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By-Laws of the Homeowners Association
Amendments (if any)

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AMENDED AND RESTATED
BYLAWS
OF
WAILEA COMMUNITY ASSOCIATION

ARTICLE I

DEFINITIONS

Section 1. "Board" or "Board of Directors" shall mean the Board of Directors of the Corporation.

Section 2. "Charter" shall mean the Charter of Incorporation of the Corporation, as the same may be from time to time hereafter duly amended.

Section 3. "Conversion Date" shall mean the Conversion Date referred to in Article III, Section 1 below.

Section 4. "Corporation" shall mean the Wailea Community Association, a Hawaii non-profit corporation.

Section 5. "Declarant" shall mean Wailea Development Company, Inc., a Hawaii corporation ("WDCI"), its successors and assigns, and such person to whom WDCI may assign its rights as "Declarant" in accordance with the terms of the Declaration. (For purposes of this definition of "Declarant", WDCI's "successors and assigns" shall not include any person to whom WDCI conveys or leases a "Lot" (as that term is defined in the Declaration), unless the rights of "Declarant" expressly have been assigned to such person.)

Section 6. "Declaration" shall mean that certain Wailea Declaration of Covenants and Restrictions dated December 19, 1986, executed by Declarant and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1427923, as the same may be from time to time hereafter duly amended.

Section 7. "member" shall mean "Owner", as the term "Owner" is defined in the Declaration.

Section 8. "person" shall mean any person, individual or entity (including, without limitation, any trustee, mortgagee, personal representative, corporation ((profit or non-profit)), partnership ((limited or general)), association of apartment owners established pursuant to Chapter 514A, Hawaii Revised Statutes, as amended, unincorporated association or trust).

Section 9. "Voting Units" shall mean the Voting Units defined in and established by the Declaration.

Section 10. All other words in these Bylaws with an initial capital letter shall, unless otherwise provided for herein, have the same meaning given them in the Declaration or the Charter.

Section 11. Whenever these Bylaws refer to a stated percentage of the "total votes of all members of the Corporation", such percentage shall refer to the percentage of the total Voting Units of all members of the Corporation whose voting rights are not suspended at the time the vote is being conducted. Whenever these Bylaws refer to a stated percentage of "votes present at a [or the] meeting", such percentage shall refer to the percentage of the total Voting Units of all members of the Corporation whose voting rights are not suspended, and who are present (in person or by proxy) at the meeting of the members at which such vote is conducted. All references to a vote of the members shall include Declarant's vote, except as otherwise expressly set forth herein.

Section 12. All references to "President", "Vice President", "Secretary" or "Treasurer" shall refer to, unless otherwise provided, the person elected by the Board of Directors to hold such office of the Corporation.

ARTICLE II

OFFICES, MEETING, SEAL AND FISCAL YEAR

Section 1. Principal Office. The principal office of the Corporation shall be at 555 Kaukahi Street, Building 21, Wailea, Maui, Hawaii, or at such other place on the Island of Maui, State of Hawaii, as the Board of Directors shall from time to time determine.

Section 2. Other Offices. The Corporation may have such other offices within the State of Hawaii as the Board of Directors may designate.

Section 3. Place of Meetings. All meetings of the members and of the Board of Directors shall be held at the principal office of the Corporation or at such other place on the Island of Maui as is stated in the call for the meeting.

Section 4. Seal. The Corporation may, but need not, have a common seal. The seal of the Corporation shall be in such form and shall bear the name of the Corporation and such other words, devices and inscriptions as the Board of Directors from time to time shall prescribe.

Section 5. Fiscal Year. The fiscal year of the Corporation shall be a calendar year or such other fiscal year as may from time to time be established by the Board of Directors.

ARTICLE III

MEMBERS OF THE CORPORATION

Section 1. Qualification; Proof of Status; Certificates.

a. Each person who is an "Owner", as defined in the Declaration, shall be a member of the Corporation, and no person other than such an Owner may be a member of the Corporation; provided, however, an Owner may assign all or a portion of such Owner's membership rights to a vendee under an agreement of sale or lessee under a Long-term Lease in accordance with the provisions of the Declaration and paragraph (c) below.

b. The Corporation shall have two classes of members:

(i) Class A members shall consist of all members other than Declarant (except that Class A members shall include Declarant upon the conversion of Declarant's Class B membership into Class A membership).

(ii) Class B members shall consist exclusively of Declarant, so long as Declarant qualifies as an Owner of a Lot.

Unless Class A members and Class B members are referred to expressly, the term "Owners" or "members" in these Bylaws, the Declaration and the Charter shall refer to both Class A and Class B members. Declarant's Class B membership shall be converted into Class A membership upon the date that Declarant no longer holds ten percent (10%) or more of the total votes of all members of the Corporation, or upon such earlier date as Declarant may specify in a written notice to the Corporation (the first to occur of such dates being herein called the "Conversion Date"). Upon such conversion, all Corporation members shall be considered as Class A members.

c. No person shall exercise the rights of membership in the Corporation until satisfactory proof has been furnished to the Secretary that he, she or it is an Owner, or has been assigned an Owner's membership rights under a recorded Long-term Lease or agreement of sale in accordance with the provisions of the Declaration. (The person who has been assigned an Owner's membership rights under a Long-term Lease or agreement of sale is sometimes herein referred to as the "Owners's Assignee".) Such proof must consist of a copy of a duly executed, acknowledged and recorded deed or title insurance policy, showing said person to be the Owner, or a copy of a duly executed, acknowledged and

recorded Long-term Lease or agreement of sale showing the Owner's Assignee to be the assignee of the Owner's membership rights. Any such deed, policy, lease or agreement of sale shall be deemed conclusive in the absence of a conflicting claim based upon a later deed, policy, lease or agreement of sale.

d. The Board of Directors may provide for the issuance of certificates evidencing membership in the Corporation which shall be in such form as may be determined by the Board. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the Corporation maintained by the Secretary. If any certificate shall become lost, mutilated or destroyed, a new certificate may be issued therefor upon such terms and conditions as the Board may direct.

e. Upon becoming an Owner, or being assigned an Owner's membership rights, each Owner or Owner's Assignee shall promptly furnish to the Secretary an address ("record address") to which the Corporation may mail or deliver any and all notices, demands or documents required or permitted to be mailed or delivered by these Bylaws, the Declaration or the Charter, or by law or otherwise. In the event of the failure of an Owner or Owner's Assignee to furnish such address, the record address of the Owner or Owner's Assignee shall be deemed to be the address of the Lot owned or leased by the Owner or the Owner's Assignee. Until proper proof of an Owner's assignment of such Owner's membership rights to a lessee under a Long-term Lease or to a vendee under an agreement of sale has been provided to the Secretary in accordance with paragraph (c) above, all notices, demands or documents required or permitted to be mailed or delivered by these Bylaws, the Declaration or the Charter, or by law or otherwise, may be sent to the Owner at the Owner's record address, and it shall be the Owner's responsibility to deliver or communicate such notice, demand or document to the Owner's lessee or vendee. Any notice, demand or document shall be deemed duly and properly given or sent by the Corporation if given or sent to the Owner as aforesaid, notwithstanding the failure of the Owner's lessee or vendee to receive the same.

Section 2. Voting Right; Proxies.

a. At any meeting of the members of the Corporation, each member shall be entitled to cast the number of votes assigned to and permitted to be cast by such member pursuant to the Declaration.

b. Any member may attend and vote at meetings in person or by proxy. A proxy shall be in writing and shall be valid for only a specified meeting of the Corporation and any adjournments of that meeting. A member of the Corporation may give a proxy to any person or the Board as an entity, and the proxy may be limited as indicated by the member. No proxy shall

be irrevocable unless: (i) the proxy is coupled with a financial interest in the Lot; or (ii) the proxy is held pursuant to a first mortgage of record encumbering a Lot or an agreement of sale affecting a Lot. A proxy, to be valid, must (1) be delivered to the Secretary of the Corporation or the Managing Agent, if any, no later than 4:30 p.m. on the second (2nd) business day prior to the date of the meeting to which it pertains; (2) contain at least the name of the Corporation, the date of the meeting of the Corporation, the printed name and signature of the person or persons giving the proxy, the Lot or Lots for which the proxy is given, and the date that the proxy is given; and (3) contain boxes wherein the owner has indicated that the proxy is given:

- (A) For quorum purposes only;
- (B) To the individual whose name is printed on a line next to this box;
- (C) To the Board as a whole and that the vote be made on the basis of the preference of the majority of the Board; or
- (D) To those directors present at the meeting and the vote to be shared with each Board member receiving an equal percentage.

Such proxy shall be deemed revoked when the Secretary shall receive actual notice of the death or judicially declared incompetence of such member, or upon termination of such member's status as an Owner. Where two or more persons own a Lot, any one of said persons may exercise, in person or by proxy, the vote allocated to the Lot on behalf of all Owners of the Lot unless the Corporation is notified in writing that the Owners of the Lot disagree as to how the vote should be cast, in which event the vote for the Lot shall not be counted unless the Owners unanimously agree. Proxy holders shall vote in accordance with subparagraph c. below.

c. The voting rights and other rights of membership of any member may, in accordance with the provisions of the Declaration, be suspended by action of the Board of Directors during the period when the member shall be in default in the payment of any assessments levied by the Corporation or the observance of any provision of the Declaration.

Section 3. Meetings; Notice; Quorum.

a. An annual meeting of the members of the Corporation shall be held each year on such date and at such time in the month of March, April or May, or on such other date and at such other time as the Board of Directors may determine, and at the

principal office of the Corporation or at such other place on the Island of Maui, as may be designated in the notice of annual meeting, for the purpose of electing directors and for the transaction of such other business as may be brought before the meeting. The first annual meeting of the members shall be called by the Board no later than March 31, 1988.

b. Special meetings of the members of the Corporation may be held at such time and at the principal office of the Corporation or at such other place on the Island of Maui, and for such purposes as shall be specified in a call for any such meeting made by (i) a resolution of the Board of Directors, or (ii) a writing signed by a majority of the directors, or (iii) prior to the Conversion Date, a writing signed by all of the Class A Directors, or (iv) a writing signed by ten percent (10%) of the total votes of all members of the Corporation.

c. Except where and to the extent otherwise required by law, the Charter or the Declaration, notice of each meeting of the members of the Corporation, specifying the day and time and place of the meeting and the purposes for which the meeting is called, and specifying whether it is an annual or special meeting, shall be given by or under direction of the Secretary to each member of the Corporation at least twenty (20) but not more than one-hundred eighty (180) days before the date fixed for such meeting, by advising such members of such meeting in any of the following ways: (a) by leaving written notice of such meeting with such member personally or at such member's record address or usual place of business, (b) by mailing such notice by first class or registered or certified mail, postage prepaid, to such member's record address or usual place of business, or (c) by informing such member of such meeting by telephone, telegraph or in person. In case of the death, absence, incapacity or refusal of the Secretary, such notice may be given by a person designated by the Secretary, President or Board of Directors. If notice is given pursuant to the provisions of these Bylaws, non-receipt of actual notice of any meeting by any member of the Corporation shall in no way invalidate the meeting or any business done at the meeting. Any member of the Corporation may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting had been given to such member. The presence of any member of the Corporation at a meeting shall be the equivalent of a waiver by such member of notice of the meeting.

d. At any meeting of the members of the Corporation, the presence in person or by proxy of members having more than 50% of the total votes of all members of the Corporation shall constitute a quorum, but whether a quorum be present or not, the concurrence of more than 50% of the votes present at the meeting may adjourn such meeting from time to time without having to give notice of such adjournment or the new meeting date to the Owners

not present at the adjourned meeting, but may not transact any other business. An adjournment for lack of quorum shall be to a date not less than one (1) day and not more than sixty (60) days from the original meeting date. When a quorum is present at any meeting, the concurring vote of more than fifty percent (50%) of the votes present at the meeting shall be valid and binding upon the Corporation except as otherwise provided by law, the Charter, the Declaration or these Bylaws.

e. All meetings of the members of the Corporation shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number; Election; Tenure; Removal; Vacancies.

a. There shall be a Board of Directors of the Corporation of five (5), nine (9) or thirteen (13) directors, and no other number. Every director shall be a member of the Corporation or an officer or general partner or other duly authorized agent or employee of a corporation, limited liability company, partnership or general partner of a partnership that is a member. There shall not be more than one representative on the Board from any one Lot that is owned by any Owner other than the Declarant. The Board of Directors shall consist of nine (9) directors, unless and until:

(i) The members of the Corporation shall otherwise determine at any annual or special meeting of the Corporation, or

(ii) These Bylaws are amended by the Board of Directors to increase or decrease the number of directors, the Board of Directors being hereby empowered to amend these Bylaws by a majority vote of the directors;

Provided, however, that no such determination or amendment shall reduce the number of directors below five (5) or increase the number of directors above thirteen (13).

b. Each director shall hold office for a term of two (2) years or until his or her successor shall have been appointed or elected, or until his or her death or resignation or removal from office. Notwithstanding the foregoing, at the annual meeting of the Corporation held after the annual meeting on March 23, 1994:

(i) the Class B members shall appoint or elect five (5) directors, with three (3) directors serving for a term of two

(2) years and two (2) directors serving for a term of one (1) year; and

(ii) the Class A members shall elect four (4) directors, with two (2) directors representing all Condominium Units, Single-Family Residential Lots, Multi-Family Zoned Lot Units and Single-Family Zoned Lot Units ("Class A Residential Directors"), with the Class A Residential Director receiving the most votes serving for a term of two (2) years and the Class A Residential Director receiving the second highest number of votes serving for a term of one (1) year, and two (2) directors representing all Hotel Units ("Class A Hotel Directors"), with the Class A Hotel Director receiving the most votes serving for a term of two (2) years and the Class A Hotel Director receiving the second highest number of votes serving for a term of one (1) year.

c. The directors shall be appointed or elected in the following manner and in the manner described in the other paragraphs of this Section 1:

(i) Until such time as an annual or special meeting of the Corporation is called after the Conversion Date for the election of directors, the Class B members (or the Class B Directors, as the case may be) shall have the right to elect or appoint all of the directors described in subparagraph b. (i) above, and the Class A members (or the Class A Directors, as the case may be) shall have the right to elect all of the directors described in subparagraph b. (ii) above. (The directors elected or appointed by the Class B members, or elected by the directors elected by the Class B members, are sometimes herein referred to as the "Class B Directors", and the directors elected by the Class A members, or elected by the directors elected by the Class A members, are sometimes herein referred to as the "Class A Directors"). Class A members who are owners of Hotel Units shall be entitled to vote only for the Class A Hotel Director(s), and Class A members who are owners of Condominium Units, Single-Family Residential Lots, Multi-Family Zoned Lot Units and Single-Family Zoned Lot Units shall be entitled to vote only for the Class A Residential Director(s). Class A members and Class B members shall be entitled to elect Class A Directors and Class B Directors, respectively, only at annual or special meetings called for the purpose of electing directors; at all other times, the Class A Directors and Class B Directors shall be entitled to appoint the Class A Directors and Class B Directors, respectively. Until the Conversion Date, Class A Directors can be removed and their successors elected only by (A) the Class A members pursuant to paragraph (f) below, or (B) the Class A Directors pursuant to paragraph (h) below. Until the Conversion Date, Class B Directors can be removed and their successors elected only by (A) the Class B members pursuant to paragraph (f) below, or (B) the Class B Directors pursuant to paragraph (h) below. Until the Conversion Date, no Class B Director may be

removed or replaced by the members of the Corporation or by the remaining directors without the Class B members' written consent thereto.

(ii) Upon the occurrence of the Conversion Date, all Directors shall be considered as one class of directors, without designation as Class A or Class B, and the members of the Corporation (including Declarant) shall, at the annual meeting or any special meeting called after the Conversion Date for such purpose, elect new directors to replace the Class B Directors in accordance with the provisions of subparagraph d below, such new directors to hold office until the next regularly scheduled meeting of the Corporation for the election of directors.

(iii) Thereafter, all of the directors shall be elected by the members of the Corporation (including Declarant).

(iv) On and after the Conversion Date, owners of Hotel Units shall be entitled to vote only for the Hotel Director(s), owners of Condominium Units, Single-Family Residential Lots, Multi-Family Zoned Lot Units and Single-Family Zoned Lot Units shall be entitled to vote only for the Residential Director(s), and owners of Commercial Units shall be entitled to vote only for the Commercial Director(s).

d. If the number of directors should be increased by the members pursuant to paragraph a.(i) above or the Board pursuant to paragraph a.(ii) above, then the Board shall determine the manner in which additional directors are elected or appointed or the manner in which the existing number of directors shall be decreased, as the case may be.

Upon the occurrence of the Conversion Date, five (5) directors shall be elected to replace the Class B Directors. Two (2) Residential Directors shall be elected for terms concurrent with the terms of the existing Residential Directors (formerly known as the Class A Residential Directors), with the Residential Director receiving the most votes serving for a term concurrent with the longer term of the two existing Residential Directors and the Residential Director receiving the second highest number of votes serving for a term concurrent with the shorter term of the two existing Residential Directors. Two (2) Hotel Directors shall be elected for terms concurrent with the terms of the existing Hotel Directors (formerly known as the Class A Hotel Directors), with the Hotel Director receiving the most votes serving for a term concurrent with the longer term of the two existing Hotel Directors and the Hotel Director receiving the second highest number of votes serving for a term concurrent with the shorter term of the two existing Hotel Directors. One (1) Commercial Director shall be elected for a term which expires at the latest expiration of the terms of the other directors.

e. Prior to any meeting called for the purpose of electing directors, any member of the Corporation may nominate candidates for such election; provided, however, that all nominations not made by the Board of Directors must be in writing, must identify the name and address of the nominee and contain a summary of such nominee's business background and other qualifications, must be received by the Secretary at least five (5) business days prior to the date of the meeting for the election of directors, and must be consented to in writing by the nominee. Directors shall be elected by cumulative voting for all elections in which more than two directors are to be elected by the members of the Corporation.

f. Prior to the Conversion Date, Class B Directors may be removed by the Class B members with or without cause. Prior to the Conversion Date, Class A Directors may be removed by the Class A members with or without cause; provided, however, that unless all of the Class A Directors are removed from office by 50% or more of the votes of the Class A members, no individual director may be removed prior to the expiration of his or her term of office if the votes cast against removal would be sufficient to elect such director if voted cumulatively at an election in which the same total number of votes were cast and the entire number of directors authorized to be elected at the time of the most recent election of such director were then being elected. After the Conversion Date, directors may be removed by the membership in accordance with the provisions of paragraph (g) below.

g. After the Conversion Date, directors (who will not be then classified as either Class A Directors or Class B Directors) may be removed by the membership of the Corporation with or without cause; provided, however, that unless the entire Board of Directors is removed from office by 50% or more of the votes present at a meeting of the Corporation, no individual director may be removed prior to the expiration of his or her term of office if the votes cast against removal would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized to be elected at the time of the most recent election of such director were then being elected.

h. Prior to the Conversion Date, vacancies on the Board created by the death, incapacity or resignation of a Class B Director may be filled by a majority of the remaining Class B Directors, and each director so elected shall hold office until a successor shall be duly elected or appointed by the Class B members. Prior to the Conversion Date, vacancies on the Board created by the death, incapacity or resignation of a Class A Director may be filled by a majority of the remaining Class A Directors, and each director so elected shall hold office until

the next annual or special meeting of the members called for the election of Class A Directors. Any director elected by the Class B or Class A members in the foregoing manner shall serve for the remaining unexpired term in respect of which the vacancy occurred. After the Conversion Date, vacancies on the Board shall be filled in accordance with the provisions of paragraph (i) below.

i. After the Conversion Date, vacancies on the Board created by the death, incapacity or resignation of a director (who will not then be classified as either a Class A Director or a Class B Director) may be filled by a majority of the remaining directors though less than a quorum, and each director so elected shall hold office until the next annual or special meeting of the members of the Corporation and thereafter until a successor shall be duly elected. Any director elected by the members of the Corporation in the foregoing manner shall serve for the remaining unexpired term in respect of which the vacancy occurred.

Section 2. Meeting; Notice; Quorum.

a. An annual meeting of the Board of Directors shall be held each year immediately after the annual meeting of the members of the Corporation and at the place of such annual meeting, without call or formal notice. Regular meetings of the Board of Directors, other than annual meetings, shall be held on such day and at such time and at the principal office of the Corporation or such other place on the Island of Maui as shall be determined from time to time by the Board of Directors, and when any such meeting or meetings shall be so determined, no further notice thereof shall be required. Special meetings of the Board of Directors may be called by the President or by any two (2) directors, and any such meeting shall be held on such day, at the principal office of the Corporation or such other place on the Island of Maui, as shall be specified by the person or persons calling the meeting.

b. The Secretary shall give notice of each meeting of the Board of Directors in writing by mailing the same not less than seven (7) days before the meeting or if the meeting is to be by telephone conference call, by giving notice personally or by telephone not less than two (2) days before the meeting, or as otherwise prescribed by the Board. The failure by the Secretary to give any notice required by the foregoing or by any director to receive such notice shall not invalidate the proceedings of any meeting at which a quorum of directors is present. Notice need not be given to any director who shall, either before or after the meeting, submit a signed waiver of notice, and the presence of any director at a meeting shall be the equivalent of a waiver by him of notice of the meeting. Except as otherwise provided by law, the Charter or by these Bylaws, a notice or waiver of notice need not state the purposes of such meeting.

Without limiting any rights otherwise conferred under applicable laws, the Board expressly is authorized to take action by unanimous written consent (as authorized by Section 416-82, Hawaii Revised Statutes, as amended), and to hold meetings by means of a conference telephone or similar communication equipment (as authorized by Section 416-83, Hawaii Revised Statutes, as amended).

c. A majority of the directors comprising the Board of Directors shall constitute a quorum for the conduct of business at any meeting, and any decision of a majority of such quorum, within the scope of the authority of the Board of Directors, shall be valid and binding on the Corporation. Any business within the scope of the authority of the Board of Directors may be transacted at any meeting thereof, irrespective of any specification of the business to be conducted at the meeting which may be set forth in the call or notice thereof.

d. Notwithstanding anything to the contrary contained in the foregoing, the Board of Directors may take actions without a meeting if all of its directors consent in writing to the action to be taken.

e. All meetings of the Board shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

Section 3. Compensation of Directors. Members of the Board of Directors shall receive no compensation for their services as directors but they may, subject to the Board's approval, be reimbursed for actual expenses incurred.

Section 4. General Powers. The property, business and affairs of the Corporation shall be managed and controlled by the Board of Directors, which shall have and may exercise all of the powers of the Corporation, including, without limitation, all of the powers of the Corporation as set forth in the Declaration and the Charter, except such as are expressly reserved to or may from time to time be conferred upon the members by law, the Charter, the Declaration or these Bylaws. The Board of Directors may, by resolutions passed by a majority of the directors, create and appoint one or more committees, each committee to consist of one or more of the directors of the Corporation, and which, to the extent provided in said resolution or in other provisions of these Bylaws, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation. Such committees shall have such names as may be determined from time to time by resolution adopted by the Board of Directors.

Section 5. Open Meetings; Minutes; Voting; Conflicts of Interest. Whenever practicable, all regular and special

meetings of the Board of Directors, other than executive sessions, shall be open to all members of the Corporation. Members who are not on the Board of Directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the Board votes otherwise. The Board may, with the approval of a majority of a quorum of its members, adjourn any meeting and reconvene in executive session to discuss and vote upon matters concerning personnel, litigation in which the Corporation is or may become involved, or as may be necessary to protect the attorney-client privilege of the Corporation. The general nature of any business to be considered in executive session shall first be announced in open session.

Minutes of the meetings of the Board of Directors shall include the recorded vote of each Board member on all motions, except motions voted upon in executive session.

No Board member shall vote by proxy at Board meetings. 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.

ARTICLE V

OFFICERS AND AGENTS

Section 1. Designation; Duties.

a. The officers of the Corporation shall be a President, one or more Vice Presidents, a Secretary and a Treasurer, who shall be appointed by the Board of Directors and who shall hold office until their successors are appointed and qualified. The Corporation may have such other subordinate officers, agents and employees as may be deemed necessary or desirable, who shall be appointed in such manner, hold their offices for such terms, and have such authority and duties as may be determined by the Board of Directors. So far as is permitted by law, any two offices may be held by the same person. In addition to the duties and powers herein set forth, each officer shall have such duties and powers as the Board of Directors shall from time to time designate. In all cases where the duties of any officer, agent or employee are not specifically prescribed by these Bylaws or by the Board of Directors, such officer, agent or employee shall obey the orders and instructions of the President. No officer need be a member of the Corporation.

b. President. Subject to the control of the Board of Directors, the President shall be the chief executive officer of the Corporation and shall exercise general supervision and direction over the management and conduct of the affairs and business of the Corporation. Unless the Board of Directors

otherwise directs, he or she shall preside at all meetings of the members of the Corporation.

c. Vice President. The Vice President, or if more than one shall have been appointed, the Vice Presidents in order of priority of appointment, shall assume and perform the duties of the President whenever the office of President is vacant. Each Vice President shall have such other powers and duties as may be given to him or her by law or in these Bylaws and as may be assigned to him or her from time to time by the Board of Directors or by the President.

d. Secretary. The Secretary shall have charge of the membership ledger, all documents pertaining to the title to all real property owned or held by the Corporation, and all rules, regulations and other documents required to be filed with the Corporation or in the office of the Corporation by the Declaration, an original or duplicate of each of which shall at all times during the usual hours of business be open to the examination of every member at the principal office of the Corporation or such other location as may be required by the Board of Directors. The Secretary shall record all proceedings of the meetings of the members and directors in a book which shall be the property of the Corporation, to be kept for that purpose at the principal office of the Corporation and shall perform such other duties as shall be assigned to him or her. In the absence of the Secretary from any such meeting, a temporary secretary shall be chosen who shall record the proceedings of such meeting in the aforesaid book.

e. Treasurer. Subject to the direction and under the supervision of the Board of Directors, and the provisions of the foregoing paragraph, the Treasurer shall have the care and custody of the funds and valuable papers of the Corporation, shall have the power to endorse for deposit or collection all notes, checks, drafts and other obligations for the payment of money to the Corporation or its order, and shall keep or cause to be kept accurate financial books and accounts of the Corporation and to render statements of the same in such form and as often as required by the Board of Directors.

Section 2. Removals; Resignations; Vacancies. The Board of Directors may at any meeting called for the purpose, by vote of a majority of their entire number, remove from office any officer of the Corporation, for or without cause. The Board of Directors may, at any meeting, accept the resignation of any officer of the Corporation, or remove or accept the resignation of any agent or employee or any member of any committee appointed by the Board of Directors or by any committee appointed by the Board of Directors, or by any officer, agent or employee of the Corporation. Any vacancy occurring in the office of President, Vice President, Secretary, Treasurer or any other office shall be

filled by the Board of Directors, and the officers so chosen shall hold office for the unexpired term in respect of which the vacancy occurred and until their successors shall be duly elected and qualified.

Section 3. Compensation. Officers of the Corporation shall receive no compensation for their services as officers but they may, subject to the Board's approval, be reimbursed for actual expenses incurred.

ARTICLE VI

EXECUTION OF INSTRUMENTS

Section 1. Persons Authorized. All checks, notes, bonds, deeds, leases, contracts and other instruments shall be executed by such person or persons as shall be provided by general or special resolution of the Board of Directors, and in the absence of any such general or special resolution of the Board of Directors, then such instrument or instruments shall be executed by any two of the following officers: the President, a Vice President, the Treasurer or the Secretary.

ARTICLE VII

AMENDMENT; RECONCILIATION OF CONFLICTS

Section 1. Amendment. These Bylaws may be amended or repealed only upon the vote or written consent of both (a) the Class B members, and (b) seventy-five percent (75%) of the total vote of all members of the Corporation; provided, however, that the vote or written consent of the Class B members under clause (a) above shall not be required after the Conversion Date; and provided, further, as follows: that without the written consent of seventy-five percent (75%) of the total votes of the Class A members or the vote of seventy-five (75%) of the total votes of the Class A members present at a meeting of the Corporation: (A) no amendment shall serve materially to impair or eliminate, or disproportionately and materially increase or decrease, the voting rights assigned to the Owners; (B) no amendment shall serve to prevent the Corporation from exercising its powers or discharging its obligations; (C) no amendment of any provision in these Bylaws may be made by any percentage vote less than the percentage required by such provision in order to take the action covered thereby; (D) no amendment may change or remove the particular persons(s) or category of persons who must approve action pursuant to the provision being amended without the approving vote or written assent thereto either (1) of such persons(s) or (2) if such provision refers to a certain percentage of such persons, of such percentage of such persons; and (E) subject to the foregoing provisions in (A), (B), (C), and

(D), these Bylaws may also be amended by the Board of Directors to the full extent permitted by applicable laws.

Notwithstanding the provisions of the foregoing paragraph, the Board may at any time amend these Bylaws as may be required in order to conform with the provisions of Act 132 of the 1997 Session Laws of Hawaii or of any other statute, ordinance, rule or regulation enacted by any governmental authority, by a resolution adopted by the Board, and the amendments shall be as fully effective for all purposes as if adopted by the vote or written consent of the members; provided that any amendment adopted pursuant to this paragraph shall identify each portion of the Bylaws so amended and shall contain a statement that that portion has been amended solely for purposes of information and convenience, identifying the statute, ordinance, rule or regulation implemented by the amendment.

Section 2. Reconciliation of Conflicts. In the case of any conflict between the Charter and these Bylaws, the Charter shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the case of any conflict between the Declaration and the Charter, the Declaration shall control. Notwithstanding the foregoing, in the case of any conflict between the provisions of Article IV, Sections 1.b., 1.c. and 1.d. of these Bylaws and any other provision of these Bylaws, the Declaration or the Charter, the provisions of said Article IV, Sections 1.b., 1.c. and 1.d. shall control.

Section 3. Effective Date. These Bylaws shall be effective as of the date the Charter is accepted for filing by the Department of Commerce and Consumer Affairs, State of Hawaii, and are hereby adopted as the Bylaws of the Corporation by the original incorporators of the Corporation.

ARTICLE VIII

HAWAII NONPROFIT CORPORATION ACT

Unless otherwise determined by the Board of Directors, these Bylaws shall be subject to and governed by the Hawaii Nonprofit Corporation Act, Chapter 415B, Hawaii Revised Statutes, as amended, upon the effectiveness of such Act.

ARTICLE IX

DOCUMENTS OF THE CORPORATION; MEMBERSHIP LIST

Section 1. Documents of the Corporation.

a. Once approved by the Board, the Corporation's most current financial statement and minutes of the most recent

meeting of the Board (other than minutes of executive sessions), shall be made available for examination by any member at no cost, during reasonable hours, at a location designated by the Board.

b. The approved minutes of other meetings of the Board (other than executive sessions) and the approved minutes of meetings of the Corporation for the current and prior year, shall be made available for examination by members during reasonable hours at a location designated by the Board. Copies of those meeting minutes shall be provided to any member upon the member's request if the member pays a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling the request.

c. Financial statements, general ledgers, accounts receivable ledgers, accounts payable ledgers, check ledgers, insurance policies, contracts, invoices of the Corporation for the current and prior year, and any documents regarding delinquencies of ninety (90) days or more, shall be made available for examination by members at reasonable hours at a location designated by the Board, provided that members shall pay for all costs associated with the examination of documents. The Board may require members to furnish the Corporation with an affidavit stating that the foregoing information is requested in good faith for the protection of the interests of the Corporation, its members or both. Copies of these documents shall be provided to any member upon the member's request, if the member pays a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling the request.

d. Members may view proxies, tally sheets, ballots, member's check-in lists, and the certificates of election, if any, for a period of thirty (30) days following any meeting of the members of the Corporation; provided that members shall pay for all costs associated with the examination of documents. The Board may require members to furnish the Corporation with an affidavit stating that the foregoing information is requested in good faith for the protection of the interests of the Corporation, its members or both. Proxies and ballots may be destroyed following the thirty (30) day period. Copies of tally sheets, member's check-in lists, and the certificates of election from the most recent Corporation meeting shall be provided to any member upon the member's request if the member pays a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling the request.

e. Members may file a written request with the Board to examine other documents of the Corporation. The Board shall give written authorization or written refusal with an explanation of the refusal within sixty (60) calendar days of receipt of the request. The Board may condition its approval of any such

request upon payment of reasonable fees. Without limitation, books and records kept by or on behalf of the Corporation may be withheld from inspection and copying to the extent that they concern:

- (1) Personnel records;
- (2) An individual's medical records;
- (3) Records relating to business transactions that are currently in negotiation;
- (4) Communications which are privileged because of attorney-client privilege or any other applicable privilege of the Corporation;
- (5) Complaints against an individual member of the Corporation;
- (6) Any records, the release of which could be a violation of any law, ordinance, rule or regulation; or
- (7) Similar records.

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Section 2. Membership List. The Corporation shall use good faith efforts to keep an accurate and current list of the names and addresses of its members. If the list is not provided directly to members, the Corporation shall develop a reasonable procedure by which members may solicit votes or proxies or provide information to other members with respect to Corporation matters. The Board may require members to furnish the Corporation with an affidavit stating that the use of the list is requested in good faith for the protection of the Corporation, its members or both.

The undersigned Secretary hereby certifies that the amendments incorporated into the foregoing amended and restated Bylaws were duly adopted at the meeting of the Corporation dated March 6, 1998, and that a quorum of the Board of Directors of the Corporation voted unanimously on June 10, 1998 at a regular meeting to restate the Bylaws, which would set forth the provisions of the original Bylaws and all amendments in a single document.

IN WITNESS WHEREOF, the undersigned has caused these presents to be duly executed on July 23, 1998.

WALEA COMMUNITY ASSOCIATION, a
Hawaii non-profit corporation

By [Signature]
Hideki Hayashi
Its Secretary

By [Signature]
Al Teter
Its President

By [Signature]
Bill Overton
Its Manager

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