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# BY-LAWS OF THE

# ASSOCIATION OF UNIT OWNERS OF

# MAU LOA AT KOA RIDGE

TABLE OF CONTENTS

PAGE


ARTICLE I INTRODUCTORY PROVISION ..... 6
Section 1. Definitions ..... 6
Section 2. Gender ..... 8
Section 3. Conflicts ..... 8
Section 4. Application ..... 8
ARTICLE II ASSOCIATION OF UNIT OWNERS ..... 9
Section 1. Membership ..... 9
Section 2. Powers of the Association ..... 9
Section 3. Meetings ..... 10
Section 4. [RESERVED] ..... 11
Section 5. Notice of Meetings ..... 11
Section 6. Quorum ..... 12
Section 7. Voting ..... 12
Section 8. Proxies and Pledges ..... 13
Section 9. Adjournment ..... 14
Section 10. Order of Business ..... 14
Section 11. Conduct of Meetings ..... 15
Section 12. Minutes of Meetings ..... 15
Section 13. Committees ..... 16
ARTICLE III BOARD OF DIRECTORS ..... 16
Section 1. Number and Qualifications ..... 16
Section 2. Election and Term ..... 16
Section 3. Vacancies ..... 17
Section 4. Removal of Directors ..... 17
Section 5. Organizational Meetings ..... 17
Section 6. Regular Meetings ..... 18
Section 7. Special Meetings ..... 18
Section 8. Conduct of Meetings ..... 18
Section 9. Notices; Waiver of Notice ..... 19

TABLE OF CONTENTS

PAGE


Section 10. Quorum of Board ..... 19
Section 11. Powers and Duties of the Board ..... 19
Section 12. [RESERVED] ..... 19
Section 13. Conflicts of Interest ..... 19
Section 14. Minutes of Meetings ..... 20
Section 15. Action By Directors Without Meeting ..... 20
Section 16. Communications Means for Directors' Meetings ..... 20
Section 17. Duty of Directors ..... 20
Section 18. Copies of Documents ..... 21
Section 19. Expenditure of Association Funds ..... 21
ARTICLE IV OFFICERS ..... 21
Section 1. Designation ..... 21
Section 2. Election and Term ..... 21
Section 3. Duty of Officers ..... 22
Section 4. Removal ..... 22
Section 5. President ..... 22
Section 6. Vice President ..... 22
Section 7. Secretary ..... 22
Section 8. Treasurer ..... 22
ARTICLE V ADMINISTRATION ..... 22
Section 1. Management ..... 22
Section 2. Managing Agent ..... 27
Section 3. Representation ..... 29
Section 4. Execution of Instruments ..... 29
Section 5. Record of Ownership ..... 29
Section 6. Association Records ..... 30
Section 7. Association Records to be Maintained ..... 30
Section 8. Copies of Documents ..... 31
Section 9. Availability and Disposal of Association Records ..... 31
Section 10. Notice of Cost of Providing Information ..... 33

TABLE OF CONTENTS

PAGE

Section 11. Association Documents to be Provided ..... 33
Section 12. Registration, etc. ..... 36
Section 13. Audits, etc. ..... 36
Section 14. Association Employees ..... 37
ARTICLE VI MAINTENANCE AND USE OF PROJECT ..... 38
Section 1. Maintenance and Repair of Units, Yard Areas and Driveway Areas ..... 38
Section 2. Maintenance and Repair of Common Elements ..... 39
Section 3. Use of Project ..... 39
ARTICLE VII COMMON EXPENSES, UNIT EXPENSES, BUDGETS AND RESERVES, AND TAXES ..... 47
Section 1. Common Expenses, Budgets and Reserves ..... 47
Section 2. Payment as Agent ..... 53
Section 3. Taxes and Assessments ..... 53
Section 4. Default in Payment of Assessments ..... 53
Section 5. Collection from Tenant ..... 55
Section 6. Application of Payments ..... 56
ARTICLE VIII MORTGAGES AND MORTGAGEES ..... 57
Section 1. Notice to Board of Directors ..... 57
Section 2. Notice of Unpaid Common Expenses ..... 57
Section 3. Notice of Default ..... 57
Section 4. Examination of Books ..... 57
Section 5. Annual Financial Statement ..... 57
Section 6. Right of Access ..... 57
Section 7. Mortgage Protection ..... 58
Section 8. Release of Information ..... 59
ARTICLE IX GENERAL PROVISIONS ..... 60
Section 1. Abatement and Enjoinment of Violations by Unit Owners ..... 60
Section 2. Penalties for Violations ..... 60
Section 3. Expenses of Enforcement ..... 60

TABLE OF CONTENTS

PAGE

Section 4. Abatement and Enjoinment of Violations by Tenants ..... 61
Section 5. Indemnity of Directors and Officers ..... 62
Section 6. Waiver ..... 64
Section 7. Subordination ..... 64
Section 8. Notices ..... 65
Section 9. Captions ..... 65
Section 10. Amendment ..... 65
Section 11. Owners May Incorporate ..... 67
Section 12. Interpretation ..... 67
Section 13. Severability ..... 67

The following By-Laws shall apply to the Mau Loa at Koa Ridge condominium project (herein sometimes called the "Project"), as described in and created by the Declaration of Condominium Property Regime of Mau Loa at Koa Ridge (hereinafter called the "Declaration") to be recorded in the Bureau of Conveyances of the State of Hawaii (hereinafter called the "Bureau of Conveyances") contemporaneously herewith, and to all present and future owners, occupants and tenants of any units of the Project and all other persons who shall at any time use the Project:

## ARTICLE I

## INTRODUCTORY PROVISION

Section 1. Definitions. The terms used herein shall have the meanings given to them in the Declaration, in Chapter 514B, Hawaii Revised Statutes, as amended (hereinafter called the "Condominium Property Act"), and in Chapters 16-119.1 through 16-119.8, Hawaii Administrative Rules (hereinafter called the "Condominium Administrative Rules") except as otherwise expressly provided herein. Unless clearly repugnant to the context, the following terms, whenever used in these By-Laws, shall be given the following meanings:

(a) "Association" means the Association of Unit Owners of the Project.

(b) "Association property" shall have the meaning ascribed thereto in Article II, Section 2(b).

(c) "Board" means the Board of Directors of the Association.

(d) "Common elements" means those elements designated in the Declaration as common elements, including limited common elements.

(e) "Common expenses" includes the expenses designated as common expenses in Article VII, Section 1 of these By-Laws and all other sums designated as common expenses under the Condominium Property Act or the Declaration.

(f) "Cumulative voting" shall have the meaning ascribed thereto in Article III, Section 2 below.

(g) "Developer" means Castle & Cooke Homes Hawaii, Inc., a Hawaii corporation, its successors and assigns.

(h) "Developer Control Period" means the period of time during which the Developer shall have certain rights of control of the Association, as provided in the Declaration.

(i) "Driveway Area" means each of the limited common element driveway areas within the Project.

(j) "Koa Ridge Covenants" means that certain Declaration of Community Covenants for Koa Ridge dated June 8, 2020, recorded in the Bureau of Conveyances as Document No. A-74660352, as amended, restated and supplemented from time to time.

(k) "Koa Ridge Owners Association" means the Koa Ridge Owners Association, a Hawaii nonprofit corporation.

(l) "Land" means the land designated and described in the Declaration.

(m) "Limited Common Element Utility Facilities" means the utility facilities and utility equipment, or portions thereof, located within the Project which serve only one unit for services such as water, sewer and gas, and which are a limited common element appurtenant to said unit.

(n) "Limited common elements" means those elements designated in the Declaration as limited common elements.

(o) "Majority" or "majority of the owners" means the owners of units to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration.

(p) "Majority of the owners present at any meeting" shall have the meaning ascribed thereto in Article II, Section 6 below.

(q) "Managing Agent" means the managing agent of the Project.

(r) "Owner" or "unit owner" means a person owning, or the persons owning jointly or in common, a unit and the common interest appertaining thereto, to the extent of such ownership; provided that to such extent and for such purposes, including the exercise of voting rights, as shall be provided by lease recorded in the Bureau of Conveyances, the lessee of a unit or interest therein shall be deemed to be the owner of such unit, and provided further that the purchaser of a unit pursuant to an agreement of sale recorded as aforesaid shall have all the rights of a unit owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting the seller's security interest in the unit, including but not limited to, the right to vote on: (i) any partition of all or part of the Project; (ii) the nature and amount of any insurance covering the Project and the disposition of any proceeds thereof; (iii) the manner in which any condemnation of the Project shall be defended or settled and the disposition of any award or settlement in connection therewith; (iv) the payment of any amount in excess of insurance or condemnation proceeds; (v) the construction of any additions or improvements, and any substantial repair or rebuilding of any portion of the

Project; (vi) the special assessment of any expenses; (vii) the acquisition of any unit in the Project; (viii) any amendment to the Declaration or these By-Laws; (ix) any removal of the Project from the provisions of the Condominium Property Act; and (x) any other matter that would substantially affect the security interest of the seller.

(s) "Project" means and includes the Land, the buildings and all other improvements thereon (including the units and the common elements) and all easements, rights and appurtenances belonging thereto, and all other property with respect to which a Condominium Property Regime shall exist from time to time pursuant to the Declaration.

(t) "Road Right of Way" means the land between the street boundary of the Project and the established curb or street line.

(u) "Rules and Regulations" refers to the Rules and Regulations or House Rules for the conduct of owners, tenants, family members, invitees and guests of units in the Project and all other persons who shall at any time use the Project adopted as hereinafter provided.

(v) "Sold and recorded" shall have the meaning ascribed thereto in Article II, Section 3.

(w) "Unit" as used herein means a unit in the Project, within the meaning of that term as used in the Condominium Property Act, as designated and described in the Declaration.

(x) "Unit conveyance" means a condominium unit deed conveying a unit in the Project, together with the common interest appurtenant thereto, to a unit owner.

(y) "Yard Area" means each of the limited common element yard areas within the Project.

Section 2. Gender. All pronouns used herein shall include the male, female and neuter genders and shall include the singular or plural numbers, as the case may be.

Section 3. Conflicts. These By-Laws are set forth to comply with the requirements of the Condominium Property Act. In case any of these By-Laws conflict with the provisions of the Condominium Property Act or the Declaration, the provisions of the Condominium Property Act or the Declaration, as the case may be, shall control.

Section 4. Application. All present and future owners, lessees, mortgagees, vendees under agreements of sale and tenants of units and their family members, invitees, licensees, guests and employees, and any other persons who may use any part of the Project in any manner are subject to these By-Laws, the Declaration, the

Rules and Regulations, and the Koa Ridge Covenants, as each may be amended from time to time. The acceptance of a unit conveyance, mortgage, agreement of sale, or rental agreement of a unit, or the act of occupying a unit, shall constitute an agreement that these By-Laws, the Declaration, the Rules and Regulations, and the Koa Ridge Covenants, as they may be amended from time to time, are accepted, ratified and will be strictly complied with.

## ARTICLE II

## ASSOCIATION OF UNIT OWNERS

Section 1. Membership. All owners of units in the Project shall constitute the Association. The owner of any unit upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his or her ownership of such unit ceases for any reason, at which time his or her membership in the Association shall automatically cease.

Section 2. Powers of the Association. The Association shall have all of the powers with respect to the operation and regulation of the Project conferred upon the Association by, or which may be conferred upon the association of unit owners of a condominium project pursuant to the provisions of, the Condominium Property Act, including without limiting the generality of the foregoing:

(a) The election of a Board of Directors.

(b) The management, maintenance, acquisition, construction and care of the Association property. As used herein, the term "Association property" includes the common elements of the Project, property held by the Association, property commonly held by its members, property within the Project privately held by its members but which may be subject to a common maintenance assessment by the Association for such purposes as insurance, and property owned by any governmental agency or private or public utility and used for the benefit of the Association's members.

(c) The collection of common expenses and limited common expenses from the owners.

(d) The designation and removal of personnel necessary for the maintenance, repair and replacement of the common elements.

(e) The establishment of such restrictions and requirements not inconsistent with the Declaration, the Condominium Property Act or these By-Laws regarding the use and maintenance of the units and the use of the common elements.

(f) The amendment of these By-Laws in accordance with the Declaration, Article IX, Section 10 hereof, and the Condominium Property Act.

(g) Any and all powers not inconsistent with any law or the Declaration, which are reasonably incidental to the fulfillment of the purposes of the Condominium Property Regime set forth in the Declaration, or are reasonably incidental to the exercise of the Association's powers as set forth in the Declaration or herein.

Nothing in this Section 2 shall prohibit the delegation by the Association of any of its powers in accordance with these By-Laws, as amended from time to time. Notwithstanding anything to the contrary provided herein, from the date of the recordation of the Declaration until the initial Board of Directors of the Association is elected at the first meeting of the Association, the Developer shall have the right to exercise all of the powers of the Association and the Board of Directors and officers of the Association, including voting.

Section 3. Meetings. The first meeting of the Association shall be held upon the call of the Developer not later than the first to occur of (a) one hundred eighty (180) days after recordation of the first unit conveyance, provided that forty percent (40%) or more of the Project has been sold and recorded, or (b) one hundred twenty (120) days after the date seventy-five percent (75%) of the total number of units has been sold and recorded. If forty percent (40%) of the Project is not sold and recorded at the end of one (1) year after recordation of the first unit conveyance, an annual meeting shall be called if ten percent (10%) of the owners so request. The term "sold and recorded" shall mean and refer to the sale of units in the Project, and the recordation of unit conveyances transferring interests in the units from the Developer to parties not signatory to the Declaration. Thereafter, annual meetings of the Association shall be held within one hundred twenty (120) days following the close of the fiscal year of the Association as selected by the Board of Directors, on such date as the Board of Directors may designate, or if the Board of Directors shall fail to designate such date by the sixtieth (60th) day following the close of said fiscal year, then on the third Tuesday in the fourth calendar month following the close of said fiscal year. Each annual meeting shall be a general meeting, and at such meeting any business within the powers of the Association, without special notice of such business, may be transacted except as limited by law, the Declaration or these By-Laws. Special meetings of the Association may be called by the President, a majority of the Board, or by a petition to the Secretary or the Managing Agent signed and dated by no less than twenty-five percent (25%) of the unit owners as shown in the Association's record of ownership; provided that if the Secretary or Managing Agent fails to send out the notices for the special meeting within fourteen (14) days of receipt of the petition, the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices and proxies for the special meeting at the Association's expense in accordance with these By-Laws and the Condominium Property Act; provided further that a special meeting based upon a petition

to the Secretary or Managing Agent shall be set no later than sixty (60) days from receipt of the petition. The petition shall be valid only if submitted within one hundred twenty (120) days of the earliest signature. At any special meeting only such business shall be transacted as shall have been indicated by a specific or general description in the notice of such meeting. All meetings of the Association, except those where all persons attend by electronic means, shall be held at the address of the Project or such other suitable place within the State of Hawaii as determined by the Board of Directors; provided that in the event of a natural disaster, an Association meeting may be held outside the State of Hawaii.

Section 4. [RESERVED].

Section 5. Notice of Meetings. Any notices permitted or required to be given herein must be in writing and may be: (a) hand-delivered; (b) sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner; or (c) at the option of the unit owner, expressed in writing, by electronic mail to the electronic mailing address designated in writing by the unit owner. The notice of any meeting of the Association shall state the date, time, and place of the meeting, and the items on the agenda, including the general nature and rationale of any proposed amendment to the Declaration or these By-Laws, and any proposal to remove a member of the Board; provided that this section shall not preclude any unit owner from proposing an amendment to the Declaration or these By-Laws or to remove a member of the Board at any annual Association meeting. Notices of all Association meetings, whether annual or special, shall be given at least fourteen (14) days before the date of the meeting. Notwithstanding the foregoing, (a) notices of a special meeting to approve Material Amendments or Extraordinary Actions, as described in Section U of the Declaration, shall be given at least twenty-five (25) days before the date of the meeting, shall state the purpose of the meeting and contain a summary of the proposed Material Amendments or Extraordinary Actions and shall include a copy of the proxy form that may be used in lieu of attendance at the meeting, and (b) notices of a special meeting to fill vacancies in the Board of Directors shall include notice of the election to fill the vacancy and the meeting date shall be set on a date that allows sufficient time for owners to declare their intentions to run for election and to solicit proxies for that purpose. If delivery is made by mail, the notice shall be deemed to have been given twenty-four (24) hours after a copy of it has been deposited in the United States mail, postage prepaid, addressed to the person to whom the notice is to be given at the address given by such person to the Board of Directors from time to time, in writing, or to the unit which such person owns if no address has been given to the Board of Directors. Upon written request for notice delivered to the Board of Directors, the holder of any duly recorded mortgage against any unit shall promptly be furnished a copy of any and all notices permitted or required herein to be made to the owner or owners whose unit is subject to such mortgage and which notices are specifically requested by the holder of such mortgage. Said request for notice need not be renewed and shall entitle the holder

of such mortgage requesting such notice to receive all notices sent to the owner or owners whose unit is subject to said mortgage from and after the date of said request until said request is withdrawn or the mortgage is discharged of record. If notice is given pursuant to the provisions of this section, the failure of any unit owner to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat. The presence of all owners, in person or by proxy, at any meeting shall render the same a valid meeting notwithstanding that notice thereof was not given or was improper, unless any owner shall at the opening of such meeting object to the holding of such meeting because of the failure to comply with the provisions of this section.

Section 6. Quorum. The presence at any meeting in person or by proxy of at least thirty-five percent (35%) of the owners shall constitute a quorum, and the acts of a majority of the owners present at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "thirty-five percent (35%) of the owners" herein means the owners of units to which are appurtenant thirty-five percent (35%) of the common interests as established by the Declaration. The term "majority of the owners present at any meeting" shall mean owners of units to which are appurtenant more than fifty percent (50%) of the aggregate common interests appurtenant to units owned by those present at the meeting. Any other specified percentage of the owners means the owners of units to which are appurtenant such percentage of the common interests.

Section 7. Voting. All owners shall be members of the Association and shall be entitled to vote at meetings thereof. Voting shall be on a percentage basis with the percentage of the total vote to which each unit is entitled being the same as the percentage of the common interests assigned to such unit in the Declaration. The vote for any unit owned of record by two or more persons may be exercised either collectively by all co-owners, or individually by any one of them present at any meeting in the absence of protest by the other co-owner or co-owners. In no event, however, shall the percentage of vote for any unit be fractionalized. Votes may be cast in person or pursuant to a proxy duly executed by a unit owner. A unit owner may vote by mail or electronic transmission through a duly executed proxy. If the unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. In the absence of protest, any owner may cast the votes allocated to the unit by proxy. A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the Secretary or the Managing Agent. A proxy is void if it purports to be revocable without notice. A 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, whether or not the same shall have been transferred to his or her name in the Association's record of ownership, 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. The purchaser of a unit under any agreement of sale recorded in the Bureau of

Conveyances shall have all the rights of an owner, including the right to vote, unless the seller under such agreement of sale retains the right to vote pursuant to the Condominium Property Act. No votes allocated to a unit owned by the Association may be cast for the election or re-election of directors.

Section 8. Proxies and Pledges. The authority given by any unit owner to another person to represent him or her at meetings of the Association shall be in writing.

(a) A proxy, to be valid, shall: (i) be delivered to the Secretary or the Managing Agent no later than 4:30 p.m. Hawaii-Aleutian Standard Time on the second business day prior to the date of the meeting to which it pertains; and (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.

(b) If a proxy is a standard proxy form authorized by the Association, the proxy shall comply with the following additional requirements: (i) the proxy shall contain boxes wherein the owner may indicate 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; provided that if the proxy is returned with no box or more than one of the boxes in subsection (A) through (D) checked, the proxy shall be counted for quorum purposes only; and (ii) 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.

(c) 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 desires and indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit.

(d) 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.

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering a unit or under an agreement of sale affecting a unit.

(f) 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, 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 owners who have requested the use of Association funds for soliciting proxies and their statements. The statement, which shall be limited to black text on white paper, shall not exceed one single-sided 8-1/2" x 11" page, indicating the owner's qualifications to serve on the Board or reasons for wanting to receive proxies; 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.

(g) 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, 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.

(h) 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 the Board may adopt rules regulating reasonable time, place, and manner of the solicitations or distributions, or both.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the owners present, whether or not a quorum is present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

(a) Roll call.

(b) Proof of notice of meeting.

(c) Reading of minutes of preceding meeting.

(d) Report of officers.

(e) Report of Board of Directors.

(f) Report of committees.

(g) Election of directors (when so required).

(h) Appointment of Auditor.

(i) Unfinished business.

(j) New business.

Section 11. Conduct of Meetings. All meetings of the Association shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. Notwithstanding any provision to the contrary in the Declaration or these By-Laws, for the first meeting of the Association and any annual meeting or special meeting thereafter during the Developer Control Period, electronic meetings, electronic voting, and mail voting may be authorized by the Board in its sole discretion as may be permitted from time to time under the Condominium Property Act, as amended, under the conditions, if any, set forth in the Condominium Property Act. From and after the first annual meeting or special meeting of the Association after directors other than Developer directors have been elected by the members, the elected Board may authorize meetings of the Association to be conducted by any means that allow participation by all unit owners in any deliberation or discussion. For any electronic meeting, electronic voting, and mail voting, the voting deadline shall be within sixty (60) days of the date the notice was first sent. The Board on behalf of the Association shall implement reasonable measures to verify that each person permitted to vote is a member of the Association or proxy of a member. As used in this section, "mail voting" includes sending or receiving written ballots via mail, courier or electronic transmission; provided that the transmission is a complete reproduction of the original.

Section 12. Minutes of Meetings. The minutes of meetings of the Association shall be approved at the next succeeding annual meeting or by the Board, if authorized by the unit owners at an annual 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. Minutes of all meetings of the Association shall 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. An owner shall be allowed to offer corrections to the minutes at an Association meeting.

Section 13. Committees. The Association may create and appoint such general or special committees as the affairs of the Association may require and define the authority and duties of such committees.

## ARTICLE III

## BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors composed of three (3) directors; provided, that during the Developer Control Period, the Developer shall have the right to appoint and remove two (2) of the director positions on the Board. Members of the Board shall be unit owners or co-owners, vendees under an agreement of sale, a trustee of a trust which owns a unit, or an officer, partner, member or other person authorized to act on behalf of any other legal entity which owns a unit. There shall not be more than one representative on the Board of Directors from any one unit. No resident manager or employee of the Project or tenant occupying a dwelling unit for dwelling purposes who is not also an owner of a dwelling unit in the Project, shall serve on the Board of Directors. Except as specifically authorized by the Association at an annual or special meeting, no director shall receive any compensation from the Association for acting as such, but may be reimbursed for actual expenses incurred in the course of acting as such director.

Section 2. Election and Term. Election of directors other than the Developer directors shall be by cumulative voting by secret ballot at each annual meeting and each special meeting called for that purpose. The Developer directors shall be appointed at the first meeting of the Association and shall serve at the pleasure of the Developer. Directors other than the Developer directors shall hold office for a period of two (2) years and until their respective successors have been elected, subject to removal as herein provided; provided that at the first annual meeting or special meeting of the Association after the Developer Control Period in which Board members shall be elected, one (1) of the directors shall be elected for one (1) year and the other elected director(s) shall be elected for two (2) years in order to provide for staggered terms. 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. The term "cumulative voting" as used herein means that each owner may cast for any one or more candidates for the Board a vote equivalent to the vote which such owner is entitled to multiplied by the number of directors to be elected, and each owner shall be entitled to cumulate his or her votes and give all thereof to one candidate or to distribute his or her votes in such manner as he or she shall determine among any or all of the candidates, and the candidates receiving the highest number of votes on the foregoing basis, up to the total number of directors to be elected, shall be deemed elected and shall be given the longest term.

Section 3. Vacancies. Any vacancies in the Board of Directors other than a vacancy of the Developer director positions, a vacancy caused by the natural expiration of the term of a director or the removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall serve until his or her successor is elected at the next annual or duly noticed special meeting of the Association. A vacancy of the Developer director positions shall be filled by the Developer within sixty (60) days of the vacancy; provided, that if the Developer directors are not initially appointed by the first meeting of the Association or the Developer director positions become vacant and are not filled by the Developer within said 60-day period, the Developer director positions shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall serve until replaced by the Developer directors appointed by the Developer. Death, incapacity or resignation of any director, or his or her ceasing to be the owner or co-owner of record of a unit, a vendee of a unit under an agreement of sale, a trustee of a trust which owns a unit, or an officer, partner, member or other person authorized to act on behalf of any other legal entity which owns a unit, shall cause his or her office to become vacant.

Section 4. Removal of Directors. At any annual or special meeting of the Association duly called, any member of the Board other than the Developer directors may be removed and successors shall be elected for the remainder of the term to fill the vacancies thus created. The removal and replacement shall be by a vote of a majority of the unit owners and, otherwise, in accordance with all applicable requirements and procedures in these By-Laws for the removal and replacement of directors, and, if removal and replacement is to occur at a special meeting, Article II, Section 3 of these By-Laws. Any director whose removal has been proposed by the unit owners shall be given an opportunity to be heard at such meeting.

Any director other than the Developer directors who shall miss three (3) consecutive meetings of the Board may be removed by vote of a majority of the remaining directors, even though they may constitute less than a quorum; provided, however, that this right of removal shall be without prejudice to the unit owners' right to remove directors as provided in this Section 4. The replacement of the director removed by the Board shall be in accordance with all applicable requirements and procedures in these By-Laws 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.

Section 5. Organizational Meetings. The first meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 6. Regular Meetings. The Board of Directors shall meet at least once a year. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least one such meeting shall be held during each calendar year. Notice of regular meetings of the Board shall be given to each director in a reasonable manner at least fourteen (14) days, if practicable, prior to the date of the meeting.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least three (3) days' notice to each director, given personally or by telephone, or facsimile transmission, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 8. Conduct of Meetings.

(a) 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 shall be permitted to participate in any deliberation or discussion, other than executive sessions, pursuant to owner participation rules adopted by the Board of Directors.

(b) The Board of Directors may establish rules for owner participation in any deliberation or discussion at Board of Directors meetings, other than executive sessions, provided that the Board of Directors: (i) shall notify all owners of the rules; and (ii) may amend the rules at any regular or duly noticed special meeting of the Board of Directors provided that all owners are notified of any adopted amendments. The Board may make the rules available to owners on an Association website.

(c) The Board of Directors, by majority vote, may adjourn a meeting and reconvene in executive session to discuss and vote upon matters: (i) concerning personnel; (ii) concerning litigation in which the Association is or may become involved; (iii) necessary to protect the attorney-client privilege of the Association; or (iv) necessary to protect the interests of the Association while negotiating contracts, leases, and other commercial transactions. The general nature of any business to be considered in executive session shall first be announced in open session.

(d) All meetings of the Board of Directors (whether organizational, regular or special) shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised.

(e) A director shall not vote by proxy at Board meetings.

Section 9. 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 all Board meetings shall be posted by the Managing Agent, 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. The notice shall include a list of business items expected to be on the meeting agenda. 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 or her 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 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors established by these By-Laws 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. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Powers and Duties of the Board. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts or things set forth in the Condominium Property Act, the Declaration and these By-Laws to be done by the Board of Directors, except as otherwise expressly prohibited.

Section 12. [RESERVED].

Section 13. Conflicts of Interest.

(a) A director shall not vote at any Board meeting on any issue in which the director has a conflict of interest. A director who has a conflict of interest on any issue before the Board shall disclose the nature of the conflict of interest prior to a vote on that issue at the Board meeting, and the minutes of the meeting shall record the fact that a disclosure was made. "Conflict of interest", as used in this section, means an issue in which a director has a direct personal or pecuniary interest not common to other members of the Association.

(b) An owner shall not act as an officer of the Association and an employee of the Managing Agent. An owner who is a Board member and an employee of the Managing Agent shall not participate in any discussion regarding a management

contract at a Board meeting and shall be excluded from any executive session of the Board in which the management contract or the Managing Agent will be discussed.

Section 14. Minutes of Meetings.

(a) The minutes of the meetings of the Board of Directors shall include the recorded vote of each Board member on all motions except motions voted on in executive session.

(b) Minutes of the meetings of the Board of Directors shall be approved no later than the second succeeding regular meeting.

(c) Minutes of the meetings of the Board of Directors shall be available within seven (7) calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within thirty (30) 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 15. 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 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 16. Communications Means for Directors' Meetings. Subject to the notice requirements contained in these By-Laws, members of the Board of Directors or any committee designated thereby may permit any meeting to be conducted by any means of communication 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 costs associated with the participation.

Section 17. 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 corporation organized under Chapter 414D of the Hawaii Revised Statutes, as amended. Any violation of the mandatory provisions of Section 514B-161 or 514B-162 of the Condominium Property Act by the Board of Directors, or a member of the Board of Directors, may constitute a violation of this fiduciary duty; provided that a Board member may avoid liability under this section by indicating disagreement with such Board action in writing or by

rescinding or withdrawing the violating conduct within forty-five (45) days of the occurrence of the initial violation.

Section 18. Copies of Documents. The Association at its expense shall provide all Board members with a current copy of the Declaration, By-Laws, Rules and Regulations, and, annually, a copy of the Condominium Property Act.

Section 19. Expenditure of Association Funds.

(a) Directors shall not expend Association funds for their travel, director's fees, and per diem, unless the owners are informed of the expenditures and a majority of the owners approve of these expenses; provided that, with the approval of the Board, directors may be reimbursed for actual expenditures incurred on behalf of the Association. The Board meeting minutes shall reflect in detail the items and amounts of the reimbursements.

(b) 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 may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State of Hawaii, all other travel expenses incurred under this subpart shall be subject to the requirements of the foregoing subpart (a) of this section.

## 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. The President shall, but no other officers need 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 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, as amended.

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 or her 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 or she shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He or she shall also have such other powers and duties as may be provided by these By-Laws or assigned to him or her 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 By-Laws 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 By-Laws, 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.

## ARTICLE V

## ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including without limitation the following:

(a) Supervision of its immediate management and operation;

(b) Operation, care, upkeep, maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;

(d) Designation, employment, supervision and removal of such personnel as may be necessary for the operation, repair and maintenance of the common elements and the Project, including without limitation, a resident manager;

(e) Making contracts and incurring liabilities in connection with the exercise of any of the powers and duties of the Board;

(f) Purchasing or providing or causing to be provided all other materials, supplies, furniture, goods and services required by these By-Laws, or by law, or which the Board, in its discretion, deems necessary or appropriate for the proper operation and maintenance of the Project, or which are used in common or jointly by the common elements and units, in each case to the extent such goods and services shall not be otherwise provided;

(g) Payment of all common expenses, limited common expenses and assessments which the Association is required to pay for pursuant to the Declaration, these By-Laws, the Koa Ridge Covenants or by law or which in the Board's opinion shall be necessary or proper for the operation and maintenance of the Project or for the enforcement of these By-Laws, provided that if any such payment is required because of the particular actions or negligence of the owners of particular units, the cost thereof shall be specially assessed to the owners of such units;

(h) Opening of bank accounts on behalf of the Association and designating the signatories thereof;

(i) Delegation of its powers and duties to committees, agents, officers, representatives and employees;

(j) From time to time to adopt and/or amend the Rules and Regulations which govern the details of the operation and use of the Project; provided, however, that (i) no such Rules and Regulations shall be effective if disapproved by a resolution of the Association adopted at a meeting duly called for such purpose, (ii) nothing herein shall be construed to require that a meeting of the Association be called for the purpose of approving or disapproving Rules and Regulations adopted by the Board of Directors, (iii) the initial Rules and Regulations may be adopted by the Developer, and (iv) prior to the first meeting of the Association and the election of the initial Board of Directors, the Developer shall have the right, from time to time, to amend the Rules and Regulations.

(k) Within sixty (60) days prior to the beginning of each fiscal year, to cause to be prepared and to approve a budget covering the itemized estimated income of the Project, if any, from all sources and the estimated cost of maintaining and operating the Project during the ensuing fiscal year, including all expenses for taxes, insurance premiums, improvements, assessments, utility charges, maintenance and operating expenses, the wages of the resident manager, if any, the cost of leasing the resident manager's unit, if any, and all other charges and outgoings of any description for which the Association or its property may be assessed or become liable, plus the reserves established by these By-Laws and any other reasonable reserves for such purposes, less any surpluses from the operation of prior years, if any. In addition, the Board of Directors shall prepare and approve a schedule of monthly assessments against each unit owner for his or her proportionate share of such estimated cost of maintaining and operating the Project for such ensuing year;

(l) Levy and collection of all monthly and special assessments of the common expenses, all assessments of limited common expenses and other charges payable by the unit owners;

(m) Purchase and maintain in effect of all policies of property and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration, these By-Laws or the Board;

(n) Maintain custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(o) Notify all persons having any interest in any unit according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such unit;

(p) Make additions and improvements to or alterations of the Project and repairs to and restoration of the Project in accordance with the provisions of the Declaration or the Condominium Property Act after damage or destruction by fire or other casualty or as a result of condemnation;

(q) Procure legal and accounting services necessary or proper for the operation of the Project or the interpretation, enforcement or implementation of the Declaration, these By-Laws and any other material documents affecting the Project;

(r) Pay any amount necessary to discharge any lien or encumbrance levied against the entire Project or any part thereof which may in the opinion of the Board constitute a lien against the Project or against the common elements or limited common elements rather than merely against the interest therein of particular owners. If one or

more owners are responsible for the existence of any such lien, they shall be jointly and severally liable for the cost of discharging such lien and for the costs incurred by the Board by reason of such lien;

(s) Maintain and repair any unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the common elements, the limited common elements or any other portions of the buildings and if the owner or owners of said unit shall have failed or refused to perform said maintenance or repair within a reasonable time in the circumstances after written notice of the necessity of the same shall have been delivered by the Board to said owner or owners, provided that if the owner or owners of a unit have failed or refused to perform the same, the Board shall levy a special assessment against such unit for the cost of such maintenance or repair and any attorneys' fees and other expenses incurred in levying and collecting such special assessment;

(t) From time to time to enforce, modify and make agreements with respect to any lease or tenancy of any portions of the common elements on behalf of the unit owners;

(u) Provided it obtains the prior approval of owners having not less than sixty-seven percent (67%) of the common interests, purchase any unit of the Project from the owner thereof or at foreclosure or other judicial sale, on behalf and in the name of the Association or its nominee, corporate or otherwise, and thereafter sell, lease, mortgage, vote the common interests appurtenant to and otherwise deal with such unit; provided, however, that the Association's employees shall not engage in selling or renting units in the Project except Association-owned units, unless such activity is approved by not less than sixty-seven percent (67%) of the common interests;

(v) Enforce the provisions of the Declaration, these By-Laws and the Rules and Regulations;

(w) Change the use of the common elements with the prior approval of owners having not less than sixty-seven percent (67%) of the common interests, provided that subject to Section 514B-140(c) of the Condominium Property Act, (i) the Association may change common element open spaces or landscaped spaces to other uses without an amendment to the Declaration; and (ii) the Association may make minor additions to or alterations of the common elements for the benefit of individual units if the additions or alterations can be accomplished without substantial impact on the interests of other owners in the common elements, as reasonably determined by the Board;

(x) On behalf of the Association, lease or otherwise use for the benefit of the Association those common elements that the Board determines are not actually used by any of the unit owners for a purpose permitted by the Declaration; provided that

unless the lease is approved by the owners of at least sixty-seven percent (67%) of the common interests, the lease shall have a term of no more than five (5) years and may be terminated by the Board or the lessee on no more than sixty (60) days prior written notice; provided that the requirements of this subsection shall not apply to any leases, licenses or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Condominium Property Act;

(y) On behalf of the Association, lease or otherwise use for the benefit of the Association those common elements that the Board determines are actually used by one or more unit owners for a purpose permitted in the Declaration upon obtaining the approval of the owners of at least sixty-seven percent (67%) of the common interests, including all directly affected owners that the Board reasonably determines actually use the common elements, and the owners' mortgagees; provided that the requirements of this subsection shall not apply to any leases, licenses or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Condominium Property Act;

(z) When personalty in or on the common elements has been abandoned, sell the personalty in a commercially reasonable manner, store the personalty at the expense of its owner, donate the personalty to a charitable organization, or otherwise dispose of the personalty in its sole discretion, provided that: (i) if the identity and address of the unit owner are known, no sale, storage, donation, or other disposal shall occur until thirty (30) days after the Board of Directors notifies the unit owner in writing of (A) the identity and location of the personalty, and (B) the Board of Directors' intent to so sell, store, donate, or dispose of the personalty. Notification shall be by certified mail, return receipt requested, to the unit owner's address as shown by the records of the Association or to an address designated by the unit owner for the purpose of notification or, if neither of these is available, to the unit owner's last known address, if any; or (ii) if the identity or address of the unit owner is unknown, the Board of Directors may proceed directly to sell, store, donate or otherwise dispose of the personalty. The proceeds of any sale or disposition of personalty under subsection (i), after deduction of any accrued costs of mailing, storage, and sale, shall be held for the unit owner for thirty (30) days. Any proceeds not claimed within this period shall become the property of the Association. The proceeds of any sale or disposition of personalty under subsection (ii) shall immediately become the property of the Association;

(aa) On behalf of the Association, observe and comply with all applicable provisions of, exercise the Association's rights of, and observe and comply with the Association's obligations under, the Koa Ridge Covenants; provided that the Board shall exercise all voting rights of the Association under the Koa Ridge Covenants with respect to all matters except with respect to proposed changes to the Koa Ridge Covenants that would materially alter the rights of one or more of the unit owners, as determined by the Board in its reasonable judgment (the "Material Koa Ridge Covenant Changes"). The

vote of the Association under the Koa Ridge Covenants shall be made on the basis of the preference of the majority of directors present at a Board meeting. With respect to Material Koa Ridge Covenant Changes, the vote of the Association under the Koa Ridge Covenants shall be made on the basis of the preference of the majority of owners present at an annual or special meeting of the Association; and

(bb) Unless billed directly to, and collected from, the unit owners by the Koa Ridge Owners Association, collect from unit owners the assessments made against the Association or any of the units pursuant to the provisions of the Koa Ridge Covenants, and pay, on behalf of the Association or the respective owners, such assessments to the Koa Ridge Owners Association. The amount of assessments allocated to each unit shall be determined by the Koa Ridge Covenants; provided that if the assessment is made (i) solely against the Association and involves more than one (1) unit, or (ii) against more than one (1) unit (whether or not the assessment is also made against the Association), and in either such instance without an allocation among the units, then each unit shall be severally liable for that portion of assessments allocated to the units in the Koa Ridge Covenants, in proportion to the ratio that the respective common interest for said unit bears to the sum of the common interests of the units subject to the assessment. The unpaid amount assessed against the Association and allocated to a unit owner pursuant to this section shall constitute a lien against such owner's interest in such owner's unit which may be foreclosed by the Board of Directors of the Managing Agent in the same manner as provided in the Condominium Property Act for unpaid common expenses. If assessments are made under the Koa Ridge Covenants against the units directly as opposed to the Association, then each owner, as principal, shall be liable for such owner's share of the assessments pursuant to the Koa Ridge Covenants, and the Board shall be responsible, as agent for each owner, only to collect and remit payments made by the owners to the Koa Ridge Owners Association, and the Board shall not be required to initiate legal action to collect the maintenance assessments made under the Koa Ridge Covenants in the event of default by the unit owners in the payment of such assessments.

Nothing herein contained shall be construed to give the Board of Directors authority to conduct an active business for profit on behalf of the owners, or any of them, or the Association.

Notwithstanding anything to the contrary contained herein, the Board shall have no power to impair the use and enjoyment of a unit or the limited common elements appurtenant thereto in a manner inconsistent with the Declaration or these By-Laws.

Section 2. Managing Agent.

(a) Except as otherwise provided in the Declaration with respect to the initial Managing Agent, the Board of Directors (on behalf of the Association) shall at all times employ a responsible corporation or other limited liability company authorized to

do business in the State of Hawaii, registered with the Real Estate Commission of the State of Hawaii pursuant to the Condominium Property Act (if required under the Condominium Property Act), as Managing Agent to manage the operation of the Project, subject at all times to direction by the Board, with all the administrative functions and duties set forth specifically in the preceding Section 1 and in the Declaration and such other powers and duties and at such compensation as the Board may establish.

(b) In addition to the required qualifications set forth above and in the Declaration, any such Managing Agent retained by the Board shall meet the following qualifications at the time of contract: (i) such Managing Agent shall be licensed as a real estate broker in compliance with Chapter 467 of the Hawaii Revised Statutes, as amended, and the rules of the Real Estate Commission or be a corporation authorized to do business under Article 8 of Chapter 412 of the Hawaii Revised Statutes, as amended; and (ii) such Managing Agent shall obtain and keep current a fidelity bond in an amount equal to $500.00 multiplied by the aggregate number of units of the Association managed by the Managing Agent; provided that the amount of fidelity bond shall not be less than $20,000.00 nor greater than $500,000.00. The Managing Agent shall permit only employees covered by the fidelity bond, and any principals of the Managing Agent who cannot be covered by the fidelity bond, to handle or have custody or control of any Association funds. The fidelity bond shall protect the Managing Agent against the loss of any of the Association's moneys, securities or other properties caused by the fraudulent or dishonest acts of employees of the Managing Agent.

(c) Every such property management contract between the Board on behalf of the Association and the Managing Agent (i) shall provide (A) that the Managing Agent shall not contract for any expenditure of any funds of the Association in excess of $2,500.00 without the express approval of the Board or such officers or directors as provided in the property management contract approved by the Board (except in cases of emergency requiring prompt action to avoid further loss or involving manifest danger to life or property) and without having solicited whenever possible in advance not less than two (2) written bids for the expenditure, detailed and accurate written records of which shall be kept by the Managing Agent for the Board in accordance with these By-Laws, (B) that the Managing Agent shall not commingle any Association funds with its own funds, (C) that the Managing Agent shall maintain a fidelity bond on employees who handle the Association's funds as required by law, including, without limitation, the Condominium Property Act, and (D) that the contract may be terminated by the Board, at its option with or without cause on no more than ninety (90) days' written notice and without any further liability thereunder (other than for any indebtedness to or unreimbursed advances made by the Managing Agent on behalf of the Association or other liabilities or claims, which are in existence or which shall have accrued or arisen prior to such termination) and without any obligation to pay any termination fee therefor; and (ii) shall contain such other terms and conditions as the Board shall determine to be in the best interests of the Association.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two (2) or more unit owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements, or more than one unit, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such action, suits and proceedings without prejudice to the rights of any unit owners individually to appear, sue or be sued. Service of process on two (2) or more unit owners in any such action, suit or proceeding may be made on the President or Managing Agent.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary. Without limiting the generality of the foregoing, the preparation, execution, certification, and/or recordation of amendments to the Declaration and/or these By-Laws on behalf of the Association may be undertaken by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

Section 5. Record of Ownership.

(a) Every unit owner shall promptly cause to be duly recorded the unit conveyance, or other conveyance to him or her of such unit or other evidence of his or her title thereto and shall file such document with and present such other evidence of his or her title to the Board of Directors through the Managing Agent and shall also file a copy of any mortgage affecting his or her interest in such unit and the note secured thereby and provide such other information in connection therewith as provided in Article VIII, Section 1 hereof.

(b) The Managing Agent, resident manager, if any, or the Board shall keep an accurate and current list of members of the Association and their current addresses, and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the Board and a copy shall be available, at cost, to any member of the Association who furnishes to the Managing Agent or resident manager, if any, or the Board, a duly executed and acknowledged affidavit stating that the list (i) will be used by the owner personally and only for the purpose of soliciting votes or proxies or for providing information to other owners with respect to Association matters, and (ii) shall not be used by the owner or furnished to anyone else for any other purpose. The Board of Directors may prohibit commercial solicitations. Every owner shall pay to the Association or the Managing Agent on demand a reasonable fee or service charge for the registration on the records of the Association of any change of ownership of a unit.

(c) The Managing Agent or resident manager, if any, shall not use or distribute any membership list, including for commercial or political purposes, without the prior written consent of the Board.

(d) 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 subsections (b) and (c), and this subsection. A Managing Agent, resident manager, if any, or the Board may not use the information contained in the lists to create any separate list for the purpose of evading this section.

Section 6. Association Records. The Association shall keep financial and other records sufficiently detailed to enable the Association to comply with requests for information and disclosures related to the resale of units. Except as otherwise provided by law, all financial and other records shall be made reasonably available for examination by any unit owner and the owner's authorized agents. Association records shall be stored on the island on which the Project is located; provided that if original records, including but not limited to invoices, are required to be sent off-island, copies of the records shall be maintained on the island on which the Project is located.

Section 7. Association Records to be Maintained.

(a) An accurate copy of the Declaration, these By-Laws, the Rules and Regulations, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the Managing Agent's office or other location designated by the Board.

(b) The Managing Agent or Board shall 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 shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses, limited common expenses and assessments under the Koa Ridge Covenants.

(c) Subject to Article V, Section 6 of these By-Laws, all records and the vouchers authorizing the payments and statements shall be kept and maintained at the address of the Project, or elsewhere within the State of Hawaii as determined by the Board of Directors.

(d) The Board and Managing Agent shall ensure that there is a written contract for managing the operation of the Project, expressing the agreements of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments.

Copies of the executed contract and any amendments shall be provided to all parties to the contract.

Section 8. Copies of Documents. Upon the request of any unit owner, mortgagee or other interested party, the Secretary or the Managing Agent shall furnish such party with copies of these By-Laws and the Declaration as amended and shall certify that such copies are current to the date of such certification; provided, however, that the requesting party shall pay a service charge and the cost of reproduction of such documents. Notwithstanding the foregoing, the Secretary or the Managing Agent shall provide an electronic copy of these By Laws, the Declaration, and the Rules and Regulations, and any amendments or restatements thereto, to a unit owner or the unit owner's authorized agent, upon request, at no cost to the unit owner or the unit owner's authorized agent.

Section 9. Availability and Disposal of Association Records.

(a) The Association's most current financial statement shall be provided to any interested unit owner at no cost or on twenty-four hour loan, at a convenient location designated by the Board of Directors. The meeting minutes of the Board of Directors, once approved, for the current and prior year shall either:

(i) Be available for examination by unit owners at no cost or on twenty-four-hour loan at a convenient location at the Project, to be determined by the Board of Directors; or

(ii) Be transmitted to any unit owner making a request for the minutes, by the Board of Directors, the Managing Agent, or the Association's representative, within fifteen (15) days of receipt of the request; provided that the minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner, if the owner indicated a preference at the time of the request; and provided further that the owner shall pay a reasonable fee for administrative costs associated with handling the request.

Costs incurred by unit owners pursuant to this subsection shall be subject to Article V, Section 10 of these By-Laws.

(b) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the Association for the duration those records are kept by the Association and delinquencies of ninety (90) days or more shall be available for examination by unit owners at convenient hours at a place designated by the Board of Directors, provided that (i) the Board of Directors may require 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 interests of the Association, its members, or both, and (ii) owners shall

pay for administrative costs in excess of eight (8) hours per year. Copies of these items shall be provided to any owner upon the owner's request; provided that the owner pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

(c) After any Association meeting, and not earlier, owners shall be permitted to examine proxies, tally sheets, ballots, owners' check-in lists, and the certificate of election; provided that: (i) owners shall make a request to examine the documents within thirty (30) days after the Association meeting; (ii) the Board may require 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 (iii) owners shall pay for administrative costs in excess of eight (8) hours per year. The documents may be destroyed ninety (90) days after the Association meeting; provided that in the event of a contested election, the documents shall be retained until the contested election is resolved. Copies of tally sheets, owners' check-in lists, and the certificates of election from the most recent Association meeting shall be provided to any 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.

(d) The Managing Agent shall provide copies of Association records maintained pursuant to this section, Article V, Section 6, and Article V, Section 7, 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.

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

(f) The Association may comply with this section by making information available to unit owners, at the option of each unit owner, and at no cost to the unit owner, for downloading the information from an Internet site.

(g) The Managing Agent may dispose of records of the Association which are more than five (5) years old, except tax records, which shall be kept for seven (7) years, without liability if the Managing Agent first provides the Board with written notice of the Managing Agent's intent to dispose of the records if not retrieved by the Board of Directors within sixty (60) days, which notice shall include an itemized list of the records proposed to be disposed.

(h) No person shall knowingly make any false certificate, entry, or memorandum upon any of the books or records of the Managing Agent or the

Association. No person shall knowingly alter, destroy, mutilate, or conceal any books or records of the Managing Agent or the Association.

Section 10. Notice of Cost of Providing Information. No unit owner who requests legal or other information from the Association, the Board, the Managing Agent or their employees or agents, shall be charged for the reasonable cost of providing the information unless the Association notifies the unit owner that it intends to charge the unit owner for the reasonable cost. The Association shall notify the unit owner in writing at least ten (10) days prior to incurring the reasonable cost of providing the information, except that no prior notice shall be required to assess the reasonable cost of providing information on delinquent assessments or in connection with proceedings to enforce the law, the Declaration, these By-Laws or the Rules and Regulations. After being notified of the reasonable cost of providing the information, the unit owner may withdraw the request, in writing. A unit owner who withdraws a request for information shall not be charged for the reasonable cost of providing the information.

Section 11. Association Documents to be Provided.

(a) Notwithstanding any other provision in the Declaration, these By-Laws or the Rules and Regulations, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act, shall be made available to any unit owner and the owner's authorized agents by the Managing Agent, resident manager, if any, the Board through a Board member, or the Association's representative:

(i) All financial and other records sufficiently detailed in order to comply with requests for information and disclosures related to the resale of units;

(ii) An accurate copy of the Declaration, these By-Laws, the Rules and Regulations, a sample original conveyance document, and all public reports and any amendments thereto;

(iii) 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 and monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses and, if remitted by the Board on behalf of the Association or unit owners, any unpaid assessments for common expenses, limited common expenses and assessments under the Koa Ridge Covenants;

(iv) All records and the vouchers authorizing the payments and statements kept and maintained at the address of the Project, or elsewhere within the

State as determined by the Board, subject to Section 514B-152 of the Condominium Property Act;

(v) All signed and executed agreements for managing the operation of the Project, expressing the agreement of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments;

(vi) An accurate and current list of members of the Association and the members' current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the Board, and a copy of the list shall be available, at cost, to any unit owner or owner's authorized agent who furnishes to the Managing Agent, resident manager, if any, or the Board a duly executed and acknowledged affidavit stating that the list:

(A) Shall be used by the unit owner or owner's authorized agent personally and only for the purpose of soliciting votes or proxies or for providing information to other unit owners with respect to Association matters; and

(B) Shall not be used by the unit owner or owner's authorized agent or furnished to anyone else for any other purpose;

(vii) The Association's most current financial statement, at no cost or on twenty-four-hour loan, at a convenient location designated by the Board;

(viii) Meeting minutes of the Association, pursuant to Section 514B-122 of the Condominium Property Act;

(ix) Meeting minutes of the Board, pursuant to Section 514B-126 of the Condominium Property Act, which shall be:

(A) Available for examination by unit owners or owners' authorized agents at no cost or on twenty-four-hour loan at a convenient location at the Project, to be determined by the Board; or

(B) Transmitted to any unit owner or owner's authorized agent making a request for the minutes within fifteen (15) days of receipt of the request by the owner or owner's authorized agent; provided that: (I) the minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner or owner's authorized agent, if the owner or owner's authorized agent indicated a preference at the time of the request; and (II) the owner or owner's authorized agent shall pay a reasonable fee for administrative costs associated with handling the request, subject to Section 514B-105(d) of the Condominium Property Act;

(x) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the Association for the duration those records are kept by the Association, and any documents regarding delinquencies of ninety (90) days or more shall be available for examination by unit owners or owners' authorized agents at convenient hours at a place designated by the Board; provided that:

(A) The Board may require unit owners or owners' authorized agents 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 interests of the Association, its members, or both; and

(B) Unit owners or owners' authorized agents shall pay for administrative costs in excess of eight (8) hours per year;

(xi) Proxies, tally sheets, ballots, unit owners' check-in lists, and the certificate of election subject to Section 514B-154(c) of the Condominium Property Act;

(xii) Copies of an Association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act;

(xiii) A copy of the management contract from the entity that manages the operation of the Project before the organization of the Association;

(xiv) Other documents requested by a unit owner or owner's authorized agent in writing; provided that the Board shall give written authorization or written refusal with an explanation of the refusal within thirty (30) calendar days of receipt of a request for documents pursuant to this subsection; and

(xv) A copy of any contract, written job description, and compensation between the Association and any person or entity retained by the Association to manage the operation of the Project on-site, including but not limited to the general manager, operations manager, resident manager, or site manager; provided that personal information may be redacted from the contract copy, including but not limited to the manager's date of birth, age, signature, social security number, residence address, telephone number, non-business electronic mail address, driver's license number, Hawaii identification card number, bank account number, credit or debit card number, access code or password that would permit access to the manager's financial accounts, or any other information that may be withheld under state or federal law.

(b) Subject to Section 514B-105(d) of the Condominium Property Act, and except as provided under Article V, Section 8 hereof, copies of the items in

subsection (a) shall be provided to any unit owner or owner's authorized agent upon the owner's or owner's authorized agent's request; provided that the owner or owner's authorized agent pays a reasonable fee for duplication, postage, and stationery.

(c) Notwithstanding any provision in the Declaration, these By-Laws, or the Rules and Regulations providing for another period of time, all documents, records, and information listed under subsection (a), whether maintained, kept, or required to be provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act, shall be provided no later than thirty (30) days after receipt of a unit owner's or owner's authorized agent's written request, unless a lesser time is provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act, and except as provided in subsection (a)(xiv).

(d) Except as provided under Article V, Section 9 hereof, any documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act, may be made available electronically to the unit owner or owner's authorized agent if the owner or owner's authorized agent requests such in writing.

(e) The Association may comply with this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act by making the required documents, records, and information available to unit owners or owners' authorized agents for download through an Internet site, at the option of each unit owner or owner's authorized agent and at no cost to the unit owner or owner's authorized agent.

(f) Any fee charged to a unit owner or owner's authorized agent to obtain copies of the Association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or Section 514B-152, 514B-153, or 514B-154 of the Condominium Property Act, shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed those amounts as provided in the Condominium Property Act.

Section 12. Registration, etc. The Association shall comply with the registration requirements as provided in the Condominium Property Act.

Section 13. Audits, etc.

(a) The Association shall require an annual audit of the Association's financial accounts and no less than one annual unannounced verification of the Association's cash balance by a public accountant; provided that if the Association is comprised of less than twenty (20) units, the annual audit and the annual unannounced cash balance verification may be waived at an Association meeting by a vote of a majority of the unit owners.

(b) The Board of Directors shall make available a copy of the annual audit to each unit owner at least thirty (30) days prior to the annual meeting which follows the end of the fiscal year. The Board shall not be required to submit a copy of the annual audit report to a unit owner if the proxy form issued to said unit owner is not marked to indicate that the owner wishes to obtain a copy of the report. If the annual audit has not been completed by that date, the Board shall make available:

(i) An unaudited year end financial statement for the fiscal year to each unit owner at least thirty (30) days prior to the annual meeting; and

(ii) The annual audit to all owners at the annual meeting, or as soon as the audit is completed, but not later than six (6) months after the annual meeting.

(c) If the Association's fiscal year ends less than two (2) months prior to the convening of the annual meeting, the year-to-date unaudited financial statement may cover the period from the beginning of the Association's fiscal year to the end of the month preceding the date on which notice of the annual meeting is mailed.

Section 14. Association Employees.

(a) The Board of Directors or the Managing Agent, upon the written authorization of an applicant for employment as a security guard or resident manager or for a position that would allow the employee access to the keys of or entry into the units in the Project or access to Association funds, may conduct a background check on the applicant or direct another responsible party to conduct the check. Before initiating or requesting a check, the Board or the Managing Agent shall first certify that the signature on the authorization is authentic and that the person is an applicant for such employment. The background check, at a minimum, shall require the applicant to disclose whether the applicant has been convicted in any jurisdiction of a crime which would tend to indicate that the applicant may be unsuited for employment as an Association employee with access to Association funds or the keys of or entry into the units in the Project, and the judgment of conviction has not been vacated.

(b) For purposes of this section, the criminal history disclosure made by the applicant may be verified by the Board or the Managing Agent or other responsible party, if so directed by the Board or the Managing Agent by means of information obtained through the Hawaii criminal justice data center. The applicant shall provide the Hawaii criminal justice data center with personal identifying information, which shall include, but not be limited to, the applicant's name, social security number, date of birth, and gender. This information shall be used only for the purpose of conducting the criminal history record check authorized by this section. Failure of the Board or the Managing Agent to conduct or verify or cause to have conducted or verified a background check shall not alone give rise to any private cause of action against the

Association, the Board or the Managing Agent for acts and omissions of the employee hired.

(c) The Association's employees shall not engage in selling or renting units in the Project except Association-owned units, unless such activity is approved by not less than sixty-seven percent (67%) of the common interests.

## ARTICLE VI

## MAINTENANCE AND USE OF PROJECT

Section 1. Maintenance and Repair of Units, Yard Areas and Driveway Areas. Every unit owner shall at his or her own expense at all times well and substantially repair, maintain, amend and keep his or her unit, including without limitation all doors, sliding glass doors (if any), windows, and window fixtures, and all internal installations within the unit such as water, electricity, gas, telephone, sanitation, lights, solar water heater (if any), air conditioning system (if any), and all other fixtures and accessories belonging to such unit, if any, and the footings, foundations, walls, floors, ceilings and roofs of such unit, with all necessary reparations and amendments whatsoever in good order and condition, except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his or her failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

In addition, each unit owner shall at his or her own expense at all times well and substantially repair, maintain, amend and keep (i) the Yard Area appurtenant to such owner's unit in good order and condition, (ii) the Driveway Area appurtenant to such owner's unit in good order and condition, (iii) the Limited Common Element Utility Facilities appurtenant to such owner's unit in good order and condition, and (iv) the Road Right of Way in front of, on the side of, or in the back of the Yard Area appurtenant to such owner's unit, including the planting strip located therein (other than trees that have been placed within the Road Right of Way in accordance with the requirements of the City or other governmental entity or agency (the "Street Trees") except that the unit owner shall water such Street Trees) in good order and condition, and shall be liable for all loss or damage whatsoever caused by his or her failure to perform any such work. In case of such owner's failure after reasonable notice to keep the Yard Area, the Driveway Area, the Limited Common Element Utility Facilities, the Road Right of Way and the Yard Trees as aforesaid, the Association (through the Board of Directors or the Managing Agent) shall have the right (but not the obligation) to perform any such work and the cost thereof shall be charged to such unit owner as a special assessment constituting a lien

against his or her interest in his or her unit which may be foreclosed by the Board or Managing Agent in the same manner as provided in the Condominium Property Act for unpaid common expenses.

Section 2. Maintenance and Repair of Common Elements. Except as hereinabove expressly provided in Section 1 to the contrary, all maintenance, repairs and replacements to the common elements shall be made by the Board and be charged to all the owners as a common expense or a limited common expense; provided, however, that any such maintenance, repair or replacement necessitated by the negligence, misuse or neglect of a unit owner or occupant or any person under either of them, shall be charged to such unit owner or the unit owner of the unit of such occupant, as a special assessment constituting a lien against his or her interest in his or her unit which may be foreclosed by the Board or Managing Agent, in the same manner as provided in the Condominium Property Act for unpaid common expenses. Without limitation of the generality of the foregoing, every unit owner shall 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 thereof caused by such owner or any occupant of his or her unit or any person under either of them and shall give prompt notice to the Board or the Managing Agent, of any such loss or damage or other defect in the Project when discovered.

Section 3. Use of Project.

(a) All of the units in the Project shall be used only for such purposes stated in the Declaration.

(b) No unit owner may lease or rent his or her unit for a period of less than thirty (30) days. Any lease or rental agreement must be in writing and must be subject to the requirements of the Declaration, these By-Laws and the Association.

(c) All common elements of the Project shall be used only for their respective purposes as designed subject to the right of the Board to change the use of the common elements in accordance with the Declaration, these By-Laws and the Condominium Property Act.

(d) No unit owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his or her unit or the limited common elements appurtenant thereto or of the Project.

(e) Nothing shall be allowed, done or kept in any unit or common element (including the garages, Yard Areas and other limited common elements) of the Project which would overload or impair the floors, walls or roofs thereof, or cause the cancellation or invalidation of any insurance thereon maintained by or for the

Association, nor shall any noxious or offensive activity or nuisance be made or suffered therein or thereon.

(f) No unit owner or occupant shall erect or place in the Project any building or structure, nor make any exterior additions or alterations to the units, limited common elements or any common elements of the Project, except in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect if so required by the Board, and submitted to and approved by the Board, and all provisions of the Declaration and unit conveyances; provided, however, that:

(i) Fences, walls, stairs, lanais, patios, paved surfaces and/or wood decks may be installed within the Yard Areas in accordance with a written request and plans and specifications prepared by a licensed architect (if so required by the Board) that are submitted to and approved by the Board, all in accordance with all provisions of the Declaration and any fence and wall or other guidelines adopted by the Board; provided, however, that (a) all improvements shall be constructed or installed entirely within the Yard Areas and shall not be located upon or across the boundary of a Yard Area, e.g., shared fences and walls are specifically prohibited; (b) fences and/or walls may be restricted within certain areas of the Project due to the location of utilities, easements or for other reasons as determined in the reasonable discretion of the Board, (c) no fences or walls shall exceed six (6) feet in height; and (d) prior to the installation of any lanai, patio, paved surface and/or wood deck within a Yard Area, an owner shall arrange for termite treatment of the area under such lanai, patio, paved surface and/or wood deck; and

(ii) A unit owner or occupant may install a front screen door in accordance with a written request and plans and specifications prepared by a licensed architect (if so required by the Board) that are submitted to and approved by the Board, all in accordance with all provisions of the Declaration and any guidelines adopted by the Board.

(g) No unit owner may alter or remove any equipment, walls, or wall footings that is part of the common elements.

(h) No unit owner or occupant shall permit any person who is residing or visiting with him or her to loiter or play in any common elements of the Project which the Board may designate as a nonplay or hazardous area.

(i) No unit owner or occupant shall place, store or maintain in the driveways, Road Right of Way, grounds or other common elements of similar nature any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(j) No unit owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, television antenna, machines, or other equipment, fixtures, appliances or appurtenances whatsoever on the exterior of any building in the Project or protruding through the walls, windows or roofs thereof; provided, however, as follows:

(i) A unit owner or occupant may install an antenna covered by the Federal Communications Commission Over-the-Air Reception Devices Rule (47 C.F.R. Part 1, Subpart S, Section 1.4000 et seq.), as amended from time to time, subject, however, to guidelines reasonably necessary to protect public safety that are adopted by the Board of Directors relating to the installation, maintenance and use of antennas within the Project.

(ii) The owners of units may install a solar energy device, as defined in the Condominium Property Act ("Solar Energy Device"), on the roof of said owner's unit, provided that the Solar Energy Device shall be in compliance with any rules and specifications adopted by the Board.

(iii) The owners of units may install a Solar Energy Device within the limited common elements appurtenant to their unit for the use of said owner's unit, provided that: (A) the unit owner shall obtain the prior written consent of the Board of Directors; (B) the Solar Energy Device shall be installed in a location designated by the Board of Directors, in accordance with applicable law; and (C) the Solar Energy Device shall be in compliance with any rules and specifications adopted by the Board.

(iv) A unit owner or occupant may install within such owner's or occupant's unit an "electric vehicle charging system", provided that: (a) the owner shall be responsible for the cost of any damage to the electric vehicle charging system, the common elements, the limited common elements, and any other units within the Project, arising or resulting from the installation, use, maintenance, repair, removal or replacement of the electric vehicle charging system; and (b) the owner shall at all times have and maintain a policy of insurance covering the obligations of the owner and occupant under this section and shall name the Association as an additional insured under the policy. For purposes of this section, "electric vehicle charging system" means a system that is designed in compliance with Article 625 of the National Electrical Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging system may include several charge points simultaneously connecting several electric vehicles to the system.

(k) No highly reflective finish, other than glass (which, however, may not be tinted or mirrored), shall be used on the exterior of any building in the Project; provided, however, that a gray film tint without visible purple tinge (as approved by the Board) and with an approved reflective value (as determined by the Board) may be installed by a unit owner on the glass located along the perimeter of his or her unit. If

any bubbling or cracking shall occur, the unit owner shall immediately remove the tint and may replace it in accordance with the foregoing provisions.

(l) Window coverings shall be white, off-white, beige or of neutral color.

(m) No garments, rugs or other objects shall be hung from the windows or facades of the Project, except as expressly permitted by applicable law.

(n) Notwithstanding anything to the contrary contained in these By-Laws, the Declaration or the Rules and Regulations, owners with disabilities shall be permitted to make reasonable modifications to their units and/or limited common elements, at their expense (including the cost of obtaining any bonds required by the Declaration, these By-Laws or the Condominium Property Act), if such modifications are necessary to enable them to use and enjoy their units and/or the limited common elements appurtenant thereto, as the case may be, provided that any owner with a disability desiring to make such modifications shall make such request, in writing, to the Board. That request shall set forth, with specificity and in detail, the nature of the request and the reason that the requesting party needs to make such modifications. The Board shall not unreasonably withhold or delay its consent to such request, and any such request shall be deemed to be granted if not denied in writing, within forty-five (45) days of the Board's receipt thereof, or within forty-five (45) days of the Board's receipt of additional information reasonably required by the Board in order to consider such request, whichever shall last occur. Nothing contained herein shall exempt an owner from making all amendments to these By-Laws, the Declaration or the Condominium Map necessitated by any changes permitted under this subpart.

(o) Pets.

(i) No livestock, poultry or other animals or pets whatsoever shall be allowed or kept in any unit or any other part of the Project, except that dogs, cats and other household pets (as determined by the Board) in reasonable number and size as determined by the Board (but not to exceed a total of two (2) such animals per unit except for fish) may be kept in the unit and/or the Yard Area appurtenant to such unit.

(ii) In no case shall any animal prohibited by any applicable law (including the Condominium Property Act) be allowed anywhere on the Project.

(iii) Pets may not be kept, bred or used in any unit for any commercial purposes.

(iv) Except as otherwise provided herein, no pets shall be allowed on the common elements (other than the Yard Areas) except in transit and when carried or on a short leash. Pets on leashes and at all times under the complete control of a

capable person may be exercised or walked within the Project, but not in limited common elements appurtenant to units other than the pet owner's unit. No owner or occupant shall permit his or her pet(s) to produce or cause any waste or unsanitary material or condition anywhere on the common elements, and any such waste or unsanitary material or condition shall be immediately removed and disposed of or remedied by such owner or occupant.

(v) Any pet which, in the sole judgment of the Board, causes a nuisance, unreasonable disturbance or threat to the health or safety of any owner, occupant or guest may be ejected from the Project on the demand of the Managing Agent or resident manager; provided, however, that upon assessment of the severity of the nuisance, disturbance or threat caused by such pet, the Board, in its sole discretion, may give the pet's owner an opportunity to remedy the situation short of ejectment.

(vi) Notwithstanding the foregoing restrictions on pets or anything contained herein to the contrary, service animals upon which disabled owners, occupants or guests depend for assistance shall be permitted to be kept by such owners, occupants and guests in their units and/or the Yard Areas appurtenant to such units, and shall be allowed to walk throughout the common elements while on a leash, provided that such animals shall at all times be accompanied by their owners while present upon the common elements (other than the Yard Areas). If such a service animal causes a nuisance or unreasonable disturbance or poses a threat to the health or safety of any owner, occupant or guest, the owner thereof will be given an opportunity to rectify the problem by measures which fall short of ejectment of the animal from the Project. Ejectment will be required only if the Board reasonably determines that less drastic alternatives have been unsuccessful. If such an animal is ejected, it will nonetheless be allowed to remain at the Project for a reasonable period of time while the owner thereof attempts to find a suitable replacement animal, provided that the problem is controlled to a sufficient degree that the continued presence of the animal during that time does not constitute an unreasonable imposition upon, or threat to the safety or health of, other owners, occupants or guests.

(vii) In no event shall the Board, the Association, the Managing Agent or resident manager be or be deemed to be liable for any loss, damage or injury to persons or property caused by or arising in connection with any owner's, occupant's or guest's pet or service animal. By acquiring an interest in a unit in the Project, each owner agrees to indemnify, defend and hold harmless the Board, the Association, the Managing Agent and the resident manager against any claim or action at law or in equity arising out of or in any way relating to such owner's or occupant's or guest's pet or service animal.

(viii) All pets and other animals kept anywhere on the Project must be registered immediately with the Managing Agent.

(p) Garages and Driveway Areas.

(i) Parking. Each owner and his or her tenants, family members, invitees and guests shall park only in their garage or the Driveway Area appurtenant to such owner's unit (if the Driveway Area is large enough to accommodate one or more vehicles without encroachment upon the sidewalk). No parking shall be permitted within the Yard Areas, sidewalks or driveway aprons. Boats shall be parked or stored only in garages and must fit completely within the garage.

(ii) Garages. Garage doors shall be kept closed when garages are not being occupied by persons. Garages shall be used only for the parking of vehicles, boats, trailers, or truck campers and for workshops and storage of lawn and garden maintenance equipment, etc.

(iii) Violations. Violators of the parking restrictions shall have their cars towed away at their own risk and expense. Unit owners shall be responsible for payment of the towing charges with respect to their vehicles and those of their tenants, family members, invitees and guests.

(iv) Vehicles; Repairs. No mobile home, travel trailer, truck camper, house trailer, or stripped down, wrecked or junk motor vehicle shall be kept, parked, stored or maintained within the Project. Extensive repairs of a vehicle, boat or other equipment shall not be permitted in the Driveway Areas.

(v) Other Use Prohibited. The Driveway Areas shall not be used for storage purposes. Ball playing and skateboarding are prohibited within the Driveway Areas. Recreational equipment, such as basketball hoops, shall not be placed or stored on the Driveway Areas. The Driveway Areas shall be kept free and clear of any and all obstructions.

(vi) Responsibility for Damage. Damage to vehicles and other objects or to the common elements shall be the responsibility of the person causing the damage. Unit owners shall be responsible for damage caused by their tenants, family members, invitees and guests.

(q) Yard Areas and Project Landscaping.

(i) Portions of the Project, including certain Yard Areas, are or will be subject to one or more designated easements or licenses, some of which may have already been granted to third parties. The Developer and/or the Association, pursuant to reserved rights in the Declaration or other documents, also may grant easements or licenses to others in the future. Once an easement or license has been granted, the Project, including the Yard Areas, will be subject to such terms and conditions, including restrictions on constructing or installing improvements and landscaping, contained in the document granting the easement(s).

(ii) All improvements and landscaping within the Yard Areas and the Project shall comply with the requirements of utility companies providing utilities for the Project. These requirements may include, without limitation, minimum setback requirements from utility easement areas and utility facilities.

(iii) The area and grading around any fence or wall shall be maintained in order to prevent damage to any such fences or walls. There shall be no backfilling against or excavation near any fence or wall.

(iv) Each unit owner shall landscape the Yard Area assigned to such owner's unit and the planting strip located within the Road Right of Way in front of, on the side of, or in the back of the Yard Area assigned to such owner's unit, which landscaping shall commence within three (3) months after the closing of the purchase of the unit and shall be completed within six (6) months after the closing of the purchase of the unit (unless the Yard Area and the planting strip have already been completely and permanently landscaped). If a unit owner's Yard Area initially contains Developer-installed temporary fencing for silt or sedimentation control (a "Silt Fence"), the unit owner shall maintain the Silt Fence in good working condition during the installation of said unit owner's Yard Area landscaping, and shall take other reasonable measures as may be necessary to prevent silt or sedimentation intrusion onto the common elements of the Project or onto the Road Right of Way. After completion of his or her permanent landscaping installation, said unit owner shall remove and properly dispose of the Silt Fence. Before commencing any Yard Area or planting strip landscaping, each owner shall submit to the Board a landscape plan (which shall include, without limitation, a proposed plant list) for the Board's review and written approval, which approval shall not be unreasonably withheld or delayed. No alterations may be made to the landscaping within the Yard Areas or the planting strips without the prior written approval of the Board, which approval may be given or withheld in the Board's sole discretion.

(v) Plants, irrigation lines, spray/bubbler heads, plastic sheets or any material that promotes moisture build-up beneath the surface should not be placed within thirty (30) inches (the "Dry Area") of the buildings. Any spray or bubbler head shall be adjusted so as not to throw water onto the exterior of the buildings or the Dry Area.

(vi) Plants must be planted so as not to damage or impair the buildings, fences, walls (if any), drainage swales or utility easements.

(vii) A minimum two percent (2%) slope away from all buildings shall be maintained at all times to ensure proper drainage and to prevent water from ponding.

(viii) Plants susceptible to termite infestation or with invasive or aggressive root systems shall not be used.

(r) Planting Strips.

(i) Each unit owner shall maintain the Road Right of Way in front of, on the side of, or in the back the Yard Area appurtenant to such unit owner's unit, including the planting strips located therein, in accordance with the following standards: (a) any and all grass, plantings and other landscaping within the planting strips shall be maintained to the standards necessary to meet the City's requirements for the dedication of roadways to the City; (b) no irrigation system shall be placed within any planting strip; and (c) no portion of a planting strip shall be paved, concreted or filled with gravel or other similar materials.

(ii) If the planting strips are not maintained by the unit owners as provided aforesaid, the Board shall have the right, but not the obligation, to remove any nonconforming alteration, landscaping or other work, restore the planting strip to substantially the same condition as existed prior to the nonconforming alteration, landscaping or other work, and maintain the planting strip to the standard set forth in this section. The unit owner shall be liable for all costs thereof together with interest thereon at the maximum rate then allowed by law.

(s) Preservation of Drainage Patterns.

(i) Each owner, at such owner's cost and expense, shall take any and all necessary or appropriate action to preserve and maintain the drainage patterns of his or her Yard Area, including without limitation, the following:

(A) Keep all swales, drainage inlets, ditches, subdrains, solid pipe clean outs and other drainage ways in the Yard Area free of debris, open and in good and operating condition;

(B) Divert the water from any eave, gutter or downspout within the Project away from the foundations of the buildings and other improvements within the Project and on adjoining properties;

(C) Refrain from excessive watering of landscaping near or next to any building foundation or any adjoining property;

(D) Maintain the earth in the Project such that it slopes and drains away from the foundation of the unit and other improvements within the Project, including without limitation, filling in any depressions and refraining from creating any depressions, including "planter areas," in the earth near or next to any foundation;

(E) Refrain from changing the drainage patterns of the Yard Areas, including the terracing of the Yard Areas, without the prior written approval of the Board, which approval may be given or withheld in its sole discretion;

(F) Refrain from installing any fence, wall or other improvement or obstruction which would interrupt the drainage patterns;

(G) Refrain from installing any underground or pop-up drains as they may alter the drainage patterns;

(H) Maintain, by sealing and caulking, all joints and any cracks in exterior concrete work within the Project, especially joints or cracks between sidewalks or driveways and building foundations where sidewalks or driveways abut the building and joints and cracks in driveways and sidewalks; and

(I) Obtain the advice of qualified design professionals prior to constructing any other improvements within the Project.

## ARTICLE VII

## COMMON EXPENSES, UNIT EXPENSES, BUDGETS AND RESERVES, AND TAXES

Section 1. Common Expenses, Budgets and Reserves.

(a) The Association shall assess each unit owner for, and each unit owner shall be liable for and pay, a share of the common expenses in proportion to the common interest appurtenant to his or her unit. In addition to the items otherwise designated in these By-Laws as common expenses, the common expenses of the Project shall include all sums designated as common expenses in Section K of the Declaration. The common expenses may also include such amounts as the Board of Directors may deem appropriate to make up any deficit in the common expenses for any prior year and a replacement reserves fund for the Project. The common expenses may also include such amounts as may be required, by special assessment, for the purchase or lease of any unit by the Board or its nominee, corporate or otherwise, on behalf of the Association, as permitted under Hawaii law or these By-Laws.

Assessments of common expenses shall be payable in monthly installments on the first day of each month, commencing with respect to each unit on the first day of the first month following the issuance by the appropriate county agencies of a temporary or permanent certificate of occupancy for such unit (or if no certificate of occupancy will be issued, the first day of the first month following the date that the Developer determines that such unit is complete enough to be occupied). Payments of assessments for common expenses shall be made to the Association (through the Managing Agent). The Developer shall fix the rate of monthly installments of common expenses until such rate shall be redetermined by the Board of Directors. The Board may from time to time

during any year increase the assessment rate or impose a special assessment to make up any existing deficiency whenever for any reason the rate then in effect shall prove inadequate, provided that the Board, either directly or through the Managing Agent or resident manager, if any, shall send to all unit owners thereby affected written notice of any such increase or special assessment not less than thirty (30) days before the effective date of such increase or assessment. Assessments of limited common expenses shall be payable on the first day of the month following the month in which the notice of the assessment is given to the owner of the unit subject to such assessment.

If, at the end of any year, there should be any excess unspent funds collected by assessments, the same shall be used or applied by the Board, in its sole discretion, (i) to pay common expenses in the following year; or (ii) to be placed in the replacement reserves.

The Developer may assume all the actual common expenses of the Project by stating in the Developer's public report that the unit owner shall not be obligated for the payment of the owner's share of the common expenses until such time the Developer sends the owners written notice that, after a specified date, the unit owners shall be obligated to pay for the portion of common expenses that is allocated to their respective units. If the Developer elects to assume the actual common expenses of the Project as aforesaid, then, notwithstanding any other provisions in these By-Laws to the contrary, the Developer shall have no obligation to pay for any replacement reserves or any other reserve amounts with respect to or attributable to the period during which the Developer assumes the actual common expenses of the Project.

(b) The Board of Directors shall prepare and adopt an annual operating budget, and within thirty (30) days after the adoption of the budget, the Board shall make available a copy of the budget to all the unit owners and shall notify each unit owner that the unit owner may request a copy of the budget. The budget shall include a summary with at least the following details:

(i) The estimated revenues and operating expenses of the Association;

(ii) Disclosure as to whether the budget has been prepared on a cash or accrual basis;

(iii) The estimated costs of fire safety equipment or installations that meet the requirements of a building fire and life safety evaluation required by the applicable county for any building located in a county with a population greater than five hundred thousand; provided that the reserve study may forecast a loan or special assessment to fund building fire and life safety components or installation;

(iv) The balance of the total replacement reserves fund of the Association as of the date of the budget;

(v) The estimated replacement reserves assessments the Association will require to maintain the Project based on a reserve study performed by or on behalf of the Association; provided that the reserve study, if not prepared by an independent reserve study preparer, shall be reviewed by an independent reserve study preparer no less than every three (3) years; provided further that a managing agent with industry reserve study designations shall not be considered as having a conflict of interest for the purposes of this subpart (v);

(vi) A general explanation of how the estimated replacement reserves assessments are computed and detailing:

(A) The identity, qualifications, and potential conflicts of interest of the person or entity performing the reserve study, update, or any review thereof;

(B) Disclosure of any component of Association property omitted from the reserve study and the basis for the omission;

(C) Planned increases in the estimated replacement reserve assessments over the thirty-year plan;

(D) Whether the actual estimated replacement reserves assessments for the prior year as defined in the study were less than the assessments provided for in the reserve study, and, if so, by how much, and explaining the impact of the lesser assessments on future estimated replacement reserves assessments;

(E) Any updates made to the reserve study and descriptions of and explanation for the updates or a statement that no updates were made;

(F) A public accountant's findings about the adequacy of reserves or a statement that no findings were made; and

(G) Where a unit owner may examine the supporting completed reserve study or request a copy of same;

(vii) The amount the Association must collect for the fiscal year to fund the estimated replacement reserves assessments; and

(viii) Information as to whether the amount the Association must collect for the fiscal year to fund the estimated replacement reserves assessments was calculated using a percent funded or cash flow plan. The method or plan shall not circumvent the estimated replacement reserves amount determined by the reserve study

pursuant to subpart (v). The budget summary shall contain all required information without referring the reader to other portions of the budget.

(c) The Association shall assess the unit owners to either fund a minimum of fifty percent (50%) of the estimated replacement reserves assessments or fund one hundred percent (100%) of the estimated replacement reserves assessments when using a cash flow plan; provided that the Association need not collect estimated replacement reserves assessments until the fiscal year that begins after the Association's first annual meeting. For each fiscal year, the Association shall collect the amount assessed to fund the estimated replacement reserves assessments for that fiscal year, as determined by the Association's plan.

(d) The Association shall compute the estimated replacement reserves assessments by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the Project. The estimated replacement reserves assessments shall include:

(i) Adjustments for revenues that will be received and expenditures that will be made before the beginning of the fiscal year to which the budget relates; and

(ii) Separate, designated reserves for each part of the Project for which capital expenditures or major maintenance will exceed $10,000. Parts of the Project for which capital expenditures or major maintenance will not exceed $10,000 may be aggregated in a single designated reserve.

(e) Neither the Association, nor the Developer, nor any entity that, and no person who, makes a good faith effort to calculate the estimated replacement reserves assessments required by this Section shall be liable in the event that the estimate subsequently proves incorrect.

(f) Except in emergency situations or with the approval of a majority of the unit owners, 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. Before imposing or collecting an assessment under this subsection that has not been approved by a majority of the unit owners, the Board 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 unit owners with the notice of assessment.

(g) The requirements of this section shall override any requirements in the Declaration, these By-Laws or any other Association documents relating to preparation of budgets, calculations of replacement reserve requirements, assessments

and funding of replacement reserves, and expenditures from replacement reserves with the exception of:

(i) Any requirements in the Declaration, these By-Laws or any other Association documents that require the Association to collect more than fifty percent (50%) of replacement reserve requirements; or

(ii) Any provisions relating to upgrading the common elements, such as additions, improvements, and alterations to the common elements.

(h) The terms "capital expenditure", "cash flow plan", "emergency situation", "independent reserve study preparer", "major maintenance", "replacement reserves" and "reserve study" shall have the meanings given to them in the Condominium Property Act and in the Condominium Administrative Rules.

(i) The funds in the general operating account shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall the Managing Agent commingle any Association funds with the Managing Agent's own funds.

(j) All funds collected by the Association, or by the Managing Agent for the Association, shall be:

(i) Deposited in a financial institution, including a federal or community credit union, located in the State of Hawaii, pursuant to a resolution adopted by the Board, and whose deposits are insured by an agency of the United States government;

(ii) Held by a corporation authorized to do business under Article 8 of Chapter 412 of the Hawaii Revised Statutes, as amended;

(iii) Held by the United States Treasury;

(iv) Purchased in the name of and held for the benefit of the Association through a securities broker that is registered with the Securities and Exchange Commission, that has an office in the State of Hawaii, and the accounts of which are held by member firms of the New York Stock Exchange or the National Association of Securities Dealers and insured by the Securities Insurance Protection Corporation; or

(v) Placed through a federally insured financial institution located in the State of Hawaii for investment in certificates of deposit issued through the Certificate of Deposit Account Registry Service in federally insured financial institutions located in the United States.

(k) All funds collected by the Association or the Managing Agent for the Association shall be invested only in:

(i) Deposits, investment certificates, savings accounts and certificates of deposit;

(ii) Obligations of the United States government, the State of Hawaii, or their respective agencies; provided that those obligations shall have stated maturity dates no more than ten (10) years after the purchase date unless approved otherwise by a majority vote of the unit owners at an annual meeting or special meeting of the Association or by written consent of a majority of the unit owners;

(iii) Mutual funds comprised solely of investments in the obligations of the United States government, the State of Hawaii, or their respective agencies; government money market funds (as defined in the Condominium Property Act); or shares or units of another mutual fund satisfying the requirements of this subsection; provided that those obligations shall have stated maturity dates no more than ten (10) years after the purchase date unless approved otherwise by a majority vote of the unit owners at an annual meeting or special meeting of the Association or by written consent of a majority of the unit owners; or

(iv) Certificates of deposit issued through the Certificate of Deposit Account Registry Service in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;

provided that before any investment longer than one (1) year is made by the Association, the Board must approve the action; and provided further that the Board must clearly disclose to owners all investments longer than one (1) year at each annual meeting.

(l) All funds collected by the Association shall only be disbursed by employees of the Association under the supervision of the Board. All funds collected by the Managing Agent from the Association shall be held in a client trust fund account and shall be disbursed only by the Managing Agent or the Managing Agent's employees under the supervision of the Board.

(m) The Managing Agent or the Board shall not, by oral instructions over the telephone, transfer Association funds between accounts, including but not limited to the general operating account and the reserve fund account.

(n) The Managing Agent shall keep and disburse funds collected on behalf of the Association in strict compliance with the property management contract, Chapter 467 of the Hawaii Revised Statutes, as amended, the rules of the Real Estate Commission, and all other applicable laws.

Section 2. Payment as Agent. The Board will pay or cause to be paid, on behalf of the owners all common expenses and limited common expenses. Each owner, as principal, shall be liable for and pay his or her share, determined as provided in the Declaration and these By-Laws, of all such expenses; and the Board shall be responsible, as agent for each owner, only to transmit the payments made by the owner to third persons to whom such payment must be made by the owner. The Board may require the Managing Agent to assist it in its duties hereunder. The Board or Managing Agent collecting the expenses shall not be liable for payment of such expenses as principal but only as the agent of all owners to transmit said payments to third persons to whom such payments must be made by the owners.

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

Section 4. Default in Payment of Assessments. Each monthly assessment, each limited common expense assessment, and each special assessment shall be the separate, distinct and personal debt and obligation, as of the date of assessment, of the owner against whom the same are assessed and, in the case of a unit owned by more than one person, shall be the joint and several obligation of such co-owners. Any assessment not paid within ten (10) days after the due date thereof shall bear interest at the rate of one percent (1%) per month from such due date until paid and also shall be subject to a late payment charge in such amount as shall be established from time to time by the Board of Directors. The Board of Directors may adopt a policy whereby payments received from unit owners shall be applied toward the indebtedness of such unit owners to the Association in such order as the Board of Directors shall determine. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies the Board of Directors may have, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce such assessment obligation. Each such action must be authorized by a majority of the Board at a regular or special meeting thereof, and any such suit may be instituted by any one (1) member of the Board or by the Managing Agent if the latter is so authorized in writing. Each such action shall be brought by the Board in the name of the Board and the Association, and the Board shall be deemed to be acting on behalf of the Association. Any judgment rendered in any such action shall include, where permissible under any law, a sum for attorneys' fees in such amount as the court may adjudge against such defaulting owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two (2) members thereof, acting in the name of the Board and the Association, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board (acting upon the authorization of the majority thereof at any regular or special meeting) may give a notice to the defaulting owner (with a copy to the mortgagee of such owner if such mortgagee has furnished its name and address to the Board) stating the date of the delinquency, the amount of the delinquency and making demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may file a claim of lien against the unit of such delinquent owner. Such claim of lien shall state (i) the name of the delinquent owner, (ii) a designation of the unit against which the claim of lien is made, (iii) the amount claimed to be due and owing (after the allowance of any proper offset), (iv) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and the Condominium Property Act, and (v) that a lien is claimed against such unit in an amount equal to the net amount of the stated delinquency plus any accrued interest and costs of enforcement, including attorneys' fees, if any. Any such claim of lien shall be signed and acknowledged by any two (2) or more members of the Board, by the attorney for the Association or by the Managing Agent and shall be dated as of the date of the execution by such attorney or the Managing Agent or the last such Board member to execute such claim of lien. Upon recordation of a duly executed original or copy of such claim of lien in the Bureau of Conveyances, the Board shall have all remedies provided in the Condominium Property Act. Each default shall constitute a separate basis for a claim of lien, but a single claim of lien may be recorded with respect to more than one default. The owner of a unit against which such lien of the Association is foreclosed shall pay a reasonable rental for such unit and the plaintiff in such a foreclosure shall be entitled to a receiver to collect the rental owed by the unit owner or any tenant of the unit.

(c) For the purposes of this Section 4, a certificate executed and acknowledged or made under penalty of perjury by any two (2) members of the Board or the Managing Agent shall be conclusive upon the Board and the owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained, and any owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his or her unit (or the fact that all assessments due are

paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee or service charge, in an amount fixed from time to time by the Board. If any claim of lien is recorded as aforesaid and thereafter the Board receives payment in full of the amount claimed to be due and owing (including accrued interest and any costs of enforcement), then upon demand of the owner and payment of a reasonable fee, the Board, acting by any two (2) members, shall execute, acknowledge and deliver to the owner a release of lien, stating the date of the original claim of lien, the amount claimed, the date, and the document number where the claim of lien is recorded in the Bureau of Conveyances, and that the lien is fully satisfied, released and discharged.

(d) In conjunction with or as an alternative to foreclosure proceedings under Section K of the Declaration, where a unit is owner-occupied, the Association may authorize its Managing Agent or Board of Directors to, after sixty (60) days' written notice to the unit owner and to the unit's first mortgagee of the nonpayment of the unit's share of the common expenses, terminate the delinquent unit's access to the common elements and cease supplying a delinquent unit with any and all services normally supplied or paid for by the Association. Any terminated services and privileges shall be restored upon payment of all delinquent assessments but need not be restored until payment in full is received.

(e) Before the Board of Directors or Managing Agent may take the actions permitted under subsection (d), the Board shall adopt a written policy providing for such actions and have the policy approved by a majority vote of the unit owners at an annual or special meeting of the Association or by the written consent of a majority of the unit owners.

Section 5. Collection from Tenant.

(a) If the owner of a unit rents or leases the unit and is in default for thirty (30) days or more in the payment of the unit's share of the common expenses or the limited common expenses, the Board of Directors, for as long as the default continues, may demand in writing and receive each month from any tenant occupying the unit, or rental agent renting the unit, an amount sufficient to pay all sums due from the unit owner to the Association, including interest, if any, but the amount shall not exceed the tenant's rent due each month. The tenant's payment under this section shall discharge that amount of payment from the tenant's rent obligation, and any contractual provision to the contrary shall be void as a matter of law.

(b) Before taking any action under this section, the Board shall give to the delinquent unit owner written notice of its intent to collect the rent owed. The notice shall: (i) be sent both by first-class and certified mail; (ii) set forth the exact amount the Association claims is due and owing by the unit owner; and (iii) indicate the intent of the Board to collect such amount from the rent, along with any other amounts that become due and remain unpaid.

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

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

(e) The Board may not demand payment from the tenant pursuant to this section if: (i) a commissioner or receiver has been appointed to take charge of the premises pending a mortgage foreclosure; (ii) a mortgagee is in possession pending a mortgage foreclosure; or (iii) the tenant is served with a court order directing payment to a third party.

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

(g) Before the Board may take the actions permitted under subsection (a), the Board shall adopt a written policy providing for the actions and have the policy approved by a majority vote of the unit owners at an annual or special meeting of the Association or by the written consent of a majority of the unit owners.

Section 6. Application of Payments. Any payments made by or on behalf of a unit owner shall first be applied to outstanding common expenses that are assessed to all unit owners in proportion to the common interest appurtenant to their respective units. Only after the outstanding common expenses have been paid in full may the payments be applied to other charges owed to the Association, including assessed charges to the unit such as utility sub-metering, insurance deductibles and cable. After these charges are paid, other charges, including unpaid late fees, legal fees, fines, and interest, may be assessed in accordance with an application of payment policy adopted by the Board; provided that if a unit owner has designated that any payment is for a specific charge that is not a common expense as described in this section, the payment may be applied in accordance with the unit owner's designation even if common expenses remain outstanding.

## ARTICLE VIII

## MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. Any unit owner who mortgages his or her interest in a unit shall notify the Association (through the Board of Directors or the Managing Agent) of the name and address of his or her mortgagee and shall file a conformed copy of his or her mortgage with the Association within ten (10) days after the execution of same. The Association shall maintain such information in a book entitled "Mortgages of Units".

Section 2. Notice of Unpaid Common Expenses. The Association, whenever so requested in writing by an owner or holder, insurer or guarantor of a mortgage of a unit and upon payment of a reasonable fee or service charge by the unit owner, in an amount fixed from time to time by the Board, shall promptly report any then unpaid assessments of common expenses or limited common expenses due from the unit owner involved, and if no request is made then notice shall be given as provided in Article V, Section 1(p) hereof.

Section 3. Notice of Default. The Board, when giving notice to a unit owner of a default in paying common expenses or limited common expenses or any other default in performance of any obligations under the Declaration, these By-Laws, the Rules and Regulations or other document of the Association, shall send a copy of such notice to each mortgagee of such unit whose name and address has theretofore been furnished to the Association.

Section 4. Examination of Books. Each mortgagee and each insurer and guarantor of first mortgages that are secured by one or more units in the Project shall be permitted to examine the books and records of the Association at convenient hours of business days.

Section 5. Annual Financial Statement. Any holder, insurer or guarantor of a first mortgage on any unit or any interest therein may request and the Association shall provide said holder, insurer or guarantor with a copy of any such annual financial statement within ninety (90) days following the end of any fiscal year of the Association, upon payment by the holder, insurer or guarantor of a fee equal to the cost of reproduction and postage for mailing of such statement.

Section 6. Right of Access. Each mortgagee and its agents shall have a right of access through the common elements (other than the limited common elements) of the Project for the purpose of passage to any unit on which it holds a mortgage, provided that entry into any such unit or the limited common elements appurtenant thereto by the mortgagee or its agents shall be at the sole risk of the mortgagee and shall be made strictly in accordance with and subject to the terms of its mortgage.

Section 7. Mortgage Protection. Notwithstanding any other provision contained in these By-Laws or the Declaration:

(a) Liens in favor of the Association on any unit and its appurtenant interest in the common elements created by the Declaration, these By-Laws or the Condominium Property Act, shall be subject and subordinate to the rights of the holder of any indebtedness secured by any recorded mortgage of such interests, made for value, that was recorded prior to the recordation of the notice or notices of such liens by the Association, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed to such unit, if falling due after the date of the acquisition of title (as defined in Section K of the Declaration) or pursuant to the Condominium Property Act, which lien shall have the same effect and be enforced in the same manner as provided in Article VII, Section 4 hereof.

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

(c) The Declaration and these By-Laws shall not affect the rights of a unit owner with respect to the rights of first mortgagees of units pursuant to their mortgages in the case of a distribution made in accordance with the Declaration and these By-Laws to unit owners of insurance proceeds or condemnation awards for losses to or a taking of units and/or common elements.

(d) No amendment to this Article VIII shall affect the rights of the holder of any first mortgage recorded in the Bureau of Conveyances who does not join in the execution thereof if such mortgage was recorded prior to the recordation of such amendment.

(e) Any holder, insurer or guarantor of a mortgage of a unit or any interest therein whose interest appears in the record of ownership of or who has otherwise delivered a written request to the Association shall be entitled to:

(i) Timely written notice of any proposed amendment to the Declaration or these By-Laws effecting a change in the boundaries of any unit or the exclusive easement rights pertaining thereto, the common interests or liability for common expenses, number of votes appertaining to any unit or the purposes to which any unit or common elements are restricted;

(ii) Timely written notice of any proposed termination of the Condominium Property Regime at least thirty (30) days before any action is taken;

(iii) Timely written notice of any condemnation loss or any casualty loss or eminent domain proceeding affecting a material portion of the Project or common elements resulting in losses greater than ten percent (10%) of the annual budget or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;

(iv) Timely written notice of any default of the unit owner which is not cured within sixty (60) days;

(v) Upon request therefor and the payment by the unit owner or such person of the fee or service charge mentioned in Section 2 above, a statement of any then unpaid assessments for common expenses and limited common expenses due from the owner of the unit involved;

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

(vii) Prior written notice of 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, 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;

(viii) Timely written notice of at least ten (10) days of a lapse, cancellation, or material modification of any insurance policy maintained by the Association;

(ix) Timely written notice of proposed amendments to the Declaration or these By-Laws that are Amendments of a Material Nature, Material Amendments or Extraordinary Actions;

(x) Demand an audit of the Association's financial records, if a majority of eligible holders of first mortgages on units so demand; and

(xi) Timely written notice of any proposed action that requires the consent of a specified percentage of mortgagees under the Declaration or these By-Laws.

Section 8. Release of Information. To the extent permitted by applicable law, the Board of Directors may provide any information available to it pertaining to a unit or the Project to a mortgagee of such unit and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

## ARTICLE IX

## GENERAL PROVISIONS

Section 1. Abatement and Enjoinment of Violations by Unit Owners. The violation of any of the Rules and Regulations or the breach of any by-law contained herein or of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these By-Laws, (a) to enter the unit and/or limited common elements appurtenant thereto in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof or hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; provided, however, that the Board shall institute appropriate legal proceedings before any items of construction can be altered or demolished; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting unit owner.

Section 2. Penalties for Violations. The violation by any unit owner of any of the covenants, conditions and restrictions set forth in the Declaration, these By-Laws or the Rules and Regulations adopted pursuant thereto, shall give the Board the right, in addition to any other rights set forth in these By-Laws, to assess a reasonable fine against such owner; provided that if any such violation continues for a period of ten (10) days after notice of violation has been given to such owner, such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties. The unpaid amount of such fines against any unit owner shall constitute a lien against his or her interest in his or her unit which may be foreclosed by the Board of Directors or the Managing Agent in the same manner as provided in the Condominium Property Act for unpaid common expenses, subject however, to the provisions of the Condominium Property Act. No penalty may be imposed under this section until the unit owner accused of any such violation has been afforded the right to have a hearing before the Board of Directors or a committee designated by the Board to conduct such hearing, or has waived such right in writing. Each such unit owner shall have the right to be heard in person, by submission of a written statement, or through a spokesperson, at any such hearing.

Section 3. Expenses of Enforcement.

(a) All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association for: (i) collecting any delinquent assessments against any owner's unit; (ii) foreclosing any lien thereon; or (iii) enforcing any provision of the Declaration, these By-Laws, the Rules and Regulations, the Condominium Property Act, or the rules of the Real Estate Commission of the State of Hawaii, against any owner or occupant, or any other person who may in any manner use the Project, shall

be promptly paid on demand to the Association by the person or persons; provided that if the claims upon which the Association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any applicable person or persons as a result of the action of the Association, shall be promptly paid on demand to the person or persons by the Association. The unpaid amount of such costs and expenses payable by any unit owner shall constitute a lien against his or her interest in his or her unit which may be foreclosed by the Board of Directors or the Managing Agent in the same manner as provided in the Condominium Property Act for unpaid common expenses, subject however, to the provisions of the Condominium Property Act.

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

If any claim by a unit owner is not substantiated in any court action against the Association, any of its officers or directors, or the Board to enforce any provision of the Declaration, these By-Laws, Rules and Regulations, or the Condominium Property Act, then all reasonable and necessary expenses, costs and attorneys' fees incurred by the Association shall be awarded to the Association, unless before filing the action the unit owner has first submitted the claim to mediation, or to arbitration under the Condominium Property Act, and made a good faith effort to resolve the dispute under any of those procedures.

Section 4. Abatement and Enjoinment of Violations by Tenants.

(a) If a tenant of a unit owner violates the Declaration, these By-Laws or the Rules and Regulations, in addition to exercising any of its powers against the unit owners, the Board, on behalf of the Association, may:

(i) Exercise directly against the tenant the powers described in Article IX, Section 1 of these By-Laws;

(ii) After giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation as provided in Article IX, Section 2 of these By-Laws, provided that a unit owner shall be responsible for the conduct of the owner's tenant and for any fines levied against the tenant, as provided in Article IX, Section 2 of these By-Laws, and any costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the

Association in enforcing the Declaration, these By-Laws or the Rules and Regulations against the tenant, as provided in Article IX, Section 3 of these By-Laws. The unpaid amount of such fines, costs and expenses payable by any unit owner shall constitute a lien against his or her interest in his or her unit which may be foreclosed by the Board of Directors or the Managing Agent in the same manner as provided in the Condominium Property Act for unpaid common expenses, subject however, to the provisions of the Condominium Property Act; and

(iii) Enforce any other rights against the tenant for the violation which the unit owner as landlord could lawfully have exercised under the lease with the tenant, including eviction, or which the Association could lawfully have exercised directly against the unit owner, or both.

(b) The rights granted under subsection (a)(iii) of this Section 4 may only be exercised if the tenant or unit owner fails to cure the violation within ten (10) days after the Association notifies the tenant and unit owner of that violation; provided that no notice shall be required when the breach by the tenant causes or threatens to cause damage to any person or constitutes a violation of Section 521-51(1) or 521-51(6) of the Hawaii Revised Statutes, as amended.

(c) Unless a lease otherwise provides, this section does not:

(i) Affect rights that the unit owner has to enforce the lease or that the Association has under other law; or

(ii) Permit the Association to enforce a lease to which it is not a party in the absence of a violation of the Declaration, these By-Laws or the Rules and Regulations.

Section 5. Indemnity of Directors and Officers.

(a) The Association shall indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a director, officer or employee of the Association, or is or was serving at the request of the Association as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees and any expenses of establishing a right to indemnification hereunder), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by

judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(b) The Association shall indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she was a director, officer or employee of the Association, or is or was serving at the request of the Association as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees and any expenses of establishing a right to indemnification hereunder) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association and, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his or her duty to the Association unless and only to the extent that the court in which such action or suit was brought or any other court having jurisdiction in the premises shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a person who is or was a director, officer or employee of the Association, or is or was serving at the request of the Association as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsection (a) or (b) of this Section 5, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

(d) Any indemnification under this Section 5 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer or employee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (a) or subsection (b) of this Section 5. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or even if obtainable if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion to the Association or (iii) by a majority vote of the members.

(e) Expenses incurred in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in a particular case upon receipt of an undertaking by or on behalf of the director, officer or employee to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Section 5.

(f) Any indemnification pursuant to this Section 5 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled and shall continue as to a person who has ceased to be a director, officer or employee of the Association, and shall inure to the benefit of the heirs and personal representatives of such a person.

(g) The Association shall have the power to purchase and maintain insurance (in such amount as shall be determined by the Board) on behalf of any person who is or was a director, officer or employee of the Association, or is or was serving at the request of the Association as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Section 5. Premiums for such insurance shall be common expenses.

Section 6. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the unit owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the unit owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in a duly adopted resolution of the Board of Directors.

Section 7. Subordination. These By-Laws are subordinate and subject to all of the provisions of the Declaration and any amendments thereto and, except as otherwise provided herein, to all of the provisions of the Condominium Property Act, which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration and the Condominium Property Act.

Section 8. Notices. All notices to the Association or the Board shall be sent by first class mail, postage prepaid, to the Board, c/o the Managing Agent or, if there be no Managing Agent, to the office of the Board or to such other address as the Board may hereafter designate from time to time. Except as otherwise expressly provided in these By-Laws, all notices to any owner shall be sent by first class mail, postage prepaid, to the post office address of such owner given by such owner to the Board of Directors from time to time, in writing, or to the unit which such owner owns if no such address has been given to the Board of Directors. Except as otherwise expressly provided in these By-Laws, all notices to mortgagees of units and insurers and guarantors of mortgages of units shall be sent by first class mail, postage prepaid, to their respective addresses, as designated by them from time to time, in writing, to the Board. Except as otherwise expressly provided in these By-Laws, all notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 9. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws, or the intent of any provisions thereof.

Section 10. Amendment. Except as otherwise provided herein, the provisions of these By-Laws may be amended by the affirmative vote or written consent of the owners of units to which are appurtenant at least sixty-seven percent (67%) of the common interests, which amendment shall be effective upon recordation in the Bureau of Conveyances of an instrument setting forth such amendment and vote or written consent, duly executed and acknowledged by such owners or the proper officers of the Association; provided, however, as follows:

(a) This Section 10 and any other provision herein which gives the Developer any right or authority can be amended only if, in addition to such vote or written consent of the unit owners, Developer or its successors or assigns gives written consent to such amendment.

(b) The requirements set forth in Section U of the Declaration, if applicable, have been satisfied.

(c) The approval of eligible holders of first mortgages (as defined below) on units to which at least fifty-one percent (51%) of the votes of units subject to mortgages held by such eligible holders of first mortgages are allocated shall be required for amendments of a material nature, which consist of a change to any of the provisions governing the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the common elements; (iv) insurance or fidelity bonds; (v) rights to use of the common elements; (vi) responsibility for the maintenance and repair of the several portions of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of

property to or from the Project; (viii) boundaries of any unit; (ix) the interests in the common elements or the limited common elements; (x) convertibility of units into common elements or of common elements into units; (xi) leasing of units; (xii) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer or otherwise convey his or her unit; (xiii) establishment of self-management by the Association where professional management has been required previously by the Declaration or these By-Laws or by an eligible holder of first mortgage; (xiv) any provision that expressly benefits holders, insurers or guarantors of mortgages on units in the Project; (xv) restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard in a manner other than that specified in the Declaration and in accordance with the plans and specifications therefor which will restore the same to the design immediately prior to condemnation or damage; (xvi) any election to terminate the legal status of the Project as a condominium property regime after substantial destruction or a substantial taking in condemnation of the Project; (xvii) reallocation of the interests in the common elements after a partial condemnation or a partial destruction of the Project in a manner other than that specified in the Declaration or by applicable law. To qualify as an "eligible holder of first mortgage", a first mortgagee must have made a written request to the Association for timely written notice of proposed amendments to the condominium instruments. In the event that an eligible holder of first mortgage fails to appear at a meeting of the Association at which amendments to these By-Laws are proposed and considered, or fails to file a written response with the Association within sixty (60) days after it receives proper notice of the proposed amendment, delivered by certified or registered mail, with a "return receipt" requested, then and in any such event the approval of such amendments by such eligible holder of first mortgage shall be conclusively assumed.

(d) The approval of eligible holders of first mortgages on units to which at least sixty-seven percent (67%) of the votes of units subject to mortgages held by such eligible holders of first mortgages are allocated shall be required to terminate the legal status of the Project as a condominium property regime for reasons other than substantial destruction or a substantial taking in condemnation of the Project.

(e) Any proposed by-laws together with the detailed rationale for the proposal may be submitted by the Board or by a volunteer unit owners group. If submitted by such a group, the proposal shall be accompanied by a petition signed and dated by not less than twenty-five percent (25%) of the unit owners as shown in the Association's record of ownership. The petition shall be valid only if submitted within one hundred twenty (120) days of the earliest signature. The proposed by-laws, rationale, and ballots for voting on any proposed by-law shall be mailed by the Board to the unit owners at the expense of the Association for vote or written consent without change within thirty (30) days of the receipt of the petition by the Board. The vote or written consent, to be valid, shall be obtained within three hundred sixty-five (365) days after mailing for a proposed by-law submitted by either the Board or a volunteer unit owners

group. If the by-law is adopted, the Board shall cause the by-law amendment to be recorded in said Bureau of Conveyances. The volunteer unit owners group shall be precluded from submitting a petition for a proposed by-law that is substantially similar to that which has been previously mailed to the unit owners within three hundred sixty-five (365) days after the original petition was submitted to the Board. This section shall not preclude any unit owner or volunteer unit owners group from proposing any by-law amendment at any annual meeting of the Association.

Notwithstanding the foregoing, at any time prior to the recordation in said Bureau of Conveyances of unit conveyances for all of the units in the Project in favor of a party not a signatory to these By-Laws, the Developer hereby reserves the right to amend these By-Laws without the approval, consent or joinder of any other person.

Section 11. Owners May Incorporate. All of the rights, powers, obligations and duties of the owners imposed hereunder may be exercised and enforced by a nonprofit membership corporation formed by the owners under the laws of the State of Hawaii for the purposes herein set forth. Such corporation shall be formed upon the written approval of owners having no less than sixty-seven percent (67%) of the common interests. The formation of such corporation shall in no way alter the terms, covenants and conditions herein set forth, and the Articles and By-Laws of such corporation shall be subordinated hereto and controlled hereby. Any action taken by such corporation in violation of any or all of the terms, covenants or conditions contained herein shall be void and of no effect.

Section 12. Interpretation. The provisions of these By-Laws shall be liberally construed to effectuate the purpose of creating a uniform condominium complex whereby the owners of units shall carry out and pay for the operation and management of the Project as a mutually beneficial and efficient establishment. Nothing in these By-Laws shall be deemed or construed to authorize the Association or the Board to conduct or engage in active business for profit on behalf of any or all of the unit owners.

Section 13. Severability. If any provision of these By-Laws is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of these By-Laws, and these By-Laws shall continue in full force and effect and be construed and enforced as if such provision had not been included, or had been modified as above provided, as the case may be.

*[Signatures on the following page]*

## CERTIFICATE OF ADOPTION

The undersigned Developer and owner of all units of the Project hereby adopts the foregoing By-Laws of the Association of Unit Owners of Mau Loa at Koa Ridge this _____ day of AUG 27 2026, 2026.

CASTLE & COOKE HOMES HAWAII, INC.

By _____
Name: Alan Arakawa
Title: Vice President – Residential Operations

By _____
Name: Lauralei Tanaka
Title: Vice Pres., Controller & Asst. Treasurer

Developer

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

On this 27th day of August, 2026, before me personally appeared ALAN ARAKAWA, and LAURALEI TANAKA, to me personally known, who, being by me duly sworn or affirmed, did say that such persons executed this 69-page By-Laws of the Association of Unit Owners of Mau Loa at Koa Ridge dated AUG 27 2026, 2026, in the First Circuit of the State of Hawaii, as the free act and deed of such persons, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

KYOKO PATOC
NOTARY PUBLIC
No. 96-313
STATE OF HAWAII

Name: KYOKO PATOC
Notary Public, State of Hawaii

My commission expires: June 14, 2028