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TITLE OF DOCUMENT:

BYLAWS OF THE ASSOCIATION OF UNIT OWNERS
OF PARK LANE

PARTIES TO DOCUMENT:

Developer: AMX PARTNERS, LLC, a Delaware limited liability company
1288 Ala Moana Boulevard, Suite 208, Honolulu, Hawaii 96814,

Fee Owner: GGP ALA MOANA L.L.C., a Delaware limited liability company
c/o General Growth Properties, 110 Wacker Drive, Chicago, Illinois 60606

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Table of Contents

ARTICLE I	1
INTRODUCTORY PROVISIONS.....	1
Section 1. AUTHORITY FOR BYLAWS.....	1
Section 2. PURPOSE OF BYLAWS; COVENANTS TO RUN WITH THE LAND	1
Section 3. DEFINITIONS	1
Section 4. CONFLICTS	1
Section 5. BINDING EFFECT OF BYLAWS ON OWNERS, MORTGAGEES AND LESSEES.	2
ARTICLE II	2
ASSOCIATION OF OWNERS	2
Section 1. MEMBERSHIP.....	2
Section 2. CLASSES.....	2
Section 3. PURPOSE	2
Section 4. VOTING	3
Section 5. QUORUM	3
Section 6. MAJORITY VOTE.....	4
Section 7. PROXIES	4
Section 8. PLACE OF MEETINGS.....	5
Section 9. ANNUAL MEETINGS.....	5
Section 10. SPECIAL MEETINGS.	5
Section 11. NOTICE OF MEETINGS AND OTHER NOTICES	6
Section 12. RECORD DATE FOR NOTICES AND VOTING.	6
Section 13. ADJOURNMENT OF MEETINGS	7
Section 14. CONDUCT OF MEETINGS AND ORDER OF BUSINESS	7
Section 15. INSPECTORS FOR VOTING AND PROXIES	7
Section 16. MINUTES OF ASSOCIATION MEETINGS	8
Section 17. ASSOCIATION POWERS	8

ARTICLE III.....	8
BOARD OF DIRECTORS	8
Section 1. NUMBER AND QUALIFICATION	8
Section 2. POWERS AND DUTIES	8
Section 3. ELECTION AND TERM OF OFFICE.....	9
Section 4. REMOVAL OF MEMBERS OF THE BOARD.....	9
Section 5. VACANCIES	10
Section 6. ORGANIZATIONAL MEETING.	10
Section 7. REGULAR MEETINGS.....	10
Section 8. EXECUTIVE SESSION	10
Section 9. SPECIAL MEETINGS	10
Section 10. CONDUCT OF MEETING	11
Section 11. NOTICES; WAIVER OF NOTICE	11
Section 12. COMPENSATION	11
Section 13. QUORUM OF BOARD.....	11
Section 14. NO PROXY VOTE; CONFLICT OF INTEREST.	11
Section 15. EMPLOYEES; BACKGROUND CHECK	12
Section 16. MINUTES OF BOARD MEETINGS.....	12
Section 17. ACTION BY DIRECTORS WITHOUT MEETING	12
Section 18. REMOTE MEETINGS	12
Section 19. DUTY OF DIRECTORS.	12
Section 20. COPIES OF DOCUMENTS	12
ARTICLE IV.....	13
OFFICERS	13
Section 1. DESIGNATION.....	13
Section 2. ELECTION AND TERM	13
Section 3. DUTY OF OFFICERS	13
Section 4. REMOVAL	13
Section 5. PRESIDENT	13
Section 6. VICE PRESIDENT	13
Section 7. SECRETARY	13
Section 8. TREASURER	13
Section 9. LIABILITY AND INDEMNITY OF THE BOARD AND OFFICERS.....	13

ARTICLE V	14
MANAGEMENT	14
Section 1. MANAGEMENT AND OPERATION OF THE PROJECT	14
Section 2. MANAGING AGENT	17
Section 3. EMPLOYMENT OF RESIDENT MANAGER.	19
Section 4. LIMITATIONS ON AUTHORITY TO ENTER INTO CONTRACTS.....	19
Section 5. LIMITS ON ASSOCIATION AUTHORITY	20
Section 6. RESTRICTIONS ON RENTING OR SELLING UNITS BY ASSOCIATION EMPLOYEES	20
Section 7. HOUSE RULES	20
Section 8. STOPPING VIOLATIONS BY UNIT OWNERS.....	20
ARTICLE VI.....	21
COMMON EXPENSES.....	21
Section 1. DESIGNATION OF COMMON EXPENSES	21
Section 2. BUDGET AND RESERVES	21
Section 3. ALLOCATION OF COMMON EXPENSES	22
Section 4. ASSESSMENTS	24
Section 5. HANDLING AND PAYMENT OF ASSOCIATION FUNDS	25
Section 6. PAYMENT AS AGENT.....	25
Section 7. DUTY TO PAY; INTEREST AND LATE CHARGES	25
Section 8. ENFORCEMENT	26
Section 9. WAIVER.....	27
Section 10. ASSESSMENT DISPUTES.....	27
Section 11. LIABILITY OF ANYONE WHO ACQUIRES TITLE THROUGH FORECLOSURE.....	27
Section 12. LIABILITY FOR UNPAID COMMON EXPENSES	28
Section 13. ABANDONMENT OF UNIT; DEED TO BOARD	28
Section 14. TAXES AND ASSESSMENTS	28
Section 15. UTILITY EXPENSES	29
Section 16. COLLECTION FROM TENANT	29
Section 17. AUDITS	30
Section 18. FINANCIAL REPORTS.....	30
ARTICLE VII	31
MAINTENANCE AND REPAIR AND USE	31

Section 1. MAINTENANCE AND REPAIR BY UNIT OWNERS	31
Section 2. COMMON ELEMENTS	32
Section 3. MOLD PREVENTION	32
Section 4. ALTERATIONS AND ADDITIONS BY OWNERS	33
Section 5. ALTERATION OF THE PROJECT	33
Section 6. OWNER APPROVAL	33
Section 7. COMMENCEMENT OF RESIDENTIAL DEVELOPER’S IMPROVEMENTS	34
ARTICLE VIII	34
ASSOCIATION RECORDS	34
Section 1. PROJECT DOCUMENTS	34
Section 2. MEMBERSHIP LIST	34
Section 3. NOTICE TO BOARD OF DIRECTORS/LENDERS.	35
Section 4. LENDER PROTECTION	35
Section 5. RELEASE OF INFORMATION	36
Section 6. UNIT DEEDS	36
Section 7. MINUTES AND RECORDS; EXAMINATION	36
Section 8. RECORDS; EXAMINATION; DISPOSAL	37
ARTICLE IX	38
GENERAL PROVISIONS	38
Section 1. WHO CAN SIGN CHECKS	38
Section 2. WHO CAN SIGN CONTRACTS AND OTHER DOCUMENTS	38
Section 3. AMENDMENT	38
Section. 4. NOTICE	39
Section 5. CAPTIONS	40
Section 6. PRONOUNS	40
Section 7. INTERPRETATION	40
Section 8. EFFECT OF INVALID PROVISIONS	40

**BYLAWS OF THE ASSOCIATION OF UNIT OWNERS
OF
PARK LANE**

These Bylaws are made this 22 day of September, 2014, by **AMX PARTNERS, LLC**, a Delaware limited liability company ("**Developer**"), with its principal place of business and post office address at 1288 Ala Moana Boulevard, Suite 208, Honolulu, Hawaii 96814 and **GGP ALA MOANA L.L.C.**, a Delaware limited liability company, whose address is c/o General Growth Properties, 110 Wacker Drive, Chicago, Illinois 60606 ("**Initial Commercial Owner**").

W I T N E S S E T H:

Whereas, concurrently herewith, Developer and Initial Commercial Owner have recorded that certain Declaration of Condominium Property Regime of Park Lane in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("**Office**") as Document No. T- 9006210 (the "**Declaration**") and Condominium Map No. 2200 (the "**Condominium Map**") thereby creating the "Park Lane" project (the "**Project**");

Now, Therefore, Developer and Initial Commercial Owner hereby declare and agree that the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved, subject to the provisions of the Declaration and these Bylaws. The provisions of the Declaration and these Bylaws shall constitute covenants running with the Land and equitable servitudes, and shall be binding upon and shall inure to the benefit of Developer, Initial Commercial Owner, the Association, their respective successors and permitted assigns, and all subsequent owners and lessees of all or any part of the Project and their respective successors, successors-in-trust, heirs, devisees, personal representatives, executors, administrators and assigns.

**ARTICLE I
INTRODUCTORY PROVISIONS**

Section 1. AUTHORITY FOR BYLAWS. Developer and Initial Commercial Owner, acting as the present Association of the Project, hereby approve and adopt these Bylaws pursuant to the Act. These Bylaws are subject to the laws of the State of Hawaii, including but not limited to, the Act and Hawaii Administrative Rules, Title 16, Chapter 107 (the "**HAR**"), as amended from time to time.

Section 2. PURPOSE OF BYLAWS; COVENANTS TO RUN WITH THE LAND. The Land and the Improvements are held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following Bylaws, all of which are declared and agreed to be in furtherance of the plan set forth in the Declaration, to constitute a condominium property regime under the Act and for the purposes of enhancing and perfecting the value, desirability and attractiveness of the Project. These Bylaws shall run with the Land and Units, shall constitute equitable servitudes and liens, and shall be binding upon all parties having or acquiring any right, title or interest therein.

Section 3. DEFINITIONS. The terms used herein with initial capital letters shall have the meanings given to them in the Declaration, except as otherwise expressly provided herein.

Section 4. CONFLICTS. These Bylaws are set forth to comply with the requirements of the Act and the HAR. In any case where any of these Bylaws conflict with the provisions of the Act, the HAR or Declaration, the provisions of the Act, the HAR or the Declaration, as the case may be, shall control.

Section 5. BINDING EFFECT OF BYLAWS ON OWNERS, MORTGAGEES AND LESSEES. All present and future Owners, mortgagees, vendors and vendees under Agreements of Sale, tenants and occupants of Units and their guests, employees, business invitees and any other persons who may use any part of the Project in any manner are subject to these Bylaws, the Declaration and the House Rules; provided, however, that the Commercial Development shall not be subject to the House Rules. The acceptance of a Unit Deed, or conveyance or mortgage or agreement of sale or the entering into of a lease or the act of occupancy of a Unit shall constitute an acceptance, ratification and agreement to comply with the provisions of these Bylaws, the Declaration and the House Rules, as the same may be amended from time to time.

ARTICLE II ASSOCIATION OF OWNERS

Section 1. MEMBERSHIP. All Unit Owners of the Project together shall constitute the Association. Every Unit Owner, upon acquiring title thereto, shall automatically become a member of the Association (“**Member**”) and shall remain a Member until such time as his or her ownership of such Unit ceases for any reason. In the event that the condominium property regime is terminated, the Association shall consist of all former Unit Owners who owned Units at the time of termination and who are entitled to distributions of proceeds under Section 514B-47 of the Act, or such Owners’ heirs, successors or assigns. Notwithstanding anything to the contrary provided herein, during the Development Period, Developer and Initial Commercial Owner shall operate the Project in accordance with the Declaration and these Bylaws and, where necessary, take all actions on behalf of the Association upon such terms and conditions as they shall agree upon which are consistent with the terms of the Declaration and these Bylaws. For the duration of the Developer Control Period: (i) Developer shall have the right to appoint and remove the Residential Directors and all of the Officers of the Association’s Board of Directors; and (ii) Initial Commercial Owner shall have the right to appoint and remove the Commercial Director of the Association’s Board of Directors. Following termination of the Developer Control Period and the first election of a replacement Board in accordance with Section III.3 below, Developer and Initial Commercial Owner shall be entitled to vote the interest of each Unit that they own.

Section 2. CLASSES. The Association shall be comprised of a Residential Unit Class and a Commercial Unit Class. The Owner of any Unit, upon acquiring title thereto, shall automatically become a member of the Unit Class to which such Owner’s Unit belongs. Each Residential Unit Owner shall be a member of, and all Residential Unit Owners shall comprise, the Residential Unit Class. The Commercial Unit Owner shall be a member of, and all Commercial Unit Owners shall comprise, the Commercial Unit Class. Each Class shall vote on and determine issues affecting their Unit Class. The Commercial Unit Class for instance, may vote on and determine issues pertaining to only the Commercial Unit Class and, subject to any express approval rights of Developer and Initial Commercial Owner, the Residential Unit Class may vote on and determine issues pertaining only to the Residential Unit Class.

Section 3. PURPOSE. The Association shall be organized and operated for the purposes of physical, administrative and fiscal management of the Project and for managing, maintaining, acquiring, constructing and caring for the Association property, which includes the General Common Elements, Residential Limited Common Elements, any real property which is not part of the Residential Limited Common Elements, but which the Association either owns or leases, any personal or moveable property owned or leased by the Association and any fixtures owned or leased by the Association; provided, however, that unless otherwise provided in the Declaration or these Bylaws: (i) Individual Limited Common Elements shall be managed and maintained by the Owner of the Unit to which such Individual Limited Common Element is appurtenant; (ii) Residential Limited Common Elements shall be managed

and maintained by the Residential Unit Class; and (iii) Commercial Limited Common Elements shall be managed and maintained by the Commercial Unit Class.

Section 4. VOTING. Except with respect to those matters requiring voting by the Unit Classes set forth above, each Unit Owner shall be entitled to that percentage of the total vote of all of the Unit Owners which equals the percentage of the Common Interest appurtenant to such Unit as set forth in the Declaration. With respect to those matters requiring voting by a Unit Class, each Unit shall have a vote equal to its Class Common Interest as set forth in the Declaration. The respective Unit Owners may cast votes in person or by proxy. The vendee of a Unit pursuant to an agreement of sale shall have the right to vote unless the vote is retained by the vendor as may be provided in said agreement of sale pursuant to Section 514B-124 of the Act. An executor, administrator, personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any Unit owned or controlled by him or her in such capacity, provided that he or she shall first present evidence satisfactory to the Secretary that he or she owns or controls such Unit in such capacity not later than the commencement of the meeting. The vote for any Unit owned of record by two (2) or more persons may be exercised by any one (1) of them present at any meeting in the absence of protest by the other or others. If more than one (1) Owner is present, the votes allocated to that Unit may be cast only in accordance with the agreement of the majority in interest of the Owners. There is a majority agreement if any one (1) of the Owners casts the votes allocated to that Unit without protest being made by any of the other Owners of the Unit to the person presiding over the meeting before the polls are closed. If co-Owners do not agree on their vote, then the entire vote allocated to that Unit will not be counted. Corporations, general partnerships, limited partnerships, limited liability partnerships and limited liability companies which are Owners shall designate a general partner, officer, member or manager, as appropriate, for the purpose of exercising the vote; and such representative of an Owner which is a corporation, general partnership, limited partnership or limited liability company shall present satisfactory written evidence to the Secretary of his or her designation as representative not later than the commencement of the meeting.

Section 5. QUORUM. The term “quorum” refers to the number or percentage of Owners who must be present at a meeting to conduct business for all Unit Owners, the Residential Unit Class Owners and the Commercial Unit Class Owners as follows:

A. ALL UNIT OWNERS. For all meetings of the Association with respect to all matters which may be voted on by all Unit Owners, twenty-five percent (25%) of the Owners must be present to have a quorum unless a different number is required by law, the Declaration or another part of these Bylaws.

B. RESIDENTIAL UNIT OWNERS. With respect to those matters which may only be voted on by or which require a vote of only the Residential Unit Class Owners, twenty-five percent (25%) of the Residential Unit Class Owners must be present to have a quorum unless a different number is required by law, the Declaration or another part of these Bylaws.

C. COMMERCIAL UNIT OWNERS. With respect to those matters which affect the Commercial Unit Owners, Commercial Units and the Commercial Limited Common Elements and which may only be voted on by or which require a vote of only the Commercial Unit Class Owners, fifty percent (50%) of the Commercial Unit Class Owners must be present to have a quorum unless a different number is required by law, the Declaration or another part of these Bylaws.

D. WHEN A MEMBER IS “PRESENT”. Members are “present” at a meeting if: (i) they attend it in person, or (ii) their proxy holder attends it for them, or (iii) someone else permitted by these Bylaws attends it for them.

Section 6. MAJORITY VOTE. The vote of a majority of the Common Interest, Residential Class Common Interest and/or Commercial Class Common Interest present or represented at a meeting at which a quorum shall be present shall be binding upon all Unit Owners, Residential Unit Class Owners and/or Commercial Unit Class Owners, respectively, for all purposes, except where a higher percentage vote is required in the Declaration, these Bylaws or by law. Notwithstanding the preceding sentence: (i) where a vote requires a Majority of Unit Owners, the term “**Majority of Unit Owners**” shall mean the Unit Owners to which are appurtenant more than fifty percent (50%) of the total Common Interest (or Class Common Interest with respect to the Residential Unit Class and Commercial Unit Class); and (ii) where a vote requires a specific percentage of Unit Owners, the specified percentage of the Owners means Unit Owners to which are appurtenant such percentage of the Common Interest (or Class Common Interest with respect to the Residential Unit Class and Commercial Unit Class).

Section 7. PROXIES. An Owner may appoint in writing a proxy to represent the Owner at meetings of the Association. An Owner may vote by mail or electronic transmission through a duly executed proxy.

A. A proxy, to be valid, must: (i) be delivered to the Secretary or the Managing Agent no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains; (ii) contain at least the name of the Association, the date of the meeting of the Association, the printed names and signatures of the persons giving the proxy, the Unit numbers for which the proxy is given, the names of the persons to whom the proxy is given, and the date that the proxy is given; (iii) if it is a standard proxy form authorized by the Association, contain boxes wherein the Owner has indicated that the proxy is given: (a) for quorum purposes only; (b) to the individual whose name is printed on a line next to this box; (c) to the Board of Directors as a whole and that the vote be made on the basis of the preference of the majority of the Directors present at the meeting; or (d) to those Directors present at the meeting with the vote to be shared with each Director receiving an equal percentage. The proxy form shall also contain a box wherein the Owner may indicate that the Owner wishes to obtain a copy of the annual audit report.

B. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy and may be limited as the Unit Owner indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the Unit.

C. A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.

D. Nothing in this Section shall affect the holder of any proxy under a first Mortgage of record.

E. With respect to the use of Association funds to distribute proxies: (i) if the Board intends to use Association funds to distribute proxies, including the standard proxy form referred to in this Section II.7, the Board shall first post notice of its intent to distribute proxies in prominent locations within the Project at least twenty-one (21) days before its distribution of proxies. If the Board receives within seven (7) days of the posted notice a request by any Unit Owner for use of Association funds to solicit proxies accompanied by a statement, the Board shall mail to all Unit Owners either: (a) a proxy form containing the names of all Unit Owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or (b) a proxy form containing no names, but accompanied by a list of names of all Unit 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 Unit Owner's qualifications to serve on the Board or reasons for wanting to receive proxies; and (ii) the Board or member of the Board may use Association funds to solicit proxies as part of the distribution of proxies. If a member of the Board, as an individual, seeks to solicit proxies using Association funds, the Board member shall proceed as a Unit Owner under subpart (i) of this subsection.

F. No Managing Agent or resident manager, if any, or their employees, shall solicit, for use by the Managing Agent or the resident manager, if any, any proxies from any Unit Owner of the Association that retains the Managing Agent or resident manager, nor shall the Managing Agent or the resident manager, if any, cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

G. The Board shall not adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to Association matters on the Common Elements by Unit Owners; provided that subject to applicable approval rights of Initial Commercial Owner, the Board may adopt rules regulating reasonable time, place, and manner of the solicitations or distributions, or both.

Section 8. PLACE OF MEETINGS. All meetings of the Association shall be held at such place within the Project, or elsewhere within the State of Hawaii, as may be designated by the Board; provided that in the event of a natural disaster, such as a hurricane, an Association meeting may be held outside the State of Hawaii.

Section 9. ANNUAL MEETINGS. The first annual meeting of the Association shall be held upon the earlier of: (a) one hundred eighty (180) days from the recordation of the first Unit Deed conveying a Unit in the Project from Developer to another Owner, provided that not less than forty percent (40%) of the Units in the Project have been sold by Developer to another Owner and recorded in the Land Court (or if less than forty percent (40%) of the Units in the Project have been so sold and recorded, then within one (1) year of the recordation of the first Unit Deed from Developer to another Owner, provided that ten percent (10%) of the Unit Owners request, in writing, that the first meeting be held), (b) four (4) months after seventy-five percent (75%) of the Residential Units of the Project have been conveyed by Developer to other Owners; or (c) five (5) years after the recordation of the first Residential Unit Deed conveying a Unit in the Project from Developer to another Owner. The terms "**recorded**" and "**recordation**" shall mean and refer to the recordation of a Unit Deed transferring a Unit to an Owner at the Land Court. Subject to the rights of Developer and Initial Commercial Owner to designate Directors contained in the Declaration and these Bylaws, at such meeting, the Unit Owners shall elect a Board. During the Development Period, Developer and Initial Commercial Owner shall jointly have authority to act in all matters as the Association and the Board and may act without a formal meeting and without call or notice. During the Developer Control Period, the Residential Directors and Commercial Director shall jointly have authority to act in all matters as the Association and the Board and may act without a formal meeting and without call or notice. Thereafter, the annual meetings of the Association shall be held on a date that is selected by the Board. If the Board does not choose a meeting date by the 15th of February of each year, then the meeting will be held at the Project at 6:30 p.m. on the third (3rd) Wednesday in March of each year. Developer may set the date and time for the first meeting.

Section 10. SPECIAL MEETINGS. A special meeting of the Association may be called at any time for any one or more purposes. It may be called by (a) the President, (b) a majority of the Directors or the Commercial Director, or (c) Developer or Initial Commercial Owner during the Development Period, or (d) a petition signed by not less than twenty-five percent (25%) of the Unit Owners and presented to the Secretary or to the Managing Agent. The Members may transact only that business the general nature of which is stated in the notice of the special meeting. Upon receipt of such

call or petition, the Secretary or the Managing Agent shall send written notice of the meeting to all Unit Owners in the manner provided in Section II.11, below. In the event that the Secretary or the Managing Agent shall fail to send out notices within fourteen (14) days of receipt of any petition to have such meeting, or such other period as may be required by Section 514B-121 of the Act, the petitioners calling for the meeting may send the notice in accordance with the provisions for such notice contained in these Bylaws. The meeting shall be held at the time and place specified in such call, or if unspecified, at any reasonable time within forty-five (45) days from the date the call was received.

Section 11. NOTICE OF MEETINGS AND OTHER NOTICES. At least fourteen (14) days before the date assigned for the meeting, the Secretary shall cause written notice of all meetings, annual or special, stating the date, time and place of the meeting and whether it is annual or special, together with a standard proxy form authorized by the Association, if any, and any other notices permitted or required to be delivered by these Bylaws, to be given by hand delivering such notice(s) and form, by mailing, postage prepaid to the mailing address of each Unit or any other address designated in writing by the Unit Owner, or, at the option of the Unit Owner, expressed in writing, by facsimile or electronic mail to the electronic mailing address designated in writing by the Unit Owner. The notice must state the authority for holding the meeting, the items on the agenda, including the general nature and rationale of any proposed amendment to the Declaration or these Bylaws, and any proposal to remove a Director; provided that nothing herein shall preclude a Unit Owner from proposing an amendment to the Declaration or these Bylaws or to remove a Director at any annual meeting. Upon written request for notices delivered to the Board, the holder of any duly recorded mortgage or deed of trust from any Unit Owner may obtain a copy of any and all notices permitted or required to be given to the Unit Owner, whose interest is subject to said mortgage or deed of trust. Notice can be considered waived as follows:

A. Anyone who attends a meeting, in person or by Proxy, waives any right to claim notice was not given properly unless, when the meeting begins, he or she objects to holding it because notice was not given properly.

B. A Member may waive notice of any Association meeting by signing a document (i) that waives notice, or (ii) that consents to or approves the action taken at the meeting, or (iii) that approves the minutes of the meeting. All such documents must be filed with the Association records and made a part of the minutes of the meeting.

C. A Member automatically waives notice of any Association meeting if he or she does not file a written objection with the Secretary or the Managing Agent within fifteen (15) days after he or she receives written notice of any action taken at an Association meeting. A copy of the minutes, among other things will be treated as written notice.

Upon notice being given in accordance with the provisions hereof, the failure of any Unit Owner to receive actual notice of any meeting shall not in any way invalidate the meeting or proceedings thereat. The presence of any Unit Owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such Owner unless he or she shall, at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof. Each Unit Owner shall keep the Association informed of any changes in address.

Section 12. RECORD DATE FOR NOTICES AND VOTING.

A. PURPOSE OF THE RECORD DATE. The “Record Date” is the date used to determine who is entitled to receive notice and to vote at Association meetings or on any action to be taken without a meeting. The Record Date is also used to determine who may object to and waive failure to receive notice and exercise other such rights for or as a Member.

B. SETTING THE RECORD DATE. The Board may choose the Record Date. The Record Date for a meeting may not be more than ninety (90) days before the meeting date. The Record Date for action without a meeting may not be more than thirty (30) days before the ballot or request for consent or approval is sent. Unless the Board chooses another date, the Record Date will be the date and time when the mailing list is prepared, or, if notice is waived, then two (2) business days before the day of the meeting. If a meeting is adjourned and a new notice must be given, then a new Record Date must be set.

C. EFFECT OF SETTING RECORD DATE. When a Record Date is set, only the Members of Record on that date (or someone authorized to act for them) have the right to notice and to vote at a meeting or on a ballot or other request for consent or approval. This rule applies despite any issuance or transfer of a Unit in the records of the Association after the Record Date. A person who is the Unit Owner as of the Record Date is considered to be the “**Member of Record**.” A person who becomes a Member after the Record Date may act for the Member of Record by obtaining a Proxy from the Member of Record. When these Bylaws refer to the “**Owner**” or “**Member**” with respect to notice (including waivers of notice) and voting, it means the Member of Record or someone authorized to act for the Member of Record.

Section 13. ADJOURNMENT OF MEETINGS. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Unit Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than thirty (30) days from the time the original meeting was called, as may be determined by majority vote of the Unit Owners present, without notice other than the announcement at such meeting. If the meeting is adjourned for thirty (30) days or more, or if the law requires a new notice, then a new notice must be given pursuant to Section II.11 herein. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 14. CONDUCT OF MEETINGS AND ORDER OF BUSINESS. All meetings of the Association shall be conducted in accordance with the most current edition of Robert’s Rules of Order, Newly Revised.

Section 15. INSPECTORS FOR VOTING AND PROXIES.

A. APPOINTMENT. At least ten (10) days before any meeting of the Association or before any ballot is sent to the Members, the Board may appoint inspectors of the voting at the meeting, including voting for the election of Directors. The Board may appoint either one (1) or three (3) inspectors of voting. If the Board fails or chooses not to do so, then the Managing Agent will be the inspector of the voting.

B. DUTIES. The voting inspectors will: (i) determine the authenticity, validity and effect of proxies, pledges, and other documents purporting to give any person the right to represent, act and vote for a Member; (ii) receive votes, ballots and consents; (iii) hear and determine all challenges, questions and conflicts relating in any way to the right to cast votes; (iv) count and tabulate all votes and consents; (v) decide when the polls will close; (vi) determine the results of all votes and elections; and (vii) do anything else appropriate to conduct the vote or election fairly as to all Members. The decision, act or certificate of a majority of inspectors, if there are three (3), or of a single inspector, if there is only one (1), will be effective. Any facts stated in any effective report or certificate are presumed to be accurate.

Section 16. MINUTES OF ASSOCIATION MEETINGS. Minutes of meetings of the Association shall be approved at the next succeeding regular meeting or by the Board, within sixty (60) days after the meeting, if authorized by the Unit Owners at an annual meeting. Minutes of all meetings of the Association shall be available within seven (7) calendar days after the approval and unapproved final drafts of minutes shall be available within sixty (60) days after the meeting. If approved by the Board, Unit Owners shall be given a copy of the approved minutes or notified of the availability of the minutes within thirty (30) days after approval. A Unit Owner shall be allowed to offer corrections to the minutes at an Association meeting.

Section 17. ASSOCIATION POWERS. Except as otherwise provided herein, and subject to the provisions of the Declaration and these Bylaws, the Association, even if unincorporated, shall have those powers set forth in Section 514B-104 of the Act, as limited by Section 514B-105 of the Act.

ARTICLE III BOARD OF DIRECTORS

Section 1. NUMBER AND QUALIFICATION. During the Developer Control Period, the affairs of the Association shall be governed by a Board of Directors acting on behalf of the Association consisting of one (1) Commercial Director appointed from time to time by Initial Commercial Owner and two (2) Residential Directors appointed from time to time by Developer. Upon the termination of the Developer Control Period, the Board of Directors shall be comprised of eight (8) Residential Directors and one (1) Commercial Director who shall be elected as set forth in Section III.3 below. In the event the Unit Owners decrease the number of Board members as permitted by the Act, the Board of Directors shall contain at least one (1) Commercial Director. Each member of the Board shall be an Owner, co-Owner, a vendee under agreement of sale, a trustee or beneficiary of a trust that owns a Unit, an officer of any corporate owner or a representative of any entity which owns a Unit. The partners of a general partnership and the general partners of a limited partnership or limited liability partnership shall be deemed to be Owners of a Unit for purposes of serving on the Board. There shall not be more than one (1) representative on the Board from any one Unit. No resident manager or employee of the Association shall serve on the Board. Any Director who is an employee of a Managing Agent shall not participate in any discussions regarding the Management Agreement with such Managing Agent and shall be excluded from any executive session where such Managing Agent or Management Agreement will be discussed.

Notwithstanding anything contained herein to the contrary, the Initial Commercial Owner may, at its sole option, elect to waive its right to appoint and/or have a Commercial Director by providing written notice to the Board. Any vacancy created by such election by the Initial Commercial Owner shall be filled without regard to the initial appointment of such Director by the Initial Commercial Owner: (i) during the Developer Control Period by the Developer in accordance with Section III.5.B, below; and (ii) after the Developer Control Period, in accordance with Section III.5.C, below.

Section 2. POWERS AND DUTIES. The Board shall have the powers and duties necessary for the administration of the affairs of the Project in compliance with all governmental requirements and the Declaration, and for the maintenance, upkeep and repair of the Project in good order and condition in accordance with the First Class Standard, and as delegated, all rights, powers and duties of the Association, except those rights, powers and duties that cannot be delegated to the Board by law, the Declaration or these Bylaws. The Board shall have all rights, powers and duties set forth in the Act subject to any and all approval requirements as set forth in the Act and any and all rights and approval requirements set forth in the Declaration and these Bylaws, including but not limited to the Developer Reserved Rights and Initial Commercial Owner Reserved Rights and approval rights.

Section 3. ELECTION AND TERM OF OFFICE. During the Developer Control Period, the Board shall be appointed as set forth in Section III.1 and the Directors so appointed shall serve until removed by Developer or Initial Commercial Owner, respectively, who initially appointed them. Upon the termination of the Developer Control Period, each Residential Director shall be elected and removed only by Residential Unit Class Owners and the Commercial Director shall be elected and removed only by the Commercial Unit Class Owner(s). Election of Directors may be by secret ballot at each annual meeting and each special meeting called for that purpose. Other than for the initial term set forth below, Directors shall hold office for a period not to exceed three (3) years and until their respective successors have been elected, subject to removal as set forth in Section III.4. The term of office for the initial Directors shall be as follows: (i) the three (3) Residential Directors with the highest number of votes shall serve for three (3) years; the three (3) Residential Directors with the next highest number of votes shall serve for two (2) years; the two (2) Residential Directors with the next highest number of votes shall serve for one (1) year and (ii) the Commercial Director shall serve for an indefinite period, subject to removal as set forth in Section III.4 below. Directors shall be elected at each annual meeting to fill the vacancy in the office of Director occurring as of the time of such meeting. An Owner may run for and be elected to an unlimited number of terms as a Director. An Owner shall provide notice of the Owner's intent to cumulatively vote before voting commences. The term "**cumulative voting**" as used herein means that each Owner may cast for any one (1) or more nominees to the Board a vote equivalent to the vote which such owner is entitled to multiplied by the number of Director positions to be elected and for whom the Owner is entitled to vote, and each Owner shall be entitled to cumulate his votes and give all thereof to one (1) nominee or to distribute his votes in such manner as he shall determine among any or all of the nominees for whom such Owner is entitled to vote, and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of Directors to be elected, shall be deemed elected. Notwithstanding the foregoing and any other provision contained in these Bylaws or the Declaration to the contrary, after the expiration of the Developer Control Period and for so long as Developer owns at least one (1) Residential Unit in the Project, Developer, at its discretion, shall at all times have the right to designate and appoint at least one (1) Residential Director on the Board of Directors.

Section 4. REMOVAL OF MEMBERS OF THE BOARD. At any annual or special meeting of the Association duly called, members of the Board may be removed and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created as follows:

A. During the Developer Control Period, Initial Commercial Owner may remove and replace the Commercial Director and Developer may remove and replace the Residential Directors.

B. After the Developer Control Period, the removal and replacement of a Residential Director shall be by a vote of a majority of the Residential Unit Class Owners and, otherwise, in accordance with all applicable requirements and procedures in these Bylaws for the removal and replacement of Directors. Any Residential Director whose removal has been proposed by the Residential Unit Class Owners shall be given an opportunity to be heard at such meeting. Any Residential Director who shall miss three (3) consecutive meetings of the Board may be removed by vote of a majority of the remaining Residential Directors, even though they may constitute less than a quorum; provided, however, that this right of removal shall be without prejudice to the Residential Unit Class Owners' right to remove Residential Directors as provided in this section. The replacement of the Director so removed shall be in accordance with all applicable requirements and procedures in these Bylaws for the replacement of Directors. Any Director removed by the Board shall not be eligible for reelection to the Board for a period of one (1) year after such Director's removal.

C. After the Developer Control Period, the removal and replacement of a Commercial Director shall be by the vote of a majority of the Commercial Unit Class Owners, in

accordance with all applicable requirements and procedures in these Bylaws for the removal and replacement of Directors.

Section 5. VACANCIES.

A. A Director's office shall become vacant in the event of such Director's death, incapacity or resignation or if such Director shall cease to be an Owner or co-Owner of record of a Unit, a vendee of a Unit under an agreement of sale, a trustee or beneficiary of a trust which owns a Unit, or an officer, partner, member of other person authorized to act on behalf of any other legal entity which owns a Unit.

B. Any vacancies during the Developer Control Period shall be filled by Developer or Initial Commercial Owner, respectively, who appointed the Director whose position becomes vacant.

C. Any vacancies of a Residential Director after the end of the Developer Control Period, other than a vacancy caused by the natural expiration of the term of such Director or the removal of such Director, shall be filled by the vote of a majority of the remaining Residential Directors, even though they may constitute less than a quorum, and each person so elected shall serve until his successor is elected at the next annual meeting of the Association.

D. Any vacancies for the Commercial Director after the end of the Developer Control Period, other than a vacancy caused by the natural expiration of the term of such Director or the removal of such Director, shall be filled by vote of a majority of the Commercial Unit Class Owners at a special meeting of the Commercial Unit Class Owners and each person so elected shall serve until his successor is elected at the next annual meeting of the Association.

Section 6. ORGANIZATIONAL MEETING. The first meeting of the Board shall be held immediately after the first annual meeting of the Association and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, provided that a majority of the whole Board shall be present thereat. At such meeting, the Board shall elect the Officers for the ensuing year.

Section 7. REGULAR MEETINGS. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar year.

Section 8. EXECUTIVE SESSION. The Board, with the approval of a majority of a quorum of the Directors, may adjourn a meeting and reconvene in private in executive session to discuss and vote upon matters: (a) concerning personnel; (b) concerning litigation in which the Association is or may become involved; (c) necessary to protect the attorney-client privilege of the Association; or (d) necessary to protect the interests of the Association while negotiating contracts, leases and other commercial transactions. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 9. SPECIAL MEETINGS. Special meetings of the Board may be called by the President on three (3) business days' notice to each Director, given personally or by mail, facsimile transmission or electronic mail transmission (which notice shall state the time, place and purpose of the meeting), and on posting of notice, if practicable, as provided in Section III.11; provided, however, that (a) in the case of emergency situations, as determined by the President, a special meeting of the Board may be called by the President on eight (8) hours notice to each Director and (b) in the event of a special meeting called for the purpose of filling a Residential Director or Commercial Director vacancy on the Board, notice of such meeting shall include the purpose of the meeting, the date of such meeting shall be

set on a date that allows sufficient time for Unit Owners to declare their intentions to run for election and solicit proxies for that purpose. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice, if practicable, on the written request of at least two (2) Directors or the Commercial Director.

Section 10. CONDUCT OF MEETING. All meetings of the Board of Directors, other than executive sessions, shall be open to all Members of the Association, and Association Members who are not on the Board of Directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the Board of Directors votes otherwise. All meetings of the Board (whether organizational, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

Section 11. NOTICES; WAIVER OF NOTICE. Notice of all Board meetings and other notices to the Directors shall be given to each Director by the Secretary or the person or persons calling the meeting. Notice of regular meetings of the Board shall be given to each Director personally or by first class mail, facsimile or electronic mail at least fourteen (14) days, if practicable, prior to the day named for such meeting. Notice of all Board meetings shall also be posted by the Managing Agent or resident manager, if any, or a member of the Board, in prominent locations within the Project seventy-two (72) hours prior to the meeting or simultaneously with notice to the Board of Directors. Before or at any meeting of the Board of Directors, any Director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the Directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 12. COMPENSATION. No Director shall receive any compensation from the Association for Directors' travel, expenses, fees and per diem expenses; provided that, with the approval of the Board, Directors may be reimbursed for actual expenditures incurred on behalf of the Association. The minutes of the meeting shall reflect in detail the items and the amounts of the reimbursements. The Directors may expend Association funds, which shall not be deemed to be compensation to the Directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as Directors; provided that the approved annual operating budget shall include these expenses as separate line items. These expenses include registration fees, books, videos, tapes, other educational materials and economy travel expenses.

Section 13. QUORUM OF BOARD. At all meetings of the Board of Directors, a majority of the total number of Directors established by these Bylaws shall constitute a quorum for the transaction of business, and action by a majority of the Directors present at any meeting at which a quorum is present shall constitute action by the Board; provided that, any action shall be subject to any applicable approval rights of Initial Commercial Owner. If less than a quorum shall be present at any meeting of the Board, or the Commercial Director is unavailable for a meeting in which a matter involving the Commercial Unit Owners, Commercial Units and/or the Commercial Limited Common Elements is being discussed, a majority of those Directors present may adjourn the meeting and call an additional meeting at which a majority of the total number of Directors and/or the Commercial Director can attend.

Section 14. NO PROXY VOTE; CONFLICT OF INTEREST. A Director shall not cast any proxy vote at any Board meeting, nor shall a Director vote at any Board meeting on any issue in which the Director has a conflict of interest; provided, however, that nothing herein shall limit the right of the Commercial Director to exercise any approval rights under the Declaration and these Bylaws. In the event of a conflict of interest, the Director shall disclose the nature of such conflict prior to a vote at the Board meeting and the minutes of the meeting shall record the fact that a disclosure was made. For the

purposes of this section, “**conflict of interest**” means an issue in which a Director has a direct personal or pecuniary interest not common to other members of the Association. Ownership and use of a Unit by a Director for the purposes permitted by the Declaration and these Bylaws do not, by themselves, create a conflict of interest. If abstentions for such a reason would result in less than a majority being able to vote, the Directors who do not abstain shall appoint one or more persons as temporary Directors to vote on the matter in question.

Section 15. EMPLOYEES; BACKGROUND CHECK. Upon written authorization of an applicant for employment as a security guard, resident manager, or a position that would allow the employee access to the keys of or entry into Units or access to Association funds, the Board and the Managing Agent are empowered to conduct a background check or direct another responsible party to conduct the check as provided in Section 514B-133 of the Act. This information shall be used only for the purpose of conducting the criminal history check authorized by this section and the Act. The failure of the Association, the Board and the Managing Agent to conduct or verify a background check shall not give rise to a private cause of action against the Board or the Managing Agent for acts and omissions of the employee or vendor hired.

Section 16. MINUTES OF BOARD MEETINGS. The minutes of the meetings of the Board of Directors shall: (a) shall include the recorded vote of each Board member on all motions except motions voted on in executive session; (b) be approved no later than the second succeeding regular meeting; (c) be available within seven (7) calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty (60) days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session.

Section 17. ACTION BY DIRECTORS WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the Directors or of a committee of the Directors may be taken without a meeting if all of the Directors authorized to vote on such matter or all of the members of the committee, as the case may be, sign a written consent setting forth the action taken or to be taken at any time before or after the intended effective date of such action. Such consent shall be filed with the minutes of the Directors’ meetings or committee meetings as the case may be and shall have the same effect as a unanimous vote.

Section 18. REMOTE MEETINGS. Subject to the notice requirements contained in these Bylaws, members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communication equipment through which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting. If permitted by the Board, any Unit Owner may participate in a meeting conducted by a means of communication through which all participants may simultaneously hear each other during the meeting, provided that the Board may require that the Unit Owner pay for the reasonable, out-of-pocket costs associated with the participation.

Section 19. DUTY OF DIRECTORS. In the performance of their duties, each member of the Board of Directors shall owe the Association a fiduciary duty and exercise the degree of care and loyalty required of a director of a nonprofit corporation organized under Chapter 414D of the Hawaii Revised Statutes, as amended.

Section 20. COPIES OF DOCUMENTS. The Association at its expense shall provide all Board members with a current copy of the Declaration, Bylaws, House Rules and, annually, a copy of the Act, with amendments and the HAR.

ARTICLE IV OFFICERS

Section 1. DESIGNATION. The principal Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. All Officers shall be members of the Board. Except as specifically authorized by the Association at an annual or special meeting, no Officer shall receive any compensation from the Association for acting as such, but may be reimbursed for reasonable, actual expenses incurred in the course of acting as such Officer. An Owner shall not act as both an Officer of the Association and an employee of the Managing Agent.

Section 2. ELECTION AND TERM. The Officers of the Association shall be elected annually by the Board of Directors at its organizational meeting or any special meeting called for such purpose and shall hold office at the pleasure of the Board.

Section 3. DUTY OF OFFICERS. In the performance of their duties, each Officer of the Association shall owe to the Association a fiduciary duty and exercise the degree of care and loyalty required of an officer of a corporation organized under Chapter 414D of the Hawaii Revised Statutes.

Section 4. REMOVAL. Any Officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors, and his successor shall be elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 5. PRESIDENT. The President shall be the chief executive Officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these Bylaws or assigned to him from time to time by the Board.

Section 6. VICE PRESIDENT. The Vice President shall perform all of the duties and exercise all of the powers and rights of the President provided by these Bylaws or otherwise during the absence or disability of the President, or whenever the office of President is vacant, and shall perform all other duties assigned by the Board.

Section 7. SECRETARY. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of all Units, maintain and keep the minute book wherein resolutions shall be recorded, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary and all other duties assigned by the Board.

Section 8. TREASURER. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities. The Treasurer shall, in general, perform all the duties incident to the office of Treasurer and all other duties assigned by the Board.

Section 9. LIABILITY AND INDEMNITY OF THE BOARD AND OFFICERS. The members of the Board and Officers shall not be liable to the Association for any mistake of judgment or

otherwise except for their own individual gross negligence or willful misconduct. The Association shall obtain and maintain at the Association's expense a policy of Directors' and Officers' liability insurance covering the Board and Officers as provided in Section V.1.N.

The Association shall defend and indemnify each Director and Officer against all reasonable, out-of-pocket costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for reasonable attorneys' fees and other related expenses which may be incurred by or imposed on the Directors and Officers in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he or she may be involved as a party or otherwise by reason of his or her being or having been a Director or Officer, or by reason of any past or future action taken or authorized or approved by him or her or any omission to act as a Director or Officer, whether or not he or she continues to be a Director or Officer at the time of the incurring or imposition of such costs, expenses or liabilities. The Association shall not defend and indemnify the Directors or Officers for such costs, expenses or liabilities as shall relate to matters as to which he or she is liable by reason of his or her gross negligence or willful misconduct toward the Association in the performance of his or her duties as a Director or Officer. As to whether or not a Director or Officer was liable by reason of gross negligence or willful misconduct toward the Association in the performance of his or her duties as a Director or Officer, in the absence of such final adjudication of the existence of such liability, each Director and Officer may conclusively rely upon an opinion obtained by the Association's attorney. The foregoing right of indemnification shall not be exclusive of other rights to which a Director or Officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, executors, administrators and assigns of each Director or Officer.

ARTICLE V MANAGEMENT

Section 1. MANAGEMENT AND OPERATION OF THE PROJECT. Subject to the limits described in Section III.2, the Board will manage and operate the Project, and its powers and duties include, but are limited to, the following:

A. OPERATION AND MAINTENANCE OF THE RESIDENTIAL LIMITED COMMON ELEMENTS. Subject to limitations and Alternative Allocations in the Declaration and these Bylaws, the Board will operate, maintain, repair, replace, and make improvements to the General Common Elements and Residential Limited Common Elements.

B. MAINTENANCE AND REPAIR OF UNITS. The Board may perform maintenance and repairs on any Unit or Limited Common Element in the Project if;

- 1) It is necessary to protect the General Common Elements, Residential Limited Common Elements or any other Unit,
- 2) The Owner of the Unit fails or refuses to perform the maintenance or repair within a reasonable time after the Board delivers written notice to him or her describing the maintenance and repairs needed; and

The Board will charge a Special Assessment to that Unit for the cost of the maintenance or repair and any attorneys' fees and other expenses incurred in charging and collecting the Special Assessment. All maintenance and repairs to be performed upon any Commercial Unit or Commercial Limited Common Elements shall be the sole responsibility and at the sole cost of the Commercial Unit Owner.

C. RESTORATION OF PROJECT. The Board will rebuild, repair and restore the Project in accordance with the provisions of the Declaration and these Bylaws after it is damaged or destroyed by a fire or other casualty or as a result of a condemnation.

D. EMPLOYMENT OF PERSONNEL. The Board may hire employees, including a resident manager and operational and maintenance staff and may designate, employ, train, supervise and dismiss any personnel necessary or useful to maintain, repair, replace, rebuild or restore the General Common Elements or Residential Limited Common Elements or to operate the Project.

E. DELEGATION OF POWERS. The Board may delegate its powers to committees, agents, Officers, representatives and employees at the Board's discretion.

F. ENFORCEMENT OF CONDOMINIUM DOCUMENTS; LAW. The Board will enforce the Condominium Documents, the Act, the HAR and any other laws applicable to the operation of the Project.

G. PENALTIES AND FINES. The Board may set penalties and fines, and charge interest on them if they are not paid, as it deems appropriate to enforce the Condominium Documents, the Act, the HAR, and any other laws applicable to the operation of the Project. This includes, for example, penalties and fines, and any interest on them, for failure or refusal to pay to the Association on demand all costs, expenses, Common Expenses and Assessments (special or otherwise) required to be paid by law or under the Condominium Documents. Any penalties and fines must not be inconsistent with law or the Condominium Documents. The Board may, to the extent permitted by Section VI.8.B.5 and applicable law, also terminate a Residential Unit Owner's access to the Residential Limited Common Elements and stop supplying such Unit with any and all services normally supplied or paid for by the Association.

1) HEARING. The Board must hold a meeting and permit an Owner to present his or her case before it fines such Owner or imposes a penalty or takes any other disciplinary action. This provision does not apply, however, when an Owner is fined or penalized for failing to pay any Assessment on time. The Board must give the Owner written notice of the meeting at least fifteen (15) days in advance in the case of a fine or penalty, or sixty (60) days in case of termination of access, services and supplies. The notice must state the purpose of the meeting and the reason for seeking the fine or penalty. The Owner has the right to appear and to explain why the fine or penalty should not be imposed or why access and services should not be terminated. The Board will decide whether the Owner's defense will be oral or written. A majority of the Directors present will decide whether to impose the fine or penalty or to terminate access and services, if permitted pursuant to this Section V.1.G. The Directors, however, cannot act unless a quorum is present and the meeting is held as provided in these Bylaws.

2) WHEN THE FINE OR SUSPENSION TAKES EFFECT. The Board must give the Owner written notice of any disciplinary action taken and the reasons for such action. Any disciplinary action will take effect on the date that the notice is given.

3) WHEN SERVICES WILL BE RESTORED. The Board will restore a Unit Owner's access and services when the Unit Owner pays all amounts due.

4) THE MANAGING AGENT'S ROLE. The Board may delegate to the Managing Agent the power to carry out any disciplinary actions imposed by the Board.

H. BUDGET. Each year, the Board must prepare and adopt a budget of Common Expenses and Unit Class Common Expenses of the Association and determine the amounts of Assessments.

I. ASSESSMENTS. The Board must charge and collect Assessments of the Common Expenses, Unit Class Common Expenses and other charges payable by the Unit Owners.

J. BANK ACCOUNTS. The Board must open bank accounts on behalf of the Association. It must also designate who must sign checks and other documents relating to the accounts and keep full and accurate books of account and records of the Association's funds. It must also prepare regular financial reports.

K. ASSOCIATION FUNDS. The Board has custody and control of all funds of the Association. It must keep full and accurate books of account and records of the Association's funds. It must also prepare regular financial reports.

L. BORROWING MONEY. Subject to the notice and owner approval requirements of Section 514B-105 of the Act and any approval requirements and spending limitations contained in these Bylaws or in the Declaration, the Association may authorize the Board to borrow money to be used for the repair, replacement, maintenance, operation, or administration of the General Common Elements or Residential Limited Common Elements of the Project, or to make any additions, alterations and improvements to them or to enter into a mortgage for the purchase of the resident manager's Unit. The cost of borrowing including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to this borrowing, with respect to the General Common Elements will be a Special Cost subject to Alternative Allocation, with respect to the Commercial Limited Common Elements will be a Commercial Unit Class Expense, subject to the approval of Initial Commercial Owner, and with respect to the Residential Limited Common Elements shall be a Residential Unit Class Expense. The Board may borrow money relating to the Residential Development without the consent or approval of Initial Commercial Owner; provided that such cost is only a Residential Class Expense.

M. PAYMENT OF COMMON EXPENSES. As agent of the Unit Owners, the Board will pay all General and Residential Limited Common Expenses authorized by the Board.

N. INSURANCE AND BONDS. The Board will buy and keep in effect any insurance and bonds required or permitted by the Declaration or these Bylaws.

O. SERVICES. The Board will obtain any legal, accounting, and consulting services necessary or proper for the administration and operation of the Project or to interpret, enforce or implement the Act, the HAR, the Condominium Documents, and any other material documents or decisions affecting the Project.

P. PURCHASE OF GOODS. Subject to any limitations contained within the Condominium Documents or by law and if required by the Condominium Documents or by law, or if it is necessary or proper, in the Board's opinion, to operate the Project or to enforce the Condominium Documents, the Board may:

- 1) Buy, lease or otherwise procure any other materials, equipment, supplies, furniture, labor and services,
- 2) Make repairs and structural alterations, and

3) Pay taxes and assessments and other Common Expenses.

If any materials, equipment, supplies, furniture, labor, services, repairs, structural alterations, insurance, taxes or assessments are required because of the acts, misuse, or negligence of the Owners or occupants of a particular Unit, the Board will charge the costs of it as a Special Assessment to that Unit to the extent permitted by Section VI.3.A.5.

Q. DISCHARGE OF LIENS. The Board may pay any amount necessary to discharge, directly or by bond, any item or encumbrance levied against the entire Project or any part of it that may, in the Board's opinion, constitute a lien against the Project or against the Common Elements rather than merely against the interest of particular Owners. If one or more Owners are responsible for the existence of any such lien, they will be jointly and severally liable for the cost of discharging it or bonding against it, and the costs incurred by the Board by reason of such lien.

R. PURCHASING UNITS. With the affirmative vote of sixty seven percent (67%) of the Association, the Board may buy, lease or otherwise acquire any Residential Unit on behalf of the Association, the cost of which shall be a Residential Unit Class Expense; provided that the purchase of any resident manager's Unit may be done by the Board without the vote of the Association pursuant to the Act. It may take title in the name of the Association or the Board may have someone else, such as a trustee, hold title.

S. LEGAL PROCEEDINGS. The Board may begin, defend, settle, or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters relating to (i) enforcement of the Condominium Documents; (ii) damage to the Common Elements to the extent that the Association is obligated to maintain and repair it; (iii) damage to any part of any Unit to the extent that the Association is obligated to maintain and repair it; or (iv) damage, to the Units which arises out of, or is integrally related to, damage to any of the Common Elements or to any part of any Unit to the extent that the Association is obligated to maintain and repair them. Except as otherwise provided in Section 514B-161(b) of the Act, if the Board or an Owner requests mediation of a dispute, the other party in the dispute shall be required to participate in mediation. Each party shall be wholly responsible for its own costs of participating in mediation, unless at the end of the mediation process, both parties agree that one party shall pay all or a specified portion of the mediation costs. If the Board or an Owner refuses to participate in the mediation of a particular dispute, a court may take this refusal into consideration when awarding costs and attorneys' fees. Notwithstanding the foregoing, all claims regarding the design or construction of any part of the Project shall be resolved pursuant to Section XXV of the Declaration and in no event may the Association begin, defend, settle, or intervene on behalf of the any one or more Unit Owners in litigation, arbitration, mediation, or administrative proceedings in matters for which only the Unit Owner(s) has (have) standing to assert.

Section 2. MANAGING AGENT.

A. MANAGING AGENT. No later than the termination of the Developer Control Period, the Association shall hire and at all times have a Managing Agent to perform the fiscal, administrative and physical management of the Residential Development, the cost of which shall be a Residential Unit Class Expense. Initial Commercial Owner may hire the Commercial Managing Agent at its discretion, the cost of which shall be a Commercial Unit Class Expense.

B. QUALIFICATIONS. The Managing Agent and Commercial Managing Agent must be properly registered with the Real Estate Commission of the State of Hawaii and meet all of the requirements specified in Section 514B-132 of the Act. The Managing Agent may be Developer or an

affiliate of Developer. The Commercial Managing Agent may be Initial Commercial Owner or an affiliate of Initial Commercial Owner.

C. SELECTION. Developer shall have the right to choose, and employ the first Managing Agent for the Residential Development. Upon the expiration of the Developer Control Period, the Board may retain the Managing Agent or choose a replacement Managing Agent. The Board must use its best efforts to hire and keep a reputable, qualified, corporate company as the Managing Agent. Initial Commercial Owner shall have the right to choose and employ the Commercial Managing Agent for the Commercial Development or if it elects, Initial Commercial Owner or one of its affiliates may perform the fiscal, administrative and physical management of the Commercial Development.

D. MANAGEMENT AGREEMENT. The Managing Agent must enter into a Management Agreement with the Association, unless Developer is the Managing Agent. The Commercial Managing Agent must enter into a Commercial Management Agreement with Initial Commercial Owner, unless Initial Commercial Owner is the Commercial Managing Agent. Subject to the requirements of the Act:

1) POWERS AND DUTIES. The Management Agreement or Commercial Management Agreement may delegate to the Managing Agent or Commercial Managing Agent, as applicable, any of the Board's powers and duties, except those that, by law or under the Condominium Documents, cannot be delegated. In all cases, the Managing Agent will be subject to the direction of the Board.

2) TERM. The Management Agreement or the Commercial Management Agreement, as applicable:

(a) Shall provide for an initial term of not more than one (1) year from the date on which the Managing Agent or Commercial Management Agreement must begin its performance.

(b) Shall provide that the contract will be renewed automatically unless a written notice canceling the Management Agreement or Commercial Management Agreement is sent by either party at least sixty (60) days before its expiration.

E. CANCELLATION BY THE ASSOCIATION. If applicable, the Management Agreement must give the Association or the Commercial Management Agreement must give Initial Commercial Owner, the right to cancel in each of the following situations:

1) FOR CAUSE. The Association must have the right to cancel the Management Agreement whenever the Managing Agent breaches or fails to observe or perform a material part of the Management Agreement and fails to cure its breach or default within the time permitted by the Management Agreement. Initial Commercial Owner must have the right to cancel the Commercial Management Agreement whenever the Commercial Managing Agent breaches or fails to observe or perform a material part of the Commercial Management Agreement and fails to cure its breach or default within the time permitted by the Commercial Management Agreement.

2) WITHOUT CAUSE. The Association must have the right to cancel the Management Agreement without cause on not more than sixty (60) days' written notice. Initial Commercial Owner must have the right to cancel the Commercial Management Agreement without cause on not more than sixty (60) days' written notice.

3) **STATUTORY RIGHT.** The Association and Initial Commercial Owner must each have the right to cancel as provided in Section 514B-135(a) of the Act.

F. CANCELLATION BY THE MANAGING AGENT OR COMMERCIAL MANAGING AGENT. The Management Agreement must provide that the Managing Agent has the right to cancel the Management Agreement on not more than sixty (60) days' written notice. The Commercial Management Agreement must provide that the Commercial Managing Agent has the right to cancel the Commercial Management Agreement on not more than sixty (60) days' written notice.

G. BOND. From time to time, the Managing Agent or Commercial Managing Agent, respectively, must provide evidence satisfactory to the Board or Initial Commercial Owner, respectively, that it is bonded under a fidelity bond in the minimum amount required by the Act or any higher amount as the Board or Initial Commercial Owner may reasonably require.

H. FIRST CLASS STANDARD. The Management Agreement shall contain a requirement that the Managing Agent operate the Project at a First Class Standard and further provide for the right of the Board to terminate the Management Agreement if the Project is not operated or maintained at such standard by the Managing Agent.

Section 3. EMPLOYMENT OF RESIDENT MANAGER. The Board may also employ a resident manager, which may or may not be the Managing Agent. In either case, the Board will set the compensation of any resident manager. The Board may delegate to the resident manager any of its powers and duties except those that, by law or under the Condominium Documents, it cannot delegate. The resident manager shall be held to the same standard as the Managing Agent and shall operate the Project at a First Class Standard and further provide for the right of the Board to terminate any agreement with the resident manager if the Project is not operated or maintained at such standard by the resident manager. The cost of the resident manager and any employees which may be hired by such resident manager shall be a Residential Unit Class Expense.

Section 4. LIMITATIONS ON AUTHORITY TO ENTER INTO CONTRACTS. Neither the Association nor the Managing Agent may enter into a contract to furnish goods or services for the General Common Elements or Residential Limited Common Elements or to the Association for a period longer than one (1) year unless authorized by the vote or written consent of a Majority of the Owners voting, subject to any applicable approval rights of Initial Commercial Owner. This rule does not apply, however, to:

- A.** The Management Agreement or Commercial Management Agreement.
- B.** A contract with a public utility company if the rates charged by it are regulated by the Public Utilities Commission. The term of the contract, however, must be the shortest term the supplier will accept at the regulated rate.
- C.** Prepaid casualty and/or liability insurance policies not lasting more than three (3) years, provided that the policy permits "short-rate cancellation" by the insured.
- D.** Agreements for cable television, satellite television, and/or internet services and equipment for five years or less provided that neither Developer, Initial Commercial Owner nor Managing Agent owns, directly or indirectly, ten percent (10%) or more of the provider or supplier.

E. Agreements for sale or lease of burglar alarm and fire alarm equipment. Installation, and services for five (5) years or less provided that neither Developer, Initial Commercial Owner nor Managing Agent owns, directly or indirectly, ten percent (10%) or more of the supplier.

F. Any other contract for three (3) years or less so long as the Association can cancel it after no more than one (1) year without cause, penalty or other obligation upon not more than ninety (90) days written notice of termination to the other party.

Section 5. LIMITS ON ASSOCIATION AUTHORITY. The Association shall not:

A. Incur expenditures for Capital Upgrades without following the requirements set forth in Section VII.C and Section VII.D of the Declaration; or

B. Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

C. Take any action which is inconsistent with any and all limitations imposed upon the Association by the Condominium Documents.

D. Exercise its authority herein without the approval of Initial Commercial Owner if any of the associated actions impact the Commercial Units, Commercial Unit Owners and/or the Commercial Limited Common Elements.

Section 6. RESTRICTIONS ON RENTING OR SELLING UNITS BY ASSOCIATION EMPLOYEES. An employee of the Association may not engage in renting or selling Units in the Project except for Units owned by the Association, unless such activity is approved by vote of the Owners as required by the Act.

Section 7. HOUSE RULES. The Board may adopt, publish and enforce fair and reasonable House Rules governing details of the operation and use of the Residential Development. Developer may adopt the initial House Rules. The Board may revise the House Rules from time to time. The House Rules must be consistent with the Declaration, these Bylaws, the Act, and the HAR. As set forth in Section VI.O of the Declaration, the House Rules shall not regulate use or behavior in the Commercial Development and may only regulate use or behavior in the Residential Development to the extent permitted by Section 514B-105 of the Act. The Board shall enforce the Condominium Declaration, including the House Rules in accordance with the Declaration and Bylaws.

Section 8. STOPPING VIOLATIONS BY UNIT OWNERS.

A. **THE BOARD MAY STOP CERTAIN ACTIVITIES.** In addition to any other rights they may have, the Board and the Managing Agent may take action to stop any activity or condition that violates the law or the Condominium Documents or which poses an Emergency.

B. **THE BOARD MAY ENTER A UNIT.** The rights of the Board and the Managing Agent under Section V.8.A include the right and power to enter any Unit at any time and to use any reasonable means under the circumstances in an Emergency and neither the Board nor the Managing Agent will be liable to the Unit Owner for trespass for such entry.

C. THE BOARD MAY FILE A LAWSUIT. The rights of the Board and the Managing Agents under Section V.8.A also include the right and power to file a lawsuit or other legal proceedings. For example, the Board may obtain a court order ordering the Unit Owner to stop its activity or to abate any unsafe condition. The Unit Owner must pay to the Association on demand all costs of any such lawsuit or other legal proceedings, including attorneys' fees.

D. ABANDONED PROPERTY. If anyone abandons any personal property in or on the General Common Elements or Residential Limited Common Elements of the Project, the Board may sell it in a commercially reasonable manner, store it at the expense of its Owner, donate it to a charitable organization, or otherwise dispose of it as the Board chooses. However, the Board must do so in keeping with any legal requirements in the Act. The Association may keep any money from sale of the personal property except as otherwise provided by law.

ARTICLE VI COMMON EXPENSES

Section 1. DESIGNATION OF COMMON EXPENSES. "Common Expenses" means all charges, costs and expenses as described in Section XI of the Declaration.

Section 2. BUDGET AND RESERVES. The Board must prepare and adopt an annual operating budget with respect to the Residential Development and provide copies of such budget to the Owners. The budget must contain any information required by the Act and the HAR.

A. BUDGET. The annual operating budget shall be prepared in accordance with the requirements set forth in Section 514B-148 of the Act and the HAR. The Commercial Managing Agent and/or Commercial Director must submit the proposed budget for the Commercial Development, including replacement reserves, at least thirty (30) days prior to the date the Association shall present the budget to the Owners as required by the Act.

B. RESERVE FUNDS.

1) REPLACEMENT RESERVES. The Association must establish replacement reserve funds for Capital Upgrades, as required by law. The Association may set up any additional replacement reserve funds that the Board determines to be necessary or prudent. As required by the Act and the HAR, the Board shall calculate the Association's estimated replacement reserves based on a reserve study developed in compliance with the Act. The term, "**Association Property**" as used in the HAR governing the reserve study shall refer to all Common Elements with the responsibility for the Common Elements divided according to whether the Common Element is a General Common Element, a Residential Limited Common Element, a Commercial Limited Common Element or an Individual Limited Common Element. The Association must compute the estimated replacement reserves in the manner required by the Act and the HAR and shall set up separate replacement reserves. The annual operating budget must include all sums required to fund the replacement reserves funds in accordance with the Declaration, the Act and the HAR. It may also include any greater amounts that the Board chooses in the exercise of its reasonable business judgment. Reserves may be used for those purposes required by the Act and the HAR. Neither the Association, nor any Unit Owner, Director, Officer, Managing Agent, or employee of the Association who makes a good faith effort to calculate the estimated replacement reserves for the Association will be liable if that estimate later proves incorrect. The Residential Directors shall assume the responsibility of the Board to establish replacement reserves for Residential Limited Common Elements as a Residential Unit Class Expense and the Commercial Director, shall assume the responsibility of the Board to establish replacement reserves for Commercial Limited Common Elements as a Commercial Unit Class Expense. Replacement reserves for the General

Common Elements shall be assessed as a General Common Expense as set forth in the Declaration. As permitted by Section 514B-148 of the Act, the requirements of Section 514B-148 of the Act shall override any requirements in the Declaration or the Bylaws with the exception of: (i) any provision in the Declaration, these Bylaws or any other Condominium Documents that require the Association to collect more reserves than are required under Section 514B-148 of the Act; or (ii) any provisions in the Declaration, the Bylaws or any other Association documents that relate to upgrading the Common Elements, such as additions, improvements and alterations to the Common Elements.

2) BUDGET LIMITATION. The Board may not exceed its total adopted annual operating budget by more than twenty percent (20%) during the fiscal year to which the budget relates, except in emergency situations, as set forth in Section 514B-148(e) of the Act or with the approval of a majority of the Unit Class affected. Prior to the imposition or collection of an assessment under this Section that has not been approved by a majority of the affected Unit Owner Class, the Board of Directors shall adopt a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment.

3) OPERATING RESERVES. Subject to Section VI.4.B.4 of these Bylaws, the Board may establish and maintain an operating reserve by monthly assessment against (and payment by) all Owners for Operating Expenses in accordance with any applicable Alternative Allocations and/or in proportion to their respective Unit Class Common Interests, as set forth in Section XI of the Declaration or as may be required by sub-metering pursuant to Section XI.D of the Declaration, provided that the Board shall be responsible for establishing operating reserves for the Residential Limited Common Elements as a Residential Unit Class Expense. The Commercial Director shall be responsible for establishing operating reserves for the Commercial Limited Common Elements as a Commercial Unit Class Expense. Neither the Association, nor any Unit Owner, Director, Officer, Managing Agent, or employee of the Association who makes a good faith effort to calculate the estimated operating reserves for the Association will be liable if that estimate later proves incorrect. The reserves shall be set forth in the Association budget.

4) OTHER RESERVES. The Association may establish working capital reserve funds and other reserve funds that the Board deems necessary; provided that any funds established that impact the Commercial Development shall be subject to the approval of Initial Commercial Owner.

5) LIMITATION. Operating reserves, if any, collected for Commercial Unit Class Expenses may not be expended for any other purpose and are subject to the approval of Initial Commercial Owner.

6) OWNERS' INTEREST IN RESERVES. Except upon termination of the condominium property regime created by the Declaration, the interest of any Unit Owner in the reserves of the Association:

- (a) Cannot be withdrawn or assigned separately, and
- (b) Will be transferred automatically with each transfer of the Unit, whether or not the deed or other transfer document expressly says so.

Section 3. ALLOCATION OF COMMON EXPENSES.

A. COMMON EXPENSES. All Common Expenses shall be set forth in the Association budget in accordance with the Declaration and shall include the following:

1) GENERAL COMMON EXPENSES; ALTERNATIVE

ALLOCATIONS. The General Common Expenses identified in Exhibit D of the Declaration shall not be allocated by Common Interests but shall be allocated between the Commercial Unit Class and the Residential Unit Class in accordance with the Alternative Allocations set forth in Exhibit D. Such Alternative Allocations represent fair and equitable apportionments of the General Common Expenses pursuant to the provisions of Section 514B-41 of the Act. General Common Expenses allocated pursuant to an Alternative Allocation in turn, shall be shared among the Residential Unit Class Owners as a Residential Unit Class Expense as set forth in Section VI.3.A.3 and shared among the Commercial Unit Class Owners as a Commercial Unit Class Expense as set forth in Section VI.3.A.2.

2) COMMERCIAL UNIT CLASS EXPENSES.

All charges, costs and expenses directly attributable to the Commercial Limited Common Elements including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions and improvements to the Commercial Limited Common Elements and reserves therefor, cost of the Commercial Managing Agent as well as any other items designated as Commercial Unit Class Expenses by the Declaration or these Bylaws shall constitute Commercial Unit Class Expenses for which only the Commercial Unit Class shall be liable. The share of Commercial Unit Class Expenses attributable to each Commercial Unit will be equal to the Commercial Class Common Interest of that Unit.

3) RESIDENTIAL UNIT CLASS EXPENSES.

All charges, costs and expenses incurred by the Association directly attributable to the Residential Limited Common Elements including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions and improvements to the Residential Limited Common Elements and reserves therefor, cost of the Managing Agent as well as any other items designated as Residential Unit Class Expenses by the Declaration or these Bylaws shall constitute Residential Unit Class Expenses for which only the Residential Unit Class shall be liable. The share of Residential Unit Class Expenses attributable to each Residential Unit will be equal to the Unit Class Common Interest of that Unit.

4) LIMITED COMMON EXPENSES.

All charges, costs and expenses incurred by the Association directly attributable to one or more designated Units or any Individual Limited Common Elements appurtenant thereto, including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions and improvements to the Individual Limited Common Elements appurtenant to such Unit(s) and reserves therefor, (other than Commercial Unit Class Expenses and Residential Unit Class Expenses), shall constitute Individual Limited Common Expenses for which only the Owners of the designated Unit or Units shall be liable. The share of Individual Limited Common Element Expenses attributable to each designated Unit will be equal to the total of the expenses multiplied by this fraction:

The Unit Class Common Interest of that Unit

The sum of the Unit Class Common Interests of all Units to which that Individual Limited Common Expense is to be charged.

5) SPECIAL ASSESSMENTS AGAINST OWNERS AT FAULT.

The Association will charge a Special Assessment to a Unit to pay for all charges, costs and expenses incurred by the Association due to the negligence, misuse or neglect of the Unit Owner or his or her tenants, guests, invitees, or licensees. The Association will not charge a Special Assessment if the cost and expense is reimbursed or paid by insurance proceeds but may charge as a Special Assessment the deductible amount, subject to the notice and hearing requirements of Section 514B-143 of the Act. Any Special Assessment charged under this section will be secured by the lien of the Association described in Section VI.8.A.

Section 4. ASSESSMENTS.

A. WHEN ASSESSMENTS BEGIN. Assessments for Common Expenses shall be made based on a budget initially prepared by Developer and Initial Commercial Owner and adopted by the Board during the Developer Control Period. The budget shall be distributed or made available to each Unit Owner at least annually by the Board. Each Unit Owner, including Developer and Initial Commercial Owner, shall become obligated for the payment of the share of the Common Expenses allocated to the Owner's Unit from and after a specified date to be set forth in a written notice from Developer as permitted by Section 514B-41(b) of the Act. Developer shall mail the written notice to the Unit Owners, the Association and the Managing Agent, if any, at least thirty (30) days before the specified date. Prior to the specified date, Developer shall assume all the actual expenses in the Project and Developer shall comply with the provisions of Section 514B-41(b) of the Act and state in Developer's public report for the Project that the Unit Owners shall not be obligated for the payment of the Common Expenses assessable against the Units until such time as Developer sends the Unit Owners written notice, that after a specified date, the Unit Owners shall be obligated to pay for the portion of the Common Expenses that is allocated to their respective Units. After the specified date, Assessments will be payable in advance in monthly installments on the first day of each month, or at any other time that the Board chooses.

B. AMOUNT OF ASSESSMENTS.

1) REGULAR ASSESSMENT. Each year the Board will set the amount of the Regular Assessments based on the Common Expenses for each Unit based on the budget and the requirements of the Condominium Documents. The Board may increase the amount of the Regular Assessments during the year.

2) SPECIAL ASSESSMENTS. If for any reason the Regular Assessments are or will be, inadequate to pay the expenses for which such Regular Assessment is designated, the Board must estimate the shortfall. The Board must then (i) increase the next year's budget, or (ii) charge a Special Assessment. The Board may also charge a Special Assessment in any other circumstances permitted by law or by these Bylaws or the Declaration.

3) NOTICE OF ASSESSMENTS. Any time that the Board increases the Regular Assessment or charges a Special Assessment, it must give written notice of the increase or Special Assessment to each Owner. The notice must state the amount of the increase or of the Special Assessment for the Owner or the Owner's Unit. The Board must send the notice at least thirty (30) days before the increase or Special Assessment takes effect.

4) LIMITS ON ASSESSMENTS.

(i) Assessments are limited by the budget limitation set forth in Section VI.2.B.2.

(ii) Assessments related to Capital Upgrades are governed by Section VII.C and Section VII.D of the Declaration and Assessments related to Extraordinary Actions are governed by Section VII.E of the Declaration.

(iii) Any Assessments for General Common Expenses and any Alternative Allocations shall be allocated equitable and fairly based on use between the Commercial

Development and Residential Development, and any change in such Special Cost and Alternative Allocation are subject to the approval of Initial Commercial Owner.

C. TREATMENT OF ASSESSMENTS. Any part of Assessments used or to be used by the Association for any capital expense or major repairs or remodeling, including, but not limited to replacement of the roof, exterior painting of the building, resurfacing of parking areas will be treated as a capital contribution by the Owner that was assessed and paid for such items. It will be credited by the Association on its books as paid in surplus. It will not be treated as income to the Association or to the Owners.

Section 5. HANDLING AND PAYMENT OF ASSOCIATION FUNDS.

A. The funds in the general operating account of the Association must not be commingled with funds of other activities such as lease rent collections and rental operations (except to the extent permitted by Section 514B-149 of the Act). The Managing Agent must not commingle any Association funds with the Managing Agent's own funds. The Commercial Managing Agent must not commingle any Association funds with the Commercial Managing Agent's own funds

B. All funds collected by the Association, the Managing Agent or the Commercial Managing Agent, must be deposited, held, transferred, invested, and paid out in accordance with the requirements of the Act.

Section 6. PAYMENT AS AGENT. Each Owner, as principal, is liable for and must pay his or her share of the Common Expenses. The amount an Owner must pay will be set in accordance with the Declaration and these Bylaws. Except as otherwise provided in these Bylaws or in the Declaration, the Board may pay all Common Expenses or cause them to be paid on behalf of the Owners. The Board may require the Managing Agent to assist in these duties. The Board and the Managing Agent will transmit the payments made by the Owners to third persons to whom the payments must be made by the Owner. Neither the Board nor the Managing Agent, however, is liable for payment of Common Expenses as principal but only as the agent of the Owners.

Section 7. DUTY TO PAY; INTEREST AND LATE CHARGES.

A. PERSONAL OBLIGATION TO PAY. Each Owner is personally obligated to pay, on time, all applicable Assessments charged to the Owner or to his or her Unit. If a Unit is owned by more than one person, each of them will be jointly and severally liable for the Assessments. The amount of an Assessment will become the personal debt of the Owner as of the date when it is assessed. By acquiring a Unit, an Owner promises to pay all applicable Assessments charged to him or her, or to his or her Unit.

B. INTEREST AND LATE CHARGES. All sums not paid within thirty (30) days after the due date will be subject to: (i) interest at a rate set by the Board or, if no rate is set, then at one percent (1%) per month from the due date until paid; and (ii) a late charge equal to the greater of Fifty Dollars (\$50.00) or ten percent (10%) of the amount due. An Owner must also pay all costs of collection, including reasonable attorneys' fees.

C. HOW PAYMENTS WILL BE APPLIED. Payments will be applied first to legal fees, costs and expenses, then to late charges, then to interest, then to the principal amount of the Assessment.

Section 8. ENFORCEMENT.

A. ASSOCIATION LIEN. The Association has a lien on each Unit for all Assessments charged to that Unit or to its Owner, including late charges, interest, costs of collection and reasonable attorneys' fees. If the Owner fails to pay these amounts, the Association may foreclose its lien in accordance with applicable law and the Condominium Documents. The Association's lien is prior to all other liens, except only:

1) Liens for real property taxes and assessments lawfully imposed by governmental authority against the Unit and which, by law, have priority over the Association's lien, and

2) The lien for sums unpaid (plus costs and expenses including attorneys' fees provided in the Mortgage) on any Mortgage that is recorded before the Association records a Notice of Lien.

B. ASSOCIATION REMEDIES. If an Owner fails to pay any amount assessed to him or her, or to his or her Unit, then in addition to any other remedies the Board may have, the Board may enforce the obligation to pay those amounts as follows:

1) **FORECLOSURE OF LIEN.** The Board or the Managing Agent, acting on behalf of the Association, may foreclose the Association's lien in a manner like a mortgage foreclosure. They may do so by filing a lawsuit for foreclosure. They may also foreclose using the non-judicial or power of sale foreclosure procedures authorized by law. The Unit Owner shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The Board or the Managing Agent must give to an Owner at least ten (10) days prior written notice of the Association's intent to foreclose. It must send this notice by registered mail. The Managing Agent, acting on behalf of the Association and as directed by the Board, may bid on the Unit at the foreclosure sale and may acquire, hold, lease, Mortgage, and convey the Unit. The Association may offset the Owner's debt against the amount bid at the sale. The Association may also accept a deed of the Unit to the Association (or to a trustee holding title for the Association) in place of foreclosure.

2) **LAWSUIT.** The Association may file one or more lawsuits to enforce an Owner's obligation to pay Assessments. The Association may file a lawsuit to recover a money judgment for the unpaid Common Expenses without foreclosing or waiving its lien for those expenses. The Association may not file a lawsuit unless a majority of the Board authorizes it at a regular or special Board meeting. The Board may file the suit on behalf of the Association. The Managing Agent may file the suit on behalf of the Association if the Board authorizes it to do so in writing.

3) **NOTICE OF LIEN.** At any time after an Owner defaults, the Board or the Managing Agent may give a notice to the defaulting Unit Owner. The notice must state the amount owed and the date when it became due. If this amount is not paid within ten (10) days after the notice is delivered, the Board or the Managing Agent may record a "**Notice of Lien**" against the Owner's Unit. The Notice of Lien must be signed and acknowledged by any two (2) or more Directors or Officers of the Association, the attorney for the Association, or the Managing Agent. Whether or not a Notice of Lien is recorded, the Board will have all remedies provided in these Bylaws, the Declaration and the Act on account of the default. Each default will be a separate basis for a Notice of Lien. But a single Notice of Lien may cover more than one default, and may include defaults between the date of the Notice of Lien and the date of the sale.

4) CANCELLATION OF NOTICE OF LIEN. On behalf of the Board, any two (2) Directors or Officers of the Association or the Managing Agent, will sign, acknowledge and deliver to the Owner a document canceling a Notice of Lien if the Board receives payment in full of the amount claimed to be due and owing (including interest, late fees, and any costs of enforcement and attorneys' fees) and the Owner asks for the cancellation document and pays a reasonable fee for such document.

5) TERMINATION OF RIGHT TO USE COMMON ELEMENTS. Pursuant to the procedures, requirements and rights specified in Sections 514B-146(e) and (f) of the Act, the Association may terminate a defaulting Residential Unit Owner's right of access to and use of the Common Elements other than as may be strictly required for access to the Unit and may also stop supplying any defaulting Unit Owner with any and all services normally supplied or paid for by the Association.

Section 9. WAIVER. In one or more cases, the Board may not insist on strict performance of or compliance with the covenants of an Owner under the Condominium Documents, or may not use some or all of rights and powers that the Board has to enforce compliance. This does not mean, however, that the Board has waived the right to do so. Instead, the covenants of each Owner will remain in full force and effect and the Board will continue to have all of its rights and powers to enforce them despite any failure to do so in the past. Whether or not the Board knows that an Owner has violated the Condominium Documents, it may receive and accept any money paid by the Owner without waiving the Owner's breach. The Board will not be deemed to have waived any provision of the Condominium Documents, expressly or by implication, unless the Board expressly states the same in a document that is signed by an Officer of the Association pursuant to authority contained in a resolution of the Board.

Section 10. ASSESSMENT DISPUTES.

A. STATEMENT OF UNPAID AMOUNTS. No Unit Owner may withhold any Assessment claimed by the Association. A Unit Owner who disputes the amount of an Assessment may request a written statement clearly indicating: (1) the amount of Common Expenses included in the Assessment, including the due date of each amount claimed; (2) the amount of any penalty, late fee, lien filing fee, and any other charge included in the Assessment; (3) the amount of attorneys' fees and costs, if any, included in the Assessment and (4) other such matters as provided in Section 514B-146(c) of the Act. Upon receipt of such a request, the Association, or the Managing Agent on behalf of the Association, must provide a written statement disclosing this information and anything else required by the Act or the HAR.

B. ASSESSMENT DISPUTES. A Unit Owner who pays the Association the full amount claimed by the Association may still contest the Assessment in the manner provided in the Act.

Section 11. LIABILITY OF ANYONE WHO ACQUIRES TITLE THROUGH FORECLOSURE. In this section, "New Owner" means a Lender or anyone else who obtains title to a Unit as a result of the foreclosure of a Mortgage. A New Owner and its successors and assigns are not liable for the share of the Common Expenses or Assessments charged to the Unit and which became due before the New Owner took title. Instead, those unpaid amounts will be Common Expenses collectible from the Unit Owners, including the New Owner and his or her successors and assigns, and will be allocated in accordance with Section XI.G of the Declaration. A New Owner will be deemed to acquire title and is required to pay the Unit's share of Common Expenses and Assessments beginning at the time stated in the Act or, if not stated, then, the earlier of: (1) thirty-six (36) days after the order confirming the sale to the purchaser has been filed with the court; (2) sixty (60) days after the hearing at which the court grants the motion to confirm the sale to the purchaser; or (3) the date when the deed is recorded. The

Board may include in the Assessments that the New Owner must pay a Special Assessment for unpaid regular monthly assessments during a previous six month period as provided and subject to the limitations set forth in Section 514B-146. The New Owner, prior to acquiring title, may require the Association to provide notice of this Special Assessment.

Section 12. LIABILITY FOR UNPAID COMMON EXPENSES.

A. In this section, “**Existing Owner**” means the Owner who transfers a Unit, and “**New Owner**” means the person to whom the Unit is transferred. If a Unit is transferred voluntarily, the New Owner will be jointly and severally liable with the Existing Owner for all unpaid Assessments against the Existing Owner for his or her share of the Common Expenses up to the time of the transfer. This does not limit the New Owner’s right to recover from the Existing Owner the amounts paid by the New Owner for these unpaid Assessments.

B. Both the Existing Owner and the New Owner have the right to ask the Managing Agent or the Board for a letter listing any unpaid Assessments against the Existing Owner or his or her Unit. Within twenty (20) days after receiving the request, the Board or the Managing Agent must provide the letter. The letter will state the amount of the unpaid Assessments against the Existing Owner. The New Owner is not liable for, and the Unit will not be transferred subject to a lien for, any unpaid Assessments against the Existing Owner in excess of the amount stated in the letter except for the amount of any check that is later dishonored and that is mentioned in the letter as having been received within the 30-day period immediately preceding the date of the letter.

Section 13. ABANDONMENT OF UNIT; DEED TO BOARD. An Owner cannot avoid liability for Assessments by not using or by abandoning his or her Unit or by waiving his or her rights to use or enjoy the Common Elements. With the unanimous consent of the Board, any Unit Owner may deed his or her Unit and its Common Interest to the Association on behalf of all other Unit Owners. The Owner will not be liable for any Common Expenses charged after the deed is accepted by the Association and is recorded.

Section 14. TAXES AND ASSESSMENTS.

A. Each Owner (i) must take reasonable steps to see that the government assesses any taxes on his or her Unit and its Common Interest and on any personal property or any other interest of the Owner separately from taxes on other Units or other Unit Owners, and (ii) must pay those taxes.

B. If, in the opinion of the Board, any taxes or assessments may be a lien on all or any part of the Common Elements, the Board may pay those taxes or assessments as part of the Common Expenses. Any such taxes or assessments which may be a lien on the Common Elements shall be Common Expense, any such taxes or assessments which may be a lien on the Residential Limited Common Elements shall be a Residential Unit Class Expense and any such taxes or assessments which may be a lien on the Commercial Limited Common Elements shall be a Commercial Unit Class Expense. Each Owner must pay to the Board his or her proportionate share of any Assessment by the Board for any such taxes or assessments paid by the Board. The Owners must make these payments at the time and in the manner that the Board directs. Any Assessments charged by the Board under this section will be secured by the Association’s lien under Section VI.8.A and the non-paying Owner shall be required to reimburse the Board for any amount paid by the Board in connection therewith, including, without limitation, attorneys’ fees and other expenses incurred in charging and collecting the amount owed.

Each Owner must sign any documents and take any action that the Board reasonably requires to facilitate dealing with the proper governmental authority regarding taxes and assessments.

Section 15. UTILITY EXPENSES. All utilities serving the Residential Units or Residential Limited Common Elements shall be separately metered from the Commercial Units and Commercial Limited Common Elements and the General Common Elements whenever possible. If not possible, then calculations shall be made pursuant to the provisions of the Declaration. The cost of utility services for Commercial Limited Common Elements is a Commercial Unit Class Common Expense and the cost of utility services for Residential Limited Common Elements is a Residential Unit Class Common Expense, unless otherwise set forth in a Special Cost or Alternative Allocation in the Declaration.

A. The cost of utility services to any Unit or Limited Common Elements that are separately metered, sub-metered or check metered shall be calculated based upon actual usage and shall be payable by the Owner of such Unit or the Owner(s) of the Unit(s) to which such Limited Common Element is appurtenant, payable directly to the service provider if a separate bill is rendered (in which case the amounts owed and payable to the service provider shall not be or be deemed to be Common Expenses), or otherwise payable to the Association on demand (in which case the amounts owed and payable to the Association shall be and be deemed to be Common Expenses). If utility services are separately metered, sub-metered or check metered to a group of Units (for example, to all Commercial Units or to all Residential Units, or to the Commercial and Residential Units as a group, etc.), the share of the costs and expenses allocated to and payable by each Unit in the metered group shall be based upon each Unit's actual usage of the group metered utilities; provided, however, that if it is not reasonably possible to determine accurately each Unit's actual usage of the metered utilities relative to the other Units in the group, then each Unit's share of the group metered utility costs and expenses shall be calculated based upon relative Class Common Interest if metered solely within a Unit Class or by relative Common Interest if metered to one or more Units in the Residential Unit Class and Commercial Unit Class. Unless otherwise permitted or required by the utility service provider(s), the Owners of Units that are separately metered, sub-metered or check metered shall be responsible for all costs and expenses of the maintenance, repair and replacement of all metering equipment installed in or for their Units.

B. If utility or other services (including, by way of example but not limitation, TV cable, internet and digital telephone service or elevator maintenance) are purchased by the Association as a bundled utility package at a negotiated but adjustable flat rate and provided to some or all of the Units, each Unit that is designated to receive such utilities or services shall be assessed separately, an equal share of the flat rate charged by the provider to the Association.

C. For all utility and other service expenses billed to the Association for Residential Limited Common Elements and not separately metered, sub-metered or check metered, or not provided as part of a bundled utility package for which the Association pays a flat rate, the Board shall allocate a share of such utility or service expenses as provided in the Declaration.

D. If any Owner fails to pay his share of all such costs and expenses that are payable to the Association, the Association shall have all of the rights and remedies against the Owner available to the Association for a Unit Owner's failure to pay his share of Common Expenses.

Section 16. COLLECTION FROM TENANT. An Owner may rent or lease his or her Unit. If an Owner does so and if the Owner is in default for thirty (30) days or more in paying the Unit's share of the Common Expenses, then for so long as the default continues, the Board may demand in writing and receive from the Owner's tenant any rent due up to the full amount owed by the Owner to the Association, including interest, if any. Any such demand or acceptance of rent from any tenant shall not be deemed to be a consent to or approval of any lease by the Owner or a release or discharge of any of the obligations of the Owner under the Condominium Documents, or an acknowledgement or surrender of any rights or duties under the Condominium Documents. If the Board makes such a demand upon the

tenant, the tenant shall be obligated to make the payments to the Board as demanded; provided, however, that the Board may not exercise this right if a receiver has been appointed to take charge of the Unit pending a mortgage foreclosure, if a mortgagee is in possession pending a mortgage foreclosure, or if Developer or Initial Commercial Owner is the Owner. The Association may not demand that the tenant pay more than the amount of rent due from the tenant to the Owner under the lease or rental arrangement. Any amount paid by the tenant under this section will discharge that amount of payment from the tenant's rent obligation. Even if the Board demands and receives any rent from a tenant, this will not release or discharge (i) any obligations of the Owner remaining unpaid or unperformed, (ii) any other duties of the Owner, or (iii) any rights of the Association under the Condominium Documents. The Board must comply with the requirements of the Act when exercising its rights under this section.

Section 17. AUDITS. Except as otherwise permitted by the Act, each year the Association must have a public accountant or accounting firm conduct an audit of the Association's financial accounts and at least one (1) unannounced verification of the Association's cash balance. The Association will furnish to the Owners copies of the audit and any other financial statements at the times and in the manner stated in the Act.

Section 18. FINANCIAL REPORTS.

A. FINANCIAL STATEMENTS. The Association must prepare and send the following statements to each Owner:

1) THE BUDGET. At least forty-five (45) and not more than sixty (60) days before the fiscal year starts the Association must send to the Owners the approved budget for that year.

2) THE ANNUAL REPORT. The Association must send an annual report to each Owner within ninety (90) days after the end of each fiscal year. The Commercial Director and/or the Commercial Managing Agent must submit its annual report to the Association at least sixty (60) days after the end of the fiscal year to incorporate into the Project annual report. The annual report must include:

(a) A balance sheet showing the assets, liabilities and net worth of the Association at the end of the fiscal year;

(b) An operating (income) statement for the fiscal year;

(c) A statement of the net changes in the financial condition of the Association for the fiscal year;

(d) The name, mailing address and phone number of each Board member; and

(e) Any other information required by the law of any jurisdiction (for example, another state) where the Project is registered for public sale.

B. REPORTS. The Association will provide information and reports as required by Section 514B-154 of the Act and may utilize an internet site as permitted by such law.

ARTICLE VII MAINTENANCE AND REPAIR AND USE

Section 1. MAINTENANCE AND REPAIR BY UNIT OWNERS. Except as otherwise provided by law or in these Bylaws or in the Declaration:

A. OWNERS' RESPONSIBILITIES. At his or her own expense, the Unit Owner must maintain and repair his or her Unit and keep it in good order and condition at all times.

1) This duty includes, for example, the obligation to repair and maintain and keep in good order and condition:

(a) The interior decorated or finished surfaces of all walls, floors, and ceilings of a Residential Unit or Commercial Unit.

(b) All installations for water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights, and all other fixtures and accessories. This applies only to installations, fixtures and accessories that are part of the Owner's Unit.

(c) All mechanical, electrical and plumbing components of his or her Unit and the improvements therein in strict accordance with all applicable maintenance requirements, operating standards and guidelines (i) of or promulgated by any governmental agency, (ii) set forth in any manufacturer's or supplier's operating manuals or maintenance and care documents for said fixtures and equipment, and (iii) as may be set forth from time to time in the Bylaws.

2) Each Residential Unit Owner shall be responsible for the basic care and maintenance of their Individual Limited Common Element lanai, yard area, pool and spa, if any; provided, however, that any major, structural repairs shall require the prior written approval of the Board. The Association may offer coordinated yard, pool and spa maintenance contracts in which Residential Unit Owners are strongly encouraged to participate. Residential Unit Owners are also responsible for keeping their Individual Limited Common Element parking stalls and garages in broom clean condition and free of leaking vehicle fluids such as motor oil and coolants.

3) Each Owner of a Residential Unit or Commercial Unit shall be responsible for performing the following with respect to the Owner's Residential Unit or Commercial Unit and any Individual Limited Common Elements appurtenant thereto in order to prevent or eliminate the occurrence of mold growth in the Unit and at the Project:

(a) Maintain and properly service the Owner's air conditioning system and keep it in full working condition.

(b) Promptly clean up spills, condensation and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in the Commercial Unit or Residential Unit or any Individual Limited Common Element lanai or pool deck appurtenant thereto. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.

(c) Inspect for leaks on a regular basis. Look for discoloration or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditions) for mold growth. Take notice of musty odors and any visible signs of mold.

(d) Should mold develop, thoroughly clean the affected area with a mild solution of bleach or other appropriate mold-killing agent. Discard affected porous materials, such as fabric, upholstery or carpet. Should the mold growth be severe, call on the services of a qualified professional cleaner.

3) Each Unit Owner is liable for all loss or damage caused by his or her failure to perform any such work diligently. If the Owner fails to do it after reasonable notice from the Association, (and with respect to Commercial Unit Owners, upon an affirmative vote of at least a majority of the Board), the Association may undertake and charge the cost of performing such work to the Owner pursuant to Section XI.E of the Declaration.

B. DAMAGE TO COMMON PROPERTY. Every Unit Owner and occupant:

1) Must reimburse the Association promptly on demand for all expenses incurred by it in repairing or replacing any uninsured loss or damage to the Common Elements or any furniture, furnishings, and equipment owned by the Association caused by that Owner or occupant or by any person under either of them to the extent permitted under Section XI.E of the Declaration, and

2) Must give to the Managing Agent or Commercial Managing Agent, as appropriate, notice of any such loss or damage or other defect in the Project promptly after discovering it.

Section 2. COMMON ELEMENTS.

A. BOARD. The Board may arrange for painting or repair of the Individual Limited Common Elements, including but not limited to, any lanais, lanai ceilings, outside doors, windows, trim, walls, railings and other exterior parts of the Individual Limited Common Elements and may also choose the type and color of paint to be used. The Board shall assess each Residential Unit Owner for his or her proportionate share of the painting and repairs or the Board may pay for it using the reserve funds designated for such purpose. However, the cost of painting and repairs due to negligence, misuse or neglect of an Owner or other occupant, or someone under either of them, may be charged as a Special Assessment pursuant to Section XI.E of the Declaration.

B. INITIAL COMMERCIAL OWNER. The Commercial Limited Common Elements shall be maintained, repaired and replaced by Initial Commercial Owner.

Section 3. MOLD PREVENTION. The Board shall be responsible for doing the following with respect to the General Common Elements and Residential Limited Common Elements in order to prevent or eliminate the occurrence of mold growth at the Project: The Association shall regularly clean and repair roof gutters and correct any grading which does not slope away from the building foundation; maintain and properly service Residential Limited Common Element air conditioning systems, if any, and keep them in proper working condition; promptly clean up spills, condensation and other sources of moisture; thoroughly dry any wet surfaces or material and replace any materials that cannot be thoroughly dried, such as drywall or insulation; inspect for leaks on a regular basis; repair any leaks promptly; inspect condensation pans (refrigerators and air conditioners) for mold growth; should mold develop, thoroughly clean the affected area with a mild solution of bleach or other appropriate mold-killing agent; discard affected porous materials, such as fabric, upholstery or carpet and; should the mold growth be severe, call on the services of a qualified professional cleaner. The Board and the Association shall not be liable for mold growth at the Project or any efforts to clean and repair areas of the Project to reduce or eliminate mold or moisture.

Section 4. ALTERATIONS AND ADDITIONS BY OWNERS.

A. PERMITTED ALTERATIONS. A Residential Unit Owner may make additions, alterations or improvements solely within the Owner's Residential Unit or within an Individual Limited Common Element appurtenant to and for the exclusive use of the Owner's Residential Unit as set forth in Section X.B of the Declaration.

B. PROHIBITED ALTERATIONS. Subject to the provisions of the Declaration and the Act, no Owner of a Residential Unit may make any alteration or addition: (i) to the Owner's Residential Unit that adversely affects the Common Elements or; or (ii) to any of the Common Elements including, without limitation, Common Elements within, encompassing or adjacent to the Owner's Residential Unit.

C. BOARD APPROVAL. An Owner of a Residential Unit must not begin work on any alterations, additions or improvements with prior written Board approval as set forth in Section X.C of the Declaration.

Section 5. ALTERATION OF THE PROJECT. Except for Individual Limited Common Elements to be maintained by the Owners of Units to which they are appurtenant, whenever in the judgment of the Board, the Residential Limited Common Elements need additions or alterations, the Board can make the additions or alterations, subject to any approvals required from Initial Commercial Owner set forth in the Declaration. The cost will be charged as a Residential Unit Class Expense, unless otherwise set forth in the Declaration. Notwithstanding anything to the contrary herein, but subject to the any Initial Commercial Owner approvals set forth in the Declaration, the Board shall have the authority to install or cause the installation of antennas, conduits, chases, cables, wires, and other television signal distribution and telecommunications equipment upon the Common Elements; provided that the same shall not be installed upon any Individual Limited Common Element without the consent of the Owner(s) for the use of which the Individual Limited Common Element is reserved or the Commercial Limited Common Elements without the consent of Initial Commercial Owner(s). The installation of antennas, conduits, chases, cables, wires and other television and telecommunications equipment upon the Common Elements by the Board shall not be deemed to alter, impair, or diminish the Common Interest and Common Elements appurtenant to each Unit or be a structural alteration or addition to any building different in any material respect from the Condominium Map; provided that no such installation shall directly affect any non-consenting Owner. Further, the Board shall be authorized to abandon or change the use of any television signal distribution and telecommunications equipment due to technological or economic obsolescence (which determination shall be within the Board's sole discretion) or to provide an equivalent function by different means or methods; and the abandonment or change of use of any television signal distribution or telecommunications equipment by the Board due to technological or economic obsolescence or to provide an equivalent function by different means or methods shall not be deemed to alter, impair, or diminish the Common Interest, Common Elements, and easements appurtenant to each Unit or to be a structural alteration to any building different in any material respect from the Condominium Map. For the purposes of this section "**directly affects**" means the installation of television signal distribution and telecommunications equipment in a manner which would specifically, personally, and adversely affect an Owner in a manner not common to the Unit Owners as a whole, and "**television signal distribution**" and "**telecommunications equipment**" shall include all present and future forms of communications technology.

Section 6. OWNER APPROVAL. Maintenance, repair or replacement of any portion of the Project for which the Association is responsible costing in excess of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) in any one instance may be made by the Board only after obtaining approval of a majority of the Residential Unit Owners (and all Commercial Unit Owners if the

Commercial Unit Owners are to be charged Assessments for all or any portion of such maintenance, repair or replacement). This rule does not apply to Capital Upgrades which are governed by Sections VII.C and VII.D of the Declaration and shall not apply to maintenance, repairs or replacements:

- A. Required by law or by the Declaration or these Bylaws;
- B. Required due to an emergency threatening immediate and substantial damage to person or property;
- C. Required to maintain or repair the Project as originally designed or constructed, or in accordance with any duly authorized changes to the Project or required by law;
- D. For which replacement reserve funds have been established and substantially funded to cover at least ninety percent (90%) of the cost; or
- E. Made by Developer when exercising the Residential Developer's Reserved Rights or made by Initial Commercial Owner when exercising the Initial Commercial Owner's Reserved Rights.

Section 7. COMMENCEMENT OF RESIDENTIAL DEVELOPER'S IMPROVEMENTS. The construction of the Residential Development and the construction of the Commercial Development are separate and distinct construction operations and are not part of a continuous operation in the improvement of the real property under Hawaii Revised Statutes Section 507-41 in the Project. Accordingly for the purposes of these Bylaws and the Act, "**visible commencement of construction**" shall refer to the first work of improvement or delivery of materials as part of the continuous operation in the construction of each separate development by Developer.

ARTICLE VIII ASSOCIATION RECORDS

Section 1. PROJECT DOCUMENTS. The Association must keep at the resident manager's or Managing Agent's office an accurate copy of the Declaration, these Bylaws, the House Rules, a sample original Residential Unit Deed, and all public reports and any amendments to them. The Managing Agent must provide copies of those documents, and any other documents required by law, to Owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the Managing Agent of a reasonable charge to defray any administrative or duplicating costs.

Section 2. MEMBERSHIP LIST.

A. THE ASSOCIATION MUST KEEP A LIST. The resident manager or Managing Agent or Board must keep an accurate and current list of names and addresses of the Members of the Association. The list must include, among others, anyone who is buying a Unit under any agreement of sale. It must also include the names and addresses of each Lender whose name and address is furnished to the Association. The list will be maintained at a place designated by the Board. The Managing Agent or resident manager shall not use or distribute any membership list, including for commercial or political purposes, without the prior written consent of the Board. All membership lists are the property of the Association and any membership lists contained in the Managing Agent's or resident manager's records are subject to this section. The Managing Agent, resident manager, or the Board may not use the information contained in the membership lists to create any separate list for the purpose of evading this section.

B. RELEASE OF LIST. The Association will make the list of Members available, at cost, to any Unit Owner who asks for it; provided that despite anything else stated in the Condominium Documents, the Association will not furnish the list of Members or any copy of it, or any other documents from which a membership list may be compiled, nor allow anyone to inspect or make copies or extracts of the list or any other documents from which a list may be compiled, until after each of these conditions is satisfied:

1) The person requesting the list must furnish to the resident manager or Managing Agent or Board a duly executed and acknowledged affidavit stating that (i) the list will be used by that Owner personally and only for the purpose of soliciting votes or proxies or providing information to other Owners with respect to Association matters, and (ii) the list will not be used by that Owner or furnished to anyone else for any other purpose.

2) The person requesting the list satisfies any other conditions to obtaining the list contained in the Act.

3) All other lawful conditions adopted by the Board pursuant to Section VIII.7.F have been fully satisfied.

Section 3. NOTICE TO BOARD OF DIRECTORS/LENDERS. An Owner who mortgages his interest in a Unit shall notify the Board of Directors of the name and address of his Lender and within ten (10) days after the recordation of the Mortgage shall provide the Board of Directors with a true copy of the Mortgage as recorded in the Land Court. The Board of Directors shall maintain such documents in a file entitled "Mortgages of Units." All notices permitted or required to be given to a Unit Owner pursuant to these Bylaws or the Declaration shall also be given to the Lender of such Unit if such Lender has delivered to the Board of Directors written request for such notices.

Section 4. LENDER PROTECTION. Notwithstanding any provisions to the contrary contained herein:

A. At all times, all taxes, assessments and charges which may become liens under the laws of the State of Hawaii shall relate only to the individual Units and their appurtenant Common Interest in and to the Common Elements and the rights of the individual Units to the exclusive use of appurtenant Limited Common Elements, but not to the Common Elements in themselves as a whole.

B. The Declaration and these Bylaws shall not give a Unit Owner or any other party priority over any rights of Lenders pursuant to their Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards.

C. No amendment to this section shall affect the rights of any Lender whose Mortgage is recorded prior to the recordation of such amendment and who does not consent thereto.

D. Upon written request to the Association, any holder, insurer or guarantor of a duly recorded first Mortgage of a Unit, whose request states the requesting party's name and address and the number of the mortgaged Unit, shall be provided with written notice of the following: (i) any proposed termination of the Project; (ii) any actual or threatened condemnation or eminent domain proceeding affecting the Project or any portion thereof; (iii) any default of any Unit Owner whose Unit is subject to such Mortgage, if the default has not been cured within sixty (60) days; (iv) any significant damage or destruction to the Common Elements or to a Unit covered by the first Mortgage held or insured by such party; (v) other than in connection with the express rights reserved in the Declaration, any proposal to subdivide, encumber, sell or transfer the Common Elements or any part thereof; provided,

however, that the granting of easements for public or private utilities or for public purposes consistent with the intended use of the Common Elements of the Project and the relocation of any easements appurtenant to the Project over other lands, pursuant to the exercise of any right to relocate such easements by the owner of such other lands, shall not be deemed a transfer within the meaning of this clause; (vi) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (vii) any proposed action that requires the consent of a specified percentage of Lenders.

E. Upon written request to the Association, any holder, insurer or guarantor of a duly recorded first Mortgage of a Unit, whose request states the requesting party's name and address and the number of the mortgaged Unit, shall also be entitled to a copy of all pleadings filed in any lawsuit, administrative proceeding, or other action affecting the Project or any portion thereof, at such party's expense for reproduction costs.

Section 5. RELEASE OF INFORMATION. The Board may provide any information available to it pertaining to a Unit or the Project to the Lender of a first Mortgage of such Unit and such Lender may provide any information to the Board regarding the mortgagor, the mortgagor's loan and the status of such loan, without liability to the Owner of the mortgaged Unit.

Section 6. UNIT DEEDS.

A. Each Owner shall promptly record the Unit Deed or other conveyance to him of his Unit, and any Mortgage of his interest in his Unit, and file with the Board, through the Managing Agent, a recorded copy of the Unit Deed or other conveyance document. Each vendor of a Unit under an agreement of sale shall promptly record the agreement of sale or a memorandum thereof and file a copy of such document with the Board. Each Unit Owner, vendor, vendee and Unit mortgagee shall promptly notify the Board of Directors of any changes in his or its address.

Section 7. MINUTES AND RECORDS; EXAMINATION.

A. **CURRENT FINANCIALS AND BOARD MINUTES.** The Association's most current financial statements and minutes of the Board of Directors' meetings, once approved, will be available to any Owner at no cost on twenty-four (24) hour loan, at a convenient location designated by the Board.

B. **MINUTES.** Minutes of all meetings will be available within seven (7) calendar days after approval, and unapproved final drafts of the minutes of a meeting will be available within sixty (60) days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session. Minutes of meetings of the Board and the Association for the current and prior year will be available for examination by the Unit Owners at convenient hours at a place designated by the Board. Minutes of meetings must include the recorded vote of each Board Member on all motions except motions voted on in executive session. If notice of a Board meeting was properly given but a Director is absent, the minutes must say so. Copies of meeting minutes will be provided to any Unit Owner upon the Owner's request provided that the Owner pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

C. **FINANCIAL RECORDS.** Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers (or other comparable lists or schedules), insurance policies, contracts and invoices of the Association for the current and prior year and delinquencies of ninety (90) days or more will be available for examination by the Unit Owners at convenient hours at a place designated by the Board; provided that:

1) The Board must require the Unit Owners to furnish to the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the Association or its Members or both; and

2) The Unit Owners pay for administrative costs in excess of eight hours per year. Copies of these items will be provided to any Unit Owner upon such Owner's request, provided that the Owner pays a reasonable fee for duplicating, postage and stationery and other administrative costs associated with handling the request.

D. VOTING RECORDS. The Unit Owners have the right to view proxies, tally sheets, ballots, Owners' check-in lists and the certificate of election for a period of thirty (30) days following any meeting of the Association; provided that:

1) The Board must require Owners to furnish the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the Association or its Members or both; and

2) The Owners pay for administrative costs in excess of eight hours per year.

Proxies and ballots may be destroyed following the thirty (30) day period. Copies of tally sheets, Owners' check-in lists and the certificate of election from the most recent meeting of the Association will be provided to any Unit Owner upon such Owner's request, provided that the Owner pays a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling such request.

E. OTHER RECORDS. Owners may file a written request with the Board to examine other documents. The Board must give written authorization or written refusal with an explanation of the refusal within thirty (30) calendar days of receipt of the request.

F. PROTECTION OF ASSOCIATION INFORMATION. To the extent permitted by law, the Board may establish reasonable additional requirements and conditions to the inspection by Owners (including Directors) of the list of Owners or to furnishing information from the register or other books, papers or records of the Association especially when that information might be used to compile a list of Owners. For example, the Board may set rules governing (1) when notice must be given to the Association or Managing Agent by the person desiring to inspect the Association's records, (2) hours and days of the week when an inspection may be made, (3) payment of the cost of reproducing copies requested by the party making the inspection, to the extent not specified elsewhere in these Bylaws, and (4) the posting of a bond.

Section 8. RECORDS; EXAMINATION; DISPOSAL.

A. RECEIPTS, EXPENDITURES, AND DELINQUENCIES. The Managing Agent or Board must keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. The Managing Agent or Board must also keep monthly statements indicating the total current delinquent dollar amount of any unpaid Assessments for Common Expenses.

B. LOCATION OF RECORDS. All records and the vouchers authorizing the payments and statements will be kept and maintained at the address of the Project, or elsewhere within the State of Hawaii as the Board chooses. The records may be kept and maintained on paper or in electronic, magnetic, or other form accessible using electronic data processing equipment.

C. DISPOSAL OF RECORDS. The Managing Agent may dispose of records of the Association at the times and under the conditions stated in the Act or, if it does not address it, then at the times and under the conditions that the Board chooses.

ARTICLE IX GENERAL PROVISIONS

Section 1. WHO CAN SIGN CHECKS. All checks, drafts or other orders for payment of money, notes, or similar documents issued by or payable to the Association must be signed or endorsed as stated in a resolution adopted by the Board. If no resolution is adopted, they must be signed by any two of the President, Vice President, Secretary or Treasurer. The same rule applies to signing and delivering other documents authorized by the Condominium Documents or by action of the Board or the Association.

Section 2. WHO CAN SIGN CONTRACTS AND OTHER DOCUMENTS. Except as otherwise provided in these Bylaws, the Board may authorize any Office or Officers, agent or agents, to enter into any contract or sign any document for the Association. This authority may be general or it may be limited to specific things. Unless authorized by the Board, no Officer, agent or employee has any power or authority to bind the Association or to pledge its credit or to make it liable for any purpose or for any amount.

Section 3. AMENDMENT

A. AMENDMENT BY VOTE OR WRITTEN CONSENT. The Bylaws may be amended at any time by the vote or written consent of sixty-seven percent (67%) of all Unit Owners, provided that:

1) For any amendment that affects the Commercial Units, Commercial Unit Owners, or Commercial Limited Common Elements, such vote or written consent of sixty-seven percent (67%) of all Unit Owners shall include the vote or written consent of all Commercial Unit Owners;

2) Each item required by the Act to be set forth in these Bylaws must always be included in these Bylaws; and

3) Such amendment shall be subject to all limitations and requirements regarding amendments to the Condominium Documents contained in the Declaration, including, but not limited to Section XVI.D of the Declaration.

B. DEVELOPER'S AND INITIAL COMMERCIAL OWNER'S RESERVED RIGHTS TO AMEND. Notwithstanding anything set forth in Section IX.3 to the contrary, each of Developer (pursuant to the Developer's Reserved Rights) and Initial Commercial Owner (pursuant to the Initial Commercial Owner's Reserved Rights) has the right to amend these Bylaws to the extent set forth in the Declaration.

C. RECORDING. A duly authorized amendment to these Bylaws will take effect only after it is signed by the proper Officers of the Association and it is recorded.

D. PROPOSAL OF AMENDMENTS. Any proposed amendment to these Bylaws with the rationale for such proposal may be submitted by the Board or by a volunteer Unit Owners' committee. If submitted by the volunteer Unit Owners' committee, it must be accompanied by a petition signed by not less than twenty-five percent (25%) of the Unit Owners as shown in the Association's records of ownership maintained by the Board as provided in Section VIII.2.A. The proposed amendment, the rationale, and the ballots for voting on the amendment must be mailed by the Board to the Unit Owners at the Common Expense of the Association for vote or written consent without change within thirty (30) days after the Board receives the petition. The vote or written consent required to adopt the proposed amendment to these Bylaws will be as set forth in Section IX.3.A, above; provided that the vote or written consent must be obtained within three hundred sixty-five (365) days after mailing for a proposed bylaw submitted by either the Board or a volunteer Owners' committee; and provided further than any such amendment shall be subject to the limitations set forth in Section XVI.D of the Declaration. If the proposed amendment is duly adopted, then the Board must record the amendment. The volunteer Unit Owners' committee cannot submit a petition for a proposed amendment to these Bylaws that is substantially similar to the amendment previously mailed to the Unit Owners within one (1) year after the original petition was submitted to the Board. This section does not preclude any Unit Owner or voluntary Unit Owners' committee from proposing any amendment to these Bylaws at any annual meeting of the Association.

E. RESTATEMENT OF BYLAWS. Notwithstanding anything set forth in the Condominium Documents to the contrary, the Association has the authority under the Act:

- 1) To restate these Bylaws to set forth all amendments to them; and
- 2) To amend these Bylaws as required to conform to the provisions of the Act or any other law or regulation adopted by a governmental authority.

The Association may do this if the Board adopts a resolution authorizing it. No restated or amended Bylaws will be effective unless they are recorded.

Section. 4. NOTICE. Except as otherwise expressly provided in these Bylaws, all notices must be given as follows:

A. Notice to the Association must be given to each Director. The notice may be given personally or by mail or messenger service. The notice must be mailed or delivered to the Board members at their addresses as shown on the membership list, or to any other address that the Board designates by notice to all Owners and Lenders.

B. Notice to an Owner may be given by delivering such notice in person, by messenger service or by mail to his or her address as it is shown on the membership list or by e-mail or fax if such Owner has authorized transmission to the e-mail address or fax number designated by the Owner for delivery of notices of meetings pursuant to Section II.11 of these Bylaws.

C. Notice to an Eligible Mortgage Holder or Lender shall be given by delivering such notice in writing and shall be deemed to have been duly given only when delivered by certified mail, return receipt requested or by overnight courier with proof of delivery. The notice must be mailed or delivered to the Eligible Mortgage Holder's or Lender's address as it is shown on the membership list, or to any other addresses that the Eligible Mortgage Holder or Lender designates by written notice to the Board.

D. All notices must be in writing. If the notice is mailed, it will be deemed given and received seventy-two (72) hours after it is put in the United States mail. If sent by e-mail or fax to the e-mail address or fax number designated by the Owner for notices of meetings pursuant to Section II.11 of these Bylaws the notice will be deemed given upon electronic confirmation of delivery. Notwithstanding the prior sentence to the contrary, notices of addresses and changes of addresses will be deemed given only when they are actually received.

Section 5. CAPTIONS. The captions describing each section are for convenience only and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

Section 6. PRONOUNS. Pronouns (for example, “his” or “her”) used in these Bylaws include the male, female, and neuter genders and include the singular and plural numbers, as the case may be.

Section 7. INTERPRETATION. The provisions of these Bylaws will be interpreted to carry out the purpose of creating a mixed use condominium in accordance with the Declaration and the Act.

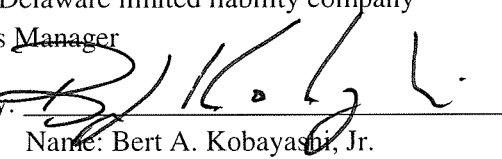
Section 8. EFFECT OF INVALID PROVISIONS. The provisions of these Bylaws are severable. Invalidation of any part of these Bylaws by judgment, decree or order shall in no way affect any other provisions of these Bylaws, each of which shall remain in full force and effect.

(The remainder of this page is intentionally left blank)

In Witness Whereof, Developer and Initial Commercial Owner, acting as the initial Association, hereby adopt the foregoing Bylaws as the Bylaws of the Association of Park Lane on behalf of the Association this 22nd day of September, 2014.

AMX PARTNERS, LLC,
a Delaware limited liability company

By: Kahikolu Partners, LLC
a Delaware limited liability company
Its Manager

By: 
Name: Bert A. Kobayashi, Jr.
Its: Managing Director

“Developer”

GGP ALA MOANA L.L.C.,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

“Initial Commercial Owner”

In Witness Whereof, Developer and Initial Commercial Owner, acting as the initial Association, hereby adopt the foregoing Bylaws as the Bylaws of the Association of Park Lane on behalf of the Association this 22nd day of September, 2014.

AMX PARTNERS, LLC,
a Delaware limited liability company


By: Kahikolu Partners, LLC
a Delaware limited liability company
Its Manager

By: _____
Name: Bert A. Kobayashi, Jr.
Its: Managing Director

By: _____
Name: Ian W. MacNaughton
Its: Managing Director

“Developer”

GGP ALA MOANA L.L.C.,
a Delaware limited liability company

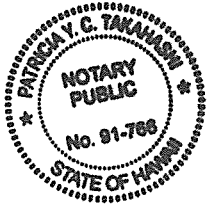
By: 
Name: Francisco Gutierrez
Title: Authorized Signatory

“Initial Commercial Owner”

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

On this 22 day of September, 2014, before me appeared
Bert A. Kobayashi, Jr., to me personally known, who being by me duly sworn or
affirmed, did say that such person executed the foregoing instrument as the free act and deed of such
person, and if applicable in the capacity shown, having been duly authorized to executed such instrument
in such capacity.

(seal)





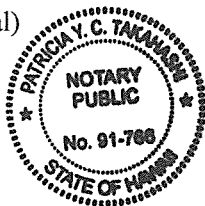
Name: Patricia Y. C. Takahashi
Notary Public, State of Hawaii
First _____ Judicial Circuit

My commission expires on: July 8, 2015


Notary Certification

Doc. Date: Undated at time of notary # Pages: 48
Patricia Y. C. Takahashi First _____ Circuit
[Print Name of Notary]

(seal)



Doc. Description: Bylaws of the Association of Unit Owners of
Park Lane



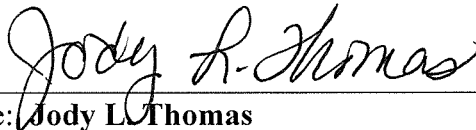
Notary Signature

09/22/2014

Date

CITY AND COUNTY OF HONOLULU

On this 22nd day of September, 2014, before me personally appeared **FRANCISCO GUTIERREZ**, personally known/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 the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



My commission expires: 2/17/2018

NOTARY CERTIFICATION STATEMENT

Jody R. Thomas
Signature of Notary

(Notary Stamp or Seal)