

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (x)

ANDERSON & FUJISAKI LLP
A Limited Liability Law Partnership
733 Bishop Street, Suite 2301
Honolulu, Hawai'i 96813
Ph: (808) 536-8177

TITLE OF DOCUMENT:

RESTATED MAUI LANI DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS

PARTIES TO DOCUMENT:

THE MAUI LANI COMMUNITY ASSOCIATION aka MAUI LANI COMMUNITY
ASSOCIATION

Document consists of 60 pages, including this page.

RESTATED MAUI LANI DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, Section 421J-7.5(a) of the Hawai'i Revised Statutes provides that a planned community association, by a resolution adopted by the board, may at any time restate the association documents, including without limitation the declaration, to include amendments to the association documents; and

WHEREAS, Section 421J-7.5(c) of the Hawai‘i Revised Statutes provides in part that upon the adoption of a resolution pursuant to subsection (a), the restated association documents shall state all of the operative provisions of the original association documents, together with a statement that the restated association documents correctly state the corresponding provisions of the association documents, and that the restated association documents supersede the original association documents and any relative amendments; and

WHEREAS, Section 421J-7.5(d) of the Hawai‘i Revised Statutes provides a restated association document shall be recorded if the original document was recorded and the restated association documents shall supersede the original association documents and any relative amendments. In the event of any conflict, the restated association documents shall be subordinate to the original association documents and any relative amendments; and

WHEREAS, by that certain Maui Lani Declaration of Covenants, Conditions and Restrictions recorded on February 15, 1996, in the Bureau of Conveyances of the State of Hawai‘i (“Bureau”) as Document No. 96-020854, which was replaced in its entirety by the Maui Lani Declaration of Covenants, Conditions and Restrictions recorded as aforesaid on January 23, 1997, as Document No. 97-010578 (“Declaration”), as amended by instruments recorded as aforesaid on September 24, 1997, as Document No. 97-128719, on November 15, 2000, as Document No. 2000-160115, on August 22, 2001, as Document No. 2001-131425, on October 30, 2001 as Document No. 2001-171089, on November 7, 2007, as Document No. 2007-196169, on June 24, 2008, as Document No. 2008-102293, on June 24, 2008, as Document No. 2008-102294 on August 20, 2008, as Document No. 2008-132440, on September 19, 2008, as Document No. 2008-147256, on September 19, 2008, as Document No. 2008-147257, on December 2, 2008, as Document No. 2008-181885, and on October 9, 2009, as Document No. 2009-156014, MAUI LANI PARTNERS, a Hawaii general partnership (“Declarant”), subjected the lands described in said Declaration to the limitations, restrictions and covenants set forth in said Declaration; and

WHEREAS, the Board of Directors of The Maui Lani Community Association aka Maui Lani Community Association by adoption of a resolution on June 14, 2021, voted to record a restated version of the Declaration which would set forth the provisions of the Declaration, as amended;

NOW, THEREFORE, the Declaration is hereby restated in its entirety as follows.

The Restated Declaration correctly states the corresponding provisions of the Declaration, as amended, and supersedes the original Declaration and any relative amendments and restatements. In the event of any conflict, the Restated Declaration shall be subordinate to the original association documents and any relative amendments.

The Restated Declaration includes Exhibits “A” and “B,” which were attached to the Declaration recorded in the Bureau on January 23, 1997, as Document No. 97-010578. However, it DOES NOT include the provisions of any supplemental declarations and/or annexation documents, or any amendments thereto, recorded in the Bureau of Conveyances of the State of

Hawai'i or in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i affecting the property subject to said Declaration, nor does it include any other exhibits, if any, attached to the Declaration. Said supplemental declarations and annexation documents, or amendments thereto, and other exhibits, if any, attached to the Declaration, shall not be affected by the fact that they are not attached or made a part of the following Restatement and shall remain in full force and effect.

RESTATED MAUI LANI DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS.....	9
Section 1. “Area of Common Responsibility”	9
Section 2. “Articles of Incorporation”	10
Section 3. “Association”	10
Section 4. “Base Assessment”	10
Section 5. “Board of Directors”	10
Section 6. “Bylaws”	10
Section 7. “Class “B” Control Period”	10
Section 8. “Common Area”	10
Section 9. “Common Expenses”	10
Section 10. “Community-Wide Standard”	10
Section 11. “Declarant”	11
Section 12. “Master Land Use Plan”	11
Section 13. “Member”	11
Section 14. “Mortgage”	11
Section 15. “Mortgagee”	11
Section 16. “Mortgagor”	11
Section 17. “Owner”	11
Section 18. “Person”	11
Section 19. “Private Amenities”	11
Section 20. “Properties”	12
Section 21. “Special Assessment”	12
Section 22. “Subassociation”	12
Section 23. “Supplemental Declaration”	12
Section 24. “Unit”	12
ARTICLE II DECLARANT’S RIGHTS	12
ARTICLE III ANNEXATION AND WITHDRAWAL OF PROPERTY	13
Section 1. Annexation Without Approval of Membership	14
Section 2. Annexation With Approval of Membership	14
Section 3. Acquisition of Additional Common Area	14
Section 4. Withdrawal of Property	14
Section 5. Additional Covenants and Easements	15
Section 6. Amendment	15
ARTICLE IV PROPERTY RIGHTS	15
Section 1. Common Areas	15
Section 2. Private Amenities	16

ARTICLE V	MEMBERSHIP AND VOTING RIGHTS	16
Section 1.	Membership	16
Section 2.	Voting	16
(a)	Class “A”	16
(b)	Class “B”	17
Section 3.	Subassociation	17
ARTICLE VI	RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	18
Section 1.	Common Areas	18
Section 2.	Personal Property and Real Property for Common Use	18
Section 3.	Rules and Regulations	19
Section 4.	Enforcement	19
Section 5.	Implied Rights	19
Section 6.	Governmental Interest	19
Section 7.	Indemnification	20
Section 8.	Dedication of Common Areas	20
Section 9.	Security	20
Section 10.	Powers of the Association with Respect to Subassociations	21
Section 11.	Powers of Association with Respect to Neighboring Commercial Center and Golf Course	21
ARTICLE VII	MAINTENANCE	21
Section 1.	Association’s Responsibility	21
Section 2.	Owner’s Responsibility	22
Section 3.	Standard of Performance	22
Section 4.	Walls and Fences	23
(a)	Party Walls and Party Fences	23
(1)	Sharing of Repair and Maintenance	23
(2)	Damage and Destruction	23
(b)	Wall or Fence	23
(c)	Right to Contribution Runs With Land	23
(d)	Arbitration	23
ARTICLE VIII	INSURANCE AND CASUALTY LOSSES	24
Section 1.	Association Insurance	24
Section 2.	Individual Insurance	26
Section 3.	Damage and Destruction	27
Section 4.	Disbursement of Proceeds	28
Section 5.	Repair and Reconstruction	28
ARTICLE IX	NO PARTITION	28
ARTICLE X	CONDEMNATION	28
ARTICLE XI	ASSESSMENTS	29

Section 1. Creation of Assessments	29
Section 2. Computation of Base Assessment	31
Section 3. Reserve Budget and Capital Contribution	32
Section 4. Special Assessments	32
(a) Unbudgeted and Other Expenses	32
(b) Costs to Cure Non-compliance	33
(c) Levy of Special Assessments	33
Section 5. Lien for Assessments	34
Section 6. Subordination of the Lien to First Mortgages	34
Section 7. Date of Commencement of Assessments	34
Section 8. Failure to Assess	34
Section 9. Exempt Property	35
Section 10. Collection of Unpaid Assessments from Tenants or Rental Agents	35
 ARTICLE XII ARCHITECTURAL AND LANDSCAPE CONTROL	36
Section 1. Architectural and Landscape Control	36
Section 2. Design Review Committee	36
Section 3. Design Guidelines	37
Section 4. Fee Assessment	38
Section 5. Delegation of Review Responsibilities	38
Section 6. Common Area Conditions, Limitations and Restrictions	38
Section 7. Non-Liability for Approval of Drawings and Specifications	39
Section 8. Limitation of Liability	40
Section 9. Inspection and Recording of Approval	40
Section 10. No Waiver of Future Approvals	40
Section 11. Enforcement	40
Section 12. Development by Declarant or any Affiliate of Declarant	41
Section 13. Estoppel Certificate	42
 ARTICLE XIII USE RESTRICTIONS	42
Section 1. General	42
Section 2. Signs	42
Section 3. Parking and Prohibited Vehicles	43
(a) Parking	43
(b) Prohibited Vehicles	43
Section 4. Animals and Pets	43
Section 5. Quiet Enjoyment	44
Section 6. Unsightly or Unkempt Conditions	45
Section 7. Hazardous Materials	45
Section 8. Antennas	45
Section 9. Garbage Cans Tanks, Etc.	45
Section 10. Subdivision of Unit	45
Section 11. Tents, Mobile Homes and Temporary Structures	45
Section 12. Drainage and Septic Systems	45
Section 13. Sight Distance at Intersections	46

Section 14. Playground	46
Section 15. Business Use	46
Section 16. On-Site Fuel Storage	46
Section 17. Compliance with Governing Documents	47
Section 18. Laws and Ordinances	47
Section 19. Clothesline	47
ARTICLE XIV EASEMENTS	47
Section 1. Easements of Encroachment	47
Section 2. Easements for Utilities, Etc.	47
Section 3. Easements to Serve Additional Property	48
Section 4. Easement for Golf Balls and Golf Course	48
Section 5. Easements for Private Amenities	49
Section 6. Easement for Agricultural Operations	49
Section 7. Easements for Alexander & Baldwin, Inc.	50
Section 8. Right of Entry	50
Section 9. Future Development	50
ARTICLE XV MORTGAGE PROVISIONS	51
Section 1. Additional Requirements	51
Section 2. No Priority	52
Section 3. Notice to Association	52
Section 4. Amendment by Board	52
Section 5. Applicability of Article XV	52
Section 6. Failure of Mortgagee to Respond	52
ARTICLE XVI DISPUTE RESOLUTION AND LIMITATION ON LITIGATION	53
Section 1. Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Dispute	53
Section 2. Exempt Claims	53
Section 3. Mandatory Procedures for All Other Claims	54
(a) Notice	54
(b) Negotiation	54
(c) Mediation	55
(d) Final and Binding Arbitration	55
Section 4. Allocation of Costs of Resolving Claims	55
Section 5. Enforcement of Resolution	56
ARTICLE XVII GENERAL PROVISIONS	56
Section 1. Term	56
Section 2. Amendment	56
(a) By Declarant	57
(b) By Owners	57
(c) Validity and Effective Date of Amendments	57
Section 3. Severability	57

Section 4. Perpetuities	57
Section 5. Adjoining Properties	57
Section 6. Cumulative Effect: Conflict	58
Section 7. Compliance	58
Section 8. Notice of Sale or Transfer of Title	58
Section 9. Ownership of Unit by the United States or the State of Hawaii	58
Section 10. Automatic Release Upon Dedication of Roads and Other Lands to Governmental Authorities	58

EXHIBITS

Exhibit	Subject Matter
“A”	Land Initially Submitted
“B”	Land Subject to Annexation

RESTATED MAUI LANI DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this _____ day of _____, 1996, by MAUI LANI PARTNERS, a Hawaii general partnership (hereinafter referred to as “Declarant”).

Declarant is the owner of the real property described in Exhibit “A” attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Declarant hereby declares that all of the property described in Exhibit “A” and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Declaration does not and is not intended to create a condominium within the meaning of the Condominium Property Regimes Act, Chapter 514A, Hawaii Revised Statutes.

Article I DEFINITIONS

The terms used in this Declaration and its exhibits shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth in this Article, unless the context otherwise requires.

Section 1. “Area of Common Responsibility” shall refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenant, or by contract or agreement with any entity, become the responsibility of the Association. The term shall include the property to be maintained by the Association pursuant to Article VII of this Declaration.

Section 2. “Articles of Incorporation” or “Articles” shall refer to the Articles of Incorporation of Maui Lani Community Association, as filed with the Department of Commerce and Consumer Affairs of the State of Hawaii.¹

¹ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii,

Section 3. “Association” shall refer to Maui Lani Community Association, its successors or assigns. The use of the term “association” or “associations” in lower case shall refer to any condominium association or other owners association having concurrent jurisdiction over any portion of the Properties.²

Section 4. “Base Assessment” shall mean assessments levied against all Units subject to assessment under Article XI hereof to fund Common Expenses for the general benefit of all Units, as more particularly described in Article XI, Section 1.

Section 5. “Board of Directors” or “Board” shall mean the body responsible for administration of the Association, selected as provided in the Bylaws and generally serving the same role as the board of directors under Hawaii corporate law.

Section 6. “Bylaws” shall refer to the Bylaws of Maui Lani Community Association, as they may be amended from time to time.³

Section 7. “Class “B” Control Period” shall mean the period of time during which the Class “B” Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III, Section 3, of the Bylaws.

Section 8. “Common Area” shall be an inclusive term referring to all real property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners.⁴

Section 9. “Common Expenses” shall mean and include the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred by the Declarant for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by a majority of the total Class “A” vote of the Association.

Section 10. “Community-Wide Standard” shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors.

on August 22, 2001, as Document No. 2001-131425.

² Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425. The word “therm” has been corrected to read “the term.”

³ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425 and to correct the Section number.

⁴ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

Section 11. “Declarant” shall refer to MAUI LANI PARTNERS, a Hawaii general partnership, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits “A” or “B”⁵ hereof for the purpose of development and sale, and who are designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

Section 12. “Master Land Use Plan” shall mean the general land use designation and general plan of development of the property described in Exhibits “A” or “B” attached hereto. The Master Land Use Plan may change and evolve with time as Declarant, in its sole discretion, deems appropriate. Declarant may change and modify the Master Land Use Plan without notice to or approval of any Owner.

Section 13. “Member” shall mean a Person entitled to membership in the Association, as provided herein.

Section 14. “Mortgage” shall mean a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 15. “Mortgagee” shall mean a beneficiary or holder of a Mortgage.

Section 16. “Mortgagor” shall mean any Person who gives a Mortgage.

Section 17. “Owner” shall mean and refer to one (1) or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 18. “Person” shall mean a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 19. “Private Amenities” shall mean certain real property and the improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise which may include, without limitation, any other club, the Maui Lani Golf Course, and any other golf course.

⁵ Exhibit “B” to the Declaration has been restated to integrate the Amendment to Declaration recorded on November 15, 2000 in the Bureau of Conveyances of the State of Hawaii as Document No. 2000-160115 and the Supplemental Declarations recorded in said Bureau on April 30, 2002 as Document No. 2002-074303, on July 1, 2003 as Document No. 2003-134772, on February 11, 2005 as Document No. 2005-028776, on February 2, 2009 as Document No. 2009-013558, on October 4, 2011, as Document No. 2011-161648, and on March 4, 2014 as Document No. A-51760271.

Section 20. “Properties” shall refer to the real property described in Exhibit “A” attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 21. “Special Assessment” shall mean assessments levied in accordance with Article XI, Section 4, of this Declaration.⁶

Section 22. “Subassociation” shall mean each separately developed residential area comprised of one (1) or more housing types subject to this Declaration, governed by an additional owners association and an additional declaration of covenants, conditions and restrictions established by the Declarant or other developer prior to any sale of individual units, lots or interest, in which owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Association Members. For example, and by way of illustration and not limitation, each condominium, townhome development, cluster home development, and single-family detached housing development may constitute a separate subassociation.

Where the context permits or requires, the term Subassociation shall also refer to the association of owners for the Subassociation having jurisdiction over the property within the Subassociation.⁷

Section 23. “Supplemental Declaration” shall mean an amendment or supplement to this Declaration filed pursuant to Article III hereof and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

Section 24. “Unit” shall mean a portion of the Properties, which has been subdivided and improved with the necessary roads and utilities and conveyed to an Owner. By way of illustration (but not limitation), the term shall include condominium units, townhouse units, cluster homes, patio or zero lot line homes as well as single family detached homes and vacant lots ready for construction of a home. In the case of an apartment building or other structures which contain multiple dwellings, each dwelling shall be deemed a separate unit. The term “Unit” shall not include common areas, common property of a subassociation, property dedicated to the government or property owned by the Declarant or developers or builders which have not been conveyed to an Owner.

Article II

DECLARANT’S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall

⁶ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

⁷ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

not reduce an obligation nor enlarge a right beyond that contained herein or in the Bylaws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument, signed by the Declarant and duly recorded in the State of Hawaii Bureau of Conveyances (the "Bureau") and/or Office of the Assistant Registrar of the Land Court ("Land Court"), as appropriate. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any builder designated by Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant and such designated builder(s) shall have easements for access to and egress from and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium property regime or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium property regime or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) thirty years from the date this Declaration is recorded, or (b) upon recordation of a written statement by the Declarant that all sales activity has ceased.

Article III

ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 1. Annexation Without Approval of Membership. Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B" has been subjected to this Declaration or February 1, 2026, whichever occurs first, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B", attached hereto and as may be amended. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B". No such transfer shall be effective unless it is in a

written instrument, signed by the Declarant and duly recorded in the Bureau and/or Land Court, as appropriate.

Annexation shall be accomplished by filing in the Bureau and/or Land Court, as appropriate, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of the Owners or the Board, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Section 2. Annexation With Approval Of Membership. Subject to the consent of the fee owner of such property, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the Declarant's right set forth in Section 1 above, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of a majority of the Class "A" votes of the Association (other than those held by Declarant), either at a meeting duly called for such purpose or by written consent, and the affirmative vote of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing in the Bureau and/or Land Court, as appropriate, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the fee owner of the property being annexed, and any such annexation shall be effective upon recordation unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Either Declarant, a project developer (as determined by Declarant), a project builder (as determined by Declarant), or an Owner (the latter with Declarant's written consent, if the Class "B" Membership exists, or with the Board's written consent, if the Class "B" Membership no longer exists) may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B", which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association as Common Area at its expense for the benefit of the Members.⁸

Section 4. Withdrawal of Property. Declarant reserves the right to amend this Declaration unilaterally at any time up to the termination of the Class "B" Control Period as provided in Article III, Section 3 of the Bylaws, without prior notice and without the consent of any Person or the Association, for the purpose of removing certain portions of the Properties then owned by

⁸ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

the Declarant or its affiliates, or the Association from the provisions of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties, or remove such property from Exhibit "B". Withdrawal shall be accomplished by filing in the Bureau and/or Land Court, as appropriate, a Supplemental Declaration withdrawing such property from the Association or removing such property from Exhibit "B". Such Supplemental Declaration shall not require the consent of the Owners or the Board, but shall require the consent of the Owner of such property, if other than Declarant. Declarant may, but shall not be obligated to, list and include such withdrawn property in Exhibit "B".

Section 5. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants, conditions, limitations, restrictions and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners thereof and obligating such Owners to pay the costs incurred by the Association. No provision contained in this Declaration shall be deemed to limit or impair the right of the Declarant to impose additional covenants, conditions, limitations, restrictions and easements by including such in any deed or document of conveyance.

Section 6. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" hereof.

Article IV **PROPERTY RIGHTS**

Section 1. Common Areas. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Declaration and any other applicable covenants, as they may be amended from time to time, and subject to any restrictions or limitations contained in any deed conveying such property to the Association;

(b) the right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(c) the right of the Board to suspend the right of an Owner to use recreational facilities, if any, within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, Bylaws, or rules of the Association after notice and a hearing pursuant to Article III, Section 23, of the Bylaws;

(d) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Article VI, Section 8 hereof;

(e) the right of the Board to charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;

(f) the right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of use fees established by the Board; and

(g) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Article III, Section 21 of the Bylaws.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

Section 2. Private Amenities.

(a) Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenities, including, but not limited to, the Maui Lani Golf Course. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and also shall have the right to reserve use rights and to terminate use rights altogether.

(b) No representations or warranties have been or are made by the Declarant or any other person with regard to the continuing ownership or operation of the Private Amenities, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by the Declarant. Further, the ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (i) the sale to or assumption of operations by an independent entity, (ii) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of the Private Amenities or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenities, or (iii) the conveyance of the Private Amenities to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Subassociation, or any Owner shall be required to effectuate such a transfer or conversion.

Article V
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner shall automatically become a member of the Association upon obtaining ownership of a Unit. No Owner, whether one or more Persons, shall have more than one (1) membership per Unit owned. In the event, a Unit is owned by more than one Person, all such co-Owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in Section 2 of this Article and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The rights and privileges of membership may be exercised by a Member, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.⁹

Section 2. Voting. The Association shall have two classes of membership, Class “A” and Class “B”.

(a) Class “A”. Class “A” Members shall be all Owners with the exception of the Class “B” Member, if any.

Class “A” Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Unit.

In any situation in which there is more than one (1) Owner of a particular Unit, the vote or written consent for such Unit shall not be fractionalized and shall be cast as one (1) whole vote or written consent; provided further, that the co-Owners shall determine among themselves as to who will cast the vote or execute proxies or written consents and advise the Secretary of the Association in writing of the Person authorized to cast the vote for such Unit prior to any meeting or execution of the proxies or written consents. In the absence of such advice, the Unit’s vote or written consent shall be suspended if more than one (1) Person seeks to exercise it. If only one co-Owner of a Unit votes or signs a written consent or proxy, the vote, written consent or proxy of such co-Owner shall constitute the vote, written consent or proxy for the Unit provided that: (1) none of the Owners of the Unit have submitted written advice on who may cast the vote or written consent for the Unit; or (2) the co-Owner voting or signing the written consent or proxy is the same Person authorized to vote or sign the written consent or proxy for the Unit.¹⁰

(b) Class “B”. The sole Class “B” Member shall be the Declarant. The rights of the Class “B” Member, including the right to approve or withhold approval of actions taken

⁹ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on June 24, 2008, as Document No. 2008-102294.

¹⁰ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on June 24, 2008, as Document No. 2008-102294.

under this Declaration and the Bylaws, are specified elsewhere in the Declaration and the Bylaws. The Class “B” Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class “B” Control Period, as specified in Article III, Section 3, of the Bylaws. After termination of the Class “B” Control Period, the Class “B” Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 18, of the Bylaws.

The Class “B” membership shall terminate and become converted to Class “A” membership upon the earlier of:

- (i) two (2) years after expiration of the Class “B” Control Period pursuant to Article III of the Bylaws; or
- (ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Section 3. Subassociation. Each owner of a Unit in a Subassociation, as defined in Article I, Section 22 hereinabove, shall also be a Class “A” Member of the Association. As a Class “A” Member, each Owner shall be obligated to pay the assessments levied by the Association in accordance with Article XI hereinbelow and exercise the voting rights set forth herein and in the Bylaws. The assessments levied by the Association shall be in addition to any assessments levied by the Subassociation and shall take priority over any assessments levied by the Subassociation. The obligation to pay assessments levied by the Association is appurtenant to and may not be severed from the ownership of a Unit subject to this Declaration, as amended. No Owner who is a member of a Subassociation may waive the obligation to pay assessments levied by the Association by non-use of Owner’s Unit or the General Common Area or by the abandonment of Owner’s Unit.¹¹

Article VI

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Common Areas. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the

¹¹ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

Properties conveyed to it by the Declarant; provided, nothing herein shall obligate the Association to assume or satisfy any monetary encumbrance or other debt associated with such property.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of some or all of the Properties, consistent with the rights and duties established by this Declaration, any applicable Supplemental Declaration, and the Bylaws. Such regulations and use restrictions shall be binding upon all applicable Owners, occupants, invitees and licensees, unless overruled, canceled or modified in a regular or special meeting of the Association by the vote of a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.¹²

Section 4. Enforcement. The Association, through its Board of Directors, shall be authorized to impose sanctions for violations of this Declaration, any Supplemental Declaration, the Bylaws, or rules and regulations, which sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Area. In addition, the Association, in accordance with Article III, Section 23, of the Bylaws, shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Association to any Owner or such Owner's Unit in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board shall also have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be subject to the procedures set forth in the Bylaws.

The Association, acting through the Board, shall have the right to enforce federal, state and local laws and ordinances applicable to the Properties or any portion thereof, and may permit such governmental entities to enforce such laws and ordinances on the Properties for the benefit of the Association and its Members.

Section 5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 6. Governmental Interest. For so long as the Declarant owns any property described on Exhibits "A" or "B", the Association shall permit the Declarant authority to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water, sewer and natural gas facilities, public schools and parks, and other public facilities.

¹² Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

Section 7. Indemnification. The Association shall indemnify every officer and director of the Association against any and all expenses, including judgments, fines, attorneys' fees, reasonably incurred by or imposed upon any such officer or director in connection with any action, suit, or other proceeding to which he or she may be a party by reason of being or having been an officer or director, including the cost of reasonable settlement (other than amounts paid to the Association itself) made with a view to curtailment of costs of litigation, to the fullest extent required by the Articles of Incorporation. In addition, the Association shall indemnify every committee member on the same basis and to the same extent as such committee member would be entitled under the Articles of Incorporation if he were an officer or director.

Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 8. Dedication Of Common Areas. The Association, acting through the Board of Directors upon two-thirds (2/3) vote thereof, shall have the power to dedicate portions of the Common Areas to the County of Maui, the State of Hawaii, or to any other local, state, or federal governmental entity.

Section 9. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER, AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNIT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, AND IT'S [sic] BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE COMMUNITY DESIGN COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE COMMUNITY DESIGN COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM-SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND ITS BOARD

OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 10. Powers of the Association with Respect to Subassociations. The Association, by and through its Board of Directors, shall have the power to veto any action taken or contemplated to be taken by any Subassociation which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association shall also have the power to require specific action to be taken by any Subassociation in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties.

If the Association shall provide written notice of any action required to be performed by a Subassociation, said Subassociation shall perform such action within thirty (30) days from the date of its receipt of such notice. If the Subassociation fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Subassociation and to assess all costs incurred against the Units in such Subassociation as a Special Assessment pursuant to Article XI, Section 4(b).

Section 11. Powers of the Association with Respect to Neighboring Commercial Center and Golf Course. The Association, by and through its Board of Directors, shall have the power to negotiate and enter into a use agreement with the neighboring commercial centers and golf course located within Maui Lani for the use of Common Area. The use agreement shall set forth at a minimum the right of the customers and patrons of the commercial centers and golf course to use the Common Area and the obligation of the commercial centers and golf course to pay a reasonable fee towards the maintenance and repair of said Common Area.

Article VII

MAINTENANCE

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. The Area of Common Responsibility shall include, but need not be limited to:

(a) all landscaping and other flora, structures, and improvements, including any private streets, situated upon the Common Areas;

(b) landscaped areas within public rights-of-way throughout the Properties, except those rights-of-way required to be maintained by Owners or any Subassociation and landscaping and other flora on any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto);

(c) all sewer lines within the Properties; and

(d) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, other covenant, or any contract or agreement for maintenance thereof entered into by the Association. The Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant. There are hereby reserved to the Association blanket easements over the Properties as necessary to enable the Association to fulfill responsibilities under this Section.

Except as otherwise specifically provided herein or in a Supplemental Declaration that designated any area as an Area of Common Responsibility, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, a Supplemental Declaration, other recorded covenants, or agreements with the owner(s) thereof.¹³

Section 2. Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas and other improvements comprising the Unit. Owners of Units adjacent to any roadway within the Properties shall maintain the driveways serving their respective Units, whether or not lying entirely within the Unit boundaries, and shall maintain landscaping on that portion of the Common Area, if any, or area between the Unit boundary and the back-of-curb of the adjacent street or streets.

In addition to any other enforcement rights available to the Association, if any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Unit and the owner thereof in accordance with Article XI, Section 4(b) of this Declaration; provided, however, that unless entry is required due to an emergency situation, the Association shall afford the owner reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. Standard of Performance. Unless otherwise specifically provided herein, responsibility for maintenance shall include responsibility for repair and replacement, as

¹³ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. Neither the Association, an Owner nor a Subassociation shall be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities hereunder.

Section 4. Walls and Fences.

(a) Party Walls and Party Fences. A wall or fence shall be deemed to be a party wall or fence if said wall or fence (i) straddles the boundary line; (ii) serves to separate any two (2) adjoining Units; and (iii) was constructed either by Declarant or with the mutual consent of the Owners of the two (2) adjoining Units. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(1) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be equally shared by the Owners of the adjoining Units.

(2) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(b) Wall or Fence. Any Owner may construct a wall or fence upon said Owner's Unit without the consent of the Owner of the adjoining Unit so long as said wall or fence is constructed solely and entirely upon said Owner's Unit. The Owner who has constructed said wall or fence shall be solely responsible for (i) the cost to maintain and repair the wall or fence in a clean and safe condition; (ii) the cost to insure said wall or fence; and (iii) any liability which may arise from the design, construction or use of the wall or fence. If any adjoining Unit Owner shall use the wall or fence, the Owner who has constructed the wall or fence: (i) shall be entitled to demand and receive a contribution towards the maintenance and repair of the wall in proportion to the adjoining Unit Owner's use; and (ii) may exercise any legal remedy available against any adjoining Unit Owner for damage or destruction of the wall or fence, or liability arising from said adjoining Unit Owner's use of the wall or fence.

(c) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(d) Arbitration. In the event of any dispute arising concerning a wall or fence, or under the provisions of this Section, each party shall appoint one arbitrator. Should any party

refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Article VIII

INSURANCE AND CASUALTY LOSSES

Section 1. Association Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area, and on other portions of the Area of Common Responsibility to the extent that the Association is obligated to maintain, repair and replace the improvements thereon. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage, including coverage for vandalism and malicious mischief, shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured peril.

In addition, the Association may, upon request of a Subassociation, and shall, if so specified in a Supplemental Declaration applicable to the Subassociation, obtain and continue in effect adequate blanket "all-risk" property insurance, if reasonably available, on the properties within such Subassociation. If "all-risk" insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate and the face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs thereof shall be charged to the Owners of Units within the benefitted Subassociation as a Special Assessment.

Insurance obtained on the properties within any Subassociation, whether obtained by the Subassociation or the Association, shall at a minimum comply with the applicable provisions of this Section 1, including the provisions of this Article applicable to policy provisions, loss adjustment, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Subassociation, if any.

The Board shall also obtain a commercial general liability policy on the Area of Common Responsibility, insuring the Association and its Members against all claims for bodily injury and property damage arising out of the negligence of the Association, any of its Members, employees, agents or contractors while acting on behalf of the Association. The primary policy shall have at least a One Million Dollars (\$1,000,000.00) combined single limit per occurrence and in the aggregate, if reasonably available, and, in addition, the Association shall obtain an umbrella policy providing at least One Million Dollars (\$1,000,000.00) in additional coverage, if reasonably available.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the Base Assessment.

Insurance policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party or parties who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be governed by the following provisions:

(a) All policies shall be written with a company authorized to do business in Hawaii if reasonably available.

(b) All policies shall be written in the name of the Association as trustee for the respective benefitted parties. Policies on the Area of Common Responsibility shall be for the benefit of the Association and its Members. Policies secured at the request of a Subassociation shall be for the benefit of the Subassociation, the Owners of Units within the Subassociation, and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All property insurance policies shall have an inflation guard endorsement, if reasonably available, and, if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement.

(f) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(1) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees and manager, the Owners and occupants of Units, and their respective tenants, servants, agents, and guests;

(2) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(3) a statement that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any one (1) or more individual Owners;

(4) a statement that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(5) a statement that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of the lack of full or a specified percentage occupancy of the Project;

(6) a statement that any “other insurance” clause in any policy exclude individual Owners’ policies from consideration; and

(7) a statement that the Association will be given at least thirty (30) days’ prior written notice of any cancellation, substantial modification, or nonrenewal.

The Association shall also obtain a fidelity bond or bonds, if reasonably available, covering all persons responsible for handling Association funds. The amount of fidelity coverage shall be determined in the Board of Directors’ best business judgment, but if reasonably available, may not be less than one-sixth of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least thirty (30) days’ prior written notice to the Association.

The Board of Directors shall also obtain directors and officers liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000.00), if reasonably available, insuring the Association and its officers and directors (former, present and future) from liability for any actions or decisions on behalf of the Association in their capacities as officers or directors for which the Association would have the duty to indemnify its officers and directors pursuant to Article VI, Section 7 of this Declaration.

In addition to the other insurance required by law or by this Section, the Board shall obtain, as a Common Expense, worker’s compensation insurance and employer’s liability insurance, if and to the extent required by law, and such other insurance as the Board deems necessary or advisable. The employers’ liability limit, if such coverage is required, shall be a minimum of One Million Dollars (\$1,000,000.00).¹⁴

Section 2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the

¹⁴ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on June 24, 2008, as Document No. 2008-102294.

Association that each Owner shall carry blanket “all-risk” property insurance on the Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article for insurance on the Common Area, unless either the Subassociation in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of damage to or destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction and as approved by the County of Maui, if necessary. Alternatively, the Owner shall clear the Unit of all debris and return the property to substantially the condition in which it existed immediately prior to commencing construction thereon, in which case the Unit shall thereafter be sodded, irrigated and maintained in a neat and clean condition consistent with the Community-Wide Standard. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Subassociation may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within the Subassociation and the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other peril to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other peril, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the total Class “A” vote of the Association shall decide within sixty (60) days after the damage or destruction not to repair or reconstruct and the approval of the Class “B” Member. Any damage or destruction to the common property of any Subassociation shall be repaired or reconstructed unless the Unit Owners representing at least seventy-five percent (75%) of the total vote of the Subassociation whose common property is damaged shall decide within sixty (60) days after the damage or destruction not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Subassociation shall be repaired or reconstructed.

(c) If it is determined in the manner described above that damage or destruction to the Common Area or to the common property of any Subassociation shall not be repaired or reconstructed and no alternative improvements are authorized, then the affected portion of the properties shall be cleared of all debris and ruins and thereafter shall be maintained by the Association or the Subassociation, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction to the Common Area or to the common property of any Subassociation is to be repaired or reconstructed and the insurance policies held by the Association are paid, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction, or if no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s), as their interest may appear, shall be retained by and for the benefit of the Association or the Subassociation, as applicable, and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area or to the common property of a Subassociation for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Owners, levy a special assessment against those Owners of Units responsible for the premiums for the applicable insurance coverage under Section 1 of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article IX

NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person holding or acquiring any interest in the properties or any part thereof seek any judicial partition unless the properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article X

CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least sixty-seven percent (67%) of the total Class "A" vote in the Association and of the Declarant, as long as the

Declarant owns any property described on Exhibits “A” or “B”) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits “A” or “B” of this Declaration, and at least seventy-five percent (75%) of the total Class “A” vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the provisions in Article VIII of this Declaration regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

Article XI **ASSESSMENTS**

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 9 of this Article. There shall be two (2) types of assessments: (i) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (ii) Special Assessments as described in Section 4 below.

Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all of the foregoing assessments.

Base Assessments shall be levied on all Units based upon a reasonable formula adopted by the Board. Special Assessments shall be levied as provided in Sections 4 below, respectively.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Hawaii law; provided, that if, at any time, Hawaii law does not limit such interest, the rate shall not exceed twenty percent) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney’s fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney’s fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such

portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, within five (5) business days after receipt of a written request therefor, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer or the managing agent, if so authorized by the Board of Directors, of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and, if the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in annual installments in advance of the second month after the commencement of the fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may revoke the privilege of paying in installments and require any unpaid installments of the annual assessment and/or any other assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by nonuse of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed (i) by reason of any alleged failure of the Association or Board to take some action or perform some function it is required to take or perform under this Declaration or the Bylaws, (ii) for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association; or (iii) from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant has an option unilaterally to subject additional property to this Declaration, the Declarant may annually elect either to pay regular assessments on its unsold Units or to pay to the Association the difference between the amount of assessments collected on all other Units subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. The Declarant's obligations hereunder may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 2. Computation of Base Assessment. At least 60 days prior to the beginning of each fiscal year of the Association, the Board shall make available for review by each Owner at the office of the managing agent during reasonable hours a proposed budget for the upcoming fiscal year, which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The proposed budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 3 of this Article.

The Board shall at the time determine the amount of the Base Assessments to be paid by each Member. The Base Assessments to be levied against each Unit for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves. The Base Assessments shall be prorated to each Owner based upon a reasonable formula adopted by the Board. In determining the amount of the Base Assessment, the Board, in its sole discretion, may take into account other sources of funds available to the Association and assessments to be levied on additional Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article III hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above); provided, any such subsidy shall be conspicuously disclosed as a line item in the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

At least thirty (30) days prior to the beginning of the fiscal year of the Association, the Board shall mail to the Owners of each Unit, by first class mail, postage prepaid, a copy of the proposed budget and notice of the proposed amount of the Base Assessment to be levied against each Unit for the following fiscal year. Such budget and Base Assessment shall become effective on the first day of the following fiscal year unless disapproved by Owners representing seventy-five percent (75%) of the total Class "A" votes in the Association voting at a special meeting of the Association called pursuant to a petition of the Owners in accordance with Article II, Section 4 of the Bylaws, which meeting must be held prior to the commencement of the following fiscal year. (There shall be no obligation to hold a meeting of Owners for the purpose of considering the budget unless one is called by a petition of the Owners in accordance with Article II, Section 4 of the Bylaws.) Once a proposed budget becomes effective, each Owner shall thereafter pay to the Association said Base Assessments in the required installments. Each such installment shall be due and payable on the date and in the manner specified by the Board.

In the event a proposed Budget is disapproved or the Board fails for any reason to determine the budget for any fiscal year, then and until such time as a budget shall have been determined as provided herein, the budget then in effect shall continue to be in effect.

The Board shall make available for review by each Owner at the office of the managing agent during reasonable hours a revised proposed budget within 30 days of any meeting in which

a proposed budget is disapproved by a vote of the Owners representing seventy-five percent (75%) of the total Class “A” votes in the Association, as provided above. At least thirty (30) days prior to the date set by the Board for the revised proposed budget to become effective (the “Budget Effective Date”), the Board shall mail to the Owners of each Unit, by first class mail, postage prepaid, a copy of the revised proposed budget and notice of the revised proposed amount of the Base Assessment to be levied against each Unit. Such budget and Base Assessment shall become effective on the Budget Effective Date unless disapproved by Owners representing seventy-five percent (75%) of the total Class “A” votes in the Association voting at a special meeting of the Association called by a petition of the Owners in accordance with Article II, Section 4 of the Bylaws, which meeting must be held prior to the Budget Effective Date. (There shall be no obligation to hold a meeting of Owners for the purpose of considering the budget unless one is so called by a petition of the Owners in accordance with Article II, Section 4 of the Bylaws.) Once a revised proposed budget becomes effective, each Owner shall thereafter pay to the Association said Base Assessments in the required installments. Each such installment shall be due and payable on the date and in the manner specified by the Board.¹⁵

Section 3. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare reserve budgets for general purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in this Article.

Section 4. Special Assessments.

(a) Unbudgeted and Other Expenses. In addition to the assessments authorized in Section 1 of this Article, the Association may levy Special Assessments from time to time to cover unbudgeted expenses, which may be levied (i) against the entire membership, if the unbudgeted expense is for a Common Expense, (ii) against one or more, but less than all, of the Units, if the unbudgeted expense is for an expense that relates to such Units but is not for a Common Expense or for a Neighborhood Expense, and (iii) against the Units within any Subassociation, if the unbudgeted expense is for a Neighborhood Expense, Special Assessments may also be levied from time to time against one or more, but less than all, of the Units (whether such Units are part of a Subassociation or not), for the following expenses (whether such expenses are budgeted or unbudgeted): charges, costs, and expenses incurred by the Association that are necessitated by or result from the use, negligence, misuse, excessive use, or neglect by the Owner(s) of such Unit(s) or by any person claiming under such Owner(s). Such expenses shall be charged to such Owner(s) as a Special Assessment. (As an example, but without limitation, if the Association incurs costs to repair or maintain a portion of the Properties that benefits one or more, but less than all, of the Unit Owners (such as pocket parks, alleyways, and

¹⁵ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on June 24, 2008, as Document No. 2008-102294.

common mailbox areas), then such costs shall be charged to such Owner or Owners as a Special Assessment.) Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.¹⁶

(b) Costs to Cure Non-compliance. The Association may levy a Special Assessment against any Unit or Subassociation to reimburse the Association for costs incurred in bringing the Unit or Subassociation into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, and the Association rules and regulations. Such Special Assessments may be levied upon the vote of the Board after notice to the Unit Owner or the senior officer of the Subassociation, as applicable, and an opportunity for a hearing.

(c) Levy of Special Assessments. To the extent feasible of being determined, in addition to the budget prepared by the Board in the manner described in Section 2 of this Article, the Board shall also have the duty to prepare a budget for Special Assessments listed in Section 4(a) of this Article that are regular costs capable of budgeting (i.e., those Special Assessments listed in Sections 4(a)(ii) and (iii)). This “Special Assessment Budget” shall be delivered to each affected Owner, and the Board shall, at least ninety (90) days before the beginning of each fiscal year, hold a Board meeting to which such Owners shall be invited to attend and provide input on the Special Assessment Budget, including the services and maintenance to be performed for the upcoming fiscal year. After such meeting, the Board shall have the right to amend such Special Assessment Budget if warranted by the aforementioned Board meeting.

The Board shall send a copy of the Special Assessment Budget and notice of the amount of the Special Assessment to be levied against each Owner for the following year to each affected Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. Such Special Assessment Budget and Special Assessment shall become effective unless disapproved at a meeting by at least seventy-five percent (75%) of the affected Owners and by the Class “B” Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the Special Assessment Budget except on petition of at least ten percent (10%) of the affected Owners within ten (10) days after delivery of the notice of the Special Assessments to be levied pursuant to the proposed Special Assessment Budget.

The foregoing to the contrary notwithstanding, if the proposed Special Assessment Budget is disapproved or if the Board fails for any reason to determine the Special Assessment Budget for any year, then and until such time as a Special Assessment Budget shall have been determined as provided herein, the Special Assessment Budget in effect for the immediately preceding year shall continue for the current year.¹⁷

¹⁶ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

¹⁷ A new subsection (c) has been added to Section 4 of the Declaration to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

Section 5. Lien for Assessments. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (i) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (ii) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments, interest, late charges and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Hawaii law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 7. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to each Unit on the first day of the month following: (i) conveyance of the Unit by the Declarant; or (ii) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Section 8. Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed or constitute a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay annual assessments on the same

basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

Section 9. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, schools, streets, and parks, if any.

Section 10. Collection of Unpaid Assessments from Tenants or Rental Agents.

If a Member rents or leases his or her Unit and is in default for thirty days or more in the payment of the Unit's share of the common expenses, the Board may demand in writing and receive each month from any tenant occupying the Unit, or rental agent renting the Unit, an amount sufficient to pay all sums due from the Member to the Association, including interest, if any, for as long as the default continues. That amount shall not exceed the tenant's rent due each month.

(a) The tenant's payment shall discharge that amount of payment from the tenant's rent obligation, and any contractual provision to the contrary shall be null and void.

(b) The Board shall first give to the delinquent Member written notice of its intent to collect the rent owed. The notice shall:

- (1) Be sent both by First-Class and Certified Mail;
- (2) Set forth the amount the Association claims is due and owing by the Owner; and
- (3) State the Board's intent to collect such amount from the rent, along with any other amounts that become due and remain unpaid.

(c) The Member shall not take any retaliatory action against the tenant for payments made under this section.

(d) The payment of any portion of the Unit's share of common expenses by the tenant pursuant to a written demand by the Board is a complete defense, to the extent of the amount demanded and paid by the tenant, in an action for nonpayment of rent brought by the Unit owner against a tenant.

(e) The Board may not demand payment from the tenant if:

(1) A commissioner or receiver has been appointed to take charge of the premises pending a mortgage foreclosure;

(2) A mortgagee is in possession pending a mortgage foreclosure; or

(3) The tenant is served with a court order directing payment to a third party.

(f) It is the Board's intent that any conflict between this section and any provision of Hawaii Revised Statutes Chapter 521, shall be resolved in favor of this section; provided that if the tenant is entitled to an offset of rent under Chapter 521, the tenant may deduct the offset from the amount due to the Association, up to the limits stated in Chapter 521. Nothing in this provision precludes the Unit owner or tenant from seeking equitable relief from a court of competent jurisdiction or seeking a judicial determination of the amount owed.¹⁸

Article XII

ARCHITECTURAL AND LANDSCAPE CONTROL¹⁹

Section 1. Architectural and Landscape Control. Subject to such exemptions as may be set forth in the Design Documents, no Owner shall construct, reconstruct, refinish, alter, modify, maintain or add to any improvement on the Owner's Unit, or install any utility line (wire or conduit) thereon, or make any excavation, or cut or remove any trees from such Unit, or do any act that would affect the drainage thereof (such actions collectively referred to as "construction"), until the Owner first obtains the approval thereof from the Design Review Committee ("DRC") and otherwise complies with the Design Documents. Unless a written exemption therefor is received from the DRC, all proposals and plans for construction shall be prepared by an architect registered and licensed in the State of Hawaii and then submitted to the DRC for written approval as set forth in the Design Documents. The Owner or other party seeking architectural approval from the DRC shall bear all costs, including reasonable architects, engineers, attorneys and overhead charges, incurred in connection with reviewing and approving plans and specifications.

Section 2. Design Review Committee. The Design Review Committee, which shall consist of no fewer than two (2) but no more than five (5) members, shall have jurisdiction, through the Board, over all construction on any portion of the Properties, Declarant initially shall appoint all members of the DRC and, during the Class "B" Control Period pursuant to Article III of the Bylaws, shall retain the right to appoint, augment or replace all members of the DRC. There shall be no surrender of this right prior to the end of the Class "B" Control Period, except in a written instrument in recordable form executed by Declarant. Declarant shall have the right,

¹⁸ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on October 9, 2009, as Document No. 2009-156014.

¹⁹ Restated to integrate the Amendments to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on November 7, 2007, as Document No. 2007-196169 and on June 24, 2008 as Document No. 2008-102293.

at its sole discretion and at any time, to relinquish control of the DRC to the Board by recording a document to that effect. At the end of the Class “B” Control Period, or earlier relinquishment by Declarant of its control of the DRC, the Board shall appoint the members of the DRC, who shall serve at the discretion of the Board. Meeting of the DRC should be closed to all owners provided that the DRC may permit applicants to attend all or a portion of DRC meetings relating to the applicant.

Section 3. Design Guidelines.

(a) The Board, shall promulgate the Design Guidelines, which shall contain design and development guidelines and application and review procedures for the Properties. The Board, shall have sole and full authority to modify and amend the Design Guidelines from time to time without the consent or approval of any Owner or other Person. The DRC shall make the Design Guidelines available to Owners, builders, and developers who seek to engage in construction upon any portion of the Properties, and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

(b) The Design Guidelines may, but need not necessarily, include the following restrictions and limitations:

(i) Time limitations for the completion, within specified periods after approval, of the improvements for which approval is required pursuant to the Design Documents;

(ii) Designation (which may be by reference to an independent map or plot plan) of “Lot Building Coverage” or a “Building Envelope” or “Buildable Area” within individual Units, thereby establishing the maximum developable area of the Unit and “view corridors” relative to the neighboring Units;

(iii) Restrictions on use of or construction within or around any golf course;

(iv) Procedures for supplementary review by Declarant or the DRC of an Owner’s plans and specifications, as and to the extent deemed necessary or appropriate by the DRC for compliance with this Declaration and the Design Guidelines;

(v) Procedures for assuring conformity of completed improvements to drawings and specifications approved by the DRC; and

(vi) Such other limitations and restrictions as Declarant or the DRC, as appropriate, in their reasonable discretion shall adopt, including, without limitation, the regulation of all landscaping (including the absolute prohibition of certain types of land use, lighting, signage, landscaping, trees and plants), construction, reconstruction, exterior addition, change or alteration to or maintenance of any building; structure, wall or fence, including, without limitation, the nature, kind, shape, height, materials, exterior color, surface texture, and location of any such improvement.

Section 4. Fee Assessment. Declarant, the Board and/or the DRC may assess reasonable fees to Owners in connection with their roles in assuring compliance with the Design Documents.

Section 5. Delegation of Review Responsibilities. The Design Review Committee may delegate all or any portion of its drawings and specifications review responsibilities to one or more of its members or architectural consultants retained by the DRC. The Design Review Committee may further avail itself of technical and professional advice and consultants (architectural, design, landscaping, etc.) as it deems appropriate, the cost of which shall be borne by the Owner seeking review of plans.

Section 6. Common Area Conditions, Limitations and Restrictions. No improvement, excavation or work which in any way alters any Common Area from its natural or existing state on the date when such Common Area was designated as such by Declarant, Declarant's assignee or was acquired by the Association, shall be made or done, except in strict compliance with and within the restrictions and limitations of the following provisions of this section:

(a) Except to the extent otherwise provided in subsection (d) below, no Person other than the Association or its duly authorized agents, shall construct, reconstruct, refinish, alter or maintain any excavation or fill upon or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub, or other vegetation from or plant any tree, shrub or vegetation upon any Common Area.

(b) Except to the extent otherwise provided in subsection (c) below, if the Association proposes to construct, reconstruct, refinish or alter the exterior of any improvement located or to be located upon any Common Area, or if the Association proposes to make or create any excavation or fill or to change the natural or existing drainage or surface water, or to remove any trees, shrubs or ground cover upon any Common Area, the Association shall have the final plans and specifications for such work prepared by a licensed architect or professional engineer in compliance with any applicable ordinances, rules and regulations and may commence construction after the following conditions have been satisfied:

(1) If the plans are to construct any new improvements, including any alteration of the exterior appearance of any existing improvement upon any Common Area, the Board of Directors, or any committee which the Board established for the purpose of reviewing proposed improvements to the Common Area, find that the design of such improvement is reasonably necessary or desirable in order to carry out the aims of the Association and is in harmony with other improvement and the overall appearance of Maui Lani as planned; and

(2) The Board of Directors, or any committee which the Board establishes for the purpose of reviewing proposed improvements to the Common Area, find that the proposed work shall not because of its design materially prejudice Maui Lani or any Owner therein in the use and enjoyment of its property.

Such findings by the Board of Directors, or such committee, shall be in writing. In the event of any such rejection of any proposed improvement to the Common Area, any member of the Board shall have the right to submit to a meeting of the Association duly called, the notice of which shall contain reference to the consideration of the matter the question of whether to abandon the proposed improvement, or excavation or work.

(c) The Association may, at any time and from time to time:

(1) Reconstruct, replace or refinish any improvement or portion thereof upon a Common Area in accordance with the last plans for such improvement, or if such improvements existed upon the Common Area when such Common Area was designated as such by the Declarant or was conveyed to the Association, then in accordance with the original design, finish or standard of construction of such improvement when such Common Area was so designated or conveyed to the Association.

(2) Construct, reconstruct, replace or refinish any road improvement upon any portion of the Common Area designated on a map as a road.

(3) Replace any destroyed, diseased or dying tree or any other vegetation on a Common Area to the extent the Association deems necessary for the conservation of water and soil, plant, trees, shrubs and ground cover.

(4) Place and maintain upon any Common Area such signs and markers as the Association, in its sole discretion, may deem necessary for identification of Maui Lani and/or roads, for the regulation of traffic, including parking and for the regulation and use of the Common Area and for the health and welfare and safety of Owners and the public, provided that the design of any such signs or markers shall be compatible with the overall aesthetic character of Maui Lani.

(d) Any Owner may, at any time and from time to time, install and maintain within a Common Area any subsurface utility system, provided the same be approved by the Board of Directors and an easement therefor be obtained from the Association.

Section 7. Non-Liability for Approval of Drawings and Specifications. By its part, if any, in assisting with the approval of the plans and specifications for a Unit, neither the Association, the Board, any officer or director of the Association, the DRC, nor Declarant assumes or shall have any liability or responsibility therefor, or for assuring compliance with the Design Documents, or for any defect in any structure constructed from such plans and specifications, Neither the Association, the Board, any officer or director of the Association, the DRC, nor Declarant shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (a) the inaccuracy of items shown or referenced on any map or plot plan, (b) the approval or disapproval of any plans and specifications, whether or not defective, (c) the grant or denial of any requests for variances to the Design Documents, (d) the construction or performance of any work, whether or not pursuant to approved plans and specifications, (e) the development, or manner of development, of any property within the

Properties, (f) any change in the size, configuration or location of any improvement or the changing of the natural grade of any Unit, or (g) the execution and recording of an estoppel certificate by the DRC or otherwise pursuant to the Design Documents, whether or not the facts therein are correct; provided, however, that such action, with the actual knowledge possessed by the decision maker, was taken in good faith. Approval of plans and specifications by the DRC, or the approval of any change in the size, configuration or location of any improvement, or a change in the natural grade of any Unit is not, and shall not be deemed to be, a representation or warranty by the Association, the Board, any officer or director of the Association, the DRC or Declarant that said plans, specifications or changes comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes. Approval of plans and specifications by the DRC shall not be deemed a representation by the Association, the Board, the DRC or Declarant that such plans and specifications comply with this Declaration or the Design Documents, nor be deemed a waiver by the Association, the Board, the DRC or Declarant of any rights hereunder to enforce this Declaration and the Design Documents.

Section 8. Limitation of Liability. Neither the Declarant, the Association, the Board of Directors, the board or committee of any Subassociation, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of: (i) any decision to make or not make repairs, reconstruction, or improvements to the Common Area, (ii) any failure to enforce this Article or any decision not to enforce this Article, or (iii) the manner or quality of any construction, reconstruction, modification, addition, alteration, repair, improvement or other work to any portion of the Common Area or to any Unit.

Section 9. Inspection and Recording of Approval. Any member or authorized consultant of Declarant or any authorized officer, director, employee or agent of the Association, may, at any reasonable time, enter, without being deemed guilty of trespass, upon any Unit, except the interior of any completed living area, after reasonable notice to the Owner, in order to inspect improvements constructed or being constructed on such Unit, or any changes in the grade thereof, to ascertain that such improvements or changes have been or are being built or changed in compliance with the Design Documents.

Section 10. No Waiver of Future Approvals. The approval by the DRC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the DRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 11. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Any Owner may seek to enforce this Article, provided, that such Owner shall first attempt to enforce this Article by submitting to the DRC or the Board of Directors a written request for enforcement of this Article and identifying the owner of the nonconforming property, the nature of the violation, and the date when such violation occurred. The DRC or the Board of Directors shall decide whether to investigate the alleged

violation and whether to intercede on behalf of the complaining Owner and forward a written request to the alleged violating Owner. If the DRC or the Board, in its discretion, decides not to intercede on behalf of the complaining Owner, said complaining Owner shall have the right to pursue all legal and equitable remedies available to enforce this Article against the alleged violating Owner.

Regardless of whether a request from an Owner is received, if the DRC or the Board determines a violation has occurred the Owners shall, at their own cost and expense, upon written request from the DRC or the Board: (i) remove such construction, alteration, or other work and shall either restore the land and/or improvement to substantially the same condition as existed prior to the construction, alteration, or other work, or (ii) perform such remedial construction, alteration or other work necessary to cause the land and/or improvement to conform with this Article. Should an Owner fail to remove and restore or perform such remedial work as required hereunder, the DRC, the Board or its designee shall have the right, but not the obligation, to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, together with the interest thereon at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Special Assessment pursuant to Article XI, Section 4(b) hereof.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Standards may be excluded by the DRC or the Board from the Properties, subject to the notice and hearing procedures contained in the Bylaws of the Association. In such event, neither the Association, its officers, or [sic] directors shall be held liable to any Person for exercising the rights granted by this section.

In addition to the foregoing, the DRC or the Board of Directors shall have the authority and standing, but not the obligation, to enforce the Design Guidelines in courts of competent jurisdiction. Further, the DRC or the Board may fix a fine of up to \$10,000 for failure to obtain any required approval from the DRC and may require security deposits to assure compliance.

The Board may refer any complaints relating to the design guidelines to the DRC. Any Owner may appeal any decision of the DRC to the Board of Directors by delivering to the Board of Directors a written request to appeal the decision within 30 days of the date of the DRC's decision. The written request shall include a description of the DRC's decision and a detailed statement of the reasons for the appeal. The DRC's decision is final unless a timely request for an appeal is submitted to the Board.²⁰

Section 12. Development by Declarant or any Affiliate of Declarant. Any provision of this Declaration or the Design Guidelines to the contrary notwithstanding, the provisions of this Article XII shall not apply to any improvements, or other use of any portion of the Properties, including the Units, proposed or made by Declarant or by any affiliate of Declarant (as

²⁰ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on December 2, 2008, as Document No. 2008-181885.

determined by Declarant) in connection with its or their development, construction, promotion, marketing, sale or leasing of any Unit, Common Area, or any other portion of the Properties.²¹

Section 13. Estoppel Certificate. Upon request by any Owner, and upon payment therewith to the Association of the reasonable fee from time to time to be affixed by the Association, the DRC shall deliver to such Owner an estoppel certificate executed by any two of its members in a form suitable for recording in the Bureau of Conveyances of the State of Hawai‘i, certifying with respect to any Unit of said Owner that, as of the date thereof, either (a) all improvements and other work made or done upon or within said Unit comply with the Design Documents, or (b) such improvements and/or work do not so comply, in which event the certificate shall also (i) identify the non-complying improvements and/or work, and (ii) set forth with particularity the perceived cause or causes for such noncompliance. Any purchaser or lessee from the Owner or mortgagee or other encumbrancer of the property shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant and all Owners and such purchaser, lessee, mortgagee or other encumbrancer.²²

Article XIII **USE RESTRICTIONS**

Section 1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association), as may be permitted by the development orders, resolutions, ordinances and zoning plans approved and adopted by the County of Maui subject to such further restrictions as may be set forth in this Declaration and amendments hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Subassociation may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards as if such standards were a regulation of the Association and is not visible from any portion of any golf course located adjacent to or within the Properties, including, but not limited to, the Maui Lani Golf Course.

Section 2. Signs. A single “for sale” or “for lease” sign shall be permitted on any Unit being offered for sale or for lease, provided it does not exceed two (2) feet by three (3) feet in size, does not stand higher than two (2) feet from the ground, and is not visible from any portion of any golf course located adjacent to or within the Properties, including, but not limited to, the Maui Lani Golf Course. No other signs of any kind shall be erected within the Properties without the written consent of the Board of Directors except that the Board of Directors and the Declarant shall have the right to erect signs as they, in their discretion, deem appropriate.

²¹ Restated to integrate the Amendments to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257 and on December 2, 2008, as Document No. 2008-181885.

²² Restated to integrate the Amendments to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on November 7, 2007, as Document No. 2007-196169, on June 24, 2008, as Document No. 2008-102293, and on August 20, 2008, as Document No. 2008-132440.

The Association, acting through the Board, shall be authorized to enter upon any Unit and remove any sign, advertisement, or similar display placed on a Unit in violation hereof, and in doing so shall not be subject to any liability for trespass or other tort in connection with or arising from such entry and/or removal.

Section 3. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garage or driveway serving the Unit, or in such other parking areas as have been designated by the Board of Directors for parking vehicles, or the street and then subject to such rules and regulations as the Board may adopt. No vehicle (personal, commercial, recreational, tractors, mobile homes, campers, trailers, motorcycles, mopeds, boats or other watercraft) shall be parked or stored on the front lawn or in such a manner as to block the sidewalk area.

No garage shall be enclosed, modified or otherwise used so as to reduce its original capacity for parking vehicles without the prior written approval of the Board of Directors. However, a builder may temporarily convert a garage into a sales or construction office, provided that it is converted back to a garage within ninety (90) days after cessation of construction and sale of new homes within the Properties by such builder.

(b) Prohibited Vehicles. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. Vehicles that become inoperable while on the Properties and outside of an enclosed garage must be removed from the Properties or placed within an enclosed garage within twenty-four (24) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with any type of material and remains on blocks or so covered for thirty (30) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Bylaws.

Section 4. Animals and Pets. No animals classified as a pest by Hawaii law shall be raised, bred, or kept on any portion of the Properties. In addition, no chickens, roosters, pigs, cows, sheep, geese, ducks, turkeys, peacocks, livestock, or other similar animals shall be raised, bred, or kept on any portion of the Properties. The Board of Directors may in its sole discretion grandfather any animals on the Properties prior to their prohibition provided that the grandfathered animals may not be replaced upon their death or removal from the Properties. Those pets which are permitted to roam free, or, in the sole direction of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board. All animals shall at all times whenever they are outside a Unit be confined within a

fenced area under the control of the Owner or occupant of the Unit, or on a leash or within a cage held by a Person responsible for the dog, cat or other pet.²³

Section 5. Quiet Enjoyment. All portions of a Unit outside of enclosed structures shall be kept in a clean and tidy condition at all times, and nothing shall be done, maintained, stored or kept outside of enclosed structures on a Unit which, in the determination of the Board of Directors, causes an unclean, unhealthy or untidy condition to exist or is obnoxious to the senses. Nothing shall be done or maintained on any part of a Unit which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other Units. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Properties. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Common Areas, or on any portion of a Unit outside of an enclosed structure, which in the determination of the Board of Directors tends to cause embarrassment, discomfort, annoyance, or nuisance to Persons using the Common Areas or the occupants and invitees of other Units. No outside burning shall be permitted within the Properties, except with prior written approval of, and subject to rules promulgated by, the Board of Directors. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Unit.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, which tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken unless screened from view. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within forty-eight (48) hours or such other time period adopted by the Board.

No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, paint, fertilizers, other potentially toxic substances or any Hazardous Materials, as defined below, on any portion of the Properties, including, but not limited to, any drainage ditch, storm sewer, stream, or pond within the Properties. The Association shall have the right to assess any costs incurred in clearing or cleaning the Properties of such items or substances against the Unit of any Owner or occupant who violates this Section as a Special Assessment.

Section 7. Hazardous Materials. No owner shall use, generate or store Hazardous Materials on any portion on the Properties. "Hazardous Materials," as used in this Declaration, shall mean and refer to those materials, substances, gases, or vapors identified as hazardous,

²³ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

toxic, or radioactive by any and all applicable federal, state, and local laws, regulations, or ordinances.

Section 8. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, unless such apparatus is completely screened from view from adjacent Units by an approved fence or other approved structure and such antenna does cause any interference with the operation of any equipment within the Properties. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Properties.

Section 9. Garbage Cans Tanks, Etc. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Units shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

Section 10. Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to subdivide, change boundary lines of and replat any Unit or Units owned by Declarant. Any such subdivision, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. The foregoing to the contrary notwithstanding, the provisions of this Section shall not require (or be construed as requiring) any affiliate of Declarant (as determined by Declarant) that is developing, or intends to develop, a portion of the Properties to obtain the prior approval of the Board before subdividing such portion of the Properties, including any Units, owned by such affiliate or before changing any boundary lines or replatting any such property.²⁴

Section 11. Tents, Mobile Homes and Temporary Structures. Except as may be permitted by the Declarant during construction, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties.

Section 12. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such easement shall not materially diminish the value of or unreasonably interfere with the use of any adjacent property without the consent

²⁴ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on September 19, 2008, as Document No. 2008-147257.

of the Owner thereof. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited within the Properties.

Section 13. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit a clear line of vision across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain in a location which does or lends to create a traffic or sight problem.

Section 14. Playground. Any playground or other play areas or equipment furnished by the Declarant or the Association or erected within the Properties shall be used at the risk of the user, and the Declarant and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 15. Business Use. No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers or other business invitees, persons coming onto the Properties who do not reside in the Properties, or door-to-door solicitation of residents of the Properties; and (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms “business” and “trade”, as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant or conducted by a builder with approval of the Declarant, with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

Section 16. On-Site Fuel Storage. No on-site storage of gasoline, heating oil or of other fuels shall be permitted on any part of a Unit except that gas or propane tanks for the heating of swimming pools, spas, or whirlpool spas are permitted and up to ten (10) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers, similar tools or equipment and gas barbecue grills. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 17. Compliance with Governing Documents. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, any applicable Supplemental Declaration, and the rules and regulations adopted pursuant to the foregoing, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any such violation.

Section 18. Laws and Ordinances. Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 19. Clothesline. Outside clothesline or other outside clothes drying or airing facilities may be maintained or used on any Lot at any time so long as such clothesline or facility is screened from view and no portion of such clothesline or facility is visible from any street or neighboring Lot or property.²⁵

Article XIV **EASEMENTS**

Section 1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Unit and such portion or portions of the Common Areas adjacent thereto or as between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three feet, as measured from any point on the common boundary between each Unit and the adjacent Units, as the case may be, along a line perpendicular to such boundary at such point. In no event, however, shall an easement for encroachment exist if such encroachment occurred due to the willful and knowing conduct of an Owner, tenant, or the Association.

Section 2. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration, the Association, and the designee of each (which may include, without limitation, the County of Maui and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, maintaining and improving cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, ponds, wetlands, drainage systems, irrigation systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of

²⁵ A new Section 19 has been added to Article XIII of the Declaration to integrate the First Amendment to the Maui Lani Declaration of Covenants, Conditions and Restrictions recorded in the Bureau of Conveyances, State of Hawaii, on September 24, 1997, as Document No. 97-128719.

the Properties. Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes; provided, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Section 3. Easements to Serve Additional Property. The Declarant and its duly authorized agents, representatives, and employees, as well as its successors, assigns, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of the Additional Property described in Exhibit "B" attached hereto and by this reference incorporated herein, whether or not such Additional Property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities on the Additional Property. Declarant agrees that it, its successors or assigns, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of the Additional Property. Declarant further agrees that if the easement is exercised for permanent access to the Additional Property and such Additional Property or any portion thereof is not made subject to this Declaration, the Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the Additional Property. Owner, by purchasing or accepting the conveyance of a Unit in any manner whether by court decree, inheritance, foreclosure or any other means, hereby appoints Declarant as its true and lawful attorney-in-fact for the purpose of executing, acknowledging, recording, if necessary, and delivering any instrument necessary or appropriate in granting said access easements to the Additional Property. This power of attorney granted to Declarant shall not be affected by any subsequent mental, physical or emotional disability of Owner. Owner covenants that on the request of Declarant, Owner shall execute, acknowledge and deliver any instrument necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this provision. This power of attorney provision shall be applicable to any subsequent owner of a Unit and shall terminate upon ninety (90) days after the termination of the Class "B" Control Period.

Section 4. Easement for Golf Balls and Golf Course. Every Unit, the Common Area and the common property of any Subassociation is burdened with an easement permitting golf balls

unintentionally to come upon the Units, Common Area or common property immediately adjacent to any golf course and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Subassociation, or the exterior portions of a Unit to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer will seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

The Association, each Owner, individually and as a member of the Association, and each occupant covenants that it/he/she shall assume all risks associated with the location of a golf course within the Properties, including but not limited to, the risk of nuisance, property damage or personal injury arising from stray golf balls or actions incidental to the operation of the golf course and shall individually and through the Association indemnify, defend and hold harmless Declarant, the owner of the golf course, their respective subsidiaries and affiliates, directors, officers, employees and agents from any liability, claims or expenses (including attorney's fees) arising directly or indirectly from stray golf balls or the operation of the golf course.

Section 5. Easements for Private Amenities. The Private Amenities and their members, if any, (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designee shall at all times have a right and non-exclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel from or to the entrance to the Properties and to or from the Private Amenities, respectively, and, further, over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and permitted members of the public shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after golf tournaments and other similar functions held by or at the Private Amenities.

Section 6. Easement for Agricultural Operations. Each Owner and occupant acknowledge that the Properties are located near or adjacent to properties which are used for the production of sugar cane and other agricultural uses (hereinafter referred to as "Agricultural Properties"). An easement is hereby reserved over the Properties for the benefit of the owners of the Agricultural Properties and their successors-in-title for the transmission, discharge, or emission of surface water runoff, noise, smoke, heat, soot, dust, noxious vapors, odors, agricultural chemicals and other substances and nuisances (hereinafter referred to as the "Agricultural By-Products") which are created by and result from: (i) all activities incidental to the operation of the sugar cane fields including, but not limited to, burning sugar cane and bagasse 'and milling, trucking, and hauling sugar cane; and (ii) the Operation of diversified agricultural projects. The Association and each Owner, individually and as a member of the Association, and occupant agree that neither the Declarant, the owners of the Agricultural Properties, or any successors-in-title or assigns shall be held liable for any nuisance, personal injury, illness or any other loss or damage which is caused by the presence and operation of the Agricultural Properties adjacent to or near the Properties or the Agricultural By-Products. The Association and each Owner, individually and as a member of the Association, and occupant hereby waive any right to: (i) require Declarant, the owners of the Agricultural Properties or any successors-in-title or assigns to take any action to correct, modify,

alter, eliminate or abate any agricultural activity, Agricultural By-Product or nuisance; or (ii) file any suit or claim for injunction or abatement of any agricultural activity, Agricultural By-Product or nuisance.

Section 7. Easements for Alexander & Baldwin, Inc. Pursuant to that certain Declaration of Covenants and Restrictions dated January 30, 1990, recorded in the State of Hawaii Bureau of Conveyances as Document No. 90-014464, Alexander & Baldwin, Inc. reserved the right to create easements for roadway, access and utility purposes over the property described in Exhibits “A” or “B” hereof for the benefit and use of other specified properties and those properties which are contiguous with the property described in Exhibits “A” or “B”. The Declarant hereby reserves the right to grant easements for roadway, access and utility purposes over the property described in Exhibits “A” or “B” to Alexander & Baldwin, Inc. in satisfaction of the Declaration of Covenants and Restrictions identified herein. The Association and each Owner hereby agrees to fully cooperate with Declarant and Alexander & Baldwin, Inc. in designating and granting such easements. The Association, each Owner, individually and as a member of the Association, and each occupant covenants that it/he/she shall assume all risks and release the Declarant, Alexander & Baldwin, Inc., or any successors-in-title or assigns from all claims and liabilities which may arise directly or indirectly from such easements. Owner, by purchasing or accepting the conveyance of a Unit in any manner whether by court decree, inheritance, foreclosure or any other means, hereby appoints Declarant as its true and lawful attorney-in-fact for the purpose of executing, acknowledging, recording, if necessary, and delivering any instrument necessary or appropriate in granting said easements to Alexander & Baldwin, Inc. This power of attorney granted to Declarant shall not be affected by any subsequent mental, physical or emotional disability of Owner. Owner covenants that on the request of Declarant, Owner shall execute, acknowledge and deliver any instrument necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this provision. This power of attorney provision shall be applicable to any subsequent owner of a Unit and shall terminate upon ninety (90) days after the termination of the Class “B” Control Period.

Section 8. Right of Entry. The Association shall have the right, but not the obligation, to enter any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article VII hereof, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, any Supplemental Declaration and the rules and regulations of the Association, which right may be exercised by the Association’s Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 9. Future Development. Declarant hereby discloses that future development of other residential projects within Maui Lani and commercial, golf course or other recreational projects in the area surrounding Maui Lani will occur over a period of several years (the “Future Projects”). An easement is hereby reserved over the Properties for the benefit of the Declarant,

its successors-in-title or assigns, and the contractors hired by Declarant or Declarant's successors-in-title or assigns for the transmission, discharge, or emission of surface water runoff, noise, smoke, heat, soot, dust, noxious vapors, odors and other substances and nuisances (hereinafter referred to as the "Development By-Products") which are created by and result from the development or construction of the Future Projects. The Association and each Owner, individually and as a member of the Association, and occupant agree that neither the Declarant, or any successors-in-title or assigns, or any contractor hired by Declarant or Declarant's successors-in-title or assigns shall be held liable for any nuisance, personal injury, illness or any other loss or damage which is caused by the development or construction of the Future Projects or the Development By-Products. The Association and each Owner, individually and as a member of the Association, and occupant hereby waive any right to: (i) require Declarant or any successors-in-title or assigns to take any action to correct, modify, alter, eliminate or abate the development or construction of any Future Projects or Development By-Product; or (ii) file any suit or claim for injunction or abatement of any Future Projects or Development By-Product.

Article XV

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.²⁶

Section 1. Additional Requirements. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the first Mortgagees or the Owners representing at least sixty-seven percent (67%) of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Subassociation or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

²⁶ Article XV, Sections 1 and 2 have been deleted from the Declaration pursuant to the the Amendments to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on June 24, 2008, as Document No. 2008-102294 and on September 19, 2008, as Document No. 2008-147256, and all subsequent Sections have been renumbered.

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 4. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may amend this Article by a written instrument reflecting such changes and recorded in the State of Hawaii Bureau of Conveyances and/or the Office of the Assistant Registrar of the Land Court, as appropriate.

Section 5. Applicability of Article XV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Hawaii law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XVI
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

Section 1. Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Dispute. The Association, Declarant, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively the “Bound Parties”) agree to encourage the amicable resolution of disputes involving the Properties, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the Bylaws, the Association rules, or the Articles of Incorporation (collectively the “Claim”), except for those Claims authorized in Section 2 hereinbelow, shall be subject to the procedures set forth in Section 3 hereinbelow.

Section 2. Exempt Claims. The following Claims (“Exempt Claims”) shall be exempt from the provisions of Section 3 hereinbelow:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article XI;

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association’s ability to enforce the provisions of Articles XII and XIII;

(c) any suit between Owners (other than the Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under the law of the State of Hawaii in the absence of a claim based on the Declaration, Bylaws, Articles of Incorporation, or the rules of the Association;

(d) any suit or dispute with vendors providing goods or services to the Association;

(e) any suit or dispute between an Owner and a “builder” (designated as such by Declarant pursuant to Article II of the Declaration) where the contract for the sale of the Owner’s Unit between the Owner and the builder contains a dispute resolution provision covering the dispute between the Owner and the builder;

(f) any suit or dispute between an Owner and a project developer (other than Declarant) where the contract for the sale of the Owner’s Unit between the Owner and the project developer contains a dispute resolution provision covering the dispute between the Owner and the project developer;

(g) any suit or dispute that is covered by a dispute resolution provision contained in a Supplemental Declaration; and

(h) any suit or dispute that is subject to arbitration under the provisions of a home builder's warranty (including, but not limited to, the Home Builder's Limited Warranty (PWC Form 117)) issued to or for the benefit of an Owner by Declarant, a builder or project developer.

Any Bound Party having an Exempt Claim under subsections (a), (b), (c) or (d) above may submit it to the alternative dispute resolution procedures set forth in Section 3 hereinbelow, but there shall be no obligation to do so. Any Bound Party having an Exempt Claim under subsections (e), (f), (g) or (h) above shall submit it to the applicable dispute resolution procedure referenced in the respective subsection.²⁷

Section 3. Mandatory Procedures for All Other Claims. Any Bound Party having a claim (the "Claimant") against any other Bound Party (the "Respondent"), other than a Claim exempted from this provision by Section 2 above, shall not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of such Claim until it has complied with the following procedures:

(a) Notice. The Claimant shall notify each Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

(1) the nature of the Claim, including date, time, location, persons involved, Respondent's role in the Claim and the provisions of this Declaration, the Bylaws, the Rules, the Articles of Incorporation or other authority out of which the Claim arises;

(2) the basis of the Claim, i.e., the provision of the Declaration, Bylaws, Rules, or Articles of Incorporation triggered by the Claim;

(3) what Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

(1) Each Claimant and Respondent (the "Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(2) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the

²⁷ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on December 2, 2008, as Document No. 2008-181885.

dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

(c) Mediation.

(1) If the Parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (the “Termination of Negotiations”), Claimant shall have an additional thirty (30) days to submit the Claim to mediation under a recognized mediation program in the County of Maui providing mediation services which the Parties may mutually agree upon.

(2) If Claimant does not submit the Claim to mediation within thirty (30) days after the Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, that nothing herein shall release or discharge Respondent from any liability to Persons not a party to the foregoing proceedings.

(d) Final and Binding Arbitration.

(1) If the Parties do not resolve the Claim through mediation, the Claimant shall have thirty (30) days following the termination of the mediation proceedings (as determined by the mediator) (the “Termination of Mediation”) to submit the Claim to arbitration in accordance with the Arbitration of Disputes of the American Arbitration Association or similar association, or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, that nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(2) This subsection (d) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration law of the State of Hawaii. The arbitration award (the “Award”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Hawaii.²⁸

Section 4. Allocation of Costs of Resolving Claims.

(a) Each Party shall bear all of its own costs incurred prior to and during the proceedings described in Section 3(a), (b) and (c) above, including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 3(c) above.

²⁸ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

(b) Each Party shall bear all of its own costs (including the fees of its attorney or other representative) incurred after the Termination of Mediation under Section 3(c) above and shall share equally in the costs of conducting the arbitration proceeding (collectively the “Post Mediation Costs”), except as otherwise provided in this subsection; provided, however, that if the Claim is rejected in whole or in part, the Claimant shall pay all Post Mediation Costs, including the costs incurred by the Respondent.

Section 5. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation or mediation in accordance with Section 3 above and any Party thereafter fails to abide by the terms of such Agreement, or if any Parties agree to accept the Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 3 above. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the noncomplying Party (or if more than one non-complying Party, from any one (1) Party or from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including without limitation, attorneys’ fees and court costs.

Article XVII

GENERAL PROVISIONS

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the recordation date of this Declaration, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment.

(a) By Declarant. So long as the Class “B” Membership exists the Declarant may amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time as otherwise specifically authorized by this Declaration, or if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units; or (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units. Further, so long as it still owns property described in Exhibits “A” or “B” for development as part of the Properties, the Declarant may

unilaterally amend for other purposes, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Owners. Except as otherwise specifically provided above or elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of the Owners representing seventy-five percent (75%) of the total Class “A” votes in the Association, including seventy-five percent (75%) of the Class “A” votes held by Members other than the Declarant, and the consent of the Class “B” Member, so long as such membership exists. In addition, the approval requirements set forth in Article XV hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the State of Hawaii Bureau of Conveyances and/or the Office of the Assistant Registrar of the Land Court, as appropriate, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Section 3. Severability. Invalidation of provision or portion of a provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 5. Adjoining Properties. Each Owner understands and agrees that his/her Unit is adjacent to other property which is not owned by Declarant. Each Owner understands and agrees that Declarant makes no representations or warranties as to the development or use of the adjoining or neighboring properties and the impact of such development or use may have on his/her Unit and the Properties. Each Owner covenants for itself, its heirs, successors, successors-in-title and assigns that it shall assume all risks associated with such location, including, but not limited to, the risk of nuisances, hazards, property damage or personal injury arising directly or indirectly from the development or use of the adjoining properties and shall

indemnify and hold harmless the Association and the Declarant, from any liability, claims, or expenses, including attorney's fees, arising from such property damage or personal injury.

Section 6. Cumulative Effect: Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Subassociation and the Association may, but shall not be required to, enforce the covenants, conditions and provisions of any Subassociation; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Subassociation shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.²⁹

Section 7. Compliance. Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the Bylaws, and the rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the Association, may avail itself of any and all remedies provided in this Declaration or the Bylaws.

Section 8. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Board of Directors at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. The transferor shall be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit coming due hereunder prior to the date upon which such notice is received by the Board of Directors, including assessment obligations, notwithstanding the transfer of title to the Unit.

Section 9. Ownership of Unit by the United States or the State of Hawaii. Declarant shall have the right to exempt the United States, the State of Hawaii, or County of Maui, or any related entity, as the Owner of a Unit, from any of the restrictions contained in this Declaration, or the Bylaws, or rules and regulations of the Association if such exemption is required by the United States, the State of Hawaii, County of Maui or any related entity.³⁰

Section 10. Automatic Release Upon Dedication of Roads and Other Lands to Governmental Authorities. Upon the transfer by Declarant to the County of Maui or other governmental entity of legal title to any road lot, road widening lot, park lot, access, improvement, facility or other real or personal property by way of dedication in accordance with applicable laws, rules and regulations, the property so transferred shall automatically, and without any further documentation or action (by the Board of Directors or the Homeowners

²⁹ Article XVII, Section 6 of the Declaration has been deleted in its entirety pursuant to the instrument recorded on August 22, 2001, in the Bureau of Conveyances of the State of Hawaii as Document No. 2001-131425 and all subsequent sections have been renumbered.

³⁰ Restated to integrate the Amendment to the Declaration recorded in the Bureau of Conveyances, State of Hawaii, on August 22, 2001, as Document No. 2001-131425.

Association of Maui Lani, Inc. or any other person or entity) be released from the Declaration and all covenants, conditions and restrictions contained therein, said release to be effective upon the recording of the deed or other instrument of transfer in the State of Hawaii Bureau of Conveyances, or its filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as the case may be.³¹

IN WITNESS WHEREOF, the undersigned have executed these presents this ____ day of _____, 20__.

THE MAUI LANI COMMUNITY ASSOCIATION
aka MAUI LANI COMMUNITY ASSOCIATION

By: _____
Print Name: _____
Its _____

By: _____
Print Name: _____
Its _____

³¹ A new Section 10 has been added to the Declaration to integrate the Amendment to Declaration recorded in the Bureau of Conveyances, State of Hawaii, on October 30, 2001, as Document No. 2001-171089 and correct the Section number.

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 2021, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that he is the _____ of THE MAUI LANI COMMUNITY ASSOCIATION aka MAUI LANI COMMUNITY ASSOCIATION, a Hawai'i nonprofit corporation, and that the instrument was signed on behalf of the corporation by authority of its Board of Directors, and said officer acknowledged the instrument to be the free act and deed of the corporation.

(signature)

(printed name)

Notary Public in and for said State and County

My commission expires: _____

HAWAI'I NOTARY CERTIFICATION (HAWAI'I NOTARIES ONLY)
(Hawai'i Administrative Rules § 5-1 1-8)

Document Identification or Description: Restated Maui Lani Declaration of Covenants, Conditions and Restrictions

Date of Document: _____ (if undated print "undated" on the line).

Number of Pages: _____

Jurisdiction in which notary act is performed: _____ Judicial Circuit, State of Hawai'i

Signature of Notary

Date of Notary Certificate

Typed or Printed Name of Notary

(Official Stamp or Seal)

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 2021, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that he is the _____ of THE MAUI LANI COMMUNITY ASSOCIATION aka MAUI LANI COMMUNITY ASSOCIATION, a Hawai'i nonprofit corporation, and that the instrument was signed on behalf of the corporation by authority of its Board of Directors, and said officer acknowledged the instrument to be the free act and deed of the corporation.

(signature)

(printed name)

Notary Public in and for said State and County

My commission expires: _____

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Signature of Notary

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Typed or Printed Name of Notary

(Official Stamp or Seal)

**Maui Lani (Large-Lot) Subdivision
Description of Lot 11-B**

Land situated on the northwesterly side of Kuihelani Highway, (F.A.S.P. No. S-0380(4)) and on the southeasterly side of Kaahumanu Avenue (F.A.P. No. F-032-1(1)), at Wailuku, Maui, Hawaii

Being a portion of Grant 3343 to Claus Spreckels and R.P. 4475, L.C. Aw. 7713, Apana 23 to V. Kamamalu

Beginning at a point at the northeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 804.10 feet North and 2,134.22 feet East and running by azimuths measured clockwise from True South:

- | | | |
|-----------------|-------------|--|
| 1. 324° 24' | 587.58 feet | along Lots 7-46, 7-47, 7-48, 7-51, Kea Street, and Lot 7-165 of Seventh Increment, Kahului Town Development, (File Plan 766) to a point; |
| 2. 265° 01' | 75.00 feet | along Lot 7-165 of Seventh Increment, Kahului Town Development, (File Plan 766) to a point; |
| 3. 346° 43' | 533.60 feet | along Lots 7-167, 7-168, 7-169, 7-170, 7-171, 7-172, 7-173, 7-174, and 7-175 of Seventh Increment, Kahului Town Development, (File Plan 766) to a point; |
| 4. 349° 02' 30" | 60.27 feet | along Lot 8-121 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 5. 353° 41' 30" | 60.27 feet | along Lot 8-122 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 6. 358° 20' 30" | 60.27 feet | along Lot 8-123 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |

7. 2° 59' 30" 60.27 feet along Lot 8-124 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
8. 7° 36' 30" 59.41 feet along Lot 8-125 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
9. 9° 54' 221.98 feet along Lots 8-125, 8-126, 8-127, 8-128, and 8-129 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
10. 7° 24' 21" 57.45 feet along Lot 8-129 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
11. 1° 24' 29" 80.68 feet along Lot 8-130 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
12. 353° 27' 02.5" 102.50 feet along Lot 8-131 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
13. 346° 49' 34" 50.00 feet along the westerly end of Iuka Place to a point;
14. 340° 20' 24" 99.37 feet along Lot 8-132 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
15. 332° 21' 27" 84.33 feet along Lot 8-133 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;
16. 325° 01' 53" 84.33 feet along Lot 8-134 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point;

- | | | |
|------------------|-------------|---|
| 17. 317° 42' 19" | 84.33 feet | along Lot 8-135 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 18. 310° 48' 16" | 74.55 feet | along Lot 8-136 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 19. 307° 34' | 420.00 feet | along Lots 8-136, 8-137, 8-138, 8-139, 8-140, 8-141, and 8-142 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 20. 29° 52' | 200.00 feet | along Lots 8-144, 8-145, and 8-146 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 21. 355° 00' | 154.28 feet | along Lots 8-146 and 8-147 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 22. 298° 36' | 271.30 feet | along Lots 8-147, 8-148, and 8-149 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 23. 223° 06' | 160.00 feet | along Lots 8-149 and 8-150 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 24. 217° 19' | 14.12 feet | along Lot 8-150 of Eighth Increment, Kahului Town Development, (File Plan 906) to a point; |
| 25. 313° 03' | 226.77 feet | along Lot 4 of Orchards Hawaii Subdivision to a point; |
| 26. 223° 03' | 392.18 feet | along same to a point; |
| 27. 312° 45' 50" | 80.47 feet | along the westerly end of Onehee Avenue to a point; |

28. 43° 02'	930.80 feet	along Lot 5-B of Orchards Hawaii Subdivision to a point;
29. 313° 02'	605.00 feet	along same to a point;
30. 223° 02'	808.52 feet	along same to a point;
31. 319° 39'	291.64 feet	along Lots 91, 92, 98, 99, and 100 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
32. 312° 52'	77.00 feet	along Lots 101 and 106 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
33. 311° 00'	68.51 feet	along Lot 106 of Pomaikai Subdivision No. III, (File Plan 1465);
34. 311° 59' 16"	254.84 feet	along Lots 107, 108, and 109 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
35. 304° 20'	292.00 feet	along Lots 116, 117, 118, and 119 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
36. 300° 00'	290.00 feet	along Lots 126, 127, 128, and 129 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
37. 296° 00'	284.00 feet	along Lots 136, 137, 138, and 139 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
38. 206° 00'	32.50 feet	along Lot 139 of Pomaikai Subdivision No. III, (File Plan 1465) to a point;
39. 296° 00'	27.00 feet	along the southerly end of Kamehameha Avenue to a point;
40. 26° 00'	394.02 feet	along Lot 6-B of R.J.R. Foods, Inc. Subdivision to a point;
41. 296° 00'	53.00 feet	along same to a point;

42. 26° 00' 58.91 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-C of Maui Lani (Large-Lot) Subdivision to a point;
43. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 296° 00', and the point of tangency azimuth from the radial point being: 304° 06' 02", having a radius of 5,400.75 feet, the chord azimuth and distance being: 30° 03' 01" 762.93 feet to a point;
44. 124° 06' 02" 80.00 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision to a point;
45. 122° 32' 387.86 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-E-2 of Maui Lani (Large-Lot) Subdivision to a point;
46. Thence along same on a curve to the right having a radius of 2,668.48 feet, the chord azimuth and distance being: 127° 16' 440.40 feet to a point;
47. 132° 00' 802.76 feet along same to a point;
48. 136° 00' 336.90 feet along same to a point;
49. 134° 25' 185.75 feet along same to a point;
50. Thence along same on a curve to the left having a radius of 500.00 feet, the chord azimuth and distance being: 115° 27' 30" 324.88 feet to a point;
51. 96° 30' 129.06 feet along same to a point;

52. Thence along same on a curve to the right having a radius of 1,028.00 feet, the chord azimuth and distance being: 103° 30' 250.56 feet to a point;
53. 110° 30' 222.00 feet along same to a point;
54. Thence along same on a curve to the right having a radius of 324.00 feet, the chord azimuth and distance being: 148° 45' 401.17 feet to a point;
55. 187° 00' 22.29 feet along same to a point;
56. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 191° 30' 10", and the point of tangency azimuth from the radial point being: 187° 48', having a radius of 1,460.00 feet, the chord azimuth and distance being: 99° 39' 05" 94.34 feet to a point;
57. 7° 48' 74.07 feet along same to a point;
58. 52° 00' 46.57 feet along same to a point;
59. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 232° 00', and the point of tangency azimuth from the radial point being: 320° 30', having a radius of 43.00 feet, the chord azimuth and distance being: 6° 15' 60.01 feet to a point;
60. 320° 30' 30.05 feet along same to a point;
61. 4° 50' 25.28 feet along same to a point;

62. Thence along same on a curve to the right having a radius of 75.00 feet, the chord azimuth and distance being: 48° 33' 35" 103.68 feet to a point;
63. 92° 17' 10" 33.38 feet along same to a point;
64. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 182° 17' 10", and the point of tangency azimuth from the radial point being: 105° 15' 10", having a radius of 50.00 feet, the chord azimuth and distance being: 53° 46' 10" 62.27 feet to a point;
65. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 285° 15' 10", and the point of tangency azimuth from the radial point being: 327° 00', having a radius of 406.00 feet, the chord azimuth and distance being: 36° 07' 35" 289.32 feet to a point;
66. 57° 00' 129.97 feet along same to a point;
67. Thence along same on a curve to the right having a radius of 130.00 feet, the chord azimuth and distance being: 105° 39' 195.18 feet to a point;
68. 154° 18' 123.71 feet along same to a point;
69. 64° 18' 100.36 feet along same to a point;
70. Thence along same on a curve to the right having a radius of 50.00 feet, the chord azimuth and distance being: 109° 18' 70.71 feet to a point;
71. 154° 18' 245.55 feet along same to a point;

72. 244° 18' 213.08 feet along same to a point;
73. 154° 18' 80.00 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision to a point;
74. 161° 00' 92.82 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-E-4 of Maui Lani (Large-Lot Subdivision) to a point;
75. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 71° 00', and the point of tangency azimuth from the radial point being: 96° 48' 14", having a radius of 331.00 feet, the chord azimuth and distance being: 173° 54' 07" 147.81 feet to a point;
76. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 276° 48' 14", and the point of tangency azimuth from the radial point being: 239° 12' 44", having a radius of 300.00 feet, the chord azimuth and distance being: 168° 00' 29" 193.32 feet to a point;
77. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 59° 12' 44", and the point of tangency azimuth from the radial point being: 78° 30', having a radius of 526.00 feet, the chord azimuth and distance being: 158° 51' 22" 176.24 feet to a point;
78. 168° 30' 108.76 feet along same to a point;

79. Thence along same on a curve to the right having a radius of 1,326.00 feet, the chord azimuth and distance being: 181° 20' 589.05 feet to a point;
80. 194° 10' 202.73 feet along same to a point;
81. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 284° 10', and the point of tangency azimuth from the radial point being: 255° 32' 52", having a radius of 874.00 feet, the chord azimuth and distance being: 179° 51' 26" 432.03 feet to a point;
82. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 75° 32' 52", and the point of tangency azimuth from the radial point being: 92° 00', having a radius of 700.00 feet, the chord azimuth and distance being: 173° 46' 26" 200.31 feet to a point;
83. 182° 00' 107.94 feet along same to a point;
84. Thence along same on a curve to the left having a radius of 400.00 feet, the chord azimuth and distance being: 166° 00' 220.51 feet to a point;
85. 150° 00' 30.14 feet along same to a point;
86. 211° 00' 62.73 feet along same to a point;
87. 126° 00' 114.57 feet along same to a point;
88. 216° 00' 120.00 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision to a point;

89. 306° 00' 108.07 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 11-E-3 of Maui Lani (Large-Lot) Subdivision to a point;
90. 217° 42' 75.81 feet along same to a point;
91. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 217° 42', and the point of tangency azimuth from the radial point being: 237° 05' 31", having a radius of 510.00 feet, the chord azimuth and distance being: 317° 23' 45.5" 171.79 feet to a point;
92. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 57° 05' 31", and the point of tangency azimuth from the radial point being: 15° 09' 49", having a radius of 300.00 feet, the chord azimuth and distance being: 306° 07' 40" 214.67 feet to a point;
93. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 195° 09' 49", and the point of tangency azimuth from the radial point being: 208° 43' 04", having a radius of 526.00 feet, the chord azimuth and distance being: 291° 56' 26.5" 124.14 feet to a point;

94. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: $208^{\circ} 43' 04''$, and the point of tangency azimuth from the radial point being: $284^{\circ} 10'$, having a radius of 726.00 feet, the chord azimuth and distance being: $336^{\circ} 26' 32''$ 888.43 feet to a point;
95. $14^{\circ} 10'$ 500.27 feet along same to a point;
96. Thence along same on a curve to the left having a radius of 364.00 feet, the chord azimuth and distance being: $1^{\circ} 20'$ 161.70 feet to a point;
97. $348^{\circ} 30'$ 93.55 feet along same to a point;
98. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: $258^{\circ} 30'$, and the point of tangency azimuth from the radial point being: $276^{\circ} 36' 50''$, having a radius of 1,126.00 feet, the chord azimuth and distance being: $357^{\circ} 33' 25''$ 354.50 feet to a point;
99. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: $96^{\circ} 36' 50''$, and the point of tangency azimuth from the radial point being: $82^{\circ} 00'$, having a radius of 1,000.00 feet, the chord azimuth and distance being: $359^{\circ} 18' 25''$ 254.37 feet to a point;
100. $352^{\circ} 00'$ 33.32 feet along same to a point;

101. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 178° 23' 23", and the point of tangency azimuth from the radial point being: 186° 01' 53", having a radius of 1,240.00 feet, the chord azimuth and distance being: 272° 12' 38" 165.26 feet to a point;
102. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 186° 01' 53", and the point of tangency azimuth from the radial point being: 192° 00' 54", having a radius of 1,540.00 feet, the chord azimuth and distance being: 279° 01' 23.5" 160.76 feet to a point;
103. 187° 00' 80.44 feet along same to a point;
104. 180° 00' 162.51 feet along same to a point;
105. Thence along same on a curve to the right having a radius of 626.00 feet, the chord azimuth and distance being: 193° 50' 299.35 feet to a point;
106. 207° 40' 25.93 feet along same to a point;
107. Thence along same on a curve to the left having a radius of 474.00 feet, the chord azimuth and distance being: 187° 20' 329.41 feet to a point;
108. 167° 00' 289.78 feet along same to a point;
109. Thence along same on a curve to the right having a radius of 900.00 feet, the chord azimuth and distance being: 178° 27' 357.32 feet to a point;
110. 189° 54' 224.62 feet along same to a point;

111. Thence along same on a curve to the left having a radius of 500.00 feet, the chord azimuth and distance being:
178° 18' 30" 200.94 feet to a point;
112. 166° 43' 156.94 feet along same to a point;
113. Thence along same on a curve to the left having a radius of 600.00 feet, the chord azimuth and distance being:
136° 21' 30" 606.49 feet to a point;
114. 106° 00' 106.38 feet along same to a point;
115. Thence along same on a curve to the right having a radius of 750.00 feet, the chord azimuth and distance being:
111° 00' 130.73 feet to a point;
116. 116° 00' 180.41 feet along the remainders of Grant 3343 to Claus Spreckels and R.P. 4475, L.C. Aw. 7713, Apana 23 to V. Kamamalu, being also along Lot 11-E-3 of Maui Lani (Large-Lot) Subdivision to a point;
117. 242° 40' 538.31 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Apana 23 to V. Kamamalu, being also along Lot B-1-B-3 of Hale O Mana'o Lana Hou Subdivision to a point;
118. 234° 38' 37" 91.11 feet along same to the point of beginning and containing an Area of 147.038 acres.

SUBJECT, HOWEVER, to the following:

1. A Access and Utility Easement 3 in favor of Lots 11-D and 11-E-1, 11-E-2, 11-E-3, 11-E-4, and 11-E-5 of Maui Lani (Large Lot) Subdivision, and being more particularly described as follows:

Beginning at a point on the northeasterly corner of this easement, being also the beginning of course number 28 of the above described lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 1,848.03 feet South and 3,987.34 feet East and running by azimuths measured clockwise from True South:

1. 43° 02' 546.62 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 5-B of Orchards Hawaii Subdivision;
2. Thence over and across a portion of Grant 3343 to Claus Spreckels on a curve to the right with the point of curvature azimuth from the radial point being: 313° 02', and the point of tangency azimuth from the radial point being: 343° 21' 09", having a radius of 740.00 feet, the chord azimuth and distance being: 58° 11' 34.5" 387.03 feet;
3. Thence over and across same on a curve to the left with the point of curvature azimuth from the radial point being: 163° 21' 09", and the point of tangency azimuth from the radial point being: 78° 36' 47", having a radius of 30.00 feet, the chord azimuth and distance being: 30° 58' 58" 40.44 feet;
4. Thence over and across same on a curve to the right with the point of curvature azimuth from the radial point being: 258° 36' 47", and the point of tangency azimuth from the radial point being: 292° 30', having a radius of 528.00 feet, the chord azimuth and distance being: 5° 33' 23.5" 307.75 feet;
5. 22° 30' 25.00 feet over and across same;

6. Thence over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-E-2 of Maui Lani (Large-Lot) Subdivision on a curve to the left with the point of curvature azimuth from the radial point being: $203^{\circ} 08' 59''$, and the point of tangency azimuth from the radial point being: $196^{\circ} 43' 22''$, having a radius of 500.00 feet, the chord azimuth and distance being: $109^{\circ} 56' 10.5''$ 56.06 feet;
7. $202^{\circ} 30'$ 27.51 feet over and across a portion of Grant 3343 to Claus Spreckels;
8. Thence over and across same on a curve to the left with the point of curvature azimuth from the radial point being: $292^{\circ} 30'$, and the point of tangency azimuth from the radial point being: $258^{\circ} 51' 35''$, having a radius of 472.00 feet, the chord azimuth and distance being: $185^{\circ} 40' 47.5''$ 273.16 feet;
9. Thence over and across same on a curve to the left with the point of curvature azimuth from the radial point being: $258^{\circ} 51' 35''$, and the point of tangency azimuth from the radial point being: $171^{\circ} 59' 37''$, having a radius of 30.00 feet, the chord azimuth and distance being: $125^{\circ} 25' 36''$ 41.25 feet;

10. Thence over and across same on a curve to the right with the point of curvature azimuth from the radial point being: $351^{\circ} 59' 37''$, and the point of tangency azimuth from the radial point being: $20^{\circ} 30'$, having a radius of 740.00 feet, the chord azimuth and distance being: $96^{\circ} 14' 48.5''$ 364.39 feet;
11. $110^{\circ} 30'$ 313.93 feet over and across same;
12. Thence over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-E-2 of Maui Lani (Large-Lot) Subdivision on a curve to the left with the point of curvature azimuth from the radial point being: $200^{\circ} 30'$, and the point of tangency azimuth from the radial point being: $186^{\circ} 01' 53''$, having a radius of 1,460.00 feet, the chord azimuth and distance being: $103^{\circ} 15' 56.5''$ 367.71 feet;
13. Thence over and across a portion of Grant 3343 to Claus Spreckels on a curve to the left with the point of curvature azimuth from the radial point being: $186^{\circ} 01' 53''$, and the point of tangency azimuth from the radial point being: $154^{\circ} 18'$, having a radius of 1,160.00 feet, the chord azimuth and distance being: $80^{\circ} 09' 56.5''$ 634.25 feet;
14. $64^{\circ} 18'$ 134.02 feet over and across same;
15. $154^{\circ} 18'$ 80.00 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision;

16. 244° 18' 134.02 feet over and across a portion of Grant 3343 to Claus Spreckels;
17. Thence over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-E-3 of Maui Lani (Large-Lot) Subdivision on a curve to the right with the point of curvature azimuth from the radial point being: 154° 18', and the point of tangency azimuth from the radial point being: 186° 01' 53", having a radius of 1,240.00 feet, the chord azimuth and distance being: 260° 09' 56.5" 677.99 feet;
18. Thence over and across same on a curve to the right with the point of curvature azimuth from the radial point being: 186° 01' 53", and the point of tangency azimuth from the radial point being: 200° 30', having a radius of 1,540.00 feet, the chord azimuth and distance being: 283° 15' 56.5" 387.85 feet;
19. 290° 30' 313.93 feet over and across a portion of Grant 3343 to Claus Spreckels;
20. Thence over and across same on a curve to the left having a radius of 660.00 feet, the chord azimuth and distance being: 256° 46' 733.03 feet;
21. 223° 02' 154.06 feet over and across same;
22. 133° 03' 0.58 feet over and across same;
23. 223° 03' 392.18 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 4 of Orchards Hawaii Subdivision;

24. 312° 45' 50" 80.47 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along the westerly end of Onehee Avenue to the point of beginning and containing an Area of 249,017 square feet, more or less.

2. A Access and Utility Easement 4 in favor of Lots 11-C and 11-D of Maui Lani (Large-Lot) Subdivision and being more particularly described as follows:

Beginning at a point at the southeasterly corner of this easement, being also the beginning of course number 41 of the above described lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 4,347.86 feet South and 5,085.59 feet East and running by azimuths measured clockwise from True South:

1. 124° 06' 02" 80.00 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision;

2. Thence over and across a portion of Grant 3343 to Claus Spreckels on a curve to the left with the point of curvature azimuth from the radial point being: 304° 06' 02", and the point of tangency azimuth from the radial point being: 296° 00', having a radius of 5,320.75 feet, the chord azimuth and distance being: 210° 03' 01" 751.63 feet;

3. 206° 00' 452.93 feet over and across a portion of Grant 3343 to Claus Spreckels and along Lot 62 of Pomaikai Subdivision No. III (File Plan 1465);

4. 296° 00' 27.00 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 1 of R.J.R. Foods, Inc. Subdivision;

5. 26° 00' 394.02 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 6-B of R.J.R. Foods, Inc. Subdivision;
6. 296° 00' 53.00 feet over and across same;
7. 26° 00' 58.91 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-C of Maui Lani (Large-Lot) Subdivision;
8. Thence over and across same on a curve to the right with the point of curvature azimuth from the radial point being: 296° 00', and the point of tangency azimuth from the radial point being: 304° 06' 02", having a radius of 5,400.75 feet, the chord azimuth and distance being: 30° 03' 01" 762.93 feet to the point of beginning and containing an Area of 75,984 square feet, more or less.
3. A Access and Utility Easement 9 in favor of Lots 11-E-1 to 11-E-5, inclusive, and being more particularly described as follows:

Beginning at a point at the northeasterly corner of this easement, being also the beginning of course number 86 of the above described lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 244.69 feet North and 1,126.07 feet East and running by azimuths measured clockwise from True South:

1. 216° 00' 120.00 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-D of Maui Lani (Large-Lot) Subdivision;
2. 306° 00' 108.07 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-E-3 of Maui Lani (Large-Lot) Subdivision;

3. 32° 54' 120.18 feet over and across a portion of Grant 3343 to Claus Spreckels;
4. 126° 00' 114.57 feet over and across a portion of Grant 3343 to Claus Spreckels, being also along Lot 11-E-4 of Maui Lani (Large-Lot) Subdivision to the point of beginning and containing an Area of 13,359 square feet, more or less.
4. An existing Easement C (15-foot wide) for waterline purposes in favor of County of Maui.
5. An existing Easement F for roadway and utility purposes in favor of Binhi At Ani.
6. An existing Easement I for access and utility purposes in favor of the State of Hawaii.
7. An existing Easement O for waterline purposes in favor of the County of Maui.



Reed M. Ariyoshi

Licensed Professional Land Surveyor
Certificate No. 6597

PARCEL FIRST:

ALL of that certain parcel of land situate at Owa, Kalua, Hailuku Commons, District of Hailuku, Island and County of Maui, State of Hawaii, being portions of R. P. 1996, L. C. Award 420 to Kuihelani, R. P. 475, L. C. Award 7713, Apana 23 to V. Kamamalu, Grant 3343 to Claus Spreckels, being, also, Lot 11 of Maui Lani Subdivision, and more particularly described as follows:

BEGINNING at a 1/2 inch pipe at the southwesterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,340.81 feet South and 868.92 feet West, and thence running by azimuths measured clockwise from true South:

- | | | | | |
|-----|------|---------|--------|---|
| 1. | 173° | 14' | 500.00 | feet along the remainder of Grant 3343 to Claus Spreckels to a 1/2 inch pipe; |
| 2. | 178° | 58' | 210.00 | feet along same to a 1/2 inch pipe; |
| 3. | 183° | 40' | 200.00 | feet along same to a 1/2 inch pipe; |
| 4. | 184° | 50' | 702.22 | feet along same to a 1/2 inch pipe; |
| 5. | 95° | 58' | 289.33 | feet along same to a 1/2 inch pipe; |
| 6. | 91° | 04' | 147.50 | feet along same to a 3/4 inch pipe in concrete (found); |
| 7. | 165° | 19' | 93.35 | feet along same to a 1/2 inch pipe; |
| 8. | 190° | 43' | 435.91 | feet along same to a 1/2 inch pipe; |
| 9. | 167° | 23' | 81.80 | feet along same to a 1/2 inch pipe; |
| 10. | 189° | 00' | 162.14 | feet along same to a 3/4 inch pipe (found); |
| 11. | 279° | 00' | 78.54 | feet along same to a 1/2 inch pipe; |
| 12. | 8° | 52' 12" | 30.00 | feet along Lot 2 of Kahului 3 M.G. Reservoir Subdivision to a 1/2 inch pipe; |
| 13. | 279° | 00' | 40.00 | feet along same to a 1/2 inch pipe; |
| 14. | 188° | 52' 12" | 30.00 | feet along same to a 1/2 inch pipe; |
| 15. | 279° | 00' | 204.46 | feet along the remainder of Grant 3343 to Claus Spreckels to a 1/2 inch pipe; |

EXHIBIT

6

16.	9°	00'	211.00	feet along Lot 1 of Kahului 3 M.G. Reservoir Subdivision to a 1/2 inch pipe;
17.	324°	00'	80.97	feet along same to a 1/2 inch pipe;
18.	302°	40'	64.14	feet along same to a 1/2 inch pipe;
19.	279°	00'	59.00	feet along same to a 1/2 inch pipe;
20.	234°	00'	107.48	feet along same to a 1/2 inch pipe;
21.	189°	00'	218.00	feet along same to a 1/2 inch pipe;
22.	279°	00'	413.04	feet along remainder of Grant 3343 to Claus Spreckels to a 1/2 inch pipe;
23.	345°	30'	698.41	feet along Lot 8 of Maui Lani Subdivision to a 1/2 inch pipe;
24.	330°	00'	68.00	feet along same to a 1/2 inch pipe;
25.	316°	30'	272.00	feet along same to a 1/2 inch pipe;
26.	314°	00'	314.00	feet along same to a 1/2 inch pipe;
27.	289°	30'	164.00	feet along same to a 1/2 inch pipe;
28.	272°	00'	149.49	feet along same to a 1/2 inch pipe;
29.	183°	20'	291.60	feet along same to a 1/2 inch pipe;
30.	185°	30'	149.00	feet along same to a 1/2 inch pipe;
31.	260°	00'	266.00	feet along same to a 1/2 inch pipe;
32.	194°	00'	190.00	feet along same to a 1/2 inch pipe;
33.	103°	00'	177.00	feet along same to a 1/2 inch pipe;
34.	167°	00'	388.00	feet along same to a 1/2 inch pipe;
35.	179°	00'	109.00	feet along same to a 1/2 inch pipe;

36.	164°	00'	105.00	feet along same to a 1/2 inch pipe;
37.	137°	00'	116.00	feet along same to a 1/2 inch pipe;
38.	101°	00'	92.00	feet along same to a 1/2 inch pipe;
39.	113°	40'	110.13	feet along same to a 1/2 inch pipe;
40.	69°	30'	133.99	feet along same to a 1/2 inch pipe;
41.	95°	20'	141.00	feet along same to a 1/2 inch pipe;
42.	127°	00'	41.00	feet along same to a 1/2 inch pipe;
43.	161°	30'	198.00	feet along same to a 1/2 inch pipe;
44.	153°	00'	71.00	feet along same to a 1/2 inch pipe;
45.	162°	10'	138.00	feet along same to a 1/2 inch pipe;
46.	177°	00'	79.00	feet along same to a 1/2 inch pipe;
47.	186°	00'	615.00	feet along same to a 1/2 inch pipe;
48.	276°	00'	249.78	feet along same to a 1/2 inch pipe;
49.	211°	40'	419.46	feet along same to a 1/2 inch pipe;
50.	190°	00'	464.00	feet along same to a 1/2 inch pipe;
51.	181°	30'	193.00	feet along same to a 1/2 inch pipe;
52.	167°	00'	409.00	feet along same to a 1/2 inch pipe;
53.	85°	00'	213.00	feet along same to a 1/2 inch pipe;
54.	163°	48'	218.50	feet along Lot 7 of Maui Lani Subdivision to a 1/2 inch pipe;
55.	73°	48'	119.29	feet along same to a 1/2 inch pipe;
56.	89°	13' 30"	145.83	feet along same to a 1/2 inch pipe;

57.	97°	34'	185.83	feet along same to a 1/2 inch pipe;
58.	97°	34'	100.00	feet along the remainder of Grant 3343 to Claus Spreckels to a 1/2 inch pipe;
59.	97°	34'	203.86	feet along Lot 7 of Maui Lani Subdivision to a 1/2 inch pipe;
60.	120°	32'	324.39	feet along same to a 1/2 inch pipe;
61.	130°	44'	129.01	feet along same to a 1/2 inch pipe;
62.	188°	52'	35.32	feet along the remainder of R. P. 4475, L. C. Award 7713, Apana 23 to V. Kamamalu to a 1/2 inch pipe;
63.	310°	44'	144.99	feet along Maui Memorial Park to a 1/2 inch pipe;
64.	300°	32'	315.61	feet along same to a 1/2 inch pipe;
65.	277°	34'	481.41	feet along same to a 1/2 inch pipe;
66.	269°	13' 30"	72.77	feet along same to a 1/2 inch pipe;
67.	269°	13' 30"	66.81	feet along Lot 6 of Maui Lani Subdivision to a 1/2 inch pipe;
68.	253°	48'	67.50	feet along same and along Lot 3-A of Orchards Hawaii Subdivision to a 1/2 inch pipe;
69.	173°	36'	266.13	feet along Lot 3-A of Orchards Hawaii Subdivision to a 1/2 inch pipe;
70.	201°	22'	298.46	feet along same to a 1/2 inch pipe;
71.	121°	35'	164.71	feet along same to a 1/2 inch pipe;
72.	31°	35'	140.00	feet along same to a 1/2 inch pipe;
73.	155°	47' 45"	179.35	feet along Maui Memorial Park to a 3/4 inch pipe (found);

74.	276°	48'	23.97	feet along Lot 96 of Hale Koa Tract, File Plan 413 to a 1/2 inch pipe;
75.	223°	14'	598.19	feet along same and along Lots 53 to 59, inclusive, of Hale Koa Tract, File Plan 413 to a 1/2 inch pipe;
76.	187°	25'	895.77	feet along Lots 59 to 70, inclusive, of Hale Koa Tract, File Plan 413 to a 1/2 inch pipe;
77.	171°	17'	274.22	feet along Lots 71, 96, 72 and 73 of Hale Koa Tract, File Plan 413 to a pipe in concrete (found);
78.	191°	18'	750.00	feet along Lots 74 to 83, inclusive, of Hale Koa Tract, File Plan 413 to a 1/2 inch pipe;
79.	281°	18'	17.25	feet along Lot 3 of Ekoa Subdivision to a 1/2 inch pipe;
80.	191°	18'	137.94	feet along same to a 1/2 inch pipe (found);
81.	281°	07' 15"	130.70	feet along the southerly side of Kaahumanu Avenue to a 1/2 inch pipe;
82.	Thence along same on a curve to the left with a radius of 92.00 feet, the chord azimuth and distance being: 230° 33' 45" 142.10 feet to a 1/2 inch pipe;			
83.	270°	00' 15"	1208.79	feet along same to a 1/2 inch pipe;
84.	0°	00' 15"	925.00	feet along Lots B-1-A-1-C and B-1-A-2 of Maui Memorial Hospital Lot to a 1/2 inch pipe;
85.	44°	01' 30"	821.49	feet along Lots B-1-A-1-A and B-1-A-1-G of Maui Memorial Hospital Lot and Lot B-1-B-1 of Hale O Mana'o Lana Hou Subdivision to a 1/2 inch pipe;

86°	0°	00'	15"	513.39	feet along Lot 8-1-B-1 of Hale O Mana'o Lana Hou Subdivision to a 1/2 inch pipe;
87.	87°	39'	30"	11.09	feet along same to a 1/2 inch pipe;
88.	357°	39'	30"	450.00	feet along Lots 8-1-B-1, 8-1-B-4 and 8-1-B-3 of Hale O Mana'o Lana Hou Subdivision to a 1/2 inch pipe;
89.	242°	40'		538.31	feet along lot 8-1-B-3 of Hale O Mana'o Lana Hou Subdivision to a 1/2 inch pipe;
90.	234°	38'	37"	91.11	feet along same to a 1/2 inch pipe;
91.	324°	24'		587.58	feet along Lots 7-46, 7-47, 7-48, 7-51, Kea Street and Lot 7-165 of Seventh Increment, Kahului Town Development, File Plan 766 to a 1/2 inch pipe;
92.	265°	01'		75.00	feet along Lot 7-165 of said File Plan 766 to a 1/2 inch pipe;
93.	346°	43'		533.60	feet along Lots 7-167 to 7-175, inclusive of said File Plan 766 to a 1/2 inch pipe;
94.	349°	02'	30"	60.27	feet along Lot 8-121 of Eighth Increment, Kahului Town Development, File Plan 906 to a 1/2 inch pipe;
95.	353°	41'	30"	60.27	feet along Lot 8-122 of said File Plan 906 to a 1/2 inch pipe;
96.	358°	20'	30"	60.27	feet along Lot 8-123 of said File Plan 906 to a 1/2 inch pipe;
97.	2°	59'	30"	60.27	feet along Lot 8-124 of said File Plan 906 to a 1/2 inch pipe;
98.	7°	36'	30"	59.41	feet along Lot 8-125 of said File Plan 906 to a 1/2 inch pipe;
99.	9°	54'		221.98	feet along Lots 8-125 to 8-129, inclusive of said File Plan 906 to a 1/2 inch pipe;

100.	7°	24'	21"	57.45	feet along Lot 8-129 of said File Plan 906 to a 1/2 inch pipe;
101.	1°	24'	29"	80.68	feet along Lot 8-130 of said File Plan 906 to a 1/2 inch pipe;
102.	353°	27'	02.5"	102.50	feet along Lot 8-131 of said File Plan 906 to a 1/2 inch pipe;
103.	346°	49'	34"	50.00	feet along the westerly end of Iuka Place to a 1/2 inch pipe;
104.	340°	20'	24"	99.37	feet along Lot 8-132 of said File Plan 906 to a 1/2 inch pipe;
105.	332°	21'	27"	84.33	feet along Lot 8-133 of said File Plan 906 to a 1/2 inch pipe;
106.	325°	01'	53"	84.33	feet along Lot 8-134 of said File Plan 906 to a 1/2 inch pipe;
107.	317°	42'	19"	84.33	feet along Lot 8-135 of said File Plan 906 to a 1/2 inch pipe;
108.	310°	48'	16"	74.55	feet along Lot 8-136 of said File Plan 906 to a 1/2 inch pipe;
109.	307°	34'		420.00	feet along Lots 8-136 to 8-142, inclusive of said File Plan 906 to a 1/2 inch pipe;
110.	29°	52'		200.00	feet along Lots 8-144 to 8-146, inclusive of said File Plan 906 to a 1/2 inch pipe;
111.	354°	36'		155.00	feet along Lots 8-146 and 8-147 of said File Plan 906 to a 1/2 inch pipe;
112.	298°	36'		270.00	feet along Lots 8-147, 8-148 and 8-149 of said File Plan 906 to a 1/2 inch pipe;
113.	223°	03'		160.00	feet along Lots 8-149 and 8-150 of said File Plan 906 to a 1/2 inch pipe;

114.	216°	51'		14.13	feet along Lot 8-150 of said File Plan 906 to a 1/2 inch pipe;
115.	313°	03'		227.03	feet along Lot 4 of Orchards Hawaii Subdivision to a 1/2 inch pipe;
116.	223°	03'		392.18	feet along same to a 1/2 inch pipe;
117.	312°	45'	50"	80.47	feet along the westerly end of Onehee Avenue to a 1/2 inch pipe;
118.	43°	02'		930.00	feet along Lot 5-B of Orchards Hawaii Subdivision to a 1/2 inch pipe;
119.	313°	02'		605.00	feet along same to a 1/2 inch pipe;
120.	223°	02'		807.72	feet along same to a 1/2 inch pipe;
121.	319°	39'		291.64	feet along Lots 91 to 100, inclusive of said File Plan 1465 to a 1/2 inch pipe;
122°	311°	59'	16"	400.32	feet along Lots 101 and 106 to 109, inclusive of said File Plan 1465 to a 1/2 inch pipe;
123.	304°	20'		292.00	feet along Lots 116 to 119, inclusive of said File Plan 1465 to a 1/2 inch pipe;
124.	300°	00'		290.00	feet along Lots 126 to 129, inclusive of said File Plan 1465 to a 1/2 inch pipe;
125.	296°	00'		284.00	feet along Lots 136 to 139, inclusive of said File Plan 1465 to a 1/2 inch pipe;
126.	206°	00'		32.50	feet along Lot 139 of said File Plan 1465 to a 1/2 inch pipe;
127.	296°	00'		27.00	feet along the southerly end of Kamehameha Avenue to a 1/2 inch pipe;
128.	26°	00'		394.02	feet along Lot 6-B of R.J.R. Foods, Inc. Lot Subdivision to a 1/2 inch pipe;

129.	296°	00'	302.04	feet same to a 1/2 inch pipe;
130.	283°	16' 05"	375.44	feet same to a 1/2 inch pipe;
131.	193°	16' 05"	43.86	feet same to a 1/2 inch pipe;
132.	283°	16' 05"	732.28	feet along Lots 53, 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42 and 41 of Luana Gardens, Phase I Subdivision, File Plan 1855 to a 1/2 inch pipe (found);
133.	193°	20'	468.74	feet along Lot 41, Opukea Street, Lots 40, 39, 38, 37, 36, 35 and 34 of said File Plan 1855 to a 1/2 inch pipe;
134.	265°	00'	734.10	feet along Lot 21, Honowai Street, Lots 51, 50, 49, 48, 47, 46, 45, 44, 43 and 42 of Hale Laulea Subdivision, File Plan 1825 to a 1/2 inch pipe;
135.	264°	55' 27"	239.04	feet along Lot 65 of said File Plan 1825 to a 1/2 inch pipe (found);
136.	265°	00'	80.05	feet along Lot 10 of said File Plan 1825 to a 1/2 inch pipe;
137.	Thence along same on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being: 220° 00' 28.28 feet to a 1/2 inch pipe;			
138.	355°	00'	104.78	feet along the westerly side of Pomaikai Street to a 1/2 inch pipe;
139.	85°	00'	115.38	feet along Lot 93 of Pomaikai Subdivision No. 1, Kahului Town Development, File Plan 1411 to a 1/2 inch pipe;
140°	355'	00'	175.00	feet along Lots 93, 92 and 91 of said File Plan 1411 to a 1/2 inch pipe;
141.	85°	00'	117.88	feet along Lots 88 and 87 of said File Plan 1411 to a 1/2 inch pipe;

142.	25°	47'	236.47	feet along Lots 87 and 86 of said File Plan 1411 to a 1/2 inch pipe;
143.	288°	48'	715.76	feet along Lots 85, 84, 83, 82, 81, 80, 79, 78, 77 and 76 of said File Plan 1411 to a 1/2 inch pipe;
144.	265°	00'	168.79	feet along Lots 76, 75 and 74 of said File Plan 1411 to a 1/2 inch pipe;
145.	175°	00'	38.45	feet along Lot 74 of said File Plan 1411 to a 1/2 inch pipe;
146.	265°	00'	100.00	feet along Lot 73 of said File Plan 1411 to a 1/2 inch pipe;
147.	355°	00'	46.13	feet along the westerly side of Lono Avenue to a 1/2 inch pipe;
148.	355°	00'	124.63	feet along Lot 5-B of Lono Avenue Extension to a 1/2 inch pipe;
149.	Thence along same on a curve to the left with a radius of 600.00 feet, the chord azimuth and distance being: 335° 02' 409.77 feet to a 1/2 inch pipe;			
150.	315°	04'	80.73	feet along same to a 1/2 inch pipe;
151.	Thence along same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being: 0° 04' 42.43 feet;			
152.	45°	04'	273.39	feet along the northwesterly side of Kuihelani Highway to a 1/2 inch pipe;
153.	135°	04'	7.00	feet along same to a 1/2 inch pipe;
154.	45°	04'	800.00	feet along same to a 1/2 inch pipe;
155.	315°	04'	7.00	feet along same to a 1/2 inch pipe;
156.	45°	04'	700.00	feet along same to a 1/2 inch pipe;

157.	135°	04'	12.00	feet along same to a 1/2 inch pipe;
158.	45°	04'	800.00	feet along same to a 1/2 inch pipe;
159.	135°	04'	10.00	feet along same to a 1/2 inch pipe;
160.	45°	04'	79.93	feet along same to a 1/2 inch pipe;
161.	Thence along same on a curve to the left with a radius of 11,584.16 feet, the chord azimuth and distance being: 43° 15' 59.4" 727.80 feet;			
162.	311°	27'	58.8"	10.00 feet along same to a 1/2 inch pipe;
163.	Thence along same on a curve to the left with a radius of 11,574.16 feet, the chord azimuth and distance being: 40° 12' 58.8" 504.98 feet to a 1/2 inch pipe;			
164.	308°	57'	58.8"	12.00 feet along same to a 1/2 inch pipe;
165.	Thence along same on a curve to the left with a radius of 11,562.16 feet, the chord azimuth and distance being: 37° 08' 39.8" 735.20 feet to a 1/2 inch pipe;			
166°	124°	00'	3264.73	feet along Lot 12 of Maui Lani Subdivision to a 1/2 inch pipe;
167.	104°	48'	20"	2739.12 feet along same to a 1/2 inch pipe;
168.	107°	15'	264.13	feet along same to a 1/2 inch pipe;
169.	17°	15'	20.00	feet along same to a 1/2 inch pipe;
170.	107°	15'	476.46	feet along same to a 1/2 inch pipe;
171.	91°	30'	183.98	feet along same to a 1/2 inch pipe;
172.	91°	44'	328.20	feet along the remainder of Grant 3343 to Claus Spreckels to the point of beginning and containing an Area of 964.830 Acres, more or less.