 hereof. Any member of the Board whose removal has been proposed by the Apartment Owners shall be given an opportunity to be heard at the meeting.

6. Vacancies. Vacancies in the Board 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 regular or

special meeting of the Board 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 for the remainder of the term of the member whose vacancy he filled (unless sooner removed). A vacancy will be deemed to occur upon the death, mental incapacity, or voluntary resignation of any Director, or upon such person ceasing to have the qualifications for a Director as defined in Section C.1.

7. Organization Meeting; Conduct of Meetings; Minutes. The first meeting of the Board shall be held immediately after the first annual meeting of the Association or as soon thereafter as a quorum may be obtained and no notice shall be necessary to the newly elected members of the Board in order legally to constitute such meeting, provided that a majority of the whole Board shall be present thereat. All meetings of the Board (whether organization, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order. The Association shall provide each Director with a current copy of the Declaration, Bylaws, House Rules and, annually, Hawaii Revised Statutes Chapter 514A, as amended. Minutes of all meetings shall include the recorded vote of each Director on all motions, except motions voted on in executive session. In the event that the Board shall resolve to go into executive session, the Board shall record such resolution as part of the record of such meeting; the Board shall not be required to maintain any other minutes of the matters discussed, the votes of Board members, or other actions taken in executive session.

8. Regular Meetings.

a. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the members of the Board, but at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board shall be given to each member of the Board personally or by mail, telephone, fax, or other prevalent means of electronic communication at least fourteen (14) business days, if practicable, prior to the day named for such meeting. All meetings of the Board shall be open to all members of the Association, and Association members who are not on the Board may participate in any deliberation or discussion unless a majority of a quorum of the Board determines that such non-Board members shall not so participate in the meeting.

b. The Board, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in private in executive session to discuss and vote upon personnel matters or litigation in which the Association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.

9. Special Meetings. Special meetings of the Board may be called by the President on three (3) business days' notice to each member of the Board, given personally or by mail, telephone, fax, or other prevalent means of electronic communication. Such notice shall state the time, place and purpose of the meeting; upon the written request of at least two (2) members of the Board, the President shall call a special meeting of the Board in like manner and upon like notice.

10. Posting of Notice. Notice of all meetings of the Board, whether regular or special meetings, shall be posted at two (2) or more prominent locations within the Project at the same time that notice is given to Directors.

11. Waiver of Notice. Any member of the Board may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board 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 are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

12. Meetings by Phone, Video Conference or Written Consent. Provided that all requirements of notice as provided herein have been complied with (or that the same have been waived or provided herein) and provided further that the provisions contained herein for regular meetings of the Board to be open to Association members have been complied with, the Board may conduct meetings by telephone, video conference or by unanimous decision in writing signed by all Board members.

13. Quorum of Board. At all meetings of the Board, 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 present at a meeting at which a quorum is present shall constitute the decision of the Board. If at any meeting of the Board 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.

14. Fidelity Bonds. The Board shall obtain a fidelity bond covering the acts of the Managing Agent and all directors, officers and employees of the Association who handle, control, have custody of, or are responsible for Association funds. The amount of such fidelity bond shall be the greater of (a) One Hundred Thousand and No/100 Dollars (\$100,000.00), (b) the amount of the fidelity bond required by the Act, or (c) the amount of the fidelity bond required by regulations published by the Federal National Mortgage Association

or by the United States Department of Housing and Urban Development (but only to the extent that one or more Apartments are subject to a mortgage affected by such regulations). The premiums on such bond shall constitute a Common Expense. Such bond must contain a provision providing that it may not be cancelled or substantially modified except by giving thirty (30) days' written notice thereof to the Association, the Board, the Trustee (if any), and to the Owner and/or mortgagee of each Apartment who shall have requested such notice. The Managing Agent shall likewise obtain a fidelity bond in the amount required by the Act and shall provide evidence of the same to the Association.

15. Compensation; Educational Expenses. No member of the Board shall receive any compensation from the Association for acting as such or reimbursement for travel expense and per diem expense, except as may be approved by a Majority of the Owners at any annual meeting or as may be specifically permitted by the Act. Board members may be reimbursed for reasonable, ordinary expenses (such as copying charges) incurred in their performance of their duties as directors. Association funds may be spent to educate and train Board members in subject areas directly related to their duties and responsibilities as directors if those expenses are included as separate line items in the Association's approval annual operating budget.

16. Liability and Indemnity of the Board and Officers. The members of the Board and Officers shall not be liable to the Apartment Owners for any mistake of judgment or otherwise except for their own individual gross negligence or willful misconduct. The Association shall obtain and maintain at the Association's expense a policy of directors' and officers' liability insurance covering the Board and Officers of the Association and shall defend and indemnify each Director and Officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid to settle claims and liabilities, and amounts paid for reasonable attorneys' fees and other related expenses which may be incurred by or imposed on any Director or Officer 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 Director or Officer, or by reason of any past or future action taken or authorized or approved by him or any omission to act as such Director or Officer, whether or not he continues to be such Director or Officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such Director or Officer. As to whether or not a Director or Officer was liable by reason of gross negligence or willful misconduct toward the Association in the performance of his duties as such Director or Officer, in the absence of such final adjudication of the existence of such liability, each Director and Officer may conclusively rely upon an Opinion of Counsel obtained by the Board. The foregoing right of indemnification shall not be exclusive of other rights to which

any such Director or Officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, executors, administrators and assigns of each such Director and Officer.

17. Association Documents. Each Director shall be provided with a current copy of the Declaration, Bylaws and House Rules and, annually, a copy of the Act, including all amendments thereto.

D. OFFICERS

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. The Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Vice President shall, but no other officers need be, members of the Board. The Vice President, Secretary and/or Treasurer may be the same person, and also the Assistant Secretary and Assistant Treasurer may be the same person. Neither the Resident Manager of the Project, nor any employee of the Managing Agent shall be designated as an officer.

2. Election of Officers. The officers of the Association shall be elected annually at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

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

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

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 shall appoint some other member of the Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President.

6. Secretary. The Secretary shall keep a minutes book wherein all resolutions shall be recorded and shall keep the minutes of all meetings of the Apartment Owners and of the Board. The Secretary shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties incident to the office of Secretary of a stock 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.

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. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the Board, and shall, in general, perform all the duties incident to the office of Treasurer of a corporation. The duties of the Treasurer may be delegated to the Managing Agent under the Treasurer's supervision.

8. Audit. The Board shall annually appoint a public accountant or accounting firm, who shall not be an officer or own any interest in any Apartment, as auditor for the Project. The auditor shall conduct a yearly audit of the books and financial records of the Association in accordance with generally accepted accounting principles and not less than one yearly unannounced verification of the Association's cash balance. The auditor shall also annually, within ninety (90) days of the end of the Association's fiscal year, prepare an audited financial statement for the preceding fiscal year.

9. Execution of Agreements, Contracts, Deeds, Checks, and Other Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any two of the President, Vice President, Secretary or Treasurer, or by such other person or persons as may be designated by the Board.

10. Compensation of Officers. No officer shall receive any compensation from the Association for acting as such.

E. REPAIR, MAINTENANCE, AND USE

1. Repair and Maintenance.

a. Every Owner from time to time and at all times shall perform promptly all repair, maintenance and alteration work within his Apartment the omission of which, as determined by the Board, would adversely affect any Common Element, any other Apartment, or the exterior appearance of the Project and shall be responsible for all loss and damage caused by his failure to do so.

b. Each Owner shall be responsible for repairing and maintaining, at the Owner's expense, the following:

(1) the interior of the Owner's Apartment, including the surfaces of the walls, floors, and ceilings, doors, door locks, sliding closet doors, lanai doors, lanai closets and the surface of the walls, floors and ceilings of the Apartment's lanai (if any);

(2) the water lines, faucets, wall stop valves, shower valves, toilets, connections to the water supply lines for the Apartment, and other plumbing of any kind within the Owner's Apartment;

(3) clogs in the lateral drain line serving the Owner's Apartment;

(4) the wiring serving the Owner's Apartment from and including the electrical fuse/breaker box to the outlets, lights, switches, range, and other electrical installations and fixtures of any kind, together with any telephone, cable television and other wiring or cables of any kind;

(5) the windows, window panes, and window frames of the Owner's Apartment; and

(6) any air conditioning equipment serving the Apartment.

c. All repairs of internal installations within each Apartment such as water, light, gas, power, sewage, telephone, sanitation, doors, interior windows, lamps, ventilation fans, and air conditioning and all other appliances, equipment, fixtures and accessories belonging to such Apartment, including interior walls and partitions and the inner decorated or finished surfaces of the perimeter walls, floors, and ceilings of such Apartment shall be at the Owner's expense.

d. Repair, maintenance, and alteration work may be performed by unlicensed contractors to the extent permitted by law, provided that any repair, maintenance or alteration work which may affect the Common Elements in a material way shall be performed by a licensed contractor.

e. Every Owner shall reimburse the Association for any expenditures incurred in repairing damage to, or in preventing or attempting to prevent damage to the Common Elements or to furniture, furnishings, or other property of the Association or any other Owner damaged or lost through the fault of such Owner or any person using the Project under him, and such Owner shall

give prompt notice to the Resident Manager of any such damage, loss, or other defect when discovered.

f. No Owner shall use or keep anything on the grounds or any other Common Element not located within his Apartment which would in any way hinder the full use and enjoyment thereof by any other Owner entitled to the use thereof.

g. The Association shall have the right from time to time, but not the duty, to enter the Apartments to spray, fumigate, or otherwise treat the Apartments to control or eliminate insects and other pests.

2. Use. In addition to the use restrictions set forth in Section F of the Declaration, the Project shall be subject to the following restrictions on use:

a. No Owner or occupant of an Apartment shall post any advertisement, bill, poster, or other sign on or about the Project, except as authorized by the Board.

b. All Owners and occupants of Apartments shall exercise care about causing or permitting excessive noises that may disturb other Owners and occupants.

c. No garbage, refuse, or trash of any kind shall be thrown, placed or kept on any Common Element other than disposal facilities provided for such purposes.

d. No Apartment Owner or occupant shall install any wiring or other device for electrical or telephone installations, television, antenna, machines, or other equipment or appurtenances on the exterior of the building or protruding through the walls, windows, or roof thereof, without the prior written consent of the Board.

e. Nothing shall be allowed, done, or kept in any Apartment or Common Element which will overload or impair the floors, walls, or roofs of the building, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance maintained by or for the Board with respect thereto, nor shall any noxious or offensive activity or nuisance be made or suffered thereon.

f. In furtherance of the building presenting a uniform exterior appearance, no Owner or occupant of an Apartment shall cause or allow the exterior of the Project, including the exterior windows, to become dirty or stained, or do anything to otherwise change the exterior appearance of the Project without the prior written consent of the Board.

g. All items of equipment belonging to the Project shall be subject to rules and regulations adopted from time to time by the Board, in the Board's discretion.

3. Pets.

a. General Prohibition on Animals. Except as specifically permitted herein, no pets, livestock, poultry, rabbits, birds or other animals whatsoever shall be allowed or kept in any apartment or any other part of the Project. Rules regarding pets apply equally to owners and tenants.

b. Certain Pets Allowed. Owners and tenants are permitted to keep one dog weighing not more than 25 pounds or one cat. There shall be no more than one pet in each Apartment.

c. Dangerous or Disruptive Pets. Notwithstanding the foregoing, no pets shall be kept at the Project that bite or otherwise attack any person or other animal, cause damage to the Project or the property of any Owner or resident in the Project, or in the reasonable determination of the Board, causes a nuisance or unreasonable disturbance or poses a threat to the health or safety of any owner, occupant or guest. In any such case, the owner thereof will be given one opportunity to rectify the problem by measures which fall short of ejection of the animal from the Project. If the problem persists, the Board may order the Owner or resident to permanently remove the pet from the Project, and the Owner shall comply with such order within fourteen (14) days.

d. Exception for Service Animals. Notwithstanding the foregoing restrictions on pets or anything contained herein to the contrary, guide dogs, signal dogs, or other animals upon which disabled owners, occupants or guests depend for assistance shall be permitted to be kept by such owners, occupants and guests in their apartments and shall be allowed to walk throughout the common elements while on leash, provided that such animals shall at all times be accompanied by their owners while present upon the common elements. If such guide dog, signal dog or other animal causes a nuisance or unreasonable disturbance or poses a threat to the health or safety of any owner, occupant or guest, the owner thereof will be given an opportunity to rectify the problem by measures which fall short of ejection of the animal from the Project. Ejection will be required only if the Board reasonably determines that less drastic alternatives have been unsuccessful. If such an animal is ejected, it will nonetheless be allowed to remain at the Project for a reasonable period of time while the owner thereof attempts to find a suitable replacement animal, provided that the problem is controlled to a sufficient degree that the continued presence of the animal during that time does not constitute an unreasonable imposition upon, or threat to the safety or health of, other owners, occupants or guests. In no event shall the Board, the Association, the Managing Agent or resident manager (if any) be or be deemed to be liable for any loss,

damage or injury to persons or property caused by or arising in connection with any owner's, occupant's or guest's guide dog, signal dog or other animal. By acquiring an interest in an apartment in the Project, each owner agrees to indemnify, defend and hold harmless the Board, the Association, the Managing Agent and the resident manager (if any) against any claim or action at law or in equity arising out of or in any way relating to such owner's or occupant's or guest's guide dog, signal dog or other animal.

e. Rules and Restrictions Regarding Pets. All animals kept anywhere on the Project must be registered immediately with the Board. Pets outside of Apartments must be on leashes at all times. To prevent animals from urinating or defecating within the Project's buildings, all pets other than guide dogs, signal dogs, or other permitted service animals shall be carried at all times when they are in building corridors, access balconies and walkways, and stairwells. Pet owners shall immediately clean up any feces deposited by their pets anywhere in or around the Project (including the public areas along Lower Honoapiilani Road), bag it in sealed bags or containers, and deposit the sealed bags in trash receptacles. The Board may adopt additional House Rules governing pets in the Project.

f. Replacement of Pets Subsequent to Prohibition. Any owner keeping a pet permitted by these Bylaws as of the effective date of an amendment to the Bylaws which prohibits such pet may, upon the death of the pet, replace the animal with another pet of the same species that would have complied with the Bylaws in effect prior to the amendment, and may continue to do so for as long as the owner resides in the Project.

g. Prohibition on Pests. Notwithstanding any of the foregoing, animals described as pests under Hawaii Revised Statutes Section 150A-2, animals prohibited from importation under Hawaii Revised Statutes Sections 141-2 and 150A-5 or -6 shall not be allowed or kept in any part of the Project.

F. COMMON EXPENSES, RESERVE ASSESSMENTS, TAXES; COLLECTION AND ENFORCEMENT

The Association shall provide for the payment of the Common Expenses and taxes for the Project in the following manner:

1. Common Expense Assessment for the Current Operation of the Project.

a. As provided in the Declaration, the Owner of each Apartment shall be liable for and pay a share of the Common Expenses in proportion to his proportionate share of the Common Interest. In the event that the Owner shall be a vendee under Agreement of Sale, the vendor shall also be

responsible, along with vendee, for the payment of a share of the Common Expenses. Except as otherwise provided herein, the Board shall determine the Common Expenses for the Project. The Common Expenses shall include all charges, costs and expenses whatsoever incurred by the Association for and in connection with the administration and operation of the Project, including without limitation, 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, ownership, use and operation of the resident manager's Apartment (including payment of any assessments on such apartment), any liability whatsoever for loss or damage arising out of or in connection with the Common Elements or any fire, accident or nuisance thereon, cost of repair, reinstatement, rebuilding and replacement of the premises, yard, janitorial, and other similar services, wages, accounting and legal fees, management fees, start-up fees and other necessary expenses of operation, maintenance, management, repair, and replacement actually incurred on or for the Common Elements, and the cost of all utility services, including water, electricity, gas, garbage disposal, cable television, telephone and any other similar services, unless separately metered or otherwise attributable to an Apartment or group of Apartments, in which case the amounts charged or attributable to each Apartment or group of Apartments shall be as determined by the Board with the advice of a licensed professional engineer, accountant, or such other consultant as the Board may deem necessary or helpful. The Common Expenses may also include such amounts as the Board may deem proper to make up any deficit in the Common Expenses for any prior year. To the extent authorized by the Association for specific new improvements or alterations to the Project in accordance with Section F.3, below, the Common Expenses may also include such amounts as may be required for improvements and alterations, including, without limitation, the purchase or lease of any Apartment by the Board or its designee, corporate or otherwise, on behalf of the Association, as permitted under Hawaii law or these Bylaws; provided, however, that the Board shall first obtain an Opinion of Counsel prior to any purchase of an Apartment, and provided further that the Board may not purchase an Apartment without first obtaining the approval of the Owners of at least sixty-five percent (65%) of the Apartments, provided that the Board shall not be required to secure such approval in order to purchase an Apartment in a foreclosure proceeding as set forth in Section C.2(n).

2. General Operating Reserve Assessment for Projected Repairs and Replacements. In addition to the assessment for current Common Expenses, the Board shall establish and maintain, in accordance the Act and the rules of the Real Estate Commission promulgated pursuant thereto, a General Operating Reserve in such additional amount as the Board determines to be adequate to provide not less than fifty percent (50%) of the funding (or one hundred percent (100%) of the funding, if using a cash flow plan as defined by

Section 514A-83.6 of the Act) for the upkeep, repair and replacement of the portions of the Project which the Association is obligated to maintain. The General Operating Reserve shall be funded by monthly assessment against, and payment by, all Owners in proportion to their respective Common Interests. The General Operating Reserve shall be kept in an account segregated from other Association accounts in accordance with the applicable rules of the Real Estate Commission. The Board may use the General Operating Reserve to meet any deficiencies in Common Expense funds only (1) as permitted by the Act and the rules of the Real Estate Commission, and (2) only after obtaining an Opinion of Counsel. Thereafter, the General Operating Reserve shall be replenished through a subsequent increase in the monthly General Operating Reserve assessment.

3. Capital Improvement Reserve for Specific New Alterations and Improvements. From time to time, as specifically authorized by a Majority of the Apartment Owners, the Board may establish and maintain a Capital Improvements Reserve Fund and one (1) or more subparts thereof. Each subpart of the Capital Improvements Reserve Fund shall be earmarked for specific new improvements or additions to the Project having a useful life of one (1) year or more and the amount of each such subpart of the Capital Improvements Reserve Fund shall be such annual amount as the Association determines to be adequate (but no more) to provide for specific new improvement or addition to the Project. The Capital Improvements Reserve Fund shall be funded by the monthly assessments against and payment by all the Owners in proportion to their respective Common Interests. Disbursements from said Capital Improvements Reserve Fund shall be made only upon authorization of the Board. The Capital Improvements Reserve Fund shall be kept in an account segregated from other Association accounts. If the Capital Improvements Reserve Fund or a subpart thereof exceeds the cost of the particular new improvement or addition to the Project, or if the planned improvement is for any reason not implemented within a reasonable time (in any event not more than five (5) years) after creation of said Capital Improvements Reserve Fund or subpart thereof, said Capital Improvements Reserve Fund remaining shall be distributed to all Owners in proportion to their respective Common Interests.

4. Special Assessments. In addition to the regular monthly assessment of Common Expenses and reserves as provided in this Section F, the Board may from time to time make special assessments, in the same manner as the assessment of Common Expenses, to cover those Common Expenses not covered by regular monthly assessments. The Board may also make special assessments against the Owner of one (1) or more Apartments to collect any amount owed by an Apartment Owner under the provisions of the Act or the Declaration, these Bylaws or the House Rules.

5. Status of Common Expense and Reserve Accounts; Payment to Apartment Owners in Case of Termination. All Common Expense and Reserve Accounts established under this Section F shall be the sole and exclusive property of the Association. Except as expressly provided in these Bylaws, the proportionate interest of each Owner in the Common Expense and Reserve Accounts may not be withdrawn, transferred, anticipated, mortgaged or assigned separately but shall be deemed to be transferred with each Apartment even though not mentioned or described expressly in the instrument of transfer. If the Condominium Property Regime established by the Declaration is terminated, the Common Expense and reserve funds remaining after payment of all expenses required to be paid by the terms of the Declaration and these Bylaws shall be distributed to the Owners in proportion to their respective Common Interests.

6. Income Taxation of Association. The Board shall file all tax returns for the Association as may be required under Internal Revenue Code and Hawaii Revised Statutes. Any gross or net income taxes required to be paid to a taxing authority shall be a Common Expense. The income, expenditures and net earnings of the Association shall be monitored by the Board so as to maintain an exemption from general excise taxation under Hawaii Revised Statutes Section 237-24(19), or any successor statute. The Association may elect to be treated as a homeowner's association exempt from tax under Internal Revenue Code Section 528. In the event of such an election, the income, expenditures and net earnings of the Association shall be monitored as to maintain exempt status under Internal Revenue Code Section 528.

7. Real Property Taxes and Assessments. Each Owner of an Apartment shall be obligated to pay the real property taxes for his own Apartment and its appurtenant interest in the Common Elements and Limited Common Elements. With respect to any taxes or assessments which now are or may hereafter be levied against the Association or the property, each Owner shall be obligated to pay to the Board, as a Common Expense, his proportionate share of any such tax or assessment. If, in the opinion of the Board, any taxes or assessments may become a lien on the Project or any part of the Common Elements, the Board may pay such taxes or assessments and shall assess the same to the Owners as a Common Expense.

8. Budget.

a. The calendar year shall be the fiscal year of the Association. The Board shall annually prepare, adopt and distribute to all Apartment Owners an Annual Budget for its next fiscal year prior to the beginning of that year. The Annual Budget shall include the following: (i) The estimated revenues and operating expenses of the Association; (ii) A statement as to whether the Annual Budget has been prepared on a cash or accrual basis; (iii) The total General Operating Reserve of the Association as of the date of the

Annual Budget; (iv) The General Operating Reserve the Association will require during the current fiscal year to maintain the Project; (v) An explanation of how the General Operating Reserve is computed; (vi) The amount the Association must collect for the current fiscal year to fund the General Operating Reserve; and (vii) Information as to whether the amount the Association must collect for the fiscal year to fund the General Operating Reserve was calculated using a percent funded or cash flow plan. The method or plan shall not circumvent the General Operating Reserve amount determined by the reserve study pursuant to subparagraph (b), below, and Section 514A-83.6 of the Act.

b. The Board shall annually prepare a reserve study in accordance with the applicable rules of the Real Estate Commission set forth in Title 16, Chapter 107, Subchapter 6 of the Hawaii Administrative Rules, as may be amended from time to time. The Board shall establish and maintain the General Operating Reserve based upon the reserve study. In establishing a General Operating Reserve for any fiscal year, the Board shall take into consideration any surplus or deficit in the General Operating Reserve for the previous period. Funds for any maintenance, replacement or repair having an estimated cost in excess of Ten Thousand and No/100 Dollars (\$10,000.00) shall be kept in a separate fund within the General Operating Reserve; all other maintenance, replacement or repair funds may be maintained as a single fund. No Director, Officer, Managing Agent, Apartment Owner or Employee of an Association who provides information or an estimate or who makes a calculation of the General Operating Reserve in good faith shall be liable if the information, estimate or calculation proves to be incorrect.

c. The Board may not make expenditures which exceed its Annual Budget by more than twenty percent (20%) in any fiscal year except in emergency situations. Prior to the imposition or collection of any special assessment to meet an insufficiency in the Common Expense assessment, the Board shall pass a resolution setting forth a statement as to the necessity of the special assessment and why the expense was not or could not have been reasonably foreseen. Said resolution shall be distributed to the Apartment Owners with the notice of the special assessment. For the purpose of this section, "emergency situation" means an extraordinary expense: (i) required by an order of a court; (ii) necessary to repair or maintain any part of the Project, which repair or maintenance was necessitated by the discovery of a condition threatening the safety of persons occupying the Project; (iii) necessary to repair any part of the Project, which repair could not have been reasonably foreseen by the Board in preparing and distributing the Annual Budget; (iv) Necessary to respond to any legal or administrative proceeding brought against the Association that could not have been reasonably foreseen by the Board in preparing and distributing the Annual Budget; or (v) Necessary for the Association to obtain adequate insurance for the property that the Association must insure pursuant to the provisions of Section G.

9. Collection and Payment of Common Expenses.

a. All Owners shall pay to the Association or the Managing Agent all monthly and special assessments of Common Expenses against their respective Apartments. Except as otherwise expressly provided in Section B.4 of the Declaration or Sections F.1(b) and (c) above, all of such assessments shall be assessed among and against the Apartments in proportion to their respective Common Interests pursuant to Section F.1(a). Regular monthly assessments shall be payable in advance on or before the first day of each and every month and without notice or demand. Special assessments, costs, expenses, fees, penalties and late charges shall be payable on the date set forth in the statement; if no date is stated, then the amount shall be due upon demand. Any payments on account of such assessments shall first be applied to attorneys' fees incurred in effort to collect such assessments, then to any fines or penalties payable as the result of any delinquency in the payment of such assessments, then to any interest that has accrued on such assessments, and then to the assessments starting with the oldest unpaid assessment. The Association will pay or cause to be paid, for and on behalf of the Owners, all Common Expenses. The Board will annually render or cause to be rendered a statement to each Owner of all receipts and disbursements during the preceding year. Members of the Board and the Managing Agent shall not be liable as principals to third persons for the obligations of the Association or of any Owner or Owners.

b. An Owner who pays the Association the full amount claimed by the Association may file in small claims court or require the Association to mediate to resolve any disputes concerning the amount or validity of the Association's claim pursuant to Hawaii Revised Statutes Section 514A-90(d). If unable to resolve the dispute through mediation, either party may file for arbitration under Part VII of the Act, subject to the requirements set forth in said Section 514A-90(d). The Owner shall be entitled to a refund of any amounts paid to the Association which are not owed.

c. In a voluntary conveyance, the grantee of an Apartment is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses. Any grantor or grantee is entitled to a statement of unpaid assessments as set forth in Section C.3(d). The grantee is not liable for any unpaid assessments against the grantor in excess of the amount on the statement, except as to the amount of subsequently dishonored checks received within the thirty (30) day period immediately preceding the statement date noted on the statement. Except as provided in Section 514A-90(g) of the Act, the acquirer of title to an Apartment pursuant to the foreclosure of a mortgage on the Apartment, and such acquirer's successor and assigns, shall not be liable for the unpaid portion of assessments against the Apartment that were payable prior to delivery of the commissioner's deed at the foreclosure; such unpaid portion shall

be a Common Expense collectible from all Owners, including the acquirer, its successors and assigns.

d. No Owner may exempt himself from liability for contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Apartment.

10. Default in Payment of Assessments; Lien. Each monthly assessment, each special assessment and each obligation of an Owner under these Bylaws which is enforceable as a special assessment shall be a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed. All sums assessed by the Association against an Apartment which are unpaid shall constitute a lien against the Apartment; such lien shall be prior to all other liens except (1) liens for taxes and assessments lawfully imposed by governmental authority against the Apartment and (2) all sums unpaid on any mortgage of record which was recorded in the Bureau prior to the recordation of notice of a lien by the Association, and costs and expenses, including attorneys' fees as provided in such mortgages. If the Owner shall fail to pay his assessment when due, then he shall pay an additional late charge assessment equal to five percent (5%) of the unpaid assessment for each such failure; in addition, all delinquent assessments shall bear interest at the rate of one percent (1%) per month from the assessment due date. In the event of a default or defaults in payment of any such assessment or assessments, in addition to any other remedies herein or by law provided hereof, the Board may enforce each such obligation as follows:

a. By suit or suits at law to enforce each such assessment obligation or by nonjudicial foreclosure or power of sale foreclosure pursuant to Hawaii Revised Statutes Chapter 667. 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 the Board on behalf of the Association. Each such action shall be brought in the name of the Association by its Board and the Board shall be deemed to be acting on behalf of all the Owners. In any such action the apartment owner may be required to pay a reasonable rental for the apartment, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. Any judgment rendered in any such action shall include, where permissible under any law, interest and a sum for reasonable attorneys' fees and costs 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 (2) members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

b. At any time after the occurrence of 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, which notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof.

c. If such delinquency is not paid within ten (10) days after delivery of such notice to an Owner, the Board may elect to record in the Bureau a notice of lien against the Apartment of such delinquent Owner. Such notice of lien shall state (1) the name of the delinquent Owner or reputed Owner, (2) a description of the Apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these Bylaws and the Act, and (5) that a lien is claimed against said described Apartment in an amount equal to the amount of the stated delinquency. Any such notice of lien (or the release thereof) shall be signed and acknowledged by any two (2) members of the Board. Upon recordation of a duly executed original or copy of such notice of lien in the Bureau of Conveyances, the Board shall have all remedies provided in the Act or permitted by law, including without limitation non-judicial or power of sale foreclosure authorized by Hawaii Revised Statutes Chapter 667, as that chapter may be amended from time to time. Each default shall constitute a separate basis for a notice of lien or a lien. Such lien may be foreclosed as provided by law and the Association shall be entitled to recover the attorneys' fees and expenses it incurs in so doing.

d. For the purposes of this Section 10, a certificate executed by any two (2) members of the Board or by the Managing Agent 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 Fifty and No/100 Dollars (\$50.00), provided that this limit may be adjusted from time to time by multiplying such dollar limit by the Cost of Living Factor.

e. Any holder, insurer or guarantor of a mortgage on any Apartment may file a written demand for notice with the Board; upon filing such demand, such party shall be entitled to receive written notice from the Board of any default by the Owner of the Apartment in question arising under the Declaration, Bylaws or House Rules, which default has continued for not less than sixty (60) days.

11. Collection from Tenant.

a. If an Owner shall at any time rent or lease his Apartment and shall default for a period of thirty (30) days or more in the payment of the Owner's monthly or special assessments, the Board may, at its

option, so long as such default shall continue, demand and receive from any lessee or occupant (hereinafter in this section 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, fines, penalties, and attorneys' fees, if any, and any such payment of such rent to the Board by the lessee shall be sufficient discharge of such lessee, as between such lessee and the Owner to the extent of the amount so paid; but any such demand or acceptance of rent from any lessee shall not 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 or an acknowledgment of surrender of any rights or duties hereunder. If the Board makes demand upon the lessee as aforesaid, the lessee shall not have the right to question the right of the Board to make such demand, but shall be obligated to make the said payments to the Board as demanded by the Board with the effect as aforesaid.

b. Before the Board exercises the rights provided by the foregoing subparagraph (a), the Board shall give the delinquent Owner written notice of its intent to do so. Such notice shall be sent to the Owner by first-class and certified mail to the most recent address that the Owner has designated, in writing, to the Board, shall set forth the exact amount that is due and owing by the Owner, and shall state that the Board intends to collect such amount from the Owner's tenant's rent, along with any other amounts that become due and remain unpaid.

c. The Board may not exercise the rights provided by this Section if (i) a receiver has been appointed to take charge of the delinquent Owner's Apartment pending a mortgage foreclosure, (ii) if a mortgagee is in possession pending a mortgage foreclosure, or (iii) if the tenant is served with a court order directing the tenant to pay the tenant's rent to a third party.

d. Each Owner's acquisition of an Apartment in the Project shall be deemed to be consent to the written policy contained in this Section and the Board's exercise of the rights provided by this Section.

12. Termination of Services and Privileges upon Default. If an Owner resides in his Apartment and defaults in the payment of the Owner's monthly or special assessments, the Board may, at its option, so long as such default shall continue, terminate access from the Owner's Apartment to the Common Elements and cease supplying such Apartment any and all services, including utilities, that the Association supplies or pays for; provided that the Board shall first give sixty (60) days' written notice of nonpayment and intent to terminate access and services to the Owner and to the holder of any first mortgage on the Owner's Apartment. Each Owner's acquisition of an Apartment in the Project shall be deemed to be consent to the written policy contained in this Section and the Board's exercise of the rights provided by this Section.

13. Attorneys' Fees and Expenses of Enforcement.

a. All costs and expenses, including reasonable attorneys' fees and costs, incurred by or on behalf of the Association by the Board for: (i) Collecting any delinquent assessments against any Owner's Apartment; (ii) Foreclosing any lien thereon; or (iii) Enforcing any provision of the Declaration, Bylaws, House Rules, and the Act; against an Owner, occupant, tenant, employee of an Owner, or any person who may in any manner use the Project, shall be promptly paid on demand to the Board by such person or persons; provided that if the claims upon which the Board takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees and costs, incurred by any such person or persons as a result of the action of the Board, shall be promptly paid on demand to such person or persons by the Board on behalf of the Association, as a Common Expense.

b. If any claim by an Owner is substantiated in any action against the Association, any of its officers or directors, or its Board to enforce any provision of the Declaration, these Bylaws, the House Rules, or the Act, then all reasonable and necessary expenses, costs and attorneys' fees incurred by such Owner shall be awarded to such Owner; provided that no such award shall be made in any derivative action unless: (i) The Owner first shall have demanded and allowed reasonable time for the Board to pursue such enforcement; or (ii) The Owner demonstrates to the satisfaction of the court that a demand for enforcement made to the Board would have been fruitless.

c. If any claim by an Owner is not substantiated in any court action against the Association, any of its officers or directors, or the Board to enforce any provision of the Declaration, Bylaws, House Rules, or Chapter 514A, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by the Association shall be awarded to the Association except as otherwise provided by the Act.

14. Notification of Maintenance Fee Increases. The Managing Agent or the Board shall notify the Owners in writing of increases in any assessments at least thirty (30) days prior to such an increase.

15. Financial Records. The Board, or the Managing Agent at the direction and under the supervision of the Board, shall maintain, at the Project or at such other place within the State of Hawaii which shall be convenient for the Apartment Owners, accurate and detailed books of account and other financial records, which shall enumerate all receipts and expenditures of the Association, shall specify and itemize all expenses paid or incurred in connection with the restoration, repair, maintenance, and replacement of the Common Elements, and any other expenses incurred, and shall include all vouchers authorizing the payment of such expenses and monthly statements indicating the total current

delinquent dollar amount of any unpaid assessments for Common Expenses. The financial records of the Association, including such records, vouchers and statements, shall be available for examination and copying by Owners as set forth in Section J.17.

16. Prohibition on Telephonic Transfer and Commingling of Funds. Neither the Board nor Managing Agent shall transfer by telephone any Association funds between accounts including, but not limited to, the Common Expense, General Operating Reserve and Capital Improvements Reserve Fund accounts. The funds in the Common Expense accounts, General Operating Reserve account and Capital Improvements Reserve accounts shall not be commingled with funds of other activities, such as rental operations. The Managing Agent shall not commingle any Association funds with the Managing Agent's own funds.

17. Deposits in Financial Institutions; Investments.

a. All funds collected by the Association or by the Managing Agent shall be: (i) Deposited in a financial institution, including a federal or community credit union, located in the State whose deposits are insured by an agency of the United States government; (ii) Held by a corporation authorized to do business under Article 8 of Hawaii Revised Statutes Chapter 412; (iii) Held by the United States Treasury; or (iv) Purchased in the name of and held for the benefit of the Association through a securities broker that is registered with the Securities and Exchange Commission of the United States, has an office in the State of Hawaii, and the accounts of which are held by member firms of the New York Stock Exchange or the National Association of Securities Dealers and insured by the Securities Insurance Protection Corporation.

b. All funds collected by the Association, or by the Managing Agent for the Association, shall be invested only in: (i) Demand deposits, investment certificates, and certificates of deposit; or (ii) Obligations of the United States government, the State of Hawaii, or their respective agencies, or mutual funds comprised solely of investments in such obligations; provided that in either case those obligations shall have stated maturity dates no more than ten years after the purchase date unless approved otherwise by a majority note of the Owners at an annual or special meeting of the Association at an annual or special meeting or by written consent of a majority of the Owners. The Board must approve in advance any investment on behalf of the Association that will not mature for more than one (1) year and must also clearly disclose all such investments to the Owners at the annual meeting held pursuant to Section B.10.

18. Disbursement Requirements. The Managing Agent shall keep and disburse funds collected on behalf of the Owners in strict compliance

with any agreement made with the Association, Hawaii Revised Statutes Chapter 467, the rules of the Real Estate Commission, and all other applicable laws.

19. Embezzlement. Any person who embezzles or knowingly misapplies Association funds received by the Managing Agent or the Association shall be guilty of a class C felony or such other penalty as may be proscribed by law.

G. INSURANCE AND RESTORATION

1. Property Insurance. The Association shall procure, purchase, and at all times maintain insurance which covers the Apartments and fixtures therein and the Common Elements and, whether or not part of the Common Elements, all exterior and interior walls, floors, and ceilings, and all exterior glass, in accordance with the as-built condominium plans and specifications, against loss or damage by risks covered under the Special Causes of Loss Form and, during time of war, to the extent that the same is reasonably available, against war risks (from any source), sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The insurance coverage shall be written in the name of the Association. Premiums shall be Common Expenses. The insurance policy ("Policy"):

a. shall contain no provision limiting or prohibiting other insurance by the Owner of any Apartment, such right being provided by statute but, if obtainable, 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. If any loss intended to be covered by insurance carried by the Board shall occur and the proceeds payable thereunder shall be reduced by reason of any insurance carried by any Apartment Owner, such Apartment Owner shall assign the proceeds of such insurance carried by it, to the extent of such reduction to the Board for application to the same purposes as the reduced proceeds are to be applied;

b. shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building(s), whether or not within the control or knowledge of the Association or Board or, if obtainable, shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Association or the Board or the Owner or tenant of any Apartment or any other person under any of them, or by reason of any act or neglect of the Association or the Board or the Owner or tenant of any Apartment or any other person under any of them;

c. shall provide that the Policy may not be cancelled, non-renewed or substantially modified (whether or not requested by the Association) except by giving to the Association and the Board and to the Owner

and/or mortgagee of each Apartment who shall have requested such notice of the insurer in writing addressed to him at the premises, thirty (30) days' written notice of such cancellation;

d. shall contain a provision waiving any right of subrogation by the insurer to any right of the Association, Board, or Owner against any of them or any other persons under them;

e. shall contain a provision waiving any right of the insurer to repair, rebuild or replace if a decision is made pursuant to Section G.5 not to repair, reinstate, rebuild or restore the damage or destruction;

f. shall provide that any loss shall be adjusted with the Association and the mortgagee of any Apartment directly affected by the loss;

g. shall contain a standard mortgage clause which: (i) Shall name the holder of any mortgage affecting any Apartment whose name shall have been furnished to the Board; (ii) Shall provide that the insurance as to the interest of the mortgagee shall not be invalidated by any act or neglect of the Association, Board, or the Owner or tenant of any Apartment or any person under any of them; (iii) Shall waive (1) any requirement invalidating such mortgagee clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy; (2) any requirement that the mortgagee pay any premium (provided, however, in case the Association shall fail to pay the premium due or to become due under the policy, the mortgagee may pay the same prior to the effective date of the termination of the policy), (3) any contribution clause, and (4) any right to be subrogated to the right of any mortgagee against the Owner or lessee of any Apartment or the Association or the Board or to require an assignment of any mortgage to the insurer; (iv) Shall provide that without affecting the protection afforded to the mortgagee by such mortgagee clause, any proceeds payable under such clause shall be payable to a Trustee selected by the Board who shall be a substantial bank or trust company doing business in Hawaii; (v) Shall provide that any reference to a mortgagee in the Policy shall include all mortgagees on any Apartment, in order of preference whether or not named therein;

h. shall provide for payment of the proceeds to the Trustee; and

i. shall contain a provision requiring the insurance carrier, at the inception of the Policy and on each anniversary date thereof, to provide the Board with a written summary, in layman's terms, of the Policy. The summary shall include the type of Policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each Apartment Owner.

2. Commercial General Liability - Occurrence Form. The Association shall procure and maintain from a reputable company or companies a policy or policies (herein called the "Policy") of Commercial General Liability Insurance to insure the Association, the Board, the officers, each Apartment Owner, and the Managing Agent and other employees of the Association against claims for personal injury, death and property damage arising out of the condition of the Project or activities thereon or on sidewalks or contractors of construction work under a Comprehensive General Liability form to include but not to be limited to (1) Water Damage Legal Liability, (2) Fire Damage Legal Liability, and (3) Hired and Non-Owned Auto Liability. Premiums shall be Common Expenses. The Policy:

a. 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 Association or the Board, or by any breach of warranty or condition caused by the Owner of any Apartment, or by any act or neglect of the Association, the Board, or the Owner of any Apartment or any persons under any of them;

b. shall provide that the Policy may not be cancelled (whether or not requested by the Association) or non-renewed except by giving to the Association and 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 the following minimum limits, or such higher limits as the Board may from time to time establish with due regard to then prevailing prudent business practice: \$2,000,000 - General Aggregate; \$2,000,000 - Products and Completed Operations Aggregate; \$1,000,000 - Each Occurrence; \$1,000,000 - Personal and Advertising Injury; \$100,000 Fire and Water Damage; \$10,000 Medical Expense;

d. to the extent reasonably obtainable, shall contain a waiver by the insurer of any right of subrogation to any right of the Association, the Board, or the Owner of any Apartment against any of them or any other persons under them; and

e. contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of the Owner because of the negligent act of the Association or any other Owner.

3. Flood Insurance and Insurance Against Additional Risks. The Project is not currently located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development. If, in the future, the Project site is redesignated to be included in such a flood hazard area, the Association shall procure, purchase and at all times maintain flood

insurance under the provisions of the federal Flood Disaster Protection Act of 1973 with the same coverage and terms as required for fire insurance under Section G.1, but only to the extent required by law or otherwise deemed advisable by the Association. The Board may also procure insurance against 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 in the State of Hawaii, the premiums for which shall be a common expense.

4. Miscellaneous Insurance Provisions. All insurance required under these Bylaws will be obtained and maintained by the Association, acting through the Board, from an insurance company authorized to do business in the State of Hawaii having a "A" or better general policyholder's rating or a "6" or better financial performance rating by Best's Insurance Reports. To the extent that the insurance required hereunder is not reasonably available, the Board shall obtain and maintain such available insurance as shall most nearly approximate the insurance coverage required hereunder. The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and action taken on such review to the Owner of each Apartment, and to the holder, insurer or guarantor of any mortgage on any Apartment who shall have requested a copy of such report. At the request of the holder, insurer or guarantor of any mortgage of any Apartment, the Board shall furnish to such party a copy of the Policy described in Section G.1 and of any other Policy to which a mortgagee endorsement shall have been attached, and proof satisfactory to such mortgagee that payment of premiums on such policy has been made for the period for which the party may request such proof. Copies of every policy of insurance procured by the Association shall be available for inspection by any Apartment Owner (or purchaser holding a contract to purchase an interest in an Apartment) at the office of the Managing Agent. Any holder, insurer, or guarantor of a mortgage on any Apartment may file a written demand for notice with the Board; upon filing such demand, the party will be entitled to receive notice of any casualty loss to the Apartment or to the Project. Any coverage procured by the Association 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. The Board shall be entitled to obtain and maintain insurance with a deductible. In the event of loss covered by insurance, the deductible shall be paid by the Apartment Owner or Owners whose Apartment or Apartments were subject to the loss. If the loss is with respect to a Common Element, the deductible shall be paid by the Association as a Common Expense.

5. Damage and Destruction. If the Project 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 Trustee for payment of the contractor employed by the Board to rebuild or repair such Apartment, including paint, floor covering and fixtures, in accordance with the original plans

and specifications therefor (and including improvements of the Apartment Owner but only if such improvements are covered by insurance carried by the Board pursuant to Paragraph (a) of Section G.1 and then only to the extent made possible by actual recovery of the insurance proceeds thereunder). If such damage extends to two or more Apartments or extends to any part of the Limited Common Elements or to the Common Elements:

a. The Board shall thereupon contract to repair or rebuild the damaged portions of the building or buildings, including all Apartments so damaged, as well as the Common Elements, in accordance with plans and specifications therefor, (and including improvements of the Apartment Owner but only if such improvements are covered by insurance carried by the Board pursuant to Paragraph (a) of Section G.1 and then only to the extent made possible by actual recovery of the insurance proceeds thereunder), which will restore the same to the design immediately prior to destruction, or if reconstruction in accordance with said design is not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board as provided in Section L of the Declaration; provided that in the event said modified plan or any decision not to rebuild made pursuant to the Declaration eliminates any Apartment and such Apartment is not reconstructed, the Trustee shall pay to the Owner of said Apartment and/or said Owner's mortgagee, if any, the portion of said insurance proceeds allocable to said Apartment (less the proportionate share of said Apartment in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds. 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/or rebuilding such Common Elements, the Board is expressly authorized to pay such costs in excess of the insurance proceeds from the General Operating Reserve and the Capital Improvements Reserve Fund and, if such funds are insufficient for this purpose, the Board shall levy a special assessment on the Owners of Apartments in proportion to their respective Common Interests. Any costs in excess of the insurance proceeds for the repairing and/or rebuilding of any Apartment shall be specially assessed against such Apartment and said special assessment shall be secured by the lien created under Section F.4 hereof.

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

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

(2) Each request for payment shall be made on seven (7) days' prior notice to the Trustee and shall be accompanied by a certificate to be made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is justly required to reimburse the Board for payments by the Board 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 that when added to all sums previously paid out by the Trustee the sum requested does not exceed the value of the work done to the date of such certificate.

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

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

(5) 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.

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

c. Upon the completion of the work and payment in full therefor, any remaining proceeds of insurance then or thereafter in the hands of the Board or the Trustee shall be paid or credited to the Owners of the Apartments (or to the holder of any mortgage on an Apartment if there be a mortgage) in proportion to their respective Common Interests.

d. To the extent that any loss, damage or destruction to the building(s) or other property is covered by insurance procured by the Association, the Association 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.

H. MORTGAGES

1. Notice to Board; Record of Mortgagees. An Apartment Owner who mortgages his interest in an Apartment shall promptly notify the Board 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 mortgage with the Board; the Board shall maintain a record of such information.

2. Notice of Unpaid Common Expenses. The Board, whenever so requested in writing by an Owner or the holder, insurer or guarantor of any mortgage of an interest in an Apartment, shall, upon receipt of payment of a reasonable charge therefor, promptly report any then unpaid assessments for Common Expenses due from the Owner of the Apartment involved.

3. Notice of Default. The Board, when giving notice to an Apartment Owner of a default in paying Common Expenses or other default, shall send a copy of such notice to each holder, insurer or guarantor of a mortgage covering such Apartment or interest therein who has requested such notice in writing.

4. Examination of Records. Each Owner and each holder, insurer or guarantor of any mortgage of an interest in 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. Upon written request, each Owner and each holder, insurer or guarantor of any mortgage on an Apartment shall be entitled to a copy of budgets, financial statements, reserve studies and other such reports prepared in connection with the Project upon payment of a reasonable charge therefor.

5. Mortgagee 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 mortgage made for value that was recorded in the Bureau prior to the Association's recordation in the Bureau of a notice of such lien, 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 (i) the recordation of the commissioner's deed pursuant to such foreclosure sale, (ii) the thirty-sixth day after the filing of the court order confirming such sale, or (iii) the sixtieth day after the hearing at which the court grants the motion to

confirm such sale, whichever occurs first, which lien shall have the same effect and be enforced in the same manner as provided in Section F.10 hereof;

b. The Association shall not terminate professional management and assume self-management of the Project without the prior written consent of all such mortgagees.

c. No amendment to this Section 5 shall affect the rights of the holder of any such mortgage recorded in the Bureau prior to the filing or recordation of such amendment which does not join in or consent to the execution thereof.

d. Except as provided in Section 514A-21 of the Condominium Property Act, the Project shall not be abandoned, terminated or removed from the Condominium Property Regime created by the Declaration and the Act without the prior written approval of all mortgagees.

e. Any holder, insurer or guarantor of a first mortgage of an Apartment whose interest appears in the Association's records and who has delivered a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Apartment number) shall be entitled to:

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

(2) Prior written notice of any proposed termination of the Project;

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

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

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

(6) Timely written notice of all meetings of the Association (the holder or insurer of a first mortgage being permitted to designate a representative to attend all such meetings);

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

(8) Upon request therefor, a certificate of any then unpaid assessments for common expenses due from the Owner of the Apartment involved;

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

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

I. CONDEMNATION

1. Condemnation. If there is a taking in condemnation or by eminent domain of part or all of the Project, all compensation payable for or on account thereof shall be payable to a condemnation Trustee. If the entire Project is taken or so much thereof that the Association terminates the Condominium Property Regime with respect to the Project, then the Trustee shall pay to each Apartment Owner and mortgagee, as their interests may appear, the portion of the condemnation proceeds allocable to the Owner's Apartment. Otherwise, the Board shall arrange for the repair and restoration of the Project in accordance with the design thereof immediately prior to such condemnation or if such repair and restoration in accordance with said design are not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board. In the event of a partial taking in which any Apartment is eliminated or not restored, the Trustee shall disburse the portion of the proceeds of such award allocable to said Apartment, less the proportionate share of said Apartment in the cost of debris removal, to the Owner of said Apartment and his mortgagee, if any, as their interests may appear, in satisfaction of their interests in said Apartment. The Trustee shall disburse the remainder of the proceeds of such award to the contractor engaged in such repair and restoration in appropriate progress payments and in the event such proceeds are insufficient to pay the costs thereof the Board is expressly authorized to pay such excess costs from the General Operating Reserve and Capital Improvements Reserve Fund and if the General Operating Reserve and Capital Improvements Reserve Fund are insufficient for this purpose the Board shall levy a special assessment on the Owners of the Apartments in proportion to their Common Interests. In the event sums are received in excess of the cost of repairing and restoring the Project, such excess proceeds shall be divided among the Owners of the Apartments in accordance with their Common Interests. 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 allocable to each Apartment (including the Apartment's appurtenant interest in the Common Elements) shall be determined by a real estate appraiser who shall be a member of the American Institute of Real Estate Appraisers or any successor association and who shall have acted on behalf of the Association in the condemnation proceedings; or, if no such appraiser shall have acted on behalf of the Association, or if more than one (1) appraiser shall have so acted, then the Board shall select the appraiser; provided, however, if the Owners of the Apartments taken, within fifteen (15) days after all of such Owners have received notice of the appointment of such appraiser, shall elect, by a majority vote, to have the allocation determined by a panel of three (3) appraisers, then the Board shall select three (3) qualified appraisers and the decision of any two of them shall determine the allocation of the condemnation proceeds. The Association shall represent the Owners in all proceedings, negotiations, settlements, and agreements relating to any taking in condemnation or by eminent domain.

2. Notice to Mortgagees. Any holder, insurer or guarantor of any mortgage of an interest in any Apartment may file a written demand for notice with the Board; upon filing such notice, such party shall be entitled to receive notice of any condemnation proceeding.

J. GENERAL PROVISIONS

1. Rules and Regulations. Each Owner recognizes the right of the Board from time to time to establish and amend such uniform rules and regulations ("House Rules") as the Board may deem necessary for the management and control of the Project, including, without limitation, the Common Elements, the Limited Common Elements, and, if necessary for the protection of the Project, the Apartments, and the Owner agrees that the Owner's rights under the Declaration and Bylaws shall be in all respects subject to appropriate House Rules consistent therewith, which shall be taken to be a part hereof; and the Owner agrees to obey all such House Rules as the same now are or may from time to time be amended, and see that the same are faithfully observed by the invitees, guests, employees and under-tenants of the Owner; and the House Rules shall uniformly apply to and be binding upon all occupants of the Apartments. The following provisions shall govern the promulgation of the House Rules authorized herein, which shall include the establishment of a system of fines and penalties:

a. The Board shall have the power to adopt such House Rules, including any amendments thereof, as are consistent with and in furtherance of the Act, these Bylaws, the Declaration, and the law existing at the time of such adoption. Upon the vote or written consent of a majority of the Board, such House Rules or amendments shall take effect. Any such House Rules shall apply uniformly to all Owners, except as expressly provided herein.

b. The Board in its discretion shall recommend to the Owners a schedule of specific fines and penalties for the violation by any Owner of the provisions of these Bylaws, the Declaration and the House Rules. Upon the vote or written consent of a Majority of the Owners, such schedule of fines and penalties shall be adopted and shall become binding on all Owners and shall be enforceable by the Association as a special assessment enforceable under Section F.4. Such fines and penalties shall not be deemed to be exclusive and the Board shall have such other remedies as are provided for by applicable law, these Bylaws, the Declaration and the House Rules.

c. Any House Rules promulgated pursuant to this Section shall provide that no fine or penalty shall be levied without the following procedural safeguards which safeguards may be waived by the Owner or other person against whom the Association proposes to impose a penalty:

(1) A written statement of the alleged violations shall be provided to any Owner or other person against whom such charges are made, and such written statement shall provide a date on which the charges shall be heard;

(2) No proceedings under this Section shall be brought against any Owner or other person unless such Owner or other person shall have received a written statement of charges at least fifteen (15) days prior to that hearing;

(3) No proceeding shall be brought against any Owner or other person more than sixty (60) days after the occurrence of the events upon which the charge is based, unless such Owner or the other parties involved are unavailable during such sixty (60) day period;

(4) The Board shall appoint a panel of three (3) capable persons (one of whom shall be designated as chairman) who may or may not be Owners, and who shall hear the charges and evaluate the evidence of the alleged violation;

(5) At such hearing, the Owner or other person so charged shall have the right to present oral and written evidence and to confront and cross-examine adverse witnesses;

(6) The panel shall deliver to the Owner or other person so charged within seven (7) days after the hearing a written decision which specifies the fines or penalties levied, if any, and the reasons therefor.

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

a. to enter the Apartment in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Apartment Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or

b. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees and costs, shall be borne by the defaulting Apartment Owner; provided, however, that the Board shall not summarily alter or demolish any improvements constructed by an Owner without first initiating judicial proceedings.

3. Maintenance and Repair of Apartments. All maintenance of and repairs to any Apartment shall be made by the Apartment's Owner at the Owner's expense.

4. Maintenance and Repair of Common Elements and Certain Other Areas. All maintenance, repairs and replacements to the Common Elements and the Limited Common Elements shall be made by the Board and shall be charged to the Owners as set forth in Section F.1 unless necessitated by the negligence, misuse or neglect of an Owner or occupant of an Apartment in which case such expense shall be charged to the Owner of such Apartment.

5. Additions or Alterations by Board. Whenever in the judgment of the Board the Common Elements shall require additions or alterations costing less than Two Hundred Thousand and No/100 Dollars (\$200,000.00), the Board may proceed with such additions or alterations and shall assess all Owners for the cost thereof as a Common Expense subject to the provisions of the Declaration. Any additions or alterations costing in excess of Two Hundred Thousand and No/100 Dollars (\$200,000.00) may be made by the Board only after obtaining approval of the Owners of sixty-five percent (65%) of the interests in the Common Elements, provided that this limit may be adjusted from time to time by the Board by multiplying such dollar limit by the Cost of Living Factor.

6. Additions or Alterations by Apartment Owners. Except as set forth in the Declaration, no Owner shall make any addition or alteration in or to an Apartment without first complying with the requirements of this Section and securing the prior written approval of the Board.

a. Written Submission of Request for Approval and Requirement of Board Action. No Apartment Owner shall commence work on any alterations or additions within an Apartment until the Owner has submitted to the Board a written request (which may include plans and specifications if the Board so requires) and the Board (or a subcommittee of the Board established for such purpose) either approves the request in writing or the Board is deemed to have approved the request as provided in Section 6(b) below.

b. Time Limit for Board Response. The Board must respond to the submission of a request within sixty (60) days of the receipt thereof by the Board; if the Board shall fail to disapprove the request or to request revisions or amendments by the Owner, the request shall be deemed to be approved, provided that nothing contained in this section shall authorize or permit any work affecting the Common Elements, the exterior appearance of the Project or the rights of any other Owner.

c. Board May Impose Reasonable Conditions. The Board may impose reasonable conditions on its approval of any such request including, without limitation, requiring (1) changes or amendments to the request, including changes or amendments designed to minimize the potential effects of such additions or alterations on Owners or occupants of other Apartments, (2) supervision of the work by an architect, or engineer, or other construction professional, and (3) performance of the work by a licensed contractor in cases where the work may affect the Common Elements, the exterior of the Project, or the rights of any other Apartment Owners. Without limitation to the foregoing, the Board may, as a condition to approving any request to install tile, hardwood, or similar hard surface flooring, require the Owner to install subfloor padding or acoustical insulation.

d. Board May Require a Halt in Construction or Removal of Unauthorized Work. The Board may inspect the work from time to time and direct a halt in construction for any reason and the Board may require the removal or correction of any work which was (i) not authorized by the Board, or (ii) which may adversely affect the Common Elements, the exterior of the Project or the rights of any other Apartment Owner.

e. Right of Access. The Association, acting through the Board or its designee, shall have the right of access to each Apartment, without liability for trespass or other consequential damages, from time to time during reasonable hours as may be necessary for the operation of the Project upon twenty-four (24) hours written notice, or, at any time without notice, for making emergency repairs in the Apartment necessary to prevent damage to the Common Elements or to another Apartment or Apartments.

7. Owners May Incorporate. All of the rights, powers, obligations and duties of the Owners set forth hereunder may be exercised and enforced by a non-profit, membership corporation, formed under applicable laws for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a Majority of the Apartment Owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and Bylaws of said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation which said action is in violation of any or all of the terms, covenants or conditions contained herein shall be void and of no effect. Nothing contained herein shall prohibit the Association from forming a non-profit corporation for the

purpose of holding title to real property. In the event of a corporation is established pursuant to this Section, the Board shall be responsible for taking all steps required to maintain such corporation in good standing and for filing all tax returns required with respect thereto.

8. Sales or Rental Activities by Employees of the Association.

Unless authorized by a vote of not less than sixty-five percent (65%) of the Apartment Owners, employees of the Association shall not, except as to any Apartment owned by the Association, act as sales or rental agents with respect to Apartments in the Project.

9. Notices.

Except as otherwise expressly provided herein, all notices hereunder shall be in writing sent by first class mail, postage prepaid, or by fax to the Board, in care of the Managing Agent. All notices to any Owner shall be sent by first class mail, postage prepaid, or by fax to the Owner's address at the Project or to such other address as may have been designated by him from time to time, in writing, to the Board. Except as otherwise expressly provided in these Bylaws, all notices to mortgagees of Apartments shall be sent by first class mail, postage prepaid, to their respective addresses, as designated by them from time to time, in writing, to the Board. All notices shall be deemed to have been given when mailed, regardless of the actual receipt thereof, except notices of change of address which shall be deemed to have been given when received.

10. Captions.

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

11. Gender.

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

12. Waiver.

No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur. No act or omission to act shall be deemed to constitute a waiver on the part of the Association or its Board, unless the same is expressed in writing and signed by an officer or Director of the Association or the Managing Agent.

13. Interpretation.

The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform Condominium Property Regime 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.

14. Amendment.

The provisions of these Bylaws, other than this paragraph, may be amended at any time by the vote or written consent of the

Owners of Apartments to which are appurtenant not less than sixty-five percent (65%) of the Common Interest, which amendment shall be effective upon recording in the Bureau of an instrument in writing, signed and acknowledged by such Owners or by two (2) officers of the Association; provided, however, that each one of the particulars set forth in Section 514A-82(a) and (b) of the Act shall always be embodied in these Bylaws; and provided further that (1) the vote or written consent of the Owners of Apartments to which are appurtenant not less than sixty-seven percent (67%) of the Common Interest, and (2) Fifty-One Percent (51%) Eligible Mortgage Holders' Consent shall be required to make any amendment of a "material nature" to these Bylaws. For purposes of the preceding sentence, an amendment hereof shall be deemed to be of a "material nature" if it changes a provision governing: (a) voting rights; (b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens; (c) reductions in reserves for maintenance, repair and replacement of Common Elements; (d) responsibility for maintenance and repairs; (e) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (f) redefinition of any Apartment boundaries; (g) convertibility of Apartments into Common Elements or of Common Elements into Apartments; (h) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (i) hazard or fidelity insurance requirements; (j) imposition of any restrictions on the leasing of Apartments; (k) imposition of any restrictions of an Owner's right to sell or transfer the Owner's Apartment; (l) a decision by the Association to establish self-management if professional management had been required previously by the Declaration or Bylaws or by an Eligible Mortgage Holder; (m) restoration or repair of the Project after damage or partial condemnation in a manner other than that specified in the Declaration and Bylaws; or (n) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

a. Any proposed bylaws together with the rationale for the proposal may be submitted by the Board or by a volunteer Apartment Owners' committee. If submitted by that committee, it shall be accompanied by a petition signed by Owners of Apartments to which are appurtenant not less than twenty-five (25%) percent of the Common Interest. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the Board to the Apartment Owners at the expense of the Association for vote or written consent without change within thirty (30) days of the receipt of the petition by the Board. The percentage vote or written consent required to adopt the proposed bylaw shall be as set forth in Section 15(a), above; provided that the vote or written consent must be obtained within one hundred twenty (120) days after mailing. In the event that the bylaw is duly adopted, then the Board shall cause the amendment to the Bylaws to be recorded in the Bureau. The volunteer Apartment Owners' committee shall be precluded from submitting a petition for a proposed bylaw which is substantially similar to that which has been previously mailed to the owners within one (1) year after the original petition was submitted to the Board. This subsection shall not preclude any Apartment Owner

or voluntary Apartment Owner's committee from proposing any bylaw amendment at any annual Association meeting.

b. These Bylaws may be amended as set forth in Section 82.15 of the Act, so long as such section remains in effect.

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

16. Examination of Documents of the Association. The minutes of meetings of the Board and Association and the Association's financial records, including, without limitation, audit reports and budgets, shall be available for examination by Apartment Owners or by the holder, insurer or guarantor of any mortgage pertaining to any Apartment. Copies of such minutes of meetings and financial records shall be provided to any Owner and to the holder, insurer or guarantor of any mortgage pertaining to any Apartment upon such party's request and upon payment of a reasonable charge for duplicating, postage, stationery and other administrative charges. Such Association documents shall be made available as follows:

a. The Association's most current financial statement and minutes of the most current Board meeting, once approved, shall be available to any Owner at no cost or on twenty-four hour loan, at a convenient location designated by the Board.

b. To the extent that such records are maintained in printed form, as opposed to records maintained on electronic or computer storage media, the following documents shall be available at convenient hours at a place designated by the Board: (i) Minutes of meetings of the Board and the Association for the current and prior year; such minutes of meetings shall include the recorded vote of each Director on all motions except motions voted on in executive session; and (ii) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, invoices of the Association and the list of delinquent assessment accounts of ninety (90) days or more for the current and prior year.

c. Proxies, tally sheets, ballots, Owners' check-in lists, and the certificate of election shall be available for inspection for a period of thirty (30) days following any association meeting, after which time proxies and ballots may be destroyed. Tally sheets, Owners' check-in lists, and the certificate of election shall be retained as Association records.

d. An Owner may file a written request with the Board to examine other documents of the Association. The Board shall give written authorization for inspection or written refusal with an explanation of the refusal within thirty (30) calendar days of receipt of the request.

e. As to any request for inspection under the above Sections 17.b, c or d, the Board may require the party requesting inspection to furnish to the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the Association, its members or both, and that in the event that the administrative time to respond to such request exceeds eight (8) hours in any calendar year, the party requesting inspection shall pay for administrative time in excess of eight (8) hours per year.

f. The Managing Agent may dispose of Association records which are more than five (5) years old without liability if the Managing Agent first gives the Board with written notice of the Managing Agent's intent to dispose of the records if not retrieved by the Board within sixty (60) days, which notice contains an itemized list of the records which the Managing Agent intends to destroy.

g. No person shall knowingly make any false certificate, entry or memorandum upon any of the books or records of the Managing Agent or the Association. No person shall knowingly alter, mutilate, destroy or conceal and books or records of the Managing Agent or the Association.

17. Membership List. Each Owner shall promptly file with the Board and Managing Agent a true and complete copy of each document whereby such Owner acquired an ownership interest in the Apartment, including, without limitation, any Apartment Deed, lease, mortgage, Agreement of Sale, condominium conveyance document, or other instrument entitled to recordation in the Bureau. The Board or Managing Agent, under the direction of the Board, shall keep an accurate and current list of members of the Association and their current addresses and the names and addresses of the vendees under Agreements of Sale, if any. The list shall be maintained at a place designated by the Board and a copy shall be available, at a reasonable charge, to any Owner who furnishes to the Managing Agent or Board a duly executed and acknowledged affidavit stating that the list (a) will be used by such Owner personally and only for the purpose of soliciting votes or proxies or providing information to other Owners with respect to Association matters and (b) shall not be used by such Owner or furnished to anyone else for any other purpose.

18. Project Documents. The Managing Agent shall maintain at its office accurate copies of the Declaration, these Bylaws, a current list of all Apartment Owners of whom it has been informed, the House Rules, a sample original Apartment Deed, and all public reports issued for the Project and any amendments thereto. The Managing Agent shall provide copies of those documents transmitted to the Managing Agent to Apartment Owners, the holders, insurers, and guarantors of mortgages on Apartments, and prospective purchasers and their prospective agents during normal business hours, upon payment to the Managing Agent of a reasonable charge to defray any administrative or duplicating costs.

IN WITNESS WHEREOF, Declarant has adopted these Bylaws as
of the date first set forth above.



Douglas E. Myers

3702 Lower Honoapiilani Road, LLC

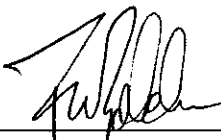
By _____

Its

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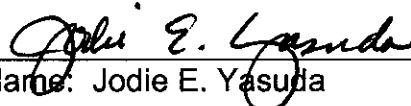
Douglas E. Myers

3702 Lower Honoapiilani, LLC

By:  _____
Its *mgr*

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 19th day of January, 2005, before me personally appeared Douglas E. Myers to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as his free act and deed, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.


Name: Jodie E. Yasuda

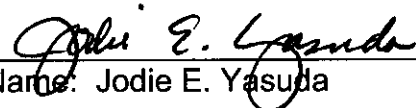
Notary Public, State of Hawaii

L.S.

My commission expires: July 8, 2005

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 19th day of January, 2005, before me personally appeared Douglas E. Myers to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as his free act and deed, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.


Name: Jodie E. Yasuda

Notary Public, State of Hawaii

L.S.

My commission expires: July 8, 2005