

**AMENDMENT NO. 1 TO
DEVELOPER'S PUBLIC REPORT
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME	THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2
Address	Off Keone'ula Blvd. and Kapolei Parkway Ewa Beach, Hawaii 96706
Registration Number	6118
Effective Date of Report	November 14, 2006
Must Be Read Together With	Developer's Public Report dated: September 27, 2006
Developer	Fairway's Edge Development, LLC

Preparation of this Amendment

The Developer prepared this amendment pursuant to the Condominium Property Act, Section 514B-56, Hawaii Revised Statutes (HRS), as amended from time to time. Section 514B-56, HRS, requires that after the Commission has issued an effective date for the Developer's Public Report, if there are changes, either material or pertinent changes, or both, regarding the information contained in or omitted from the Developer's Public Report, or if the developer desires to update or change the information set forth in the Developer's Public Report, the developer shall immediately submit to the Commission an amendment to the Developer's Public Report or an amended Developer's Public Report clearly reflecting the change, together with such supporting information as may be required by the Commission, to update the information contained in the Developer's Public Report. The law defines "material facts" to mean "any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project unit, or property being offered or proposed to be offered for sale."

The filing of an amendment to the Developer's Public Report or an amended Developer's Public Report, in and of itself, shall not be grounds for a purchaser to cancel or rescind a sales contract. A purchaser's right to cancel or rescind a sales contract shall be governed by sections 514B-86 and 514B-87, HRS, the terms and conditions of the purchaser's contract for sale, and applicable common law.

This Amendment has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this amendment to the Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts or all pertinent changes, or both, about the project have been fully or adequately disclosed; or (3) is not the Commission's judgment of the value or merits of the project.

This amendment may be used by the Developer for promotional purposes only if it is used with the last Developer's Public Report in its entirety.

Prospective purchasers and purchasers are encouraged to read this amendment carefully and to seek professional advice before signing or continuing with a sales contract for the purchase of a unit in the project.

Summary of Changes from Earlier Developer's Public Report are Described Beginning on the Next page.

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

Summary of Changes from Earlier Developer's Public Report:

This summary contains a general description of the changes, if any, made by the developer since the last Developer's Public Report was issued an effective date. It is not necessarily all inclusive. Prospective purchasers and purchasers must read this amendment together with the last Developer's Public Report with the effective date as noted on the top of page 1 if they wish to know the specific changes that have been made.

Changes made are as follows (include a description of what the change is and page number and or exhibit alphabet or number; additional pages may be used):

I. Declaration of Condominium Property Regime of The Town Homes at Fairway's Edge, Increment 2

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	August 25, 2006	3474188

Amendments to Declaration of Condominium Property Regime		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	October 20, 2006	3504713

The CPR Declaration was amended and restated (See Exhibit P) to include various non-material and non-substantive revisions which were made to incorporate provisions from several sections of newly enacted Chapter 514B of the Hawaii Revised Statutes (the "Act"). The following is a brief summary of those revisions:

1. The definition of "Common Elements" on page 3 was expanded to conform to the Act.
2. The definition of "Limited Common Elements" on page 3 was expanded to conform to the Act.
3. Section J.3.(b)(v) on page 18 was amended to allow the Board to assess all owners certain limited common elements expenses if the cost to separately account for and charge such expenses is not justified.
4. Section J.8 on page 19 was amended to clarify the Association's ability to access an owner's Unit pursuant to Section 514B-137 of the Act.
5. Section J.9 on pages 20 and 21 was amended to clarify how changes, additions, alterations, or leasing of the Common Elements are permitted.
6. A new Section J.13 on page 22 was added to address Section 514B-142 of the Act concerning Aging in Place.
7. Section N.9 on page 29 was amended to clarify the Board of Director's right to purchase insurance coverage on behalf of a Unit owner and to charge the premium to such owner.
8. Section R.1 and R.2 on pages 32 and 33 were amended to conform the Alterations provisions to Section 514B-140 of the Act.

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II. Bylaws of the Association of Unit Owners of The Town Homes of Fairway's Edge, Increment 2

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	August 25, 2006	3474189

Amendments to Bylaws of the Association of Unit Owners		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	October 20, 2006	3504714

The Bylaws were amended (See Exhibit Q) to make two non-material and non-substantive revisions to incorporate provisions from the Act. The following is a brief summary of those revisions:

1. Article II, Section 10(e) was revised the procedures that will be followed if Association funds are utilized to solicit proxies.
2. Article III, Section 16 was revised to add the definition of "Conflict of Interest".

III. Exhibit J of Developer's Public Report

The budgets, previously submitted as Exhibit J to the Developer's Public Report, were revised (See Exhibit J) to (a) correct several non-material errors on the monthly maintenance fee items, which now results in a reduction of approximately \$112.00 to \$118.00 per month per unit; and (b) to reflect a slight increase in the recently approved Ocean Pointe Residential Community Association Annual Budget for 2007 (the 2006 budget was previously submitted). There is an overall reduction in the monthly and annual budgets.

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The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project conforms to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 5148-5 and 32(a) (13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report as amended, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report as amended, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report as amended and the exhibits attached to this report as amended and all documents to be furnished by the Developer to purchasers concerning the project have been reviewed by the Developer and are, to the best of the Developer's knowledge, information and belief, true, correct and complete. The Developer hereby agrees promptly to amend this report as amended to report any pertinent or material change or both in any information contained in this report and to file annually a report to update the material contained in this report as amended at least 30 days prior to the anniversary date of the effective date of this report.

FAIRWAY'S EDGE DEVELOPMENT, LLC
Printed Name of Developer

By: 
Duly Authorized Signatory*

October 27, 2007
Date

Tsutomu Sagawa, Executive Vice President of Haseko Homes, Inc., as Manager of Developer
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

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EXHIBIT J

**THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2
ESTIMATED ANNUAL BUDGET**

Fairway's Edge Development, LLC does hereby certify that the estimated budget and maintenance fees describing the units for Increment 2, as set forth in the following sheets, were prepared in accordance with generally accepted accounting principles. The budget and maintenance fees are estimates only and are subject to change at any time, including changes resulting from the merger of the Project with other increments of The Town Homes at Fairway's Edge.

A purchaser shall commence payment of the monthly estimated maintenance fee effective on the date of conveyance of the unit to the buyer.

FAIRWAY'S EDGE DEVELOPMENT, LLC

By HASEKO HOMES, INC.
a Hawaii corporation
Its Manager



Name: TSUTOMU SAGAWA
Title: EXECUTIVE VICE PRESIDENT

October 27, 2007
Date

The Town Homes at Fairway's Edge, Increment 2

Estimated Annual Maintenance Fees and Monthly Estimated Fee Per Unit

(16 UNITS)

ESTIMATED ANNUAL BUDGET

ESTIMATE OF MAINTENANCE DISBURSEMENTS (a)	MONTHLY (\$)	ANNUAL (\$)
Utilities		
Common Electricity	\$ 37.04	\$ 444.48
Water	\$ 460.37	\$ 5,524.44
Sewer	\$ 334.81	\$ 4,017.72
Building and Grounds Maintenance		
Building	\$ 37.04	\$ 444.48
Grounds (Landscaping)	\$ 1,357.78	\$ 16,293.36
Pest Control	\$ 133.33	\$ 1,599.96
Amenities (Recreation Area)	\$ 50.00	\$ 600.00
Trash Removal	\$ 325.93	\$ 3,911.16
Custodial	\$ 100.00	\$ 1,200.00
Management		
Management Fees	\$ 166.67	\$ 2,000.04
Wages and Salaries	\$ 281.56	\$ 3,378.72
Administrative Expenses	\$ 83.33	\$ 999.96
Education Expenses	\$ 4.81	\$ 57.72
Insurance	\$ 1,447.90	\$ 17,374.80
Legal & Professional	\$ 10.00	\$ 120.00
Taxes/Government Assessments	\$ 10.00	\$ 120.00
Audit Fees	\$ 10.00	\$ 120.00
Reserves (b)	\$ 703.70	\$ 8,444.44
Totals (c)	\$ 5,554.27	\$ 66,651.28

- (a) All budgeted expenses have been calculated by allocating a portion of the overall proposed expenses in accordance with the ratio of the number of units in Increment 2 (i.e., 16 units) to the total number of proposed units (i.e., 216 units). In the event of a deficit in the actual expenses and the amount actually collected, such deficit shall be subsidized by the Developer until all units within The Town Homes at Fairway's Edge project have been sold.
- (b) A reserve study (per §514B-148(a)(4), HRS and Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules) has not yet been conducted. The reserves are estimates only based upon information obtained by Fairway's Edge Development, LLC.
- (c) The Developer, on its own initiative, will be installing and paying for the costs of the use of the Sentricon® *Termite Colony Elimination System* on the Project, commencing on the date title for the first Unit in a building is transferred to the first homeowner and expiring twelve months thereafter. The costs of use of Sentricon® *Termite Colony Elimination System* for a particular building within the Project beyond such period has not been included in the Budget, and any use will be at the election and the cost of the Association or individual apartment owners as the case may be.

THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2
(16 UNITS)

ESTIMATED MAINTENANCE FEES PER UNIT

UNIT NO.	NET LIVING AREA AND BALCONY (sq. ft.) (a)	COMMON INTEREST (%)	MONTHLY MAINT. FEE (\$) (Per Budget p. 1)	MONTHLY MASTER ASSN. FEE (\$) (Per Budget p.4)	TOTAL MONTHLY FEES (\$)	TOTAL ANNUAL FEES (\$)
1001	1,666	6.4097	356.01	22.00	378.01	4,536.12
1002	1,583	6.0903	338.27	22.00	360.27	4,323.24
1003	1,583	6.0903	338.27	22.00	360.27	4,323.24
1004	1,666	6.4097	356.01	22.00	378.01	4,536.12
1101	1,666	6.4097	356.01	22.00	378.01	4,536.12
1102	1,583	6.0903	338.27	22.00	360.27	4,323.24
1103	1,583	6.0903	338.27	22.00	360.27	4,323.24
1104	1,666	6.4097	356.01	22.00	378.01	4,536.12
2001	1,666	6.4097	356.01	22.00	378.01	4,536.12
2002	1,583	6.0903	338.27	22.00	360.27	4,323.24
2003	1,583	6.0903	338.27	22.00	360.27	4,323.24
2004	1,666	6.4097	356.01	22.00	378.01	4,536.12
2101	1,666	6.4097	356.01	22.00	378.01	4,536.12
2102	1,583	6.0903	338.27	22.00	360.27	4,323.24
2103	1,583	6.0903	338.27	22.00	360.27	4,323.24
2104	1,666	6.4097	356.01	22.00	378.01	4,536.12

(a) The net living area of the Unit, excluding the garage, the lanai, the front or rear yards, and the entry area.

Note: The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

Ocean Pointe Residential Community Association
Annual Budget - Year 2007¹
 (Based on 2,200 Units)

<u>Budget Item</u>	<u>Amount</u>
a. Maintenance - Grounds ²	363,553.00
b. Utilities (Water)	77,220.00
c. Utilities (Electricity)	2,400.00
d. Insurance	11,319.00
e. Management Services ³	81,500.00
f. Admin Supplies & Services	7,200.00
g. Legal & Audit	4,140.00
h. Miscellaneous Administrative Expenses	180.00
i. Security	38,400.00
j. Reserve Contribution	<u>4,212.00</u>
k. Total Estimated Annual Costs	590,124.00
l. Total Estimated Monthly Costs	49,177.00
m. Total Costs Per Unit Per Month ⁴	22.00
n. Net Assessments Per Unit Per Month ⁵	<u><u>\$22.00</u></u>

¹ The Ocean Pointe Community Association's (the "Association") 2007 fiscal year runs from January 1, 2007 through December 31, 2007.

² Maintenance - Grounds cover maintenance of the "Area of Common Responsibility" as that term is defined in the Declaration of Covenants, Conditions, and Restrictions for Ocean Pointe (Residential) dated September 15, 1998 as supplemented and amended (the "Master Declaration"). The estimated maintenance costs shown in this line item do not cover any areas that may be subsequently annexed to the Master Declaration in the future. The estimated maintenance costs shown in line item a. include estimates for all labor, equipment, and other materials (not including water which is covered by line item b.) that are necessary to maintain the above-described areas.

³ Management Services reflect the fees that Certified Management, Inc. will be paid for the coming fiscal year for management services and design review services.

⁴ The total cost per unit per month was calculated by taking the total estimated annual costs (line item k.) and dividing that number by 2,200 and further dividing that number by 12. The resulting sum is then rounded to the nearest dollar.

⁵ The Net Assessment Per Unit Per Month represents the net monthly assessment estimated amount to be collected from members on a per unit basis for the coming fiscal year.

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

Doc 3504713
CTN 820,461
OCT 26, 2006 02:00 PM

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICKUP (✓)

MORIHARA LAU & FONG, LLP (MHL)
841 BISHOP STREET, SUITE 400
HONOLULU, HAWAII 96813
TELEPHONE NO.: (808) 526-2888

TYPE OF DOCUMENT:

FIRST AMENDED AND RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

PARTIES TO DOCUMENT:

DECLARANT: FAIRWAY'S EDGE DEVELOPMENT, LLC, A HAWAII LIMITED LIABILITY
COMPANY

TAX MAP KEY FOR PROPERTY: (1) 9-1-012:058

I:\MLF\HK-Ocean Pointe\Area IIE\Fairway's Edge-Incr 2\CPR Declaration\AREA IIE Incr 2 CPR Decl (10-13-06)(7)(Amended & Restated).DOC

Total Pages (64)

FIRST AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

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EXHIBITS:

Exhibit A: Legal Description of the Land

Exhibit B: Buildings, Units, and Parking

Exhibit C: Additional Covenants Regarding Aircraft Noise and other Disturbances

FIRST AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

THIS DECLARATION is made this 20th day of October, 2006, by FAIRWAY'S EDGE DEVELOPMENT, LLC, a Hawaii limited liability company ("Declarant"), whose address is 91-1001 Kaimalie Street, Suite 205, Ewa Beach, Hawaii 96706-5005.

WHEREAS, Declarant owns in fee simple the real property situate at Honouliuli, District of Ewa, City and County of Honolulu, State of Hawaii, as more particularly described in **Exhibit "A"** attached hereto and made a part hereof (the "Land"); and

WHEREAS, Declarant previously executed that certain Declaration of Condominium Property Regime of The Town Homes at Fairway's Edge, Increment 2, dated August 25, 2006, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (the "Office of the Assistant Registrar"), as Document No. 3474188 (the "Original Declaration") for the purpose of developing a condominium project (the "Project") on the Land by constructing thereon certain improvements in accordance with the plans and specifications filed concurrently therewith in the Office of the Assistant Registrar as Condominium Map No. 1843 (the "Condominium Map"), thereby establishing a Condominium Property Regime pursuant to Chapter 514B of the Condominium Property Act;

WHEREAS, Chapter 514B of the Condominium Property Act, which went into effect on July 1, 2006, significantly changed the requirements concerning the establishment, operation, and governance of a condominium property regime;

WHEREAS, Section T.3(a) of the Original Declaration provides that, at any time prior to the recording in the Office of the Assistant Registrar of the first Unit deed in favor of a purchaser, Declarant reserves and shall have the right to amend the Declaration, the Bylaws and the Condominium Map in any manner, without notice to, or the approval, consent or joinder of, the Association or any purchaser of any Unit;

WHEREAS, Section T.3(b) of the Original Declaration further provides that, at any time prior to the recording in the Office of the Assistant Registrar of Unit deeds covering 100% of the Units in the Project, the Declarant shall have the right to amend the Declaration, the Bylaws and the Condominium Map without the approval, consent or joinder of any purchaser of any Unit or any of the persons then owning any Unit or any lien holder, to make such amendments (i) as may be necessary to correct any technical defects or to make non-substantive changes, or (ii) as may be required by law or the Real Estate Commission of the State of Hawaii;

WHEREAS, none of the Units in the Project have been conveyed to any purchasers;

WHEREAS, the Real Estate Commission has requested that Declarant amend the Original Declaration to add certain non-substantive changes to reflect certain provisions from Chapter 514B of the Condominium Property Act; and

WHEREAS, Declarant desires to reflect all such changes by amending and restating the Original Declaration in its entirety as follows:

NOW, THEREFORE, Declarant makes the following declarations as to divisions, limitations, restrictions, covenants and conditions, and hereby declares and agrees that the Land is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, restrictions and conditions set forth herein and in the Bylaws of the Association of Unit Owners (the "Bylaws") previously recorded as Land Court Document No. 3474189 in the Office of the Assistant Registrar, as the same may from time to time be amended in accordance with law and the Bylaws, which declarations, restrictions and conditions shall constitute covenants running with the Land and shall be binding on and for the benefit of Declarant, Declarant's successors and assigns, and all subsequent owners and lessees of all or any part of the Project and their respective successors, successors in trust, heirs, devisees, executors, personal representatives, administrators and assigns. All of the provisions of this Declaration are intended to create mutual servitudes upon all of the Units within the Project herein described and to create reciprocal rights between the respective Unit owners.

A. PROJECT/LAND.

1. Name of Project. The Condominium Property Regime established hereby shall be known as "THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2".

2. Description of the Land. The Land submitted to this Condominium Property Regime is more particularly described in **Exhibit "A"** attached hereto and made a part hereof. The Land is in fee simple and is subject to Declarant's right to withdraw portions of the Land from this Condominium Property Regime pursuant to Section U of this Declaration.

B. DEFINITIONS.

Unless the context specifies or requires otherwise, the terms utilized herein have the meanings set forth below for purposes of this Declaration, and such definitions are equally applicable to the singular or plural, and to other grammatical forms thereof:

1. "Area IIE": Area IIE (also known as "Fairway's Edge ") is an incremental residential development which may consist of approximately 216 residential townhome units to be developed on the Land by the Declarant. Area IIE is located within the Ocean Pointe master planned community (sometimes referred to herein as "Ocean Pointe").

2. "Association" or "Association of Unit Owners": The Association of Unit Owners of the Project, established by and described in this Declaration and the Bylaws.

3. "Board" or "Board of Directors": The Board of Directors of the Association.

4. "Buildings": The residential buildings and garage buildings set forth in Section C.1 and **Exhibit "B"** attached hereto and made a part hereof.

5. "Bylaws": The Bylaws of the Association, recorded in the Office of the Assistant Registrar concurrently herewith, as may be amended from time to time.

6. "Common Interest": The Common Interests as set forth in Section E.

7. "Common Elements": All portions of the Project other than the Units and any other interests in real estate for the benefit of the Unit owners that are subject to the Declaration. The Common Elements are set forth in Section D.2.
8. "Condominium Map": The plans and specifications for the Project filed in the Office of the Assistant Registrar concurrently herewith, as may be amended from time to time.
9. "Condominium Property Act" or the "Act": Chapter 514B of the Hawaii Revised Statutes (including any successor statute), as may be amended from time to time.
10. "Declarant": Fairway's Edge Development, LLC, a Hawaii limited liability company, and any of its successors, successors-in-title, or assigns who take title to any portion of the Land for the purpose of development and/or sale and who is identified as a successor Declarant in an instrument recorded in the Office of the Assistant Registrar and executed by the preceding Declarant of such rights.
11. "Declarant's Control Period": The period of time that the Declarant shall control the Association as described in Section I.
12. "Declaration": This Declaration of Condominium Property Regime, as may be amended from time to time.
13. "Design Guidelines": The Design Guidelines for the Project as generally referenced in the Master Declaration, which set forth the guidelines with which alterations, modifications, repairs or replacements of the Project may be required to comply.
14. "Design Review Committee": The Design Review Committee as defined and referenced in the Master Declaration.
15. "Eligible First Lien Holder": A holder, insurer or guarantor of a first mortgage on any Unit, which has made written request to the Association (which request states the name and address of such holder, insurer or guarantor, and the Unit number of the Unit to which its mortgage pertains), for notice of all or those meetings of the Association at which any proposed amendment to this Declaration or the Bylaws will be considered by the Unit owners.
16. "House Rules": The administrative rules and regulations adopted by the Board pursuant to the Bylaws governing conduct within the Project and the use and operation of the Common Elements.
17. "Front Yards": The Front Yards as set forth in Section D.3(d).
18. "Land": All of the real property described in **Exhibit "A"** attached hereto and made a part hereof, which is subject to Declarant's rights to withdraw portions of the Land from this Condominium Property Regime pursuant to Section U of this Declaration.
19. "Limited Common Elements": A portion of the Common Elements designated by the Declaration for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements are set forth in Section D.3.

20. "Master Declarant": HASEKO (Ewa), Inc., a Hawaii corporation, and its successors, successors-in-title, or assigns, as defined in the Master Declaration.

21. "Master Declaration": The Declaration of Covenants, Conditions, and Restrictions for Ocean Pointe (Residential), dated September 15, 1998, recorded as Land Court Document No. 2486145, as the same has been and/or may hereafter be further amended and/or supplemented from time to time.

22. "Office of the Assistant Registrar": The Office of the Assistant Registrar of the Land Court of the State of Hawaii.

23. "Project": The condominium project established under this Declaration, consisting of the Land and all improvements constructed or to be constructed thereon.

24. "Project Boundary Fence": The fence(s) installed along the boundary of the Project fronting the proposed golf course (i.e., the western boundary of the Project) as generally shown on the Condominium Map.

25. "Rear Yards": The Rear Yards as set forth in Section D.3(c).

26. "Units": The Units as set forth in Section D.1.

C. DESCRIPTION OF THE BUILDINGS.

1. Number and Location. There will be constructed on the Land, several separate residential buildings and garage buildings, as shown on the Condominium Map, and as described in **Exhibit "B"** attached hereto and made a part hereof. None of the buildings will have basements.

2. Building Materials. The Buildings will be constructed primarily of cement, steel, wood, glass and allied construction materials.

D. DESCRIPTION OF THE PROJECT. The Project is hereby divided into separate freehold estates consisting of residential Units and the Common Elements.

1. Units. Sixteen (16) separate freehold estates are hereby established in the spaces within the perimeter and party walls, floors and ceilings of each of the sixteen (16) Units in the Project contained in the residential buildings, as shown in the Condominium Map. The layout, location, numbers and dimensions of the Units are as shown on the Condominium Map. The Units shall not be deemed to include: the ground floor lanai (regardless of whether or not the lanai is extended or enclosed); the second floor balcony (regardless of whether or not the balcony is enclosed); the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls; the unfinished floors and ceilings located within or surrounding each Unit; or any pipes, wires, conduits or other utility or service lines running through such Unit which are utilized for, or serve, more than one (1) Unit; all of which shall be deemed Common Elements as hereinafter provided. Each Unit shall be deemed to include: the appurtenant two-car garage; all the walls and partitions which are not load-bearing within the perimeter or party walls; the interior decorated or finished surfaces of all perimeter, party and load-bearing walls; the interior decorated or finished surfaces of all floors, ceilings and roofs; the interior stairways; all doors (including the garage door) and door frames, including the exterior unfinished surfaces

thereof; all windows and window frames, including the exterior unfinished surfaces thereof; all doorknobs; and all fixtures originally installed or contained therein.

(a) Unit Numbers and Location. The Unit number and location of each of the Units are as shown on the Condominium Map.

(b) Unit Types. There are two different Unit types in the Project, all of which are shown on the Condominium Map and described in **Exhibit "B"** attached hereto and made a part hereof.

(c) Rooms and Floor Areas of Units. The rooms and net living area for each Unit are as described in **Exhibit "B"** attached hereto and made a part hereof.

The net living area represents the approximate area of the space within the interior finished surfaces of the perimeter non-party walls and party walls of the Unit, including all partitions and walls (load-bearing and nonload-bearing), all air shafts, and all plumbing, mechanical and electrical chases within such perimeter and party walls, but excluding the garage, any open or enclosed lanai or extended lanai, and any open or enclosed second floor balcony.

(d) Garages. Except for purposes of determining the net living area of the Unit, each Unit shall be deemed to include the two-car garage that includes the two parking stalls assigned to that particular Unit as set forth in **Exhibit "B"** attached hereto and made a part hereof and as shown on the Condominium Map.

(e) Access to Common Elements. Each Unit has direct access to the grounds of the Project.

2. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements," including specifically, but not limited to:

(a) The Land in fee simple.

(b) All structural components, such as foundations, floor slabs for the ground floor of any Building, columns, girders, beams, supports, structural framing, all perimeter and/or party walls (except for the decorated or finished surfaces of such perimeter and/or party walls as provided in the Condominium Property Act), and all interior load-bearing walls (except for the decorated or finished surfaces of such load-bearing walls within each Unit as provided in the Act), undecorated or unfinished floors and ceilings, the roofs of the Buildings, the unfinished floor of the second floor balconies, and all exterior walkways, railings, walls and fences enclosing any portion of the Project.

(c) All yards, gateways, exterior stairways, gates, fences, (including without limitation, any portion of the Project Boundary Fence that has not been designated as a limited common element pursuant to Section D.3. below) grounds, landscaping, walls, retaining walls, uncovered parking stalls (including guest stalls, if any), driveways, roadways, lanes, alleyways, pathways, sidewalks, walkways, lanais, entrances and entry areas, exits, loading zones, refuse and trash enclosure areas, planter boxes, and mailboxes which are not located in any Unit, whether within or appurtenant to the Project.

(d) All ducts, vents, shafts, sewer lines, drainlines, storm drain improvements, gutters, electrical rooms or closets, electrical equipment and fixtures, wiring, potable water pipelines, fire hydrants, irrigation pipelines and sprinklers, pipes, and other central and appurtenant transmission facilities, installations over, under and across the Project which serve more than one Unit for services such as power, light, water, drainage, gas, sewer, refuse, telephone and radio and television signal distribution.

(e) The roadway lighting located above the garage doors of the Units, and, where applicable, any side area lighting that may be located on the side of an end Unit.

(f) Any and all other apparatus and installations intended for common use and all devices and other parts of the Land necessary or convenient to the existence, maintenance and safety of the Condominium Property Regime, or normally in common use.

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

(a) Lanai. The ground floor lanai, if any (as shown on the Condominium Map), shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the Unit to which it is attached. The lanai shall be deemed to include any extended or enclosed lanai.

(b) Balcony. The second floor balcony, (as shown on the Condominium Map), shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the Unit, to which it is attached. The balcony shall be deemed to include any enclosed balcony.

(c) Rear Yard. The fenced area generally located in the rear of a Unit, including the side area of a 111 type Unit (as marked "Rear Yard") on the Condominium Map). Such yard area shall be a Limited Common Element appurtenant to and reserved for the exclusive use of that particular Unit.

(d) Front Yard. The fenced area marked "Courtyard" on the Condominium Map for the 110 Unit type, and the fenced area marked "Fenced Entry Area" on the Condominium Map for the 111 Unit type.

(e) Yard Fences. Any fence, including any entry gate, which encloses any portion of a Rear Yard (including that portion of any Project Boundary Fence that encloses such Rear Yard) or a Front Yard shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the Unit to which the yard is appurtenant. Notwithstanding the foregoing, any such fence which is placed on a common property line and separates two yards shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the Units to which the yards are appurtenant.

(f) Planter Boxes. The planter boxes, if any, located on the exterior of the Unit, shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the Unit.

(g) Mailbox. The mailbox assigned to a particular Unit, but excluding the pedestal structure which houses the individual assigned mailboxes, shall be a Limited Common Element appurtenant to and reserved for the exclusive use of such Unit. The pedestal structure shall be a Common Element.

(h) Concrete Apron. The concrete section of the driveway, which extends from the outside entrance of the enclosed garage of a Unit up to, but not including the beginning edge of the driveway, shall be a Limited Common Element appurtenant to and reserved for the exclusive use of such Unit.

(i) Air Conditioner Compressor Unit. The air conditioner compressor unit and associated refrigerant lines placed in the Rear Yard or the Front Yard, as the case may be, as shown on the Condominium Map, shall be a Limited Common Element appurtenant to and reserved for the exclusive use of the particular Unit to which it serves.

(j) Other. Any other Common Elements which are rationally related to less than all of the Units shall be a Limited Common Element appurtenant to such Unit(s) that serve a particular Unit.

E. COMMON INTEREST.

Each Unit shall have appurtenant thereto an undivided percentage interest in all Common Elements of the Project (the "Common Interest"), which is the proportionate share of the Unit owner's ownership of the Common Elements. The Common Interest shall also reflect the owner's proportionate share in all common profits and expenses of the Project and for all other purposes, including voting on all matters requiring action by the Unit owners.

The Common Interest appurtenant to each Unit is shown in **Exhibit "B"** attached hereto and made a part hereof. The Common Interest is based upon the net living area of each Unit and generally has been calculated for each Unit by dividing the sum of the net living area of such Unit plus the net area of the second floor balcony of such Unit by the sum of the total net living area of all Units within the Project plus the combined net area of all the second floor balconies of the Project, with adjustments made to the Common Interest appurtenant to the Units to compensate for rounding errors to ensure that the sum of all Common Interests for all Units in the Project equals one hundred per cent (100%).

F. EASEMENTS. In addition to any easements described in **Exhibit "A"** attached hereto and to the easements established in the Limited Common Elements, the Units and Common Elements shall also have and be subject to the following easements:

1. Right of Ingress and Egress; Utility Services. Each Unit shall have appurtenant thereto perpetual, nonexclusive easements over, under and across the Common Elements and Limited Common Elements designed for such purposes for ingress to and egress from such Unit, and for utility services (including, but not limited to, electricity, cable television, telephone and other communication services (including without limitation, broadband, electromagnetic and optical transmissions, computer networking, advanced telecommunications and other similar services), water, drainage, gas, and sewer) for and in support of such Unit, and in the other Common Elements for use according to their respective purposes, subject always to the exclusive use of the Limited Common Elements as provided herein, and subject to any changes with respect to the Common Elements pursuant to the provisions of Section 514B-38 of the Condominium Property Act.

2. Encroachments. If any part of the Common Elements now or hereafter encroaches upon any Unit or Limited Common Element, or if any Unit or Limited Common Element encroaches upon the Common Elements or upon any other Unit or the Limited Common Elements of any other Unit, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event any Building or other improvements shall be partially or totally destroyed and then rebuilt, or in the event of any shifting, settlement or movement of any part of the Project, minor encroachments of any parts of the Common Elements upon any Unit or Limited Common Element, or by any Unit or Limited Common Element upon the Common Elements or upon any other Unit or Limited Common Element of any other Unit due to such construction, reconstruction, shifting, settlement or movement shall be permitted, and valid easements for such encroachment and the maintenance thereof, so long as it continues, shall exist; PROVIDED, HOWEVER, that in no event shall a valid easement for any encroachment be created or maintained in favor of the owner of any Unit if such an encroachment occurred due to the negligence, intentional act, or misconduct of said owner.

3. Inspection, Maintenance, and Repair. Each Unit and Limited Common Element shall be subject to easements through such Unit and Limited Common Elements in favor of the Association and/or the Declarant for support and repair of the Common Elements and other Units (including the correction of any defects therein or any repairs, renovations, modifications or other work as may be required or necessitated under the Declarant's homeowner service or warranty programs) and for entry as may be necessary for the operation of the Project, to ensure compliance with the provisions of this Declaration, the Bylaws, and the House Rules of the Association, or for the inspection, maintenance, installation, restoration, repair or replacement of any Common Elements; PROVIDED, HOWEVER, that such entry by the Association and/or the Declarant shall only be during reasonable hours and after notice is given to the Unit owner or any current lessee or tenant of the Unit, or at any time in emergency situations to prevent damage to any Units, Common Elements, or Limited Common Elements or injury to person.

4. Easements Affecting the Project.

(a) The Association shall have the right, to be exercised at any time by the Board, to grant within the Common Elements easements and rights-of-way over, across, and under the Common Elements for utilities (including, but not limited to, water (including non-potable water lines and fire hydrants), drainage (including drainage channels, swales and ditches), sewer (including sanitary and storm sewers), gas, telephone, electricity, cable (including without limitation, television cable), security systems, communication lines and systems (including broadband, computer networking and advanced telecommunications), and electromagnetic and optical transmission facilities and other similar services), other public services, and for any other reasonable purpose related to the ongoing operations of the Project, and to relocate, realign or cancel the same provided that such easements, their use, relocation, realignment, or cancellations shall not materially impair or interfere with the use of any Unit.

(b) Each Unit owner shall have an easement in common with the owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and/or Limited Common Elements and serving such owner's Unit or the Limited Common Elements appurtenant thereto. Each Unit shall be subject to an easement in favor of the owners of all other Units to use the pipes,

ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit.

(c) The Declarant shall have the right, to be exercised at any time prior to December 31, 2012, without notice to, or the approval, consent or joinder of, the Association, or any Unit owner, or any other person, to grant within the Common Elements easements for access over and across the Common Elements to the recreation area described in Section F.9 below.

5. Sales and Advertising Activities. Declarant, its agents, designees, mortgagees, successors and assigns shall have the right and an easement to conduct extensive sales activities on the Common Elements (except the Limited Common Elements appurtenant to any sold Units) and from Units owned and/or leased by Declarant (and Limited Common Elements appurtenant thereto), including without limitation, the use of parking areas and extensive sales displays and activities, until the latter of the date that all of the residential units proposed for development in Area IIE are sold and conveyed to the purchasers or December 31, 2012. The aforementioned right to conduct extensive sales activities on the Common Elements shall include the right to install directional or informational signs, monuments, flags and banners, and the right of Declarant to place such signs, monuments, flags and banners within the front yard area between the Units and the front sidewalk or, at Declarant's election, to reserve or grant perpetual easements therefore in favor of Declarant, Master Declarant, and their respective designees/grantees. In connection with said sales and advertising activities, Declarant reserves unto itself, its members, parent company, affiliates, designees, successors, and assigns the right to allow invitees, guests, prospective customers, and other third parties reasonable access over, across, under and through the Common Elements of the Project (except the Limited Common Elements appurtenant to any sold Units) to inspect, tour, or view the model homes located within Area IIE and any of the real property located in the vicinity, including, but not limited to, the real property comprising Area IIE.

6. Completion of Improvements. Declarant, its agents, employees, contractors, licensees, successors, and assigns shall have an easement over, across, and upon the Common Elements and any unsold Units and Limited Common Elements appurtenant thereto as may be reasonably necessary for the development, construction, and completion of the improvements of the Project, the correction of any defects therein or any repairs, renovations, modifications or other work as may be required or necessitated under any of the Declarant's homeowner service programs. Such easements shall terminate twenty-four (24) months from the date that the instrument of conveyance conveying the last unsold dwelling unit within Area IIE to a purchaser is recorded in the Office of the Assistant Registrar.

7. Additional Rights of Declarant to Grant Easements. Without limiting the generality of the rights reserved to Declarant or the Master Declarant under the Master Declaration, Declarant hereby reserves for itself, and its designees (including without limitation, its parent companies, affiliates, successors, and assigns), the right to designate, grant, cancel, or dedicate, without notice to, or the approval, consent or joinder of, the Association, or any Unit owner, or any other person or lienholder, perpetual or temporary easements and rights-of-way (which shall also include the right to relocate, realign, or cancel existing rights-of-way or easements), (i) which benefit (a) the Project, (b) future increments of Area IIE, (c) other lands, or (d) other third parties (including any utility or governmental entity), over, across, under and through the Common Elements, and/or (ii) which benefit the Association and/or the Unit owners over, across, and under lands adjacent to or in the vicinity of the Project. The easement rights reserved hereby shall be for any purpose as Declarant, in its sole discretion, may from time to

time determine, including, but not limited to, for roadway, bikeway, sidewalk, pedestrian access, landscaping, viewing areas, and fence purposes, for public services, for utility lines and other transmission facilities and appurtenances, for electricity, gas, telephone, electromagnetic and/or optical signal distribution, and any other utility or similar distribution system, including, but not limited to, microwave, radio and television antennas, cable, broadband, computer networking, advanced telecommunications (including electromagnetic and optical transmission facilities and similar services), water, sewer, drainage, flowage, fire hydrants, and other public services and utilities, together with the rights to enter property adjacent to such easements for the purpose of installing, repairing, maintaining, trimming, pruning, altering and removing such landscaping and improvements in connection therewith. The rights reserved to Declarant and its designees herein shall include the right to enter into one or more agreements on behalf of the Association and/or Unit owners obligating the Association and/or Unit owners to share in the costs of constructing, installing, repairing, maintaining, operating, altering, replacing, and removing any improvements located within any such easement areas. The parties to such agreement(s) shall be the Declarant/its designees (acting on behalf of the Association/Unit owners) and other third parties who benefit from the use of such improvements located within the easement areas.

Each Unit 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 such owner's true and lawful attorney-in-fact for the purpose of executing, acknowledging, recording, if necessary, and delivering any instrument necessary or appropriate to evidence the foregoing grant(s) or dedication(s). The power of attorney granted to Declarant shall not be affected by any subsequent mental, physical, or emotional disability of the Unit owner. The rights reserved to Declarant under this Section F.7 shall be applicable to any subsequent owner of a Unit and shall terminate on December 31, 2012; PROVIDED, HOWEVER, that Declarant's right to designate, grant, dedicate, realign, relocate or cancel easements without notice to, or the approval, consent or joinder of, the Association or any Unit owner shall continue thereafter with respect to those easements that are designated on any subdivision map filed of record in the Office of the Assistant Registrar or reflected on title to the Land prior to December 31, 2012.

8. Guest Parking Stalls. The Project is located within a larger residential development (i.e. Area IIE) which Declarant presently intends to develop in several increments as separate condominium projects, subject to Declarant's right to effect an administrative merger or mergers of two or more increments as described in Section S. In addition to the guests, visitors and invitees of the Unit owners, the guests, visitors and invitees of the other condominium projects created or to be created within Area IIE shall have the right to use the guest parking stalls in the Project, if any, as and to the extent designated by Declarant from time to time. In addition, the guests, visitors and invitees of the Project shall have the right to use the guest parking stalls, if any, located in the other condominium projects created or to be created within Area IIE as and to the extent provided in the Declarations of Condominium Property Regime for such condominium projects as determined by Declarant in the exercise of its sole discretion.

9. Recreation Area. The Project is located within a larger residential development (i.e. Area IIE) which Declarant presently intends to develop in several increments as separate condominium projects, subject to Declarant's right to effect an administrative merger or mergers of two or more increments as described in Section S. As part of the overall Area IIE development, the current development plan includes a proposal to construct during a later increment of a separate condominium project a recreation area comprised generally of a swimming pool, spa, restroom facilities, kitchenette, picnic areas, a manager's office, and

associated parking stalls. It is the intent of Declarant that the recreation area will be an amenity of the overall Area IIE development that Unit owners, guests, visitors, and invitees of the Project and other condominium projects created or to be created within Area IIE will also have the right to use. The expenses related to maintaining and/or repairing the recreation area will be properly allocated between the various condominium projects in accordance with the provisions of Section S of this Declaration.

10. Signs. Notwithstanding anything to the contrary contained in Section F.5 above, Declarant and Declarant's successors and assigns hereby reserve the right to place signs, monuments, flags, and banners within the Common Elements as long as it is (a) limited to the area between the Units and the sidewalk and shall not exceed four (4) feet wide, as measured from the front property boundary; and (b) shall be for a period not to exceed the "Last Conveyance Date," as that term is defined in the Master Declaration.

G. ALTERATION AND TRANSFER OF INTEREST. Except as otherwise expressly set forth and reserved in this Declaration, the Common Interest and the easements appurtenant to each Unit shall have a permanent character, shall not be altered without the vote or written consent of all of the owners of Units affected thereby, as expressed in an amendment to this Declaration duly filed and recorded, and shall not be separated from the Unit to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such Unit even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument. The Common Elements shall remain undivided and no right shall exist to partition or divide any part thereof except as provided by the Condominium Property Act.

H. PURPOSES AND RESTRICTION AS TO USE.

1. Use. The Units shall be occupied and used only for residential purposes by the respective owners thereof, their tenants, families, domestic servants and social guests, and for no other purposes. The garages shall be used for parking vehicles and shall not be used for residential purposes.

2. Right to Sell, Lease, or Rent. The owners of the respective Units shall have the absolute right to sell, lease, rent or otherwise transfer such Units except as otherwise prohibited or restricted under the Condominium Property Act or this Declaration or in any instrument of conveyance executed by Declarant and transferring title to a Unit to a Unit owner.

3. No Transient or Hotel Use. The Units, appurtenant Limited Common Elements, and any portions thereof shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than thirty (30) days, or (b) any rental in which the occupants of the Unit are provided customary hotel services such as room service for food and beverage, maid service, laundry and linen or bell service.

4. No Time Sharing. The Units, appurtenant Limited Common Elements, and any portions thereof shall not be sold, transferred, conveyed, leased, occupied, rented, or used for or in connection with any rental pool or any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation, any so-called "vacation license," "travel club membership" or "time-interval ownership" arrangement.

5. Protection of Project. No Unit owner shall do or suffer to permit to be done anything on any Unit or appurtenant Limited Common Elements or elsewhere on the Project which will (a) injure the reputation of the Project; (b) jeopardize the safety or soundness

of the Project; (c) create a nuisance or interfere with or unreasonably disturb the rights of other owners and occupants of the Project; (d) reduce the value of the Project; (e) impair any easement; (f) result in the cancellation of insurance applicable to the Project, or adversely affect the right of recovery thereunder, or result in reputable companies refusing to provide insurance as required or permitted by this Declaration or the Bylaws; or (g) increase the rate of insurance applicable to the Units, the contents thereof, or the Project.

6. Sales and Advertising Activities. In addition to the right and easement to conduct extensive sales activities (including the installation of directional or informational signs, monuments, flags and banners) on the Common Elements and from any Units owned and/or leased by Declarant (and Limited Common Elements appurtenant thereto) as provided in Section F.5 above (Easements - Sales and Advertising Activities), notice is also hereby given that extensive sales activities will also be conducted at Declarant's sales office and model homes complex located adjacent to or near the Project (including model units located within Area IIE). Such sales activities may include sales activities for additional phases or increments to be developed by Declarant, its affiliates or their successors and assigns (including other areas within the Ocean Pointe master-planned community). Sales activities conducted at Declarant's sales office and model homes complex (including model units located within Area IIE) are anticipated to continue even after all of the Units in the Project are sold and may also include sales activities of residential units developed and located or to be developed and located in areas outside of Area IIE. All such sales activities may generate additional traffic, noise (including noise associated with the flags or banners blowing in the wind), dust and other nuisances or annoyances to persons within the Project.

7. Parking. Unit owners and occupants shall park vehicles and trailers (including boat trailers) only in a Unit's garage. If a Unit also has a concrete apron deemed appropriate for parking as described herein, the Unit owners and occupants may also park vehicles (but excluding boat trailers) on said concrete apron, subject to such reasonable rules and regulations as may be set forth in the House Rules as the Board may adopt. Except as otherwise provided below in this section, all vehicles parked within the Project shall be parked wholly within the boundaries of the garage, concrete apron, or uncovered parking stall, as the case may be. There shall be no parking within the private roadways or within any other non-dedicated thoroughfares except as may be permitted by the House Rules. In addition, parallel parking on the concrete apron between the asphalt common roadway and the garage door is strictly prohibited. Parking is permitted on the concrete apron provided that (a) the vehicle is parked such that either the front or rear end of the vehicle is facing the garage door; and (b) every part of the vehicle is entirely on the concrete apron and at least one (1) foot from the edge of the asphalt common roadway. The Board shall have the authority to adopt rules regarding the parking, storage, and maintenance of boats within the Project, as well as rules prohibiting the parking of other vehicles in specified areas within the Project.

8. Animals and Pets. No animals shall be raised, bred, kept or maintained within any Unit other than two (2) generally recognized domestic house pets such as, but not limited to, dogs or cats kept for the Unit owner's personal pleasure and not for sale or other commercial purpose; provided that the Association may require the removal of any animal that is permitted to roam free, or, if the Association, in its sole discretion, determines that said animal endangers the health, makes objectionable noise, or constitutes a nuisance to the Unit owners of any portion of the Project. No farm animals or fowl such as, but not limited to, horses, pigs, chickens or roosters shall be maintained within or upon any Unit, excluding and excepting canaries, parakeets and other songbirds. Any permitted animal or pet shall be kept or maintained solely within a Unit or in a Rear Yard and may not be kept or maintained within a Front Yard. A Unit owner or occupant shall take

all reasonable steps to assure that such animals and pets do not escape or roam free outside the Rear Yard except while on a leash and under the Unit owner's or occupant's control. The foregoing limitation on the number of pets shall not apply to prohibit a reasonable number of hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. If a Unit owner fails to remove an animal as required by the Board, the Board may remove the pet. Dogs, which are household pets, shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person. Dogs shall be walked only in those areas designated by the Association. Unit owners shall be responsible for any cleanup or damage caused by such Unit owner's pets. Notwithstanding the foregoing, the provisions contained in this Section 8 shall not be enforced in any manner which is contrary to applicable provisions of the Federal Fair Housing Act (42 U.S.C. §3601 et. seq., as amended) and any similar laws of the State of Hawaii.

9. Offensive Activity. It shall be the responsibility of each Unit owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. No Unit, including any balcony or covered lanai, shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Unit that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be conducted upon any Unit that reduces property values, damages the reputation of the Project, or results in the increase in the premiums of any insurance carried by the Association or any other Unit owner, nor shall anything be done thereon tending to cause discomfort, annoyance, or nuisance to any person using any property adjacent to the Unit. There shall not be maintained any plants or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of any nature as may diminish or destroy the enjoyment of the Project.

10. Vehicle Repairs; Other Activities. Subject to the limitations set forth in Section 9 above, the pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly, disassembly, and repair of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions shall be confined to the interior portions of any garages which are part of a Unit.

11. Antenna Use and Installation. An antenna covered by the Federal Communications Commission's ("FCC") over-the-Air Reception Device ("OTARD") rule (47 C.F.R. Sec. 1400 et seq.) ("Covered Antenna") may be installed at a Unit only pursuant to the following rules:

(a) Except for Units located within a TH21 townhome building (as described in subparagraph (d) below, the Covered Antenna may only be installed in an area where the Unit owner or occupant has the exclusive use and control.

(b) The Covered Antenna fully complies with the FCC's requirements.

(b) Unless the Covered Antenna being installed is unable to receive acceptable-quality signals, the Covered Antenna should be located in a place shielded from view from other units or homes, from streets, or from outside the development to the maximum extent possible. If the Covered Antenna can receive acceptable-quality signals from more than one

location that is in the exclusive use and control of a Unit owner or occupant, then the Covered Antenna should be installed in the least visible preferred location.

(d) For Units within a TH21 townhome building, the Covered Antenna should not be installed in the front entrance and/or front yard area. Instead, the Association will designate areas within the Common Elements of the Project in which to install a Covered Antenna. Only in the event that the Covered Antenna is unable to receive acceptable-quality signals from these designated areas will a Covered Antenna be allowed to be installed on such front entrance and/or front yard area.

(e) Prior to commencing the installation of a Covered Antenna, the Unit owner or occupant shall submit a Notification Form to the Design Review Committee for confirmation that the proposed installation conforms to the above rules, the applicable Design Guidelines, and any other applicable laws, ordinances, rules, etc.

12. Clotheslines, Garbage Cans, Tanks, Etc. Permanent clotheslines, tanks for the storage of cooking and heating gas, or other tanks may not be installed within the Project, including any portion of a Unit. Portable clotheslines may only be installed in areas within a Unit that are not visible from the roadways, pathways, or other public areas of the Project. In no event may a portable clothesline be installed on a balcony or covered lanai within a TH21 townhome building. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall be properly deposited in the receptacles designated for such use.

13. Guns. The discharge of firearms within the Project is prohibited except by police officers and security personnel while acting in their official capacities. The term "firearms" includes "B B" guns, pellet guns, paintball, Airsoft™ type guns, and other firearms of all types, regardless of size.

14. Pools and Tubs. Except as otherwise may be constructed in the recreation area described herein, no above-ground or in-ground pools, spas, or interior jetted tubs shall be erected, constructed or installed on any portion of the Project.

15. Tents and Temporary Structures. Unit owners or occupants shall not place upon a Unit, Common Element, Limited Common Element or any part of the Project any tent or any structure of a permanent nature.

16. Tree Removal. No trees shall be removed unless approved as provided in the Design Guidelines, with the exception of (a) diseased or dead trees; (b) trees causing root damage to the Common Elements, streets, and neighboring Units; and (c) trees needing to be removed to promote the growth of other trees or for safety reasons. Any trees removed may be required to be replaced to the extent required in the Design Guidelines.

17. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Project, except for temporary lines as required during construction.

18. Additional Air Conditioning Units. Except for the central air conditioning system installed in each Unit, no additional air conditioner unit may be installed in any portion of the Unit.

19. Exterior Lighting. Except for any exterior lighting that is installed on any Building, Unit, or within the Common Elements, Unit owners or occupants may install exterior

lighting subject to the additional criteria as may be set forth in the Design Guidelines, provided that no light source is visible from neighboring Units and that no glare is created which would unreasonably disturb adjoining Unit owners or occupants.

20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any Unit except as provided in the Design Guidelines. Exterior sculpture, fountains, flags, and similar items may be subject to approval as provided in the Design Guidelines.

21. Wells. No well from which water, oil, or gas is produced shall be dug, nor shall storage tanks, reservoirs, or any installation of power, telephone, or other utility lines (wire, pipe, or conduit) in connection therewith be made or operated anywhere on the Project except in connection with water wells and works operated by public agencies or public utility companies.

22. Window Coverings, Tinting, Finishes, Door Treatments, and Screen Doors. All window and door treatments such as draperies, blinds, louvers, curtains, stained glass and other similar shading devices used on the interior and exterior of windows and doors will be subject to such additional aesthetic criteria as may be provided in the Design Guidelines. Acceptable window/door treatment materials are all materials specifically intended for use as window/door coverings. Examples of unacceptable window/door treatment materials include all reflective materials (foil), newspapers, posters, pictures, blankets, bed sheets, towels, plastic film, tarpaulins and paint. Unit owners shall maintain acceptable window/door treatments in good appearance and condition due to the high visibility from streets, Common Elements and neighboring Units. Any window/door treatment exhibiting rips, tears, heavy discoloration or otherwise unkempt in appearance is subject to removal and/or repair at the request of the Association or the Design Review Committee.

No reflective finishes shall be used on the exterior surfaces of any windows or doors (other than glass and the surfaces of hardware fixtures) of any Unit. Highly reflective window tinting that creates glare on adjacent properties or streets is not to be construed as a "glass" exception to the reflective finish restriction. Such window tinting treatments are specifically prohibited. No window tinting installations shall be allowed except as may be permitted in the Design Guidelines.

Screen doors or similar fixtures which are installed on the exterior of any entry door visible to the roadways, pathways, or public areas shall be subject to all criteria as may be provided in the Design Guidelines.

23. Dog Houses, Shade Houses, Storage and Tool Sheds. Shade houses, tool sheds, equipment, dog houses, and other outdoor structures and apparatus shall not be located, erected, constructed or installed within the Front Yard or Rear Yard. Dog houses and prefabricated non-metallic storage cabinets, where permitted, and children's play houses may only be located within a Rear Yard to the extent such structures are (a) not visible from the street or pedestrian pathways, (b) do not extend beyond picket or open fence locations, and (c) are not higher than the surrounding solid fence.

24. House Decorations. Temporary holiday or special event decorations are exempted and need not be submitted for Design Review Committee or Board approval provided that they are not installed sooner than thirty (30) days before the holiday or event and are removed not later than fifteen (15) days after the holiday or event.

25. Vehicle Washing. The washing of all vehicles within the Project shall comply with all governmental rules, regulations, and ordinances and such additional House Rules promulgated by the Board from time to time.

26. Liability for Damage. Each Unit owner shall be liable to the Association for all costs and expenses, including attorneys' fees, incurred by or on behalf of the Association to repair, replace or restore any damage to or destruction of the Common or Limited Common Elements or to the property of another, which damage or destruction was contributed to or caused by the Unit owner or anyone on the premises pursuant to the invitation or authority of such Unit owner.

27. Guest Parking Stalls. Unless otherwise specified, guest parking stalls shall be reserved exclusively for the use of guests of the Units only, and not by any Unit owner or occupant of the Units.

28. Owner's Responsibility for the Observance of Laws and Other Requirements. Each Unit owner shall observe and perform all applicable laws and shall indemnify Declarant, Master Declarant, the Board and the Association against all actions, suits, claims and damages by whomsoever brought or made by reason of the nonobservance or nonperformance of the foregoing by such Unit owner or any other person claiming under Unit owner.

29. Signs. All signs, monuments, flags, and banners (collectively, "signs") shall conform to the Design Guidelines and any sign of any kind erected within the Project shall be subject to the prior written consent of the Design Review Committee; provided that Unit owners will be entitled to place not more than one (1) "For Sale" sign within the common area immediately fronting their Unit at any one time without obtaining such consent. Notwithstanding the foregoing, the Board shall have the right to erect signs without obtaining the approval of the Design Review Committee. Until the earlier to occur of: (a) the date upon which all Units proposed for development within Area IIE have been sold and conveyed to owners or (b) December 31, 2020, the Declarant and Master Declarant shall each have a right to erect permanent or temporary signs within the Common Elements and to reserve or grant perpetual easements therefor in favor of Declarant, Master Declarant, and their respective designees/grantees, all without the approval of the Design Review Committee.

30. Inspection of Unit. Each Unit owner shall permit the Board and its designees at all reasonable times and after notice to the Unit owner thereof, to enter upon and examine the state of repair and condition of any portion of its Unit. If any nonconformance with this Declaration comes to the Board's attention as a result of such inspection, the Board may give notice of such nonconformance to such Unit owner. Within sixty (60) days, the Unit owner shall remedy the nonconformance. If the correction may be made within a reasonable period of time but cannot reasonably be made within sixty (60) days, the Unit owner will not be in default under this Section if the correction is begun within the sixty (60) day period and is thereafter continuously and diligently undertaken to completion by the Unit owner. If the Unit owner refuses or neglects to commence and complete the correction in time, the Board may make such repairs or cause the same to be made at the Unit owner's expense and subject to the Unit Owner's obligation of reimbursement to the Association. In such case, the Board and the Association shall not be responsible to the Unit owner or to any persons claiming by or through the Unit owner for any loss or damage that may be caused to its or their property or business, other than such loss or damage which arises out of the gross negligence or willful misconduct of the Association or any Board member.

I. ASSOCIATION OF UNIT OWNERS; DECLARANT'S CONTROL PERIOD.

Administration of the Project shall be vested in the Association, consisting of all Unit owners of the Project in accordance with the Bylaws as such may be amended from time to time. The owner of any Unit upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as such owner's ownership of such Unit ceases for any reason, at which time such owner's membership in the Association shall automatically cease. The owner of a Unit may delegate to a lessee the exercise of voting rights, provided such delegation shall be provided for under the lease of any Unit and is duly filed with the Board.

Without limiting the duration or scope of any other rights reserved to Declarant, Declarant's designees (including without limitation, its parent companies, affiliates, successors and assigns which for purposes of this Section I are collectively referred to as "Declarant"), or the Master Declarant as set forth in this Declaration, the Bylaws, or the Master Declaration, the Declarant shall have the right to elect to control the Association during the period commencing on the date of this Declaration until the date of termination as hereinafter set forth (the "Declarant's Control Period"), during which period Declarant shall have sole power and authority to appoint and remove the officers and members of the Board. The date of termination of the Declarant's Control Period shall be no later than the earlier of: (1) sixty (60) days after conveyance of seventy-five percent (75%) of the Common Interests appurtenant to Units that may be created in the Project to Unit owners other than the Declarant or an affiliate of the Declarant; (2) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business; (3) two (2) years from the date that after any right to administratively merge the Project with any Increment as provided in Section S. has expired; or (4) the date the Declarant, after giving written notice to Unit owners at least sixty (60) days prior to such date, records an instrument voluntarily surrendering all rights to control activities of the Association. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Declarant's Control Period, but in that event the Declarant shall have the right to require, for the duration of the Declarant's Control Period, that specific actions of the Board or the Association, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before such actions become effective.

J. ADMINISTRATION OF THE PROJECT. Administration, fiscal management and the operation of the Project, and the maintenance, repair, replacement and restoration of the Common Elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Condominium Property Act, this Declaration and the Bylaws. The Association shall, without limitation, have the following powers, duties, obligations, and responsibilities:

1. Improvements Required by Law. The Association shall make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks, water and/or irrigation lines, street lights, guest parking areas and other improvements which may be required by law to be made, built, rebuilt, maintained and repaired upon or adjoining or in connection with or for the use of the Project or any part thereof.

2. Condition of the Project. The Association shall keep all Common Elements of the Project in a strictly clean and sanitary condition and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority during the period that they are applicable to the Project or the use thereof; PROVIDED, HOWEVER, that the owner of each Unit shall be responsible to keep such Unit and all appurtenant Limited Common Elements in such clean and sanitary condition and in compliance with such laws, ordinances, rules and regulations.

3. Maintenance of the Project.

(a) Common Elements. Without limiting the generality of the rights reserved to Master Declarant under the Master Declaration to undertake certain maintenance obligations of the Common Elements, the Association shall well and substantially maintain, repair, replace, amend and keep all Common Elements of the Project, including without limitation, the Buildings, with all necessary reparations, replacements and amendments whatsoever in good order and condition (including without limitation, the drainlines located within or below the Rear Yards, if any, the electrical fixtures located within the entry area of the Unit and, where applicable, side area lighting that may be located on the side of an end unit); PROVIDED, HOWEVER, that the duties and obligations of the Association to maintain certain Common Elements (including without limitation, the roadways that provide access to the garages, the roadway lighting located above the garage door, and, where applicable, side area lighting that may be located on the side of an end unit, and the non-dedicated storm drain improvements within or under the roadways) may be assumed and performed by other homeowners or community associations to the extent provided in the Master Declaration.

(b) Units and Limited Common Elements. The owner of each Unit shall be responsible to well and substantially maintain, repair, replace, amend and keep such Unit and appurtenant Limited Common Elements with all necessary reparations, replacements and amendments whatsoever in good order and condition. In the event a Limited Common Element is appurtenant to more than one Unit, the owners of Units to which the Limited Common Element is appurtenant shall be jointly responsible for such Limited Common Element.

(i) Front or Rear Yard. Without limiting the foregoing, the Declarant shall be responsible for installing the initial landscaping and irrigation system for the Front Yard and Rear Yard for each Unit located in a TH21 building. The owner of each Unit shall also be responsible to maintain the Front or Rear Yard, as the case may be, clean and free of debris to ensure that the storm drain improvements serving the Project, which may include drain inlets within the yards and drainlines below the surface of the yards, if any, function properly and are not blocked or clogged by materials discharged, disposed or allowed to flow into any storm drain system from such owner's yard.

(ii) Mailboxes. The owner of any Unit shall maintain and keep clean the individual mailbox assigned to the Unit that is an appurtenant Limited Common Element.

(iii) Planter Boxes. Each owner of a Unit to which a planter box or boxes is or are an appurtenant Limited Common Element shall maintain such planter box(es) in good order and condition, and shall promptly remove any unsightly, dead or diseased plants, landscaping or other vegetation contained therein.

(iv) Air Conditioner Compressor Units. Each owner of a Unit shall maintain the air conditioner compressor unit and associated refrigerant lines serving his or her Unit.

(v) Association's Right to Maintain Limited Common Elements. In the event the Association, in its sole discretion, determines: (a) that any Limited Common Element is not adequately or properly maintained by the Unit owner(s) in compliance with the owner's obligations under this Section J.3(b); or (b) that the maintenance of any Limited

Common Element should be maintained by the Association instead of the Unit owner(s), the Association shall, after providing notice to the owner(s) of the Unit(s) to which the Limited Common Element is appurtenant, maintain, repair, replace or amend such Limited Common Element and charge the costs and expenses to the owner(s) of the Unit(s) to which the Limited Common Element is appurtenant. Notwithstanding the foregoing, if the Board reasonably determines that the extra cost incurred to separately account for and charge for the costs and expenses to maintain, repair, replace, or amend such Limited Common Elements is not justified, the Board may adopt a resolution determining that certain Limited Common Elements expenses will be assessed in accordance with the Common Interest appurtenant to each Unit.

4. Bond for Improvements. Before commencing or permitting construction of any improvement on the Project costing in excess of TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), or any lesser amount at the Board's discretion (and subject to complying with the requirements of Section R herein), the Board shall require that the party making the improvements obtain or cause to be obtained a performance and/or payment bond or certificate thereof naming as obligees, collectively, the Association, the Board, all Unit owners and their respective mortgagees as their interests may appear, in a penal sum not less than one hundred percent (100%) of the cost of such construction guaranteeing performance of such construction free and clear of all mechanics' and materialmans' liens and all claims in lieu of mechanics' and materialmans' liens arising under Section 514B-43 of the Condominium Property Act. The Board may, in its sole discretion, increase the \$25,000.00 limitation from time to time by an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), All Items, U.S. City Average (1982-1984 = 100), published by the United States Department of Labor, Bureau of Labor Statistics or other successor federal or state agency or department, and adjusted to any new basis and method of computation then applicable (the "CPI"). For purposes of this paragraph, the term "percentage increase" shall mean the product of (a) the fraction, the numerator of which is the difference between the CPI for the first day of the calendar month preceding the calendar month in which the Board shall approve an increase in said dollar limitation and the CPI for the first day of the calendar month in which this Declaration is recorded in the Office of the Assistant Registrar, and the denominator of which is the CPI for the first day of the calendar month in which this Declaration is recorded in the Office of the Assistant Registrar and (b) \$25,000.00.

5. No Waste. The Association shall not make or suffer any strip or waste or unlawful, improper or offensive use of the Project.

6. Observation of Setback Lines. The Association shall observe any setback lines affecting the Project and shall not erect, place, permit or maintain any building or structure whatsoever, except approved fences or walls between any street boundary of the Project and the setback lines along such boundary.

7. Construction, Alterations, and Additions. The Association shall not erect or place on the Project any building or structure including fences and walls, nor make additions, structural alterations, or exterior changes to any Common Elements of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with Section R (Alteration of Project).

8. Entry into Units and Limited Common Elements. Each Unit owner shall afford to the Association and to employees, independent contractors, or agents of the Association, during reasonable hours and after notice is given, to access through the owner's Unit as may be reasonably necessary for the operation of the Project, to ensure compliance with

the provisions of this Declaration, the Bylaws, and the House Rules, or for the inspection, maintenance, installation, restoration, repair or replacement of any Common Elements, provided however, that the Association shall have access at any time for making emergency repairs, improvements or to correct defects therein required to prevent damage to any Units, Common Elements, or Limited Common Elements or injury to person. Any damage inflicted on the Common Elements or on any Unit through which access is taken, shall be subject to the provisions of Section 514B-137 of the Condominium Property Act.

9. Common Elements.

(a) Change of Use. Upon approval of the Unit owners holding at least sixty-seven percent (67%) of the total Common Interests of the Project, the Board may change the use of the Common Elements to a use different than that for which it was originally intended. Notwithstanding the foregoing, and provided that such changes, alterations, and additions constitute "nonmaterial additions and alterations under Section 514B-140(c) of the Condominium Act, (i) changing Common Element open spaces or landscaped spaces to other uses shall not require an amendment to the Declaration and (ii) minor additions to or alterations of the Common Elements for the benefit of individual Units are permitted if the additions or alterations can be accomplished without substantial impact on the interests of other owners of the Common Elements, as reasonably determined by the Board.

(b) Utility and Service Easements. Subject to other provisions to the contrary herein, the Association shall have the authority, right and power, acting through the Board, to grant, convey, transfer, cancel, relocate or otherwise deal with (to the extent of the interests of the Unit owners in and to the Project) electricity, gas, drainage, sewer, potable water, non-potable water, fire hydrants, telephone and other communications activities (including, but not limited to, broadband, computer networking, and advanced telecommunications (such as electromagnetic and optical transmission and other similar services)), refuse collection, radio and television signal distribution and other utility and service easements on, in, through, or affecting the Common Elements or Limited Common Elements of the Project; provided, such rights must be exercised in such manner as not to unreasonably interfere with the use of the Project by the Unit owners and provided that any damage to any of the Buildings or other improvements is repaired, and in connection with the installation, maintenance or repair of any facilities pursuant to such easements, the Land, the Buildings, and any other improvements shall be promptly restored by and at the expense of the person(s) or entity exercising the easement rights to approximately the same condition as prior to the exercise thereof. Each Unit owner, by acquiring a Unit or an interest in a Unit in the Project, agrees if, as, and when requested, to join in and execute any and all documents so designating or granting any such easements. Any holder of easement rights under any such document shall be entitled to rely upon any representation made in such document that the Association has properly authorized the execution thereof by the officers of the Association who purport to execute the same.

(c) Lease or Use of Common Elements for the Benefit of the Association.

(i) Except as expressly set forth in Subsection J.9(c)(ii) below and as may otherwise be provided under the Condominium Property Act, the Association shall have the authority, right and power, acting through the Board, to lease or otherwise use for the benefit of the Association, those Common Elements which are not actually used by any of the Unit owners for an originally intended special purpose, as determined by the Board; provided,

that unless the approval of the Unit owners holding at least sixty-seven percent (67%) of the total Common Interests of the Project is obtained, any such lease or use shall not exceed a term of five (5) years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days written notice; provided that the requirements of this paragraph shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by section 514B-140(d) of the Condominium Property Act.

(ii) The Association shall have the authority, right and power, acting through the Board, to lease or otherwise use for the benefit of the Association, those Common Elements that the Board determines are actually used by one or more Unit owners for a purpose permitted in the Declaration. The lease or use shall be approved by (A) the Unit owners holding at least sixty-seven percent (67%) of the total Common Interests of the Project, including all directly affected Unit owners (that the Board reasonably determines actually use the Common Elements to be leased) and all owners of Units to which such Common Elements are appurtenant in the case of Limited Common Elements, and (B) the approval of all mortgagees of record on Units with respect to which Unit owner approval is required by (A) above, provided that the requirements of this paragraph shall not apply to any leases, licenses or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Condominium Property Act.

10. Right to Borrow Money. Subject to any approval requirements and spending limits contained in this Declaration and Bylaws, the Association has the right, to be exercised by the Board, to borrow money to be used by the Association for the repair, replacement, maintenance, operation, or administration of the Common Elements of the Project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including without limitation, all principal, interest, commitment fees and other fees and expenses payable with respect to such borrowing shall be a common expense of the Project; provided that all Unit owners shall have been first notified of the purpose and the use of the funds, and that Unit owners holding at least fifty percent (50%) of the total Common Interests of the Project and fifty percent (50%) of the Units give written consent to such borrowing.

11. Utility Services and Refuse Collection. The Association shall have the authority, right and power, acting through the Board, to enter into arrangements with public or private utility companies to provide utility services for the Project including the installation and use of utility meters as provided in Section 514B-42 of the Condominium Property Act. The Board shall also have the authority, right and power to enter into arrangements with private refuse collection companies to provide refuse collection services for the Project.

12. Assessments.

(a) Regular Assessments for Common Expenses. The Association, acting through the Board, shall from time to time assess all Unit owners, in proportion to the Common Interests appurtenant to their respective Unit, for payment of common expenses.

(b) Special Assessments. The Association shall have the authority, right and power, acting through the Board, to levy special assessments at any time for the following reasons:

(i) Against a Unit owner for charges, costs and expenses incurred by the Association as a result of the Unit owner's act or failure or refusal to comply with the Declaration, Bylaws or House Rules promulgated thereunder;

(ii) Against a Unit owner for charges, costs and expenses incurred by the Association which are necessitated by the negligence, misuse or neglect of the Unit owner or any occupant or person under either of them.

(iii) Against all Unit owners where, due to unanticipated circumstances, the Board underestimates the reserve requirements for an asset of the Association.

(iv) For any other reason as determined by the Board pursuant to and in advancement of its rights and duties.

Each Owner shall pay any special assessment as and when specified by the Board.

13. Aging in Place; Limitation on Liability.

(a) The Association, acting through the Board, shall have no legal responsibility or legal liability regarding any actions, recommendations, or referrals the Board may make with respect to any observation or complaint made related to an elderly Unit Owner who may require services and assistance to maintain independent living in the Unit in which the elderly Unit owner resides so that the elderly Unit owner will not pose any harm to self or to others, and will not be disruptive to the condominium community because of the problems of aging and aging in place as described in Section 514B-142(a)(1)-(7) of the Condominium Property Act.

(b) Upon a report, observation, or complaint relating to an elderly Unit owner aging or aging in place which notes a problem similar in nature to the problems enumerated in Section 514B-142(a)(1)-(7) of the Condominium Property Act, the Board, in good faith, and without legal responsibility or liability, may request a functional assessment regarding the condition of an elderly Unit owner as well as recommendations for the services which the elderly Unit owner may require to maintain a level of independence that enables the owner to avoid any harm to self or to others, and to avoid disruption to the condominium community.

(c) There is no affirmative duty on the part of the Association, the Board, the Unit owners, or their agents or tenants to request or require an assessment and recommendations with respect to an elderly Unit owner when the elderly Unit owner may be experiencing the problems related to aging and aging in place enumerated in Section 514B-142(a)(1)-(7) of the Condominium Property Act. The Association, the Board, Unit owners, and their agents and tenants shall not be legally responsible or liable for not requesting or declining to request a functional assessment of, and recommendations for, an elderly Unit owner regarding problems relating to aging and aging in place.

(d) If an elderly Unit owner ignores or rejects a request for or the results from an assessment and recommendations, the Association, with no liability for cross-claims or counterclaims, may file appropriate information, pleadings, notices, or the like, with appropriate agencies or courts to seek an appropriate resolution for the condominium community and for the elderly Unit owner.

(e) Costs and fees for assessments, recommendations, and actions contemplated in this section shall be borne by the Association.

K. MANAGING AGENT AND SERVICE OF PROCESS.

1. Managing Agent. Operation of the Project shall at all times be conducted for the Association by a responsible Managing Agent which is registered as a Managing Agent pursuant to Section 514B-132 of the Condominium Property Act and which complies with all other applicable requirements of the Condominium Property Act (the "Managing Agent"). The Managing Agent shall be appointed by the Association in accordance with the Bylaws, except that the initial Managing Agent shall be appointed by Declarant; PROVIDED, HOWEVER, that the contact for the initial Managing Agent shall be subject to the termination provisions of the Condominium Property Act.

2. Service of Process. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Condominium Property Act. In addition, process may be served upon any member of the Board of Directors of the Association who has a residence or place of business within the City and County of Honolulu, State of Hawaii. The President of HASEKO Homes, Inc., the manager of Declarant, whose principal place of business is at 91-1001 Kaimalie Street, Suite 205, Ewa Beach, Hawaii 96706-5005, is hereby designated as the agent to receive service of process until such time as the Board of Directors of the Association is elected or the Managing Agent is duly appointed.

L. COMMON EXPENSES.

1. Costs Included in Common Expenses. All charges, costs and expenses whatsoever incurred by the Association for or in connection with the operation and administration of the Project and all sums designated as common expenses under the Condominium Property Act, this Declaration, or the Bylaws, including without limitation, the operation of the Association, any installation, maintenance, repair, replacement and restoration of the Common Elements and any additions and alterations thereto, any labor, services, materials, supplies and equipment therefor, any liability whatsoever for loss or damage arising out of or in connection with the Common Elements or any accident, fire or nuisance thereon, and any premiums for property, liability and any other insurance or bonds herein required with respect to the Project shall constitute common expenses of the Project for which all Unit owners shall be severally liable in proportion to their respective Common Interests. Notwithstanding the obligation of the Association to maintain, pursuant to Section J.3(a) of this Declaration, the roadway lighting located above the garage, and, where applicable, side area lighting that may be located on the side of an end unit, the electricity for such lighting shall be provided by the owner of such Unit at the owner's sole cost and expense.

2. Replacement Reserve Fund. The Board shall establish and maintain a replacement reserve fund to provide for (a) the upkeep, repair or replacement of those parts of the Project, including, but not limited to, roofs, walls (including retaining and perimeter walls), fences, decks, paving, equipment, landscaping, irrigation systems, and other parts of the Common Elements which the Association is obligated to maintain; and (b) utilities, insurance, reserves for contingencies, and other expenses of administration of the Project, all of which shall be deemed conclusively to be common expenses of the Project. The replacement reserve fund shall be established and maintained out of regular assessments for common expenses, in accordance with the requirements of the Condominium Property Act and Title 16, Chapter 107,

Subchapter 6 of the Hawaii Administrative Rules ("Hawaii Administrative Rules"), as amended. Within the replacement reserve account, however, the Board shall establish a separate designated fund or funds for each asset for which estimated capital expenditures or major maintenance will exceed TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) or such other amount as may be required under the Condominium Property Act or the Hawaii Administrative Rules.

3. Working Capital Fund. The Board shall establish a working capital fund for the initial months of the Project operations in an amount equal to at least two (2) months' estimated common expenses for each Unit. Any and all amounts paid into a working capital fund shall be considered a "start-up" fee and shall not be considered advance payments of common expenses. Declarant shall not use any portion of the working capital fund to defray its expenses, reserve contributions, or construction costs or make up any of its budget deficits. Each Unit's share of assessments for establishing the initial working capital fund shall be collected at the closing of the initial sale of such Unit, or when control of the Project is transferred to the Association, whichever is earlier. If Declarant has paid any Unit's share of assessments for establishing the initial working capital fund, Declarant may use funds collected at closing to reimburse itself for such payments.

4. Real Property Taxes and Special Assessments. Real property taxes and special assessments referred to in Section 514B-4 of the Condominium Property Act, and charges, including those for utilities, which are separately metered, shall not be common expenses of the Project and no payments thereof shall be payments of such common expenses.

5. Lien for Assessments. All unpaid amounts of any assessments (including regular and special assessments) against any Unit, together with interest, late charges, costs and reasonable attorneys' fees, shall constitute a lien against such Unit prior to all other liens, except (a) liens for taxes and assessments lawfully imposed by governmental authority against such Unit, and (b) liens for sums unpaid on any mortgage of record, which was recorded prior to the recordation of a notice of a lien by the Association, and costs and expenses, including attorneys' fees, provided in such mortgage. Such lien may be foreclosed by the Board or the Managing Agent as provided by the Condominium Property Act, provided that thirty (30) days prior written notice of intention to foreclose shall be mailed, postage prepaid, to all persons having any interest in such Unit as shown in the Association's record of ownership. Without limiting the provisions of the Condominium Property Act, where the holder of a first mortgage of record of a Unit comes into possession of the Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or conveyance in lieu of foreclosure of the mortgage, such mortgagee shall take such possession of the Unit free of any claims for unpaid assessments or charges chargeable to the Unit, which accrue prior to the time such mortgagee comes into possession of the Unit (except as provided in Article IX, Section 5 of the Bylaws and except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units, including such Unit).

6. Limited Common Elements. Notwithstanding any provision herein to the contrary, all costs and expenses incurred by the Association, including, but not limited to, maintenance, installation, restoration, repair, replacement, additions and improvements to any of the Limited Common Elements of the Project shall be charged to and divided among the owners of Units to which such Limited Common Element is appurtenant in proportion to the ratio that the Common Interest appurtenant to their respective Units bears to the sum of the Common Interests of all of the Units to which such Limited Common Element is appurtenant.

7. Commencement of Assessments. Each Unit owner shall become obligated for the payment of the shares of common expenses allocated to such owner's Unit at the time the certificate of occupancy relating to such Unit is issued; provided that Declarant may assume all of the actual common expenses in the Project as permitted by Section 514B-41 of the Condominium Property Act, in which case the Unit owners shall become obligated for the payment of their share of common expenses pursuant to the provisions of said Section 514B-41 of the Condominium Property Act.

8. Waiver of Use of Common Elements. No Unit owner may exempt himself or herself from liability for such owner's contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit.

9. Excess Assessments. In the event that assessments received during any year are in excess of the actual expenditures for such year by the Association for common expenses of the Project, the Board may determine, subject to approval by the Unit owners at the next annual meeting, that such excess shall be:

(a) Applied in whole or in part to reduce the assessments for the subsequent year unless a majority of the Unit owners vote to return such excess to the Unit owners, in which event the same shall be returned to them in proportion to their respective Common Interests; or

(b) Designated in whole or in part as a capital contribution to the Association to be used for future capital improvements and replacements; or

(c) Segregated and held in whole or in part in the replacement reserve fund established hereunder.

The interest of each Unit owner in said capital contributions or reserve funds cannot be withdrawn or separately assigned but shall be deemed to be transferred with such Unit even though not expressly mentioned or described in the conveyance thereof. In case the Condominium Property Regime hereby created shall be terminated or waived, said capital contributions, custodial fund or reserve funds remaining after full payment of all common expenses of the Association shall be distributed to all Unit owners in proportion to the Common Interests appurtenant to their respective Units except for the owners of any Units then reconstituted as a new Condominium Property Regime, whose share in such distribution shall be turned over to the association of the new Condominium Property Regime.

M. COMPLIANCE WITH CONDOMINIUM DOCUMENTS AND OTHER DOCUMENTS.

1. Condominium Documents. All Unit owners, their employees, lessees, tenants, families, servants and guests, and any other persons who may in any manner use the Project or any part thereof, shall be bound by and comply strictly with the provisions of the Condominium Property Act, this Declaration, the Bylaws and the House Rules, and all rules, regulations, agreements, decisions and determinations of the Association as lawfully made or amended from time to time (hereinafter sometimes referred to as the "Condominium Documents"), and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or

Managing Agent (if any) on behalf of the Association, or, in a proper case, by any aggrieved Unit owner.

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

In the event that the Association shall fail or refuse to observe and perform its responsibilities and duties as provided in the Condominium Documents, any aggrieved Unit owner shall have the right to maintain an action to recover sums due for damages or injunctive relief, or both; provided that nothing herein contained shall be construed to exclude any remedies available to an aggrieved Unit owner or to limit an aggrieved Unit owner's right to maintain an action for any cause of action which a Unit owner may have against the Association, other Unit owners or third parties to enforce the provisions of any of the Condominium Documents.

2. Master Declaration. The Project is also subject to the provisions of the Master Declaration. Therefore, in addition to the Condominium Documents stated in Section M.1, all Unit owners, their employees, their tenants, families, servants and guests, and any other persons who may in any manner use the Project or any part thereof, shall also be bound by and comply strictly with the provisions of the Master Declaration. Except as may otherwise be provided by law, in the event of a conflict between the provisions of the Condominium Documents and the Master Declaration, the provisions of the Master Declaration shall control.

N. INSURANCE.

1. Property Insurance. The Association shall purchase and at all times maintain blanket property insurance which covers (a) the Common Elements (including the Limited Common Elements) and, whether or not part of the Common Elements, all exterior and interior walls, floors and ceilings, in accordance with the as-built condominium floor plans and specifications, and (b) all fixtures, building service equipment and supplies, and personal property owned or leased by the Association, against loss or damage by fire and all other causes of loss covered by an ISO Commercial Special Form policy in an amount sufficient to provide for the full repair or full replacement cost thereof without deduction for depreciation, with an inflation guard endorsement, in the name of the Association for the use and benefit of all Unit owners and their mortgagees according to the loss or damage to their respective Units and appurtenant Common Interests and payable in case of loss to the Association or to such bank or trust company authorized to do business in the State of Hawaii as the Board may designate as trustee for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time cause to be deposited promptly with the Secretary of the Association true copies of such insurance policies or current certificates thereof, without prejudice to the right of each Unit owner to insure his Unit for his own benefit. Flood insurance shall also be maintained if the Project is located in a special flood hazard area as delineated on flood maps issued by the Federal Emergency Management Agency. The flood insurance policy shall comply with the requirements of the National Flood Insurance Program and the Federal Insurance Administration. The members of the Association may by majority vote of the Common Interests at any meeting of the Association require that exterior glass of the Project also be insured under such policy. Subject to the provisions of Section O (Insured Casualty), in every case of such loss or damage, the insurance proceeds shall be used as soon as reasonably possible by the

Association for rebuilding, restoring, repairing, or otherwise reinstating the Buildings in a good and substantial manner according to the original plans and elevations thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy shall (unless unobtainable at a reasonable cost):

(a) Provide that the liability of the insurer thereunder shall be primary and shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, cross-claim, indemnification, apportionment, proration or contribution by reason of any other insurance obtained by or for any Unit owner.

(b) Contain no provision relieving the insurer from liability for loss occurring while the hazard to the buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty, covenant, promise, or condition or any other act or neglect by the Board or any Unit owner or any other persons under either of them.

(c) Provide that such policy and coverage thereunder may not be reduced, canceled or materially or substantially modified (whether or not requested by the Board) except by the insurer giving at least ninety (90) days prior written notice thereof to the Board, every first mortgagee of a Unit, and every other person in interest who shall have requested such notice of the insurer.

(d) Contain a "severability of interest" endorsement precluding the insurer from denying the claim of a Unit owner because of negligent acts of the Association or any other Unit owner.

(e) Contain a waiver by the insurer of any right of subrogation to any right of the Board or of the Unit owners against any of them or any other persons under either of them.

(f) Contain a waiver by the insurer of any right of the insurer to repair, replace, rebuild or restore the improvements of the Project, if the Unit owners decide pursuant to Section O (Insured Casualty) of this Declaration not to repair, replace, rebuild, or restore the damaged or destroyed improvements.

(g) Provide that the insurer, at the inception of the policy and on each anniversary date thereof, shall provide the Board with a written summary, in layman's terms, of the policy. This summary shall include, without limitation, a description of the type of policy, the coverage and limits thereof, the amount of the annual premium and the renewal dates. Upon receipt of such summary from the insurer, the Board shall provide a copy of the summary to each Unit owner.

(h) Contain a standard mortgagee clause which shall:

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

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

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

(iv) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Association or such bank or trust company as the Board has designated as trustee for the Unit owners and their mortgagees as their respective interests may appear.

2. Liability Insurance. The Association shall purchase and at all times maintain commercial general liability insurance covering all Unit owners, the Association, its Board, officers and employees, with respect to the Project. The policy or policies shall provide for bodily injury and property damage liability, personal injury, blanket contractual liability, independent contractor's liability and fire legal liability. The policy or policies of insurance shall provide coverage on an "occurrence" basis (not on a "claims made" form) and shall provide liability of no less than the following: (i) Bodily Injury and Property Damage, Combined Single Limit - \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate; (ii) Personal Injury - \$1,000,000.00 per person/organization subject to \$2,000,000.00 general aggregate; and (iii) Fire Legal Liability - \$50,000.00 any one fire subject to \$2,000,000.00 general aggregate. The policy or policies shall be without prejudice to the right of any Unit owner to maintain additional liability insurance for his Unit. Any such policy of insurance shall (unless unobtainable at reasonable cost):

(a) Provide that the same shall not be invalidated by any act or neglect of the Board or of the Unit owners or any persons under any of them.

(b) Contain a waiver by the insurer of any right of subrogation to any right of the Board or of the Unit owners against any of them or any other persons under them.

(c) Contain a "severability of interest" endorsement precluding the insurer from denying the claim of a Unit owner because of negligent acts of the Association or any other Unit owner.

(d) Provide that the policy and coverage thereunder may not be canceled, modified or reduced (whether or not requested by the Board) except by the insurer giving at least ninety (90) days prior written notice thereof to the Board, all Unit owners, every first mortgagee of a Unit, and every other person having an interest who shall have requested such notice of the insurer.

(e) Provide that the insurer, at the inception of the policy and on each anniversary date thereof, shall provide the Board with a written summary, in layman's terms, of the policy. This summary shall include, without limitation, a description of the type of policy, the coverage and limits thereof, the amount of the annual premium, and the renewal dates. Upon receipt of such summary from the insurer, the Board shall provide a copy of the summary to each Unit owner.

3. Fidelity Bonds. The Association shall purchase and at all times maintain a fidelity bond covering the Managing Agent, the Board, all officers and employees of the Association, and all other persons handling or responsible for funds belonging to or administered by the Association in accordance with the requirements set forth in the Bylaws.

4. Directors' and Officers' Insurance. The Association shall purchase and at all times maintain a policy of directors' and officers' liability insurance covering the directors and officers of the Association.

5. Insurance Carrier. The Association shall purchase all insurance policies and coverage required under this Section N from an insurance company or companies authorized to do business in the State of Hawaii with a current A.M. Best's Rating of A-; VII or better.

6. Common Expenses. All premiums for insurance or bonds herein required to be obtained by the Association shall be a common expense to be paid by monthly assessments thereof, and such payments shall be held in a separate escrow account of the Association and used solely for the payment of such premiums as the same become due.

7. Deductibles. The insurance policies required under this Section N may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Section N. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Unit owner, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Unit owner(s) pursuant to Section J.12(b) (Administration of the Project - Special Assessments).

8. Periodic Review by Board. The Board shall review not less frequently than annually the adequacy of its entire insurance program, and shall adjust its insurance program accordingly. The Board shall then report in writing its conclusions and action taken on such review to the owner of each Unit and to the holder of any mortgage on any Unit who shall have submitted a written request for a copy of such report or copies of all such reports. At such time as any policy provided for hereunder is obtained, the Board shall also obtain, if the same shall be practicable, a certificate of an insurance broker or agent responsible for the issuance thereof, that the policy substantially complies with and satisfies all the requirements set forth in this Declaration, the Bylaws and any deed or other instrument pursuant to which ownership of a Unit is conveyed.

9. Individual Insurance. Notwithstanding any insurance coverage maintained by the Association, each owner of a Unit may purchase and maintain a homeowner's policy covering his/her/its Unit and the appurtenant Limited Common Elements, personal property, and personal liability. The Board, with the vote or written consent of a majority of Unit owners, may require Unit owners to obtain reasonable types and levels of insurance in accordance with the Condominium Property Act. If the Unit owner does not purchase or produce evidence of insurance requested by the Board, the directors may, in good faith, purchase the insurance coverage and charge the reasonable premium cost back to the Unit owner.

10. Reasonable Efforts to Obtain Insurance. All insurance and other requirements hereunder shall be obtained to the extent reasonably practical in terms of cost and other relevant factors as determined by the Association.

O. INSURED CASUALTY.

1. Determination Whether to Rebuild. Notwithstanding the provisions of Subsection N.1 (Insurance - Property Insurance), if any part of the improvements of the Project shall be damaged or destroyed by an insured casualty, then the same shall be reconstructed, restored, or repaired unless at a meeting of the Association, which shall be called within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such adjustment, Unit owners holding at least eighty percent (80%) of the total Common Interests of the Project affirmatively vote against such reconstruction, restoration, or repair. In the event the Project shall not be reconstructed, restored, or repaired pursuant to such vote, the provisions of Section 514B-47 of the Condominium Property Act, shall apply.

2. Repair and Reconstruction. If any of the improvements of the Project shall be damaged by fire or other casualty which such improvements are insured against:

(a) The Board, subject to Section O.1 above (Determination Whether to Rebuild), shall thereupon contract with a licensed contractor to repair or rebuild the damaged or destroyed portions of the improvements, including any Unit so damaged, as well as the Common Elements, in accordance with the plans and specifications therefor, which will restore the same to the design immediately prior to such damage or destruction, or if repair or reconstruction in accordance with said design is not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board and the mortgagee of record of any interest in any Unit directly affected thereby; provided that, in the event said modified plan eliminates any Unit and such Unit is not reconstructed, the trustee shall pay to the owner of said Unit (or to the mortgagee of said Unit, if any) that portion of insurance proceeds allocable to said Unit (less the proportionate share of said Unit in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds. The insurance proceeds shall be paid by the trustee to the contractor employed for such work, in accordance with the terms of the contract for such construction and in accordance with the provisions of Section O.2(b) immediately following. If the insurance proceeds are insufficient to pay all the costs of repairing or rebuilding such Common Elements, the Board is expressly authorized to pay such costs in excess of the insurance proceeds from the reserve funds, and if the reserve funds are insufficient for such purpose, the Board shall levy a special assessment on the owners of Units in proportion to their respective Common Interests. Any costs in excess of the insurance proceeds for the repairing or rebuilding of any Unit (as opposed to the Common Elements) shall be specially assessed against the owner of such Unit. All such special assessments shall be secured by lien as provided in this Declaration and the Bylaws.

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

(i) The work shall be placed in the charge of a licensed registered architect or engineer.

(ii) Each request for payment shall be made on not less than ten (10) days prior notice to the trustee and shall be accompanied by a certificate made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is justly required to reimburse the Board for payments by the Board to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects, or other persons rendering services or materials for the work (giving a brief description of such services and materials), and that when added to all sums previously paid out by the trustee the sum requested does not exceed the value of the work done to the date of such certificate.

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

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

(v) The fees and expenses of the trustee as determined by the Board and the trustee shall be paid by the Association as common expenses, and such fees and expenses may be deducted from any proceeds at any time in the hands of the trustee.

(vi) Such other conditions as are customarily imposed under similar circumstances by prudent businessmen and as the trustee may reasonably request.

(c) Upon the completion of the work and payment in full therefor, any remaining proceeds of insurance then or thereafter in the hands of the Board or the trustee shall be paid or credited to the owners of the Units (or to the holder of any mortgage on a Unit, if any) in proportion to their respective Common Interests.

3. Compensation to Unit Owner for Destroyed Unit. In the event any Unit is damaged or destroyed by any casualty and not restored or reconstructed, the trustee shall pay to the owner of such Unit (or to the mortgagee of such Unit, if any) that portion of the insurance proceeds, if any, allocable to such Unit (less the proportionate share of said Unit in the cost of debris removal).

4. Partial Destruction. In the event of a partial destruction in which all of the Units are not restored or reconstructed, the Common Interests shall be reallocated among the remaining Units in accordance with the formula set forth in Section E (Common Interest).

P. UNINSURED CASUALTY.

In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be reconstructed, rebuilt, repaired or restored unless at a meeting of the Association, which shall be called within ninety (90) days after the occurrence of the casualty, Unit owners holding at least eighty percent (80%) of the total Common Interests of the Project, with the consent of their lienholders, if such lienholders require such consent, affirmatively vote against such

reconstruction, rebuilding, repairing, or restoration. Any such reconstruction, repair, or restoration of the Common Elements shall be completed diligently by the Association at its common expense, and the Unit owners shall be solely responsible for any reconstruction, restoration, or repair of their respective Units so damaged or destroyed according to the original plans and elevations thereof, or such other plan first approved as provided herein. Unless such reconstruction, restoration, or repair is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade. In the event the Project shall not be reconstructed, restored, or repaired pursuant to such vote, the provisions of Section 514B-47 of the Condominium Property Act, shall apply. In the event of a partial destruction in which all of the Units are not restored or reconstructed, the Common Interests shall be reallocated among the remaining Units in accordance with the formula set forth in Section E (Common Interest).

Q. CONDEMNATION.

In case at any time or times the Project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, all compensation and damages for or on account of the Land or any part thereof and all compensation and damages payable for or on account of any improvements of the Project shall be payable to such bank or trust company authorized to do business in the State of Hawaii as the Board shall designate as trustee for all Unit owners and mortgagees according to the loss or damage to their respective Units and appurtenant Common Interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remainder of the Land according to plans therefore first approved by the Board, unless such restoration or replacement is impractical under the circumstances. Any such restoration or replacement shall be done in accordance with the provisions of Section O.2 (Insured Casualty – Repair and Reconstruction) of this Declaration. In the event the portion of the compensation and damages allocable to the Buildings and improvements is insufficient to pay for the cost of restoring or replacing such improvements, the Association at its common expense shall make up such deficiency. The Unit owners shall be solely responsible to make up for any deficiency between the cost of restoring or replacing the Unit and the compensation and damages allocable to their Units. In the event of a partial taking in which any Unit is eliminated or not restored, said trustee shall disburse that portion of the compensation and damages for the Land and Buildings and improvements allocable to such Unit, less the proportionate share of such Unit in the cost of debris removal, to the owner of such Unit (or to the mortgagee of such Unit, if any) in satisfaction of such owner's interest in such Unit. Unless such restoration or replacement is undertaken within a reasonable time after such condemnation, the Association at its common expense shall remove all remains of such improvements so taken or condemned and restore the site thereof to good orderly condition and even grade. In the event of a partial taking in which any Unit is eliminated or not restored, the Common Interests shall be reallocated among the remaining Units in accordance with the formula set forth in Section E (Common Interest).

R. ALTERATION OF PROJECT.

1. General.

(a) Except as otherwise provided in this Declaration, 1) restoration, repair or replacement of the Project or of any building or other facility or construction of any additional building or structural alteration or addition to any structure, different in any material

respect from the Condominium Map, or 2) any other addition or alteration constituting a "material addition or alteration" under Section 514B-140 of the Condominium Property Act (collectively, the "Proposed Alterations"), shall be undertaken by the Association or any Unit owner(s) only pursuant to an amendment of this Declaration, duly executed by or pursuant to the approval or written consent of Unit owners holding at least sixty-seven percent (67%) of the total Common Interests of the Project, together with the approval or written consent of (i) all Unit owners whose Unit or Limited Common Elements appurtenant thereto are directly affected (as determined in a reasonable manner by the Board) by the Proposed Alterations; (ii) the holders of first mortgage liens encumbering any Unit directly affected by the Proposed Alterations (if the lien holders require such approval), and (iii) the Board, which approval or consent shall not be unreasonably withheld.

(b) The Proposed Alterations shall be in accordance with plans and specifications for the Proposed Alterations prepared by a licensed architect or licensed professional engineer and approved by (i) the Board, (ii) the Design Review Committee in accordance with the Design Guidelines, and (iii) the appropriate agencies of the State of Hawaii and the City and County of Honolulu (if such agencies so require).

(c) Promptly upon completion of any Proposed Alteration which is different in any material respect from the Condominium Map, the Association or Unit owner(s), whomever requested the Proposed Alteration, shall duly file or record in the Office of the Assistant Registrar an amendment to the Declaration and the Condominium Map showing the Project as so altered, certified as built by a registered architect or licensed professional engineer.

(d) Notwithstanding the foregoing, any amendment to the Declaration required or necessary for any Proposed Alteration of a Unit by an owner which alteration is in accordance with options, if any, shown on the floor plans for that particular Unit type in the Condominium Map shall not require the approval or written consent of the Unit owners (except those Unit owners whose Unit or Limited Common Elements appurtenant thereto are directly affected); PROVIDED, HOWEVER, that since construction of any such options, if any, shown on the Condominium Map must also comply with all applicable laws, rules, setbacks, and other governmental requirements, such options, if any, may not be available or permitted for all Units in the Project.

2. Alterations by Unit Owner. Notwithstanding any other provision in this Declaration to the contrary, the owner of a Unit may make any alterations or additions within a Unit or to a Limited Common Element appurtenant to and for the exclusive use of the Unit, and the owner of any two adjoining Units may alter or remove all or portions of the intervening walls, at such owner's expense, if such alterations or additions are not visible from the exterior of the Units and if the structural integrity of the Building is not thereby affected and provided further that any such additions or alterations permitted in this sentence shall constitute "nonmaterial additions and alterations" under Section 514B-140(c) of the Condominium Property Act. The alterations or additions permitted by this Section R.2 shall require only the written approval of the Unit owner's plans and specification therefor, by (a) the Board; (b) the holders of first mortgage liens affecting such Unit(s) (if the lien holders require such approval); (c) the appropriate agencies of the State of Hawaii and the City and County of Honolulu (if such agencies so require); and (d) all other Unit owners thereby directly affected (as determined in a reasonable manner by the Board). Such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered. Prior to the termination of the common ownership of any two adjoining Units, if the

intervening walls shall have been altered or removed pursuant to the foregoing provision and any entrances sealed, the owner of such Unit shall restore such intervening walls and entrances to substantially the same condition in which they existed prior to such alteration or removal.

3. Alterations by Declarant.

(a) General. Notwithstanding any other provision in this Declaration to the contrary, prior to the later of (i) the recording in the Office of the Assistant Registrar of the Unit deed conveying the last unsold Unit in the Project to a purchaser; or (ii) the filing or recording by Declarant of the "as built" verified statement (with plans, if applicable) required by Section 514B-34 of the Condominium Property Act (but in no event later than twenty-four (24) months after the "date of completion" of the Project, as that term is used in Chapter 507, Part II, Hawaii Revised Statutes, as amended), Declarant, without notice to, or the approval, consent or joinder of, the Association, any Unit owner, lienholder, or any other person, shall have the right (which includes the right to amend this Declaration and the Condominium Map accordingly) to (A) make alterations in the Project which change or reverse the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Unit (and the Limited Common Elements appurtenant thereto) in the Project which is not sold and recorded; (B) recharacterize and redesignate certain Limited Common Elements as may be appurtenant to a Unit as being Common Elements of the Project which is not sold and recorded; (C) recharacterize and redesignate certain Common Elements of the Project as Limited Common Elements appurtenant to a Unit which is not sold and recorded; or (D) make other alterations in the Project, which make minor changes in any Unit in the Project or the Common Elements which do not affect the physical location, design or size of any Unit which has been sold and recorded. As used herein the term "sold and recorded" shall mean and refer to the sale of a Unit in the Project and the recording in the Office of the Assistant Registrar of a Unit deed conveying the interest in the Unit from Declarant to parties not signatory to this Declaration.

(b) Construction of Options. Notwithstanding any other provision in this Declaration to the contrary, prior to the time that all of the Units in the Project have been sold and recorded, Declarant shall have the right to make alterations in the Project and to amend this Declaration and the Condominium Map accordingly, without notice to, or the approval, consent or joinder of, the Association, any Unit owner, lienholder, or any other person, to construct or modify the Project in accordance with the respective options, if any, shown on the floor plans in the Condominium Map. As used herein the term "sold and recorded" shall mean and refer to the sale of a Unit in the Project and the recording in the Office of the Assistant Registrar of a Unit deed conveying the interest in the Unit from Declarant to parties not signatory to this Declaration.

S. ADMINISTRATIVE MERGER OF INCREMENTS.

1. General Plan of Development. The Declarant intends to develop the remainder of Area IIE on land adjacent to the Project in separate increments (each increment, including the Project, being hereinafter referred to as an "Increment"), with each Increment to be a separate and distinct condominium property regime established pursuant to the Condominium Property Act, and subsequently merge some or all of the Increments with each other as provided in Section S. The first Increment to be developed within Area IIE was The Town Homes at Fairway's Edge, Increment 1 project and the Project is the second Increment to be developed within Area IIE.

2. Rights Reserved to Declarant with Respect to the Construction of any Increment. Subject to the provisions hereinabove and in furtherance of the rights reserved to Declarant hereunder, Declarant, its successors and assigns, and their respective contractors and subcontractors, and their respective employees and agents, shall have the right and an easement at any time, and from time to time prior to December 31, 2012, to enter upon and use the Common Elements of the Project and do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any Increment, connecting the same to the utility installations of the Project, and selling the Units contained within any Increments, upon and subject to the following terms and conditions:

(a) Any Increment, if constructed, shall be constructed in accordance with plans and specifications prepared by a licensed architect; provided, however, that such plans and specifications shall not require the alteration or demolition of any existing units within the Project;

(b) Declarant shall have the right, without notice to, or the approval, consent or joinder of, the Association, any Unit Owner, lienholder or any other person, to add, delete, relocate, realign, reserve and grant all easements and rights-of-way and to otherwise make alterations in and use the Common Elements for such development and construction, and to designate limited common elements over, under and on the Common Elements, necessary or desirable with respect to the construction or use of any Increment, including but not limited to easements and rights-of-way for utilities, sanitary and storm sewers, refuse disposal, driveways, parking areas and roadways; provided, that such easements and rights-of-way and limited common elements shall not be located on or within any existing unit building within the Project and, upon completion, shall not unreasonably and materially impair the use of any existing Unit;

(c) Every Unit owner and all holders of liens affecting any of the Units in the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such Unit, lien or other interest, consents to and agrees that he/it shall, if required by law or by Declarant, join in, consent to and execute all instruments and documents necessary or desirable to effect the granting of easements and/or rights-of-ways and/or the designation of limited common elements provided for hereinabove; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to execute such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights and shall not be affected by disability of any such party.

(d) The Declarant, its contractors and subcontractors, and their respective employees and agents, shall not cause any interruption other than a temporary interruption in the service of utilities to the Project and shall use reasonable efforts without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale, to minimize interference with the unit owners' use and enjoyment of the Project.

3. Declarant's Right to Merge. Except as otherwise specifically required herein, Declarant shall have the right, in its sole and absolute discretion, without the further act, consent or joinder of the Association or any Unit owner, lien holder or any other persons, to cause and effect an administrative merger or mergers of any two or more Increments, and to execute and record one or more Certificates of Administrative Merger (as described below) and all other instruments necessary or appropriate for the purpose of effecting the merger or mergers contemplated hereby. An administrative merger may occur with respect to any two or

more increments, at the same or at different times, and an administrative merger with respect to any two or more increments shall not affect the right of Declarant to merge another increment or increments at a later date or dates, subject to all of the provisions of this Section S.

4. Requirements of Administrative Merger. The administrative merger of any two or more increments shall take effect upon the happening of all of the following conditions with respect thereto:

(a) Declaration; Bylaws; Condominium Map. Declarant shall have filed or recorded with respect to each increment to be merged a Declaration of Condominium Property Regime, Bylaws, and Condominium Map. The Declaration of Condominium Property Regime and the Bylaws for each increment to be merged shall be in a form substantially similar to one another (with modifications for the physical description of the increment, the easements affecting the increment, the units and common elements, the percentage of common interest appurtenant to the units, and any other changes required by law); and

(b) "As Built" Statement. The "as built" verified statement required by Section 514B-34 of the Condominium Property Act has been filed with respect to each increment to be merged; and

(c) Substantial Completion. All of the units and common elements in each of the increments to be merged have been substantially completed; and

(d) Notice of Completion. A notice of completion has been filed and the period for filing mechanics' and materialmen's liens has expired for each of the increments to be merged; and

(e) Release of Lien and Encumbrances. All of the increments to be merged have been released from any and all mortgage liens and encumbrances except for (a) mortgage liens affecting Declarant's unsold individual units; and (b) mortgage liens on individual units and their respective common interests; and

(f) Consent of FNMA, FHLMC, HUD, VA, HFDC. If required, Declarant obtains the prior written consent of any of the following which holds, insures or guarantees a mortgage on any unit and which has made a specific written request to Declarant (which request states the name and address of such holder, insurer or guarantor, and the unit number of the unit to which its mortgage pertains), for notice of any proposed merger: the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Department of Housing and Urban Development, the Veterans Administration, the State Housing Finance and Development Corporation and any successor entities or agencies; PROVIDED, HOWEVER, that such consent shall not be withheld if the increments to be merged substantially conform to the general plan of development described above in Section S.1. In the event that any party notified pursuant to this subsection (f) fails to file a written response with Declarant objecting to the proposed merger within thirty (30) days after notice of the proposed merger, then and in any such event the consent of such party shall conclusively be deemed given; and

(g) Certificate of Administrative Merger. Declarant shall have filed or recorded in the Office of the Assistant Registrar a "Certificate of Administrative Merger" which certificate shall contain:

(i) A certification by Declarant that all Increments being merged have been substantially completed; that a notice of completion has been filed or recorded; that the period for filing of mechanics' and materialmans' liens has expired with respect to each of the merged Increments; that there are no tax liens; and that as of the date of merger, all mortgage liens and encumbrances have been released except for mortgage liens on Declarant's unsold individual Units and on individual Units and their respective common interests; and

(ii) A revised plan showing the layout and location of the buildings of the merged condominium projects after completion of the merger.

5. Consequences of Administrative Merger. From and after the date of filing or recording of the applicable Certificate of Administrative Merger in accordance with the provisions of Section S.5(g) above (the "Administrative Merger Date"), the following consequences shall be of effect:

(a) Common Elements. Each Unit in the Increments that have been administratively merged (the "Merged Project") shall have appurtenant thereto nonexclusive easements and rights to use and enjoy all of the common elements of the Merged Project (excluding the limited common elements appurtenant to other Units in the Merged Project), to the same extent and subject to the same limitations as are imposed upon Units in each of the merged Increments as though the merged Increments had been developed as a single project.

(b) Common Expenses. The Units in the merged Increments will each bear a share of the total common expenses (as the term "common expenses" is defined in the respective Declarations of Condominium Property Regime) of the Merged Project, treating the merged Increments as one project for this purpose. The total common expenses of the Merged Project shall be allocated among the Units in the Merged Project according to one of the following methods, as selected by Declarant in its sole and absolute discretion:

(i) The merged Increments shall each bear a share of the total common expenses, which share shall be a fraction, the numerator of which shall be the total number of Units in the respective Increment, and the denominator of which shall be the total number of all Units in the Merged Project; PROVIDED, HOWEVER, that Declarant shall have the right, in its sole and absolute discretion, to adjust or modify the fraction assigned to an Increment or Increments so that the sum of the fractions for the merged Increments equals exactly one hundred percent (100%). Each Unit's share of the common expenses of the Merged Project shall be the product of the common interest appurtenant to such Unit or Units (as set forth in the applicable Declaration of Condominium Property Regime) multiplied by the share of common expenses allocated to the Increment in which the Unit is located; or

(ii) Each Unit in the Merged Project shall each bear a percentage share of the total common expenses, which share shall generally be calculated by dividing the number one (1) by the total number of Units in the Merged Project; PROVIDED, HOWEVER, that Declarant shall have the right, in its sole and absolute discretion, to adjust or modify the percentage share assigned to a Unit to compensate for rounding errors to ensure that the sum of the percentage shares for all of the Units in the Merged Project equals exactly one hundred percent (100%).

(c) Association of Unit Owners; Managing Agent. The associations of Unit owners of each of the Increments provided for in their respective Declarations of

Condominium Property Regime shall be merged into a single association covering the entire Merged Project (the "Merged Association"). The Merged Association shall have only one managing agent. After administrative merger, the Merged Association shall have all of the powers and obligations vested in the associations of Unit owners of the merged Increments. In the event that the association of Unit owners of one of the merged Increments shall be incorporated prior to the merger, the Unit owners in the other merged Increment(s) shall upon merger automatically become members of the association of Unit owners of the incorporated Increment, and its charter and Bylaws shall so provide. In the event that the association of Unit owners of two or more of the merged Increments shall be incorporated prior to the merger, the associations of Unit owners of the incorporated merged Increments shall, upon such merger, take the appropriate steps to (i) merge the corporations into one corporation or consolidate the corporations into a new corporation, and (ii) have the Unit owners in the unincorporated merged Increment(s), if any, become members of the association of Unit owners of the entity that survives the aforementioned merger or consolidation, and its charter and Bylaws shall so provide.

(d) Voting Rights. The voting rights of each of the Unit owners in the Merged Project shall be in the same proportions as set forth in Section S.6(b) above for the sharing of common expenses, pursuant to the method selected by Declarant.

(e) Election of Board of Directors. Upon administrative merger, the boards of directors of the associations of Unit owners of the merged Increments immediately prior to the merger shall govern jointly the Merged Project; PROVIDED, HOWEVER, that within ninety (90) days following the Administrative Merger Date, a special meeting of the Merged Association shall be called to elect a new board of directors to replace the existing board of directors, and said new board of directors shall thereafter govern the entire Merged Project. The procedure for calling and holding such meeting and all other meetings of the Merged Association shall be that set forth in substantially identical provisions in the respective Declarations of Condominium Property Regime and Bylaws of each of the merged Increments. The number of directors of the Merged Association shall be nine (9) unless Unit owners in the Merged Project amend the Bylaws of the Merged Project to reduce the number of directors. At such special meeting one-third of the directors shall be elected for one (1) year, one-third for two (2) years, and one-third for three (3) years. If such special election should be held as herein required six (6) months or more prior to the next annual meeting of the Merged Association, the terms of the directors shall be calculated as if they had been elected at the previous annual meeting of the Merged Association. If such special election is held less than six (6) months prior to the next annual meeting of the Merged Association, the terms of the directors shall be calculated as if they were elected at the next annual meeting and no election needs to be held at such meeting.

(f) Condominium Documents. For the purposes of administration and use of the Merged Project, after the administrative merger of the merged Increments, all of the Units in the Merged Project shall be treated as though they were all included in a single condominium project created by a single recordation of a Declaration of Condominium Property Regime, and the Declarations of Condominium Property Regime applicable to each Increment shall be construed as one document applicable to the entire Merged Project, except to the extent expressly otherwise provided herein. The same shall be true of the respective Bylaws and House Rules of each Increment. In the event of a conflict between the respective Declarations of Condominium Property Regime, Bylaws and/or House Rules, the Declaration of Condominium Property Regime, Bylaws and House Rules in effect for the Increment with the most recently created condominium property regime shall control, including, but not limited to,

any provisions regarding the allocation of common expenses and voting rights. From and after the Administrative Merger Date, the merged Increments shall be treated for purposes of administration, use and sharing of common expenses as though they had been developed as a single project. Declarant also reserves the right to record an amended and restated Declaration and Bylaws for the Merged Project that would incorporate all of the separate Declarations and Bylaws for each of the Increments being merged, all without notice to, or the approval, consent or joinder of, the Association, any Unit owner, lienholder, or any other person.

(g) Amendment. Upon administrative merger, the specified voting percentages required to amend the Declaration of Condominium Property Regime and the Bylaws for the merged Increments shall refer to and mean the stated percentage of the total vote in the Merged Project.

(h) Ownership Unaffected. Except as otherwise provided herein, an administrative merger shall affect the administration and use of the Increments and the sharing of common expenses only, and shall not affect the ownership of Units and common elements in the respective Increments. Except as otherwise provided herein, each Unit owner owning a Unit in a particular Increment shall not own any part of another Increment unless said Unit owner shall also own a Unit in that other Increment.

6. Contributions. Upon the administrative merger or mergers of any two or more Increments, Declarant may, but need not, require the Unit owners in all or any of the merged Increments to make contributions, in addition to their normal prescribed share of the common expenses, to the replacement reserves, the general operating account, and/or any other accounts of the Merged Project. Declarant may provide that such contributions shall be made in a lump sum amount or in installments over a period of time and in setting the amount and terms of such contributions, Declarant may, but need not, take into account the amount of replacement reserves, the amounts in the general operating accounts, and/or the amounts in any other accounts of the respective Increments, accumulated prior to the merger, and the condition of the various buildings and Units. The amount and terms of the contributions to be made by the Unit owners in an Increment shall be as fairly determined by Declarant, in Declarant's sole and absolute discretion, and shall be set forth in a notice by Declarant to the Unit owners or the board of directors of the Merged Project. Declarant shall have no obligation to collect such contributions from the Unit owners. Collection of such contribution amounts shall be the responsibility of the board of directors, who may, in its discretion, elect to instruct the managing agent of the Merged Project to administer the collection of said contribution amounts. Delinquent amounts of such contributions shall constitute a lien against the delinquent Unit owner's interest in such owner's Unit which may be foreclosed by the board of directors of the Merged Project, or the managing agent thereof, in the same manner as provided in the Condominium Property Act for unpaid common expenses.

7. Pre-merger Obligations of Unit Owners. The Unit owners in one Increment shall not be obligated to pay any outstanding debts, expenses, costs or other obligations of the Unit owners in any other Increment that have accrued as of the Administrative Merger Date.

8. Limitation on Time for Merger. If administrative merger of all of the Increments is not effected pursuant to the foregoing provisions prior to the earlier of December 31, 2012 or one year after all of the Unit units proposed for Area IIE are conveyed to purchasers (the "Merger Expiration Date"), the right of Declarant to effect any such merger shall terminate automatically on the Merger Expiration Date unless and until an administrative merger

after the Merger Expiration Date is approved by the vote or written consent of Unit owners in each of the Increments to be merged holding at least sixty-five percent (65%) of the total common interests in that Increment. In order to protect its right to merge, Declarant reserves the right to review and approve, in its reasonable discretion, any and all amendments to the Declaration, Bylaws, and any rules and regulations for each Increment until the Merger Expiration Date. The purpose and basis of such review and approval will be solely to prevent major inconsistencies in the declarations, bylaws, and rules and regulations of the respective Increments so that until the time of filing or recording of the Certificate of Administrative Merger, the documents of the respective Increments will remain substantially similar.

9. Power of Attorney. The acceptance or acquisition by any party of any interest in any Increment shall constitute an undertaking and agreement by such party to execute any documents or instruments necessary or appropriate, as determined by Declarant in its sole and absolute discretion, for the purpose of carrying out the provisions of this Section S, and shall constitute an appointment by such party of Declarant as the true and lawful attorney-in-fact of such party to execute, acknowledge, deliver and record any and all such instruments. Said power of attorney shall be coupled with an interest and irrevocable, and shall not be affected by the disability of such party.

10. No Obligations Regarding Additional Increments. Nothing in this Section S pertaining to merger shall be construed as a representation or warranty by Declarant that any of the other Increments will be developed or merged with the Project, or require Declarant to develop any of the other Increments or to merge any of the other Increments into the Project.

T. AMENDMENT OF DECLARATION.

1. Required Percentage Vote. Except as otherwise provided herein or in the Condominium Property Act, and subject to and conditioned upon the prior written approval of Eligible First Lien Holders as provided in Section T.2 below, this Declaration may be amended by the vote or written consent of Unit owners holding at least sixty-seven percent (67%) of the total Common Interests of the Project; PROVIDED, HOWEVER, that any amendment affecting Declarant's rights under this Declaration shall also require the consent of Declarant.

2. Consent of Eligible First Lien Holders. Except where a greater percentage is specified herein, amendments of a material adverse nature to this Declaration proposed by the Unit owners shall also require the prior written approval (or the assumed prior written approval as described below) of Eligible First Lien Holders who represent at least fifty-one percent (51%) of the Common Interests of the Units that are subject to mortgages by Eligible First Lien Holders. The term "amendments of a material adverse nature" shall mean and refer to changes to this Declaration relating to the following:

- (a) voting rights of Unit owners;
- (b) assessments, assessment liens, or subordination of assessment
liens;
- (c) the reserve funds;
- (d) responsibility for maintenance and repair of the Units, Common
Elements and/or Limited Common Elements;

(e) the interests in the Common Elements and Limited Common Elements appurtenant to the Units, or the rights to use the Common Elements and Limited Common Elements;

(f) the boundaries of any Unit;

(g) conversion of Unit spaces into Common Elements or Limited Common Elements or conversion of Common Elements or Limited Common Elements into Unit spaces;

(h) insurance or fidelity bonds;

(i) a Unit owner's right to sell, lease, or otherwise transfer such owner's Unit;

(j) restoration or repair of the Project after damage or destruction or partial condemnation;

(k) establishment of self-management by the Association where professional management has been required by this Declaration, the Federal Department of Housing and Urban Development, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the State Housing Finance and Development Corporation, or any successor entities or agencies;

(l) termination of the legal status of the Project as a condominium after substantial destruction or condemnation; or

(m) any provision that expressly benefits holders, insurers, or guarantors of first mortgages on Units of the Project.

Any changes to this Declaration other than those specifically listed in this Subsection shall not be considered as amendments of a material nature.

Approval by an Eligible First Lien Holder for any amendments of a material, adverse nature shall be conclusively assumed if an Eligible First Lien Holder fails to submit a written response to any proposed amendment within sixty (60) days after it receives notice of the proposed amendment, provided that such notice was sent to such Eligible First Lien Holder to its last address on record with the Association by certified or registered mail, return receipt requested.

Notwithstanding anything to the contrary set forth in this Section T.2, the consent of Eligible First Lien Holders shall not be required for any amendments to this Declaration by Declarant pursuant to reserved rights set forth elsewhere in this Declaration (unless the provision(s) setting forth Declarant's reserved amendment rights explicitly requires the consent of Eligible First Lien Holders).

3. Amendment by Declarant. Without limiting and in addition to any other rights reserved by Declarant to amend this Declaration as explicitly provided elsewhere herein, Declarant shall have the right to amend this Declaration as follows:

(a) Notwithstanding any other provision of this Declaration to the contrary, at any time prior to the recording in the Office of the Assistant Registrar of the first Unit deed in favor of a purchaser, Declarant hereby reserves and shall have the right to amend this Declaration, the Bylaws and the Condominium Map in any manner, without notice to, or the approval, consent or joinder of, the Association or any purchaser of any Unit.

(b) Notwithstanding any other provision of this Declaration to the contrary, at any time prior to the recording in said Office of the Assistant Registrar of Unit deeds covering 100% of the Units in the Project, Declarant hereby reserves and shall have the right to amend this Declaration, the Bylaws and the Condominium Map without the approval, consent or joinder of any purchaser of any Unit or any of the persons then owning any Unit or any lien holder, to make such amendments (i) as may be necessary to correct any technical defects or to make non-substantive changes, or (ii) as may be required by law, the Real Estate Commission of the State of Hawaii, any title insurance company issuing a title insurance policy on the Project or any of the Units, any institutional lender lending funds on the security of the Project or any of the Units, or any governmental agency administering governmental loan programs (including without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Department of Housing and Urban Development, the Veterans Administration, the State Housing Finance and Development Corporation, and any successor entities or agencies), or (iii) as may be necessary or desirable as determined by Declarant as a result of conditions or requirements imposed upon Declarant by any governmental agency of the state, county, or local government related to the development of the lands comprising the Project or other lands within Ocean Pointe to be developed by Declarant or any affiliates, or by any governmental agency of any state, territory, possession or foreign country or other foreign jurisdiction as a condition precedent to the marketing or sale of Units in any such jurisdiction; PROVIDED, HOWEVER, that no such amendment which would change the Common Interest appurtenant to a Unit or substantially change the design, location or size of a Unit or the Building in which it is located shall be made without the consent to such amendment by all persons having an ownership interest in such Unit.

(c) Notwithstanding any other provision of this Declaration to the contrary, and notwithstanding the recording of Unit deeds conveying any or all of the Units in favor of any person, Declarant hereby reserves and shall have the right to successively amend this Declaration, the Bylaws and the Condominium Map without notice to, or the approval, consent or joinder of, the Association or any purchaser of any Unit or any of the persons then owning or leasing any Unit or any lien holder, to make such amendments: (i) to file or record the "as built" verified statement (with plans, if applicable) required by Section 514B-34 of the Condominium Property Act, so long as (A) such statement is merely a statement of a registered architect or professional engineer certifying that the final plan thereto filed fully and accurately depicts the layout, location, Unit numbers, and the dimensions of an improvement or change in a Unit as built; or (B) the plans filed therewith involve only immaterial changes to the layout, location, or dimensions of the Units as built or any change in any Unit number; or (ii) to exercise or effectuate any other rights reserved to Declarant pursuant to this Declaration or the Master Declaration.

4. Effective Date of Amendment. Any amendment to this Declaration shall be effective only upon the recording in the Office of the Assistant Registrar of an instrument setting forth such amendment and vote duly executed by such owners or by the proper officers of the Association as provided in the Bylaws.

U. WITHDRAWAL OF LANDS AND ADDITIONAL SUBDIVISION RIGHTS.

Notwithstanding anything to the contrary in this Declaration, Declarant hereby reserves the right and option, at any time and from time to time prior to December 31, 2012, without notice to, or the approval, the consent or joinder of, the Association, any Unit owner, any purchaser, prospective purchaser, lienholder, or other person, to (i) subdivide the Land in one or more subdivisions (including the right to consolidate, subdivide, and consolidate and resubdivide any portion of the Land or adjoining lands); (ii) designate, add, delete, relocate, realign, reserve and grant all easements, rights-of-way, restricted access, and sight line distance restrictions; (iii) withdraw from the terms of this Declaration through one or more withdrawals, portions of the Land (together with any improvements thereon) not intended by Declarant to be part of the Project (the "Non-Project Lands") by amending this Declaration and the Condominium Map from time to time to reflect the withdrawal of the Non-Project Lands; and (iv) to amend the certificates of title issued to Unit owners to reflect the matters set forth in subparts (i) through (iii) above. The withdrawal rights set forth herein shall include the right of Declarant to withdraw Non-Project Lands from the applicability of this Declaration, the Bylaws, and the Condominium Map (a) where the land area to be withdrawn is to be dedicated to a governmental entity or to a utility company, (b) due to changes in the boundaries of the Land (1) as may be required by the Honolulu City Council, any agencies of the City and County of Honolulu, or any agencies of the State of Hawaii, or (2) to comply with any ordinance, order, or other decision relating to the subdivision of the Land, or (c) where Declarant determines that such withdrawal is not unequivocally contrary to the overall development plan for the Project. Upon the recordation of an amendment to this Declaration and the Condominium Map to reflect the withdrawal of all or any portion of the Non-Project Lands from the Condominium Property Regime established by this Declaration, Declarant shall hold fee simple title to the Non-Project Lands so withdrawn free and clear of (1) this Declaration, the Bylaws, and the Condominium Map, and (2) the interest of any Unit owner, purchaser, prospective purchaser, lienholder, the Association, or other person.

In order to effectuate the above, every purchaser, prospective purchaser, Unit owner and all mortgagees and holders of liens affecting any of the Units in the Project shall, if necessary or desirable to the exercise of the reserved rights of Declarant herein, join in, consent to, or execute all instruments and documents necessary or desirable to the withdrawal provided for herein, and, by execution of a contract for the sale of a Unit or by acceptance of any deed, lien or security interest therein, such purchaser, prospective purchaser, Unit owner, mortgagee and holder of a lien shall be deemed to have consented to Declarant's reservation pursuant to this paragraph and irrevocably appointed Declarant its lawful and duly authorized attorney-in-fact with full right and power to join in, consent to, or execute all such instruments and documents for and on behalf of the purchaser, prospective purchaser, Unit owner, mortgagee and lienholder.

V. MISCELLANEOUS.

1. Binding Effect. The acceptance of a Unit deed, mortgage, lease, rental agreement or other document conveying any right, title or interest in any part of the Project, or the entering into occupancy of any Unit in the Project, shall constitute an agreement that the provisions of this Declaration, the Bylaws and the House Rules, as each may be amended from time to time, are accepted, ratified and will be strictly complied with by a Unit owner, such owner's tenants, lessees, family, guests, invitees, licensees, employees and any other person under any of them, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were recited and stipulated at length in each and every Unit deed, assignment of Unit deed, mortgage or rental agreement thereof.

2. Rights of Eligible First Lien Holders. All Eligible First Lien Holders shall be entitled to timely written notice of the following:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing the mortgage;

(b) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Unit owner of any Unit on which such holder, insurer or guarantor holds the mortgage;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed amendment to this Declaration effecting a change in (i) the boundaries of any Unit; (ii) the interests in the Common Elements appertaining to any Unit or the liability for common expenses appertaining thereto; (iii) the number of votes in the Association appertaining to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;

(e) Any proposed termination of the condominium property regime;
and

(f) Any proposed action that requires the consent of a specified percentage of Eligible First Lien Holders.

Notwithstanding anything to the contrary set forth in this Section V.2, notice to the Eligible First Lien Holders shall not be required for any amendments to this Declaration by Declarant pursuant to reserved rights set forth elsewhere in this Declaration (unless the provision(s) setting forth Declarant's reserved amendment rights explicitly requires that notice be given to the Eligible First Lien Holders).

3. Conflicts between Declaration and Condominium Map. Notwithstanding anything to the contrary contained herein, should the descriptions and divisions set forth in this Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control; PROVIDED, HOWEVER, that the Condominium Map is intended only to show the layout, location, and dimensions of the Units and the elevations of the Buildings and is not intended and shall not be deemed to contain or make any other representation or warranty.

4. Joint Development Agreements. Declarant reserves the right to enter into any joint development agreement or agreements as may be required or necessary by the City and County of Honolulu for the development of the Project and/or any condominium project or projects adjacent to the Project without notice to, or the approval, consent or joinder of, the Association, or any Unit owner.

5. Campbell Estate Restrictions. The Land (or portions thereof) is currently subject to certain terms, rights, and reservations in favor of the Trustees under the Will and of the Estate of James Campbell, deceased ("Campbell Estate") as contained in that certain Unrecorded Ewa Marina Acquisition Agreement dated December 15, 1988 (the "Acquisition Agreement"), a short form of which is dated December 30, 1988 and recorded in the Office of the Assistant Registrar as Land Court Document No. 1604009, as well as that certain Trustee's Limited Warranty Deed dated December 22, 1989, recorded in the Office of the Assistant Registrar as Land Court Document No. 1693437. Declarant reserves the right to execute and record in the Office of the Assistant Registrar a cancellation, partial cancellation, amendment, or restatement of the Acquisition Agreement, as well as a confirmation or restatement of said Trustee's Limited Warranty Deed, without notice to, or the approval, consent or joinder of, the Association or any Unit owner.

6. Removal of Certain Encumbrances Affecting the Project. Declarant reserves the right, without notice to, or the approval, consent or joinder of the Association, any Unit owner, lienholder, or any other person to execute and record in the Office of the Assistant Registrar an instrument: (i) canceling or removing as an encumbrance against the Project (including the Units whether or not such Units have been conveyed to an owner) or any portion thereof (a) any Unilateral Agreement and Declaration for Conditional Zoning, or (b) any Land Use Commission Decision and Order; and (ii) an amendment to this Declaration to reflect an updated title description of the Land contained in **Exhibit "A"** attached hereto. Every purchaser, prospective purchaser, Unit owner and all mortgagees and holders of liens affecting any of the Units in the Project shall, if necessary or desirable to the exercise of the reserved rights of Declarant herein, join in, consent to, or execute all instruments and documents necessary or desirable to effectuate the exercise of such reserved rights, and, by execution of a contract for the sale of a Unit or by acceptance of any deed, lien or security interest therein, such purchaser, prospective purchaser, Unit owner, mortgagee and holder of a lien shall be deemed to have consented to Declarant's reservation pursuant to this paragraph and irrevocably appointed Declarant its lawful and duly authorized attorney-in-fact with full right and power to join in, consent to, or execute all such instruments and documents for and on behalf of the purchaser, prospective purchaser, Unit owner, mortgagee and lienholder.

7. Changes in Plans. Declarant reserves for itself and its assigns, the right to vary the timing, mix, type, use, style, number, size, materials, and details of construction of the Units, as well as the features, amenities, and other components of the Area IIE development as may be described herein or as may be currently reflected in the master plan for the Ocean Pointe development ("Master Plan") prepared by the Master Declarant (which Master Plan may be amended from time to time by Master Declarant in its sole discretion), as well as other illustrative and explanatory materials which may from time to time be used in connection with the development and sale of the Units in Area IIE. Without limiting the generality of the foregoing, if any changes in use are desired for any portion of Area IIE owned by the Declarant, Declarant shall have the right to seek any changes in zoning which may be necessary to implement such changes. Plans for the development of Area IIE are subject to change in the Declarant's sole discretion and no guarantees are made regarding the construction schedule or

whether any or all of the components and amenities of the Area IIE development as described herein, as depicted in the Master Plan or said materials will in fact ever be constructed or incorporated into the Area IIE development.

8. Additional Reservations and Disclaimers. The rights of all Unit owners, their occupants, transferees, and all other parties claiming by, through, or under them are further subject to the following:

(a) Adjacent and Nearby Property Uses. Each Unit owner, by accepting a conveyance of an interest in the Project, for itself and any occupant, transferee or other party claiming by, through or under it, understands and acknowledges that the Project is adjacent to or nearby other lands owned by Declarant, Master Declarant, and/or related or unrelated entities, and that the operations and activities of Declarant, Master Declarant, and such entities and their respective, licensees, invitees, or others on such lands include or may include, without limitation, housing, commercial, resort, and marina development activities, construction-related activities, agricultural or livestock operations, and other activities incident thereto and such other uses as may be permitted by law on said lands, and that Unit owner desired and sought its Unit with the understanding that the Unit may be affected by nuisances or hazards to persons and property from such operations and activities. Each Unit owner, by accepting a conveyance of an interest in the Project, acknowledges and agrees for itself, its occupants, transferees, and any other party claiming by, through, or under it that, it acquired such Unit subject to all such risks associated with such location, and further covenants and agrees that Declarant, Master Declarant, the Association, and other third parties shall have the right, in the nature of an easement to discharge, emit, diffuse, and inflict over and upon the Project noise, smoke, soot, dust, lights, noxious vapors, odors, and other nuisances of every description arising from or incidental to the operation of the foregoing and other activities; provided that the foregoing shall not be deemed to prevent each Unit owner from pursuing all remedies legally available to such Unit owner in the event of any violation of laws pertaining to the use of the Project. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH UNIT OWNER, BY ACCEPTING A CONVEYANCE OF AN INTEREST IN THE PROJECT, FOR ITSELF AND ANY OCCUPANT, TRANSFEREE OR OTHER PARTY CLAIMING BY, THROUGH OR UNDER IT, UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

(1) Located immediately adjacent to the northeastern portion of Area IIE is a parcel of land identified as Lot No. 16503, containing an area of approximately 0.441 acres, which has been or will be conveyed to Hawaiian Electric Company, Inc. ("HECO") for use as an electrical distribution substation. Based on HECO's plans, the substation will initially have a single transformer unit installed, but is designed to have up to a total of four (4) transformer units phased in incrementally in conjunction with the electrical load demands from the surrounding service areas. Once the electrical substation becomes operational, HECO may also make periodic inspections and other visits to the substation, and may perform maintenance and other related tasks. The construction and operation of the substation may result in increased noise, dust, traffic and other nuisances, annoyances or hazards to the Project. Issues have been raised nationally concerning electromagnetic fields ("EMFs") generated in connection with the operation of power lines and other electrical transmission equipment (some of which may be located within the HECO substation site) and whether exposure to EMFs adversely affects human health. Declarant makes no representations or warranties concerning the presence or absence of EMF's which may be generated at the HECO substation site in the future or whether or not such exposure to EMF's will have any adverse health effects on any owner or occupant of any Unit within the Project.

(2) The Area IIE development is located south of the lands that are currently vacant and are owned and/or may be developed by third parties unrelated to Declarant. Certain lands located to the northeast of Area IIE are in the process of being rezoned from A-1 Unit zoned land with a 30-foot height limit to A-2 zoned land with a 40-foot height limit. Declarant has no control over the use or development of these mauka lands and any resulting impact on the development, including the Project involving, without limitation, any view planes, sight lines, tradewind and airflow patterns, natural light, and exterior aesthetics of any improvements that may be located on such lands.

(3) Area IIE is bordered by two major roadways, Keone'ula Boulevard and Kapolei Parkway. Keone'ula Boulevard is one of the primary access roadways serving Ocean Pointe from Fort Weaver Road and connects to various secondary roadways within Ocean Pointe. In addition, as part of the government's highway master plan, the Kapolei Parkway is intended to serve as a primary roadway that will eventually connect to other main roadways thereby providing Ewa Beach and Ocean Pointe residents with an alternate access route to Kapolei, Barbers Point and the H-1 freeway in lieu of Fort Weaver Road. Due to the proximity of the Town Homes at Fairway's Edge development to these roadways, there may be increased noise, dust, traffic and other nuisances, annoyances, or hazards to persons residing within the Project.

(4) Although the planned Keone'ula Elementary School being constructed east of the Town Homes at Fairway's Edge on lands donated to the Department of Education ("DOE") by an affiliate of Declarant, Declarant or its affiliates have no input, influence, or control over how the school district boundaries will be established for the school. Therefore, notwithstanding (a) the name of the school; (b) the dedication of the lands to the DOE by Declarant's affiliate; or (c) the current plan to allow residents of the current existing developments within Ocean Pointe, including Area IIE, to send their children to the Keone'ula Elementary School, Declarant is not making any representation or warranty that residents of the Town Homes at Fairway's Edge will be able to send their children to the Keone'ula Elementary School. In addition, a middle school is planned to be constructed on lands located immediately mauka of Area IIE. Declarant or its affiliates have no input, influence, or control over how the school district boundaries will be established for such middle school. The construction and operation of the school may result in increased noise, dust, traffic and other nuisances or annoyances affecting persons residing within the Project.

(5) Although not located adjacent to the Area IIE development, Declarant's affiliate is in the process of conveying or dedicating certain lands located north of Keone'ula Boulevard to be utilized for public purposes. Under current plans, certain lands will be conveyed or dedicated for the construction of a district park, fire station, child care facility, and elementary school. These public facilities or utility infrastructure, while located within Ocean Pointe, are intended to be utilized by the Ewa Beach community, including Ocean Pointe.

(b) Aircraft Noise. The Project is located within the vicinity of the Honolulu International Airport and Kalaeloa (the former Barbers Point Naval Air Station), and aircraft may fly in the proximity of or directly over the Project. The overflights and other airport-related activities may result in noise, vibrations, nuisances, disturbances, or hazards to persons and property on or within the Project, and each Unit owner, by accepting a conveyance of an interest in the Project, covenants and agrees for itself, its occupants, transferees, and any other party claiming by, through, or under it, that such Unit owner agrees to and shall be bound by the additional covenants and agreements set forth in **Exhibit "C"** attached hereto and incorporated

herein by reference. In addition to the foregoing, Declarant hereby reserves for itself and its designees (including without limitation, Master Declarant) the right to grant from time to time perpetual noise and avigation easements over and across all or any portion of the Project in favor of any government or any agency thereof, all without notice to or joinder by any person (including any Unit owner).

(c) Marina; Ownership, Use. If constructed, the marina depicted in the Master Plan may initially be owned and controlled by the Master Declarant. The Master Declarant shall have the option to dispose of the marina in the manner determined by the Master Declarant in its sole discretion, including the sale or lease of same to a third-party operator. Each Unit owner, by accepting a conveyance of an interest in the Project, for itself and any occupant, transferee or other party claiming by, through or under it, understands and acknowledges that (i) no such person shall have any ownership interest in or right to use the marina solely by virtue of his or her membership in the Association, (ii) that neither the Master Declarant nor the Declarant have made any representations or warranties written or oral regarding such ownership or use rights (whether accruing presently or in the future) herein or in any promotional material pertaining thereto, and (iii) any such ownership or use rights in the marina shall only be conferred upon Unit owners and other such persons as and to the extent set forth in the Master Declaration (including any amendments thereto), a deed, or such other document filed of record in the Land Court and executed by the Master Declarant or other owner of the marina, as the case may be. Further, the ownership and/or operation of the marina may change at any time and from time to time by virtue of, but without limitation (a) the sale or assumption of operations of the marina to/by an independent person or entity, (b) the transfer of the marina to a club or association whereby the members of the club or association become the owner(s) and/or operator(s) of the marina, (c) the conveyance, pursuant to contract, option, or otherwise of the marina to one or more affiliates, shareholders, employees, or independent contractors of Master Declarant, (d) the conveyance of the marina to the Master Association or to another association composed of owners of property within Ocean Pointe, or (e) the conveyance of the marina to the state, city, or any other governmental entity, with or without consideration and subject or not subject to a mortgage(s) or other encumbrance. As to any of the foregoing or any other alternative, no consent of the Association or any Unit owner shall be required to effectuate such transfer.

(d) Proposed Golf Course. The following disclosures, waivers, and agreements shall apply to the proposed Golf Course depicted on the Master Plan and located adjacent to portions of Area IIE (the "Golf Course"):

(1) Ownership, Use. Each Unit owner, by accepting a conveyance of an interest in the Project, for itself and any occupant, transferee or other party claiming by, through or under it, understands and acknowledges that no representations or warranties written or oral have been or are made by the Declarant, Master Declarant or any other person with regard to the existence, timetable, size, ownership, or operation of the proposed Golf Course as depicted in the Master Plan and located adjacent to portions of Area IIE. No Unit owner shall have any ownership interest in or right to use the Golf Course solely by virtue of his or her membership in the Association. If constructed, the ownership or operation of the Golf Course may change at any time and from time to time by virtue of, but without limitation (i) the sale or assumption of operations of the Golf Course to/by an independent person or entity, (ii) the conversion of the Golf Course membership structure to an "equity" club or similar arrangement whereby the members of the Golf Course or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Golf Course, (iii) the conveyance of the Golf Course pursuant to contract, option, or otherwise to one or more affiliates, shareholders,

employees, or independent contractors of the Master Declarant, (iv) the conveyance to the Association, or another association composed of owners of property within Ocean Pointe, or (v) the conveyance of the Golf Course to the state, city, or any other governmental entity with or without consideration and subject or not subject to a mortgage(s) or other encumbrance. As to any of the foregoing or any other alternative, no consent of the Association or any Unit owner shall be required to effectuate such transfer. Rights to use the Golf Course will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the owner or operator of the Golf Course. The owner or operator of the Golf Course shall have the right in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Course, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users and shall also have the right to reserve, qualify, limit and/or terminate usage rights altogether.

(2) Reserved Easements.

(i) Errant Golf Balls. Declarant hereby reserves a non-exclusive easement appurtenant to the Golf Course for the benefit of the owner of the Golf Course owner, its employees, agents, members and licensees and all individuals playing golf on the Golf Course, over and across those portions of Area IIE adjacent to or in the vicinity of the Golf Course and the air space above such areas for the purposes of accommodating the flight of golf balls through such air space and the entry of golf balls onto Area IIE and any building or improvement within Area IIE (the "Golf Ball Easement"). The Golf Ball Easement shall not be construed as (a) permitting the entry onto the Project by any individual for the purpose of retrieval of golf balls or for any other purpose; (b) limiting the construction of improvements within Area IIE; or (c) relieving golfers of liability for property damage, bodily injury or death caused by errant golf balls. Under no circumstances shall any of the following persons be held liable for any property damage or bodily injury or death resulting from errant golf balls: Declarant, Master Declarant, the Association or its members (in their capacity as such), the owner, designer, lender, construction contractor or operator of the Golf Course, the Golf Course members (in their capacity as such) and their respective agents, representatives, successors or assigns; any successor Declarant; any officer, director, shareholder, member, partner or employee of any of the foregoing, or any officer, director, shareholder, member, partner or employee of any partner or member; provided, however, that this provision shall not be deemed to relieve any of the foregoing parties from any claim which is determined by a court of competent jurisdiction to have been caused by the intentional or willful misconduct of any such parties.

(ii) Overspray. There is hereby reserved to Declarant, and Declarant hereby grants to the owner of the Golf Course, a perpetual, non-exclusive easement appurtenant to the Golf Course burdening those parts of Area IIE immediately adjacent to the Golf Course for overspray (a) of water from any water features or aeration devices which may be included as part of the nearby irrigation lake, (b) of water from any irrigation system serving the Golf Course, and (c) chemicals applied to the Golf Course. Under no circumstances shall the Association or the owner or operator of the Golf Course, or their agents, lenders, employees or contractors, be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(3) View Impairment. Neither the Declarant, Master Declarant, the Association nor the owner or operator of the Golf Course guarantees or represents that any view over and across the Golf Course from Units adjacent to the Golf Course will be preserved without impairment. No provision of this Declaration shall be deemed to create an obligation of

the owner or operator of the Golf Course to prune or thin trees or other landscaping. The owner or operator of the Golf Course may have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the owner or operator of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways, water features and greens on the Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the portion of Area IIE adjacent to the Golf Course, and any express or implied views of specific or general portions of the Golf Course, or any easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Each Unit owner, by acceptance of a deed, acknowledges that any view of the Golf Course which the Unit owner may enjoy as the date of the purchase of an interest in the Project may be impaired or obstructed by the natural growth of existing landscaping, the installation of additional trees, other landscaping or other types of improvements or barriers (both natural and artificial) on the Golf Course.

(4) Irrigation Lake. Each Unit owner, by acceptance of a conveyance of an interest in the Project, acknowledges that a lake or other man made pool may be constructed and situated immediately adjacent to the portion of the Project that borders the proposed Golf Course. It is anticipated that the lake will be filled with treated water/effluent. In addition to being an aesthetic feature of the Golf Course, the lake may also be utilized as a holding area for the water that will be used to irrigate the Golf Course. As part of the plans, the lake may also be equipped with water features or aeration devices. Each Unit Owner further acknowledges that, in addition to evaporation, wind conditions may cause the water spray or mist from the lake to drift onto the Project, including the Units that may border the Golf Course as well as Units within the Project.

(5) Odors. Each Unit owner, by acceptance of a conveyance of an interest in the Project, acknowledges that periodically chemicals will be applied to the Golf Course (i.e., pesticides, fungicides, herbicides, fertilizers, etc.) and that odors may result. In addition, there may be occasions when the treated water/effluent utilized for the lakes, water features, and irrigation on the Golf Course may have odors. Each owner assumes the risk of all consequences of such odors, including personal injury and any economic damage arising from such activity upon the Golf Course, and hereby covenants not to bring any legal action, including, without limitation, any private nuisance action, against the owner or operator of the Golf Course or its employees or contractors, nor to lodge any complaint with the City or any other governmental agency based upon such odors.

(6) Treated Water/Effluent. Each Unit owner, by acceptance of a conveyance of an interest in the Project, acknowledges that the Golf Course may use treated wastewater or effluent for irrigation purposes and for any lakes and other water features and hereby covenants not to bring any legal action, including, without limitation, any private nuisance action, against the owner or operator of the Golf Course or the supplier of the treated wastewater or effluent or their employees or contractors, nor to lodge any complaint with the City or any other governmental agency based on the use of treated wastewater or effluent.

(7) Walls and Fences. Notwithstanding anything herein to the contrary, the owner of the Golf Course shall have no obligation for the maintenance, repair or replacement of any walls or fences on any common boundary between the Golf Course and the portions of Area IIE adjacent to the Golf course, irrespective of the fact that the walls or fences wholly or partially lie on the Golf Course or are immediately adjacent to the Golf Course. The owner or operator of the Golf Course shall have the right, however, to repair or maintain any

wall or fence as reasonably necessary to preserve the aesthetic views from the Golf Course and to be reimbursed by the party responsible for such maintenance or repair.

(8) Special Events. Each Unit owner, by accepting a deed or other instrument conveying an interest in the Project, acknowledges and agrees that tournaments and other events may be held within the Golf Course from time to time which may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each such owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

(9) No Access to Golf Course. No owners of the Units shall be permitted to enter upon the Golf Course from any portion of Area IIE. The only entry to the Golf Course by any Unit owners and occupants of the Unit shall be in the same manner and at the same locations as all other users of the Golf Course. The Golf Course is private property and no Unit owners or occupants of the Project shall be allowed entry or to travel upon, landscape or otherwise use any portion of the Golf Course in conjunction with the ownership of the respective Units without the express written permission of the Golf Course owner/operator. Without limiting the generality of the foregoing, no Unit owners or occupants shall have any right to go upon the Golf Course to trim, remove, maintain, or replace any landscaping located upon the Golf Course without the express written permission of the Golf Course owner/operator. Neither the Association nor any Unit owner shall have the right to install or create any gate or opening in any wall or fence located on the common boundary between the Golf Course portions of Area IIE adjacent thereto which creates any direct vehicular or pedestrian access between Area IIE and the Golf Course.

(10) Assumption of the Risk. Each Unit owner, by acceptance of a conveyance of an interest in the Project, agrees that owning property adjacent to a Golf Course has benefits as well as detriments and that the detriments include, but are not limited to (i) the risk of damage to property or injury to, or the death of, persons and animals from golf balls that are hit onto portions of Area IIE (including the Project), (ii) overspray and run-off from the application of chemicals on the Golf Course and the presence of the irrigation lakes, water features, and irrigation of the Golf Course with treated water/effluent, (iii) noise from golfers and the Golf Course maintenance and operation equipment (including, without limitation, compressors, blowers, mowers, mulchers, tractors, utility vehicles and pumps, all of which may be operated at all times of the day and night and/or continuously), (iv) odors arising from the application of chemicals on the Golf Course, (v) disturbance and loss of privacy resulting from golf cart traffic and golfers, including the trespass of golfers into the Project, (vi) disturbance, loss of privacy and disruption of views from lighting fixtures and improvements, lighting of the Golf Course or related facilities or nighttime play (if applicable) and related activities of golfers, (vii) noise, disturbance, and loss of privacy due to the use of the planned Golf Course maintenance road that will run immediately adjacent to and along the border of Area IIE and connect to Keoneula Blvd, (viii) the risk of damage to property or injury to, or the death of, persons and animals caused by flooding due to the fact that the Golf Course will also serve as a regional drainage channel for the Ewa plain area, and (ix) other nuisances associated with the Golf Course also functioning as a regional drainage channel including, without limitation, increased odors and mosquito activity that may result from the presence of standing water within the Golf Course from time to time. Additionally, each Unit owner acknowledges that pesticides, fungicides, herbicides, chemicals and other maintenance materials may be applied to the Golf Course throughout the year and that reclaimed water, treated wastewater or other sources of non potable water may be used for the lakes, water features, and irrigation of the

Golf Course. Each Unit owner expressly assumes such detriments and risks and agrees that neither Declarant, Master Declarant, the owner or operator of the Golf Course, the Golf Course members (in their capacity as such) the Golf Course architect nor any of their lenders, agents, servants, employees, guests, invitees, directors, officers, affiliates, representatives, contractors, members, managers, partners, shareholders, successors and assigns shall be liable to the Unit owner or anyone for, or relating to, any Claims as defined in Section V.8(d)(11), below, (expressly excluding, however, any "Non-covered Claims" as that term is defined in Section V.8(d)(11) below.

(11) Waiver, Release and Indemnification. Each Unit owner waives, and releases Declarant, Master Declarant, the owner and operator of the Golf Course, the Golf Course architect, and any and all of their agents, servants, employees, guests, invitees, directors, officers, affiliates, representatives, contractors, members, managers, partners, shareholders, successors and assigns from and against, any and all claims, damages (including indirect, punitive, special or consequential), losses, demands, liabilities, expenses (including attorney and expert fees and costs), obligations, actions or causes of action whatsoever, including, but not limited to, actions based on the following (hereinafter collectively referred to as "Claims") (i) trespass; (ii) nuisance; (iii) negligence; (iv) invasion of any Unit owner's use or enjoyment of any Unit or the Project; (v) improper design of the Golf Course; (vi) the level of skill of any golfer, regardless of whether such golfer has permission to use the Golf Course; (vii) matter referenced in Section V.8(d)(10) above, and (viii) any other claim, action, damage, loss, demand, liability, obligation or cause of action whatsoever that may result in property damage or destruction to any Unit or the Project or other property or personal injury to or the death of Unit owner or owner's tenant, invitee, guest or animal or any other person relating to or arising from the ordinary and reasonable operation and use of the Golf Course, including, without limitation, golf balls hit on or within any Unit or Area IIE, the use or non use of golf carts, Golf Course maintenance equipment or any other equipment relating to the Golf Course or the exercise of any rights under any easements granted hereunder by any golfer or the owner or operator of the Golf Course or any person acting for or on behalf of the owner or operator of the Golf Course, provided, however, that nothing set forth in this Section V.8(d) is intended to relieve any golfer of liability for property damage, personal injury, or death arising out of or resulting from the hitting of any errant golf ball (the "Non-covered Claims"). Each Unit owner hereby agrees to indemnify and hold harmless Declarant, Master Declarant, the owner and operator of the Golf Course, and their successors and assigns, from and against any and all losses, damages, liabilities, costs (including attorney and expert fees and costs) and expenses from, or relating to, Claims brought by any Unit owner or such owner's tenants, and their respective invitees or guests, provided, however, that the provisions of this sentence expressly excludes any Non-covered Claims.

(12) Limitations on Amendments. In recognition of the fact that the provisions of this Section are intended for the benefit of Declarant, Master Declarant and the owner of the Golf Course, no amendment to this Section and no amendment in derogation of any rights reserved or granted to the owner of the Golf Course by other provisions of this Declaration may be made without the prior and express written approval of Declarant, Master Declarant and the owner of the Golf Course.

(e) Non-Potable Water. Each Unit owner, by accepting a conveyance of an interest in the Project, for itself and any occupant, transferee, or other party claiming by, through, or under it, understands and acknowledges that (i) conditions imposed in connection with the development of the Project require that the Project be served by a dual water system consisting of potable and non-potable sources at some future date to be determined by the

Board of Water Supply, or some other governmental or quasi-governmental agency or authority, (ii) the Project is not presently served by a non-potable water system, and (iii) when the use of non-potable water is required within the Project as aforesaid, or under any other law, regulation, ordinance, condition, or policy, that it will be the obligation of the Association to obtain and secure a source of non-potable water for the benefit of the Unit owners and the Association. EACH UNIT OWNER, BY ACCEPTING A CONVEYANCE OF AN INTEREST IN THE PROJECT, FOR ITSELF AND ANY OCCUPANT, TRANSFEREE OR OTHER PARTY CLAIMING BY, THROUGH OR UNDER IT, FURTHER UNDERSTANDS AND ACKNOWLEDGES THAT IT HAS NOT PAID FOR THE COSTS TO BUILD OR ACQUIRE ANY NON-POTABLE WATER SYSTEM IN ANY AMOUNTS PAID FOR ITS UNIT.

(f) Park Declaration. As a condition to the City and County of Honolulu (i) granting subdivision approval of the real property underlying Area IIE; or (ii) approving park dedication requirements related to the Area IIE lands, Declarant further reserves the right, without notice to, or the approval, consent or joinder of, the Association, or any Unit owner, lienholder or any other person, to record a Declaration of Restrictive Covenants (Private Park) against the Land (the "Private Park Declaration"). The Private Park Declaration may include, but is not limited to, covenants running with the lands that (a) restrict the use of the recreation area to recreation purposes, and not for residential purposes, and (b) require the Association to maintain the recreation area.

9. Invalidity; Conflict with Laws. The invalidity or partial invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein. In the event of any conflict or inconsistency between the provisions of the Declaration and the Condominium Property Act, the provisions of the Condominium Property Act shall prevail.

10. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

11. Captions. The titles to the sections and paragraphs herein are for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions of this Declaration.

12. Changes in Law. In the event any change in the Condominium Property Act shall result in a conflict or inconsistency between the provisions of the Declaration and the Condominium Property Act, the provisions of the Condominium Property Act shall prevail.

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13. Compliance With Laws. The condominium property regime established under this Declaration is in compliance with all zoning and building ordinances and codes, and all other permitting requirements pursuant to Section 514B-5 of the Condominium Property Act.

IN WITNESS WHEREOF, the undersigned has executed these presents as of the date first above written.

FAIRWAY'S EDGE DEVELOPMENT, LLC, a
Hawaii limited liability company

By HASEKO HOMES, INC.,
a Hawaii corporation
Its Manager

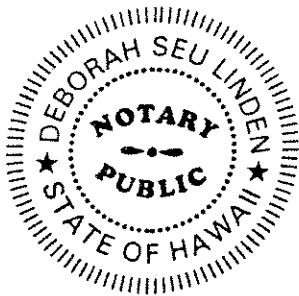
By 
Name: TSUTOMU SAGAWA
Title: EXECUTIVE VICE PRESIDENT

"Declarant"

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

On this 20th day of October, 2006, before me
personally appeared Tsutomu Sagawa, personally known to me -OR-
Name of Signer

proved to me on the basis of satisfactory evidence, who, being by me duly sworn or
affirmed, did say that such person executed the foregoing instrument as such person's free
act and deed as Executive Vice President of HASEKO HOMES, INC., a Hawaii
Corporate Title
corporation, that said corporation is the Manager of FAIRWAY'S EDGE DEVELOPMENT,
LLC, a Hawaii limited liability company, having been duly authorized to execute such
instrument in such capacity. Witness my hand and official seal.



Deborah Seu Linden
Notary Public, State of Hawaii

Deborah Seu Linden
Printed Name of Notary Public

My commission expires: 9/29/09

EXHIBIT "A"

All of that certain parcel of land situate at Honouliuli, District of Ewa, City and County of Honolulu, State of Hawaii, more particularly described as follows:

LOT 16648, containing an area of 1.177 acres, as shown on Map 1294, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees Under the Will and of the Estate of James Campbell, deceased.

TOGETHER WITH non-exclusive, appurtenant easements for access to a public road, to wit: Fort Weaver Road, over and across Roadway Lot 16504, as shown on Map 1287, Roadway Lot 15422, as shown Map 1177, Roadway Lot 14673, as shown on Map 1135, and Roadway Lots 12588 and 12587, both as shown on Map 929, all maps being filed in said Office of the Assistant Registrar with Land Court Application No. 1069, and as set forth in Land Court Order No. 166213, recorded on May 22, 2006; SUBJECT, HOWEVER, to the rights of the fee simple owner(s) of such Roadway Lots, its designees, successors and assigns, to dedicate such Roadway Lots to any governmental authority, without the consent or joinder of any other party, and, PROVIDED, HOWEVER, that any easement and/or access rights over such Roadway Lots shall automatically terminate upon dedication.

TOGETHER ALSO WITH a non-exclusive, appurtenant easement for access purposes over, across, along, upon and through Easements 8871 through 8885, inclusive, and Easement 8888, all as shown on Map 1294, and as set forth in Land Court Order No. 166213, recorded on May 22, 2006.

Being the same premises described in and covered by Land Court Certificate of Title No. 820,461, issued to FAIRWAY'S EDGE DEVELOPMENT, LLC, a Hawaii limited liability company.

SUBJECT, HOWEVER, to the following:

1. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain unrecorded Second Amended and Restated Ewa Marina Agreement for Exchange, dated June 30, 1984, effective as of June 30, 1984, by and between F. E. Trotter, Inc., W. H. McVay, Inc., P. R. Cassidy, Inc., and H. C. Cornuelle, Inc., all Hawaii professional corporations, Trustees Under the Will and of the Estate of James Campbell, Deceased, acting in their fiduciary and not in their individual corporate capacities ("Estate"), as Vendor, and M.S.M. & Associates, Inc., a Colorado corporation ("MSM"), as Vendee; a short form of which is dated June 30, 1984, recorded as Land Court Document No. 1245392.

Said Agreement was assigned by MSM to HASEKO (Hawaii), Inc., a Hawaii corporation ("HASEKO"), with the consent of the Estate, by that certain Assignment of Lease and Second Amended and Restated Ewa Marina Agreement for Exchange, dated December 30, 1988.

Said Agreement was amended and restated by the Estate and HASEKO by that certain unrecorded Ewa Marina Acquisition Agreement, dated as of December 15, 1988, of

EXHIBIT "A"
(Page 1 of 3)

which a Short Form Acquisition Agreement is dated December 30, 1988, recorded as Land Court Document No. 1604009.

Said Agreement, as amended and restated, was assigned by HASEKO to HASEKO (Ewa), Inc., a Hawaii corporation, by that certain instrument dated September 3, 1993, but effective as of January 2, 1992, recorded in said Office of the Assistant Registrar as Land Court Document No. 2126832, with consent thereto given by the Estate by that certain instrument dated December 17, 1993, recorded as Land Court Document No. 2126833.

2. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Limited Warranty Deed, dated December 22, 1989, recorded as Land Court Document No. 1693437, including, but is not limited to, matters relating to water reservation and agricultural activities, including sugar cane burning on nearby lands.
3. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Unilateral Agreement and Declaration for Conditional Zoning, dated November 29, 1993, recorded as Land Court Document No. 2091140, as amended by that certain Amendment to Unilateral Agreement and Declaration for Conditional Zoning, dated February 12, 2002, recorded as Land Court Document No. 2778785, and further amended by that certain Second Amendment to Unilateral Agreement and Declaration for Conditional Zoning, dated October 23, 2002, recorded as Land Court Document No. 2857087, with Consent and Joinder dated November 1, 2002, attached thereto as Land Court Document No. 2857088.
4. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Document Listing Conditions to Reclassification of Land dated December 12, 1990, recorded as Land Court Document No. 1788412, as amended by instrument, dated March 28, 1994, recorded as Land Court Document No. 2131779, as further amended by instrument, dated June 17, 1994, recorded as Land Court Document No. 2159248; BUT ONLY as to those portions of said lots that are included in Exhibit A and shown on Exhibit B attached to said Land Court Document No. 1788412 and made a part hereof by reference.
5. Grant, dated January 3, 1996, recorded as Land Court Document No. 2284736, in favor of Hawaiian Electric Company, Inc., granting a nonexclusive perpetual right and easement to construct, reconstruct, operate, maintain, repair and remove poles, overhead wire lines, stub pole, guy wires, anchors, and/or underground power lines, etc. for the transmission and distribution of electricity; BUT ONLY as to those portions of said lots that are included in said Land Court Document No. 2284736, and shown on the map attached thereto and made a part hereof by reference.
6. Construction Mortgage with Assignment of Rents, Security Agreement and Fixture Filing, dated as of September 12, 2003, recorded as Land Court Document No. 2993893, made by HASEKO Homes, Inc., and HASEKO (Ewa), Inc., both Hawaii corporations, as Mortgagors, in favor of Central Pacific Bank, a Hawaii corporation, successor by merger to City Bank, a Hawaii corporation, as Mortgagee, as amended by that certain Amendment to \$40,000,000 Mortgage dated October 19, 2004, recorded as Land Court Document No. 3188837.

EXHIBIT "A"
(Page 2 of 3)

7. The terms and provisions, including the failure to comply with covenants, conditions, and reservations, contained in that certain Agreement for Issuance of Conditional Use Permit Under Section 21-5.380 of the Land Use Ordinance (LUO), dated June 29, 2006, recorded in said Office of the Assistant Registrar as Land Court Document No. 3451811.
8. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Declaration of Covenants, Conditions, and Restrictions for Ocean Pointe (Residential) dated September 15, 1998, recorded in said Office of the Assistant Registrar as Land Court Document No. 2486145, as amended by instruments dated October 30, 1998, recorded as Land Court Document No. 2498586, dated April 29, 2003, recorded as Land Court Document No. 2923437, dated May 13, 2003, recorded as Land Court Document No. 2930015, and as supplemented by instrument dated March 2, 2006, recorded as Land Court Document No. 3399278.
9. Designation of Easement 8881, for access and utility purposes, as shown on Map 1294, as set forth by Land Court Order No. 166213, recorded on May 22, 2006.

EXHIBIT "A"
(Page 3 of 3)

EXHIBIT "B"

BUILDINGS, UNITS AND PARKING

RESIDENTIAL BUILDING TYPES.

The Project includes four (4) detached residential buildings, designated as Buildings 10, 11, 20 and 21, as shown on the Condominium Map. None of the buildings will have basements.

There is one (1) residential building type in the Project, which is identified as TH21, as shown on the Condominium Map and is more particularly described below:

Type TH21. Each Type TH21 building contains a total of four (4) Units. The end units are two-story structures with interior stairways, and both are Unit Model Type 111 units. The remaining two (2) units are two-story structures with interior stairways, and both are Unit Model Type 110 units. The layout and location of each Unit are as shown on the Condominium Map.

GARAGE TYPES.

The Project includes an attached two-car enclosed garage for each Unit. Each two-car garage has a gross area of approximately 400 square feet. The layout and location of each garage are as shown on the Condominium Map.

UNIT TYPES.

The two (2) Unit types in the Project are as described below:

Model 110: Two-story three bedroom, three bathroom Unit. The Unit has a living room, dining room, kitchen, laundry area, a bedroom and a single bathroom on the first floor, connected by interior stairs to the second floor, containing two bedrooms, two bathrooms, and a walk-in closet. The Unit has an attached two-car garage. The net living area (which excludes the garage and second floor balcony) is approximately 1,455 square feet.

Model 110R: This Unit Type contains the reverse floor plan layout from that shown on the Condominium Map for Model Type 110, with the same rooms and net living area as said Model Type 110.

Model 111: Two-story three bedroom, three bathroom Unit. The Unit has a living room, dining room, kitchen, laundry area, a bedroom and a single bathroom on the first floor, connected by interior stairs to the second floor, containing two bedrooms, two bathrooms, a tech area, and a walk-in closet. The Unit has an attached two-car garage. The net living area (which excludes the garage and second floor balcony) is approximately 1,470 square feet.

Model 111R: This Unit Type contains the reverse floor plan layout from that shown on the Condominium Map for Model Type 111, with the same rooms and net living area as said Model Type 111.

UNIT NUMBERS, PARKING, FLOOR AREAS OF UNITS

The Unit numbers, parking stalls, and net living area attributable to each Unit are as follows:

Unit No.	Model Type	Bldg. No.	Parking Stall Nos.	Net Living Area and Balcony (sq. ft.)	Common Interest (%)
1001	111	10	183, 184	1,666	6.4097
1002	110	10	185, 186	1,583	6.0903
1003	110R	10	187, 188	1,583	6.0903
1004	111R	10	189, 190	1,666	6.4097
1101	111	11	191, 192	1,666	6.4097
1102	110	11	193, 194	1,583	6.0903
1103	110R	11	195, 196	1,583	6.0903
1104	111R	11	197, 198	1,666	6.4097
2001	111	20	263, 264	1,666	6.4097
2002	110	20	265, 266	1,583	6.0903
2003	110R	20	267, 268	1,583	6.0903
2004	111R	20	269, 270	1,666	6.4097
2101	111	21	271, 272	1,666	6.4097
2102	110	21	273, 274	1,583	6.0903
2103	110R	21	275, 276	1,583	6.0903
2104	111R	21	277, 278	1,666	6.4097

EXHIBIT "B"
(Page 2 of 2)

EXHIBIT "C"

Additional Covenants Regarding Aircraft Noise and Other Disturbances

The following covenants are required by various governmental agencies as conditions to land use reclassifications or rezoning of lands within Ocean Pointe including but not limited to, the State of Hawaii Land Use Commission (in Docket A83-558) and, the City and County of Honolulu (Ordinance 85-44). Accordingly, each Unit owner, by accepting a conveyance of an interest in the Project, for itself, its occupants, transferees, and any other party claiming by, through, or under it, covenants, acknowledges, and agrees along with Declarant as follows:

1. The Project (or portions thereof) is located within an area of potential exposure to aircraft noise as defined in Land Use Guidance Chart I, Airport-Land Use Compatibility Planning, AC 150/5050-6, U.S. Department of Transportation, Federal Aviation Administration, December 30, 1977, and said property may, on occasion, be subject to day-night average sound levels as defined therein and other forms of disturbances.
2. Each Unit owner as aforesaid, acknowledges that its use and enjoyment of such Unit owner's Unit as well as any portion of the Project may be subject to various effects which may result from the use and operation of government airports in the vicinity of the Project such as Honolulu International Airport, Barbers Point Naval Air Station, and all other such government airports, whether existing or to be built (the "government airports"), such effects to include noise, fumes, soot, smoke, vibration, and other intrusions from aircraft using the government airports.
3. Each Unit owner as aforesaid, hereby releases and agrees that he/she shall not file any claim, action or lawsuit for any kind of relief, whether legal or equitable, against the Declarant, Master Declarant, the City and County of Honolulu, the State of Hawaii, the Federal Government, or any agency or employee thereof, or any Person using the government airports, for costs or damages resulting from noise, fumes, soot, smoke, vibration or any other form of disturbance to such Unit owner's Unit and the Project caused by the establishment or operation of the government airports, or by any aircraft, now known or hereafter used in connection with operations to, from, or at the government airports.
4. Each Unit owner as aforesaid (other than a mortgagee of an insured mortgage who acquires title to any Unit through foreclosure or a deed in lieu of foreclosure), shall indemnify, forever hold harmless and defend Declarant, Master Declarant, the City and County of Honolulu, the State of Hawaii and the Federal Government and all users of the government airports, from any and all liability resulting from said noise, fumes, soot, smoke, vibration or any other form of disturbance to such Unit owner's Unit and the Project caused by the establishment or operation of the government airports, or by any aircraft, now known or hereafter used in connection with operations to, from, or at the government airports. The foregoing agreement to indemnify shall not extend to or obligate an institutional lender who holds a mortgage covering said property or who takes title to said property upon foreclosure or by way of deed in lieu of foreclosure or otherwise, and PROVIDED FURTHER, that any person or entity that acquires said property from said institutional lender shall be subject to the aforementioned obligation to indemnify Grantor and other parties referred to above.

EXHIBIT "C"
(Page 1 of 2)

5. In consideration of the foregoing, Declarant hereby releases and agrees that it shall not file any claim, action or lawsuit for any kind of relief, whether legal or equitable, against the City and County of Honolulu, the State of Hawaii, the Federal Government, or any agency or employee thereof, or any Person using the government airports, for costs or damages resulting from noise, fumes, soot, smoke, vibration or any other form of disturbance to the Project (including any Unit) caused by the establishment or operation of the government airports, or by any aircraft, now known or hereafter used in connection with operations to, from, or at the government airports.

6. In consideration of the foregoing, Declarant shall indemnify, forever hold harmless and defend the City and County of Honolulu, the State of Hawaii and the Federal Government and all users of the government airports, from any and all liability resulting from said noise, fumes, soot, smoke, vibration or any other form of disturbance to the Project (including any Unit) caused by the establishment or operation of the government airports, or by any aircraft, now known or hereafter used in connection with operations to, from, or at the government airports.

EXHIBIT "C"
(Page 2 of 2)

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

Doc 3504714
CTN 820,481
OCT 26, 2006 02:00 PM

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICKUP (✓)

MORIHARA LAU & FONG LLP (MHL)
841 BISHOP STREET, SUITE 400
HONOLULU, HAWAII 96813
TELEPHONE NO.: (808) 526-2888

TYPE OF DOCUMENT:

FIRST AMENDMENT TO THE BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF
THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

PARTIES TO DOCUMENT:

DEVELOPER: FAIRWAY'S EDGE DEVELOPMENT, LLC, A HAWAII LIMITED LIABILITY COMPANY

TAX MAP KEY FOR PROPERTY: (1) 9-1-012:058

I:\M\LF\HK-Ocean Pointe\Area 11E\Fairway's Edge-Incr 2\Bylaws\First Amended Bylaws (Inc2)(10-18-06).DOC

Total Pages (4)

FIRST AMENDMENT TO THE BYLAWS OF THE ASSOCIATION OF UNIT OWNERS
OF
THE TOWN HOMES OF FAIRWAY'S EDGE, INCREMENT 2

FIRST AMENDMENT TO THE BYLAWS OF THE ASSOCIATION OF UNIT OWNERS
OF
THE TOWN HOMES AT FAIRWAY'S EDGE, INCREMENT 2

WHEREAS, FAIRWAY'S EDGE DEVELOPMENT, LLC, a Hawaii limited liability company, (the "Developer"), owns in fee simple the land described in and covered by Land Court Certificate of Title No. 820,461 (the "Land") described in Exhibit A to the Declaration of Condominium Property Regime of The Town Homes at Fairway's Edge, Increment 2, (the "Declaration") recorded as Land Court Document No. 3474188 in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (the "Office of the Assistant Registrar"), which Declaration was amended and restated and is being recorded concurrently herewith;

WHEREAS, the Developer also adopted and recorded the Bylaws of the Association of Unit Owners of The Town Homes at Fairway's Edge, Increment 2 (the "Bylaws") as Land Court Document No. 3474189 with the Office of the Assistant Registrar;

WHEREAS, Chapter 514B of the Condominium Property Act, which went into effect on July 1, 2006, significantly changed the requirements concerning the establishment, operation, and governance of a condominium property regime;

WHEREAS, Section T.3(a) of the Declaration provides that, at any time prior to the recording in the Office of the Assistant Registrar of the first Unit deed in favor of a purchaser, the Developer reserves and shall have the right to amend, among other things, the Bylaws in any manner, without notice to, or the approval, consent or joinder of, the Association or any purchaser of any Unit;

WHEREAS, Section T.3(b) of the Declaration further provides that, at any time prior to the recording in the Office of the Assistant Registrar of Unit deeds covering 100% of the Units in the Project, the Developer shall have the right to amend, among other things, the Bylaws without the approval, consent or joinder of any purchaser of any Unit or any of the persons then owning any Unit or any lien holder, to make such amendments (i) as may be necessary to correct any technical defects or to make non-substantive changes, or (ii) as may be required by law or the Real Estate Commission of the State of Hawaii;

WHEREAS, none of the Units in the Project have been conveyed to any purchasers; and

WHEREAS, the Real Estate Commission has requested that the Developer amend the Bylaws to add certain non-substantive changes to reflect certain provisions from Chapter 514B of the Condominium Property Act and the Developer desires to reflect such changes by amending the Bylaws as set forth herein.

NOW, THEREFORE, the Developer hereby amends the Bylaws as follows:

1. ARTICLE II, SECTION 10(e). Proxies and Pledges, is amended by deleting the current provision in its entirety and substituting in lieu thereof the following:

(e) A Board or member of the Board may use funds of the Association to solicit proxies as part of the distribution of proxies. Notwithstanding the foregoing, if the Board intends to use funds of the Association to distribute proxies, the Board shall

comply with the requirements of Section 514B-123(h) of the Condominium Property Act. If an Owner of a Unit requests use of Association funds to solicit proxies in accordance with Section 514B-123(h)(1), the Board shall mail to all Owners either (i) a proxy form containing the names of all owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or (ii) a proxy form containing no names, but accompanied by a list of names of all Owners who have requested the use of Association funds for soliciting proxies and their statements. The statement, which shall be limited to black text on white paper, shall not exceed one single-sided 8-1/2" x 11" page, indicating the Owner's qualifications to serve on the Board or reasons for wanting to receive proxies.

2. ARTICLE III, SECTION 16, Conflict of Interest, is amended by deleting the current provision in its entirety and substituting in lieu thereof the following:

A Director shall not vote by proxy at any meeting of the Board, nor shall a Director vote at any meeting of the Board, on any issue in which the Director has a conflict of interest. A Director who has a conflict of interest on any issue before the Board shall disclose the nature of the conflict of interest prior to a vote on that issue at the meeting of the Board, and the minutes of the meeting shall record the fact that a disclosure was made. "Conflict of interest", as used herein, means an issue in which the Director has a direct personal or pecuniary interest not common to other members of the Association.

3. Except as amended herein, all other provisions of the Bylaws previously adopted and recorded shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has executed these presents this 20th day of October, 2006, amending these Bylaws as set forth herein pursuant to the rights reserved within the Declaration.

FAIRWAY'S EDGE DEVELOPMENT, LLC,
a Hawaii limited liability company

By HASEKO HOMES, INC., a Hawaii corporation
Its Manager

By



Name: Tsutomu Sagawa

Title: Executive Vice President

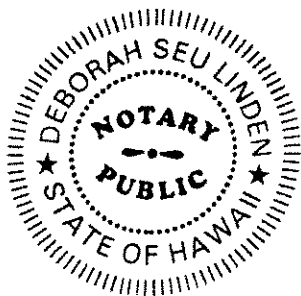
"Developer"

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

On this 20th day of October, 2006, before me
personally appeared Tsutomu Sagawa, personally known to me -OR-
Name of Signer

proved to me on the basis of satisfactory evidence, who, being by me duly sworn or
affirmed, did say that such person executed the foregoing instrument as such person's free
act and deed as Executive Vice President of HASEKO HOMES, INC., a Hawaii
Corporate Title

corporation, that said corporation is the Manager of FAIRWAY'S EDGE DEVELOPMENT,
LLC, a Hawaii limited liability company, having been duly authorized to execute such
instrument in such capacity. Witness my hand and official seal.



Deborah Seu Linden
Notary Public, State of Hawaii

Deborah Seu Linden
Printed Name of Notary Public

My commission expires: 9/29/09