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**TITLE GUARANTY OF HAWAII, INCORPORATED**

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RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME  
OF WAILEA EKAHI I

WHEREAS, by Declaration of Horizontal Property Regime established by Chapter 514 of the Hawaii Revised Statutes filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 713125, (the "Original Declaration") together with Condominium Map No. 243, the Horizontal Property Regime known as Wailea Ekahi I was created by Wailea Development Company, a Joint Venture duly registered as a general partnership in the State of Hawaii; and

WHEREAS, the Original Declaration is hereby restated by resolution adopted by the Board of Directors pursuant to §514B-109(a), Hawaii Revised Statutes, to set forth all amendments to the Original Declaration as follows: Section 10(d) and a new Section 18 "Governing Law;" and

WHEREAS, the Original Declaration shall be restated as the Restated Declaration of Condominium Property Regime of Wailea Ekahi 1, (the "Restated Declaration"), by resolution adopted by the Board of Directors pursuant to §5148-109(b), Hawaii Revised Statutes, to conform with the provisions of Hawaii Revised Statutes Chapter 514B;

NOW, THEREFORE, pursuant to §5148-109, Hawaii Revised Statutes, BE IT RESOLVED that the Restated Declaration shall be, and hereby is, adopted as the restated Declaration of Condominium Property Regime for Wailea Ekahi I.

Portions of said Restated Declaration so restated solely for purposes of information and convenience pursuant to §514B-109(b), Hawaii Revised Statutes, are: Sections 5(j), 8(c) and 15.

The Restated Declaration correctly sets forth without change the corresponding provisions of the Original Declaration, as amended, and the Restated Declaration supersedes the Original Declaration and all prior amendments thereto.

In the event of any conflict, the Restated Declaration shall be subordinate to any cited statute, ordinance, rule or regulation and to the Original Declaration and all prior amendments thereto.

The Transfer Certificates of Title issued for the respective apartments in the Wailea Ekahi I condominium project as of October 24, 2007, are listed on Exhibit A attached hereto and by this reference incorporated herein.

The Restated Declaration attached hereto is hereby adopted this day of \_\_\_\_\_ 2007.

ASSOCIATION OF APARTMENT OWNERS OF WAILEA  
EKAHI

By \_\_\_\_\_  
Frederick L. Tompkins  
Its President

By \_\_\_\_\_  
Alexander Halsey  
Its Secretary

\_\_\_\_\_

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me personally appeared , FREDERICK L. TOMPKINS to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

\_\_\_\_\_  
Notary Public, State of Hawaii  
Printed Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF HAWAII )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me personally appeared ALEXANDER HALSEY, to me personally known , who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument as the free act and deed of such person sand if applicable, in the capacities shown, having been duty authorized to execute such instrument in such capacities.

\_\_\_\_\_  
Notary Public, State of Hawaii  
Printed Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF  
WAILEA EKAHI I

WHEREAS, WAILEA LAND CORPORATION, a Hawaii corporation, whose principal place of business and post office address is 822 Bishop Street, Honolulu, Hawaii 96813, and THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation, whose principal place of business and post office address was 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, doing business as WAILEA DEVELOPMENT COMPANY, a Joint Venture duly registered in Hawaii as a general partnership, with its principal place of business and post office address as 822 Bishop Street, Honolulu, Hawaii 96813, hereinafter collectively referred to as the "Declarant", were the owners in fee simple of the land described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Declarant developed the Property as a condominium project (the "Project") in accordance with plans filed in the office of the Assistant Registrar of the Land Court of the State of Hawaii as Condominium Map 243 (the "Condominium Map"); and

WHEREAS, the Declarant submitted its interest in the Property to a Horizontal Property Regime established by Chapter 514 of the Hawaii Revised Statutes, pursuant to that certain Declaration of Condominium Property Regime Under Chapter 514, Hawaii Revised Statutes, (the "Declaration"), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 713125 and attached to the Declaration as Exhibit B was the Bylaws of Association of Apartment Owners, (Exhibit B to the Declaration, the Bylaws, has been separately restated and is not included in this Restated Declaration) ; and

WHEREAS, there now exists a new statute known as the "Condominium Property Act" designated as Chapter 514B of the Hawaii Revised Statutes, (in this Restated Declaration referred to as "the Act"); and

WHEREAS, at Section 514B-23(b) of the Act, an condominium association, with the vote or written consent of owners holding at least a majority of the project common interests may adopt the Act, as opposed to Chapter 514A, to be the condominium act governing the condominium association and its project; and

WHEREAS, owners holding more than a majority of the common interests with respect to the Wailea Ekahi I condominium project voted to amend the Declaration to the effect that the Wailea Ekahi I condominium project is to be governed by the provisions of the Act; and

WHEREAS, Pursuant to Section 514B-109(a) and (b) of the Act, the Board of Directors of the Association of Apartment Owners of Wailea Ekahi has voted to restate the Declaration to incorporate all amendments thereto prior to the recording of this Restated Declaration and the necessary provisions of the Act to have the Declaration conform to the Act;

NOW THEREFORE, the Declaration is restated to read as follows:

1. Name. The Condominium Property Regime established hereby shall be known as WAILEA EKAHI I.

2. Land Description. The land submitted to the Condominium Property Regime is described in Exhibit "A".

3. Description of the Project. There are eighteen (18) apartment buildings in the project, consisting of one beach pavilion, Building A and seventeen (17) residential buildings, Building Nos. 1 through 17. The buildings will be principally of wood frame construction with stucco exteriors, shake roofs and concrete slab ground floors with wood frame upper floors.

The beach pavilion, Building A, consists of a single apartment containing 2,425 square feet of interior floor area including a pavilion with a surrounding trellis covered lanai, kitchen, storage room, and janitor's room; Building A also contains a trellis covered walkway leading to a vending machine area, which opens onto men's and women's locker rooms, and an equipment storage room, and has adjacent to it a fenced service yard.

Building Nos. 1 through 17 are two-story buildings containing the seven types of apartments described below ranging from single story studio apartments to two-story two-bedroom two and one half bath townhouse apartments. Each apartment except the townhouses has an apartment of the same type either below or above it.

There are fourteen (14) Type S apartments which are studio apartments, each containing approximately 484 square feet of interior floor area, including a living/dining/sleeping room, a kitchen and bathroom plus a lanai of approximately 116 square feet.

There are twenty-four (24) Type 1-1 apartments which are one bedroom, one bath, apartments, each containing approximately 792 square feet of interior floor area including a living/dining room, kitchen, bedroom and bathroom plus two lanais containing an aggregate of approximately 205 square feet. The entry hall of Type 1-2A apartments is so arranged that the bedroom and one bathroom can be used separately from the rest of the apartment.

There are twenty-two (22) Type 1-2B apartments which are one bedroom two bath apartments, each containing approximately 932 square feet of interior floor area including a living/dining room, kitchen, bedroom and two bathrooms, plus two lanais containing an aggregate of approximately 228 square feet. The Type 1-2B apartment has a separate entry way into the bedroom so that the bedroom and one of the bathrooms can be used separately from the rest of the apartment.

There are three Type 1-1 1/2T apartments, which are one bedroom one and one-half bath apartments each containing approximately 991 square feet of interior floor area, including, on the lower floor, a living room, dining room, kitchen and half bath and, on the upper floor, a bedroom and bathroom, plus a lanai on each floor containing an aggregate of approximately 254 square feet.

There are twelve (12) Type 2-2 apartments which are two-bedroom two bath apartments each containing approximately 1,172 square feet of interior floor area, including a

living room, dining room, kitchen, two bathrooms and two bedrooms, plus three lanais containing an aggregate of approximately 333 square feet. The entry hall of Type 2-2 apartments is so arranged that one bedroom and bathroom can be separated from the rest of the apartment.

There are three (3) Type 2-2 1/2T apartments which are two bedroom two and a half bath townhouse apartments, each containing approximately 1,575 square feet of interior floor area including, on the lower floor, a kitchen, dining room, half bath and sunken living room, and on the upper floor, two bedrooms and two bathrooms, plus two lanais on each floor containing an aggregate of approximately 370 square feet. The Type 2-2 1/2T apartment has a separate entry way into one of the bedrooms so that this bedroom and one of the bathrooms can be used separately from the rest of the apartment.

Each townhouse and lower floor apartment has access to the common elements at the ground level. Each upper level apartment has access via an entry way and staircase to the common elements at ground level.

The apartment numbers, apartment types, floor location and percentage of common interest appurtenant to each residential apartment are listed immediately below. The numeral portion of each apartment number indicates the number of the building in which it is located.

Apt. No.	Apt. Type	Floor	Percentage
1-A	1-2A	1	0.984
1-B	1-2B	1	1.036
1-C	1-1	1	0.8805
1-D	1-2A	2	0.984
1-E	1-2B	2	1.036
1-F	1-1	2	0.8805
2-A	1-2	1	1.303
2-B	1-2B	1	1.036
2-C	1-2A	1	0.984
2-D	2-2	2	1.303
2-E	1-2B	2	1.036

Apt. No.	Apt. Type	Floor	Percentage
3-A	2-2 1/2T	T	1.751
3-B	S	1	0.538
3-C	1-1	1	0.8805
3-D	S	2	0.538
3-E	1-1	2	0.8805
4-A	2-1/2T	T	1.751
4-B	S	1	0.538
4-C	1-1	1	0.8805
4-D	S	2	0.538
4-E	1-1	2	0.8805
5-A	1-2A	1	0.984
5-3	1-2B	1	1.036
5-C	2-2	1	1.303
5-D	1-2A	2	0.984
5-E	1-2B	2	1.036
5-F	2-2	2	1.303
6-A	1-1	1	0.8805
6-B	1-2B	1	1.036
6-C	1-2A	1	0.984
6-D	1-1	2	0.8805
6-E	1-2B	2	1.036
6-F	1-2A	2	0.984
7-A	1-2A	1	0.984
7-B	1-2B	1	1.036
7-C	2-2	1	1.303
7-D	1-2B	1	1.036



Apt. No.	Apt. Type	Floor	Percentage
7-E	2-2	1	1.303
7-F	1-2A	2	0.984
7-G	1-2B	2	1.036
7-H	2-2	2	1.303
7-I	1-2B	2	1.036
7-J	2-2	2	1.303
8-A	1-2A	1	0.984
8-B	1-2B	1	1.036
8-C	S	1	0.538
8-D	1-2A	2	0.984
8-E	1-2B	2	1.036
8-F	S	2	0.538
9-A	1-1	1	0.8805
9-B	S	1	0.538
9-C	1-1	2	0.8805
9-D	5	2	0.538
9-E	1-1 1/2T	T	1.102
10-A	1-2A	1	0.984
10-B	1-2B	1	1.036
10-C	1-1	1	0.8805
10-D	1-2A	2	0.984
10-E	1-2B	2	1.036
10-F	1-1	2	0.8805

Apt. No.	Apt. Type	Floor	Percentage
11-A	1-1	1	0.8805
11-B	1-2A	1	0.984
11-C	2-2	1	1.303
11-D	1-1	2	0.8805
11-E	1-2A	2	0.984
11-F	2-2	2	1.303
12-A	1-1 1/2T	T	1.102
12-B	S	1	0.538
12-C	1-1	1	0.8805
12-D	S	2	0.538
12-E	1-1	2	0.8805
13-A	1-1	1	0.8805
13-B	1-2B	1	1.036
13-C	1-2A	1	0.984
13-D	1-1	2	0.8805
13-E	1-2B	2	1.036
13-F	1-2A	2	0.984
14-A	1-2A	1	0.984
14-B	1-2B	1	1.036
14-C	2-2	1	1.303
14-D	1-2A	2	0.984
14-E	1-2B	2	1.036
14-F	2-2	2	1.303
15-A	1-1	1	0.8805
15-B	S	1	0.538
15-C	2-2 1/2T	T	1.751
15-D	1-1	2	0.8805
15-E	S	2	0.538

Apt. No.	Apt. Type	Floor	Percentage
16-A	1-1 1/2T	T	1.102
16-B	S	1	0.538
16-C	1-1	1	0.8805
16-D	5	2	0.538
16-E	1-1	2	0.8805
17-A	1-2A	1	0.984
17-B	1-2B	1	1.036
17-C	1-1	1	0.8805
17-D	1-2A	2	0.984
17-E	1-2B	2	1.036
17-F	1-1	2	0.8805

The project also contains driveways and parking areas containing 125 parking stalls and two swimming pools.

4. Limits of Apartments. The respective apartments, shall not be deemed to include the undecorated or unfinished walls, the floors and ceilings surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include any adjacent lanai shown on the Condominium Map and serving only such apartment. Each apartment shall be deemed to include all the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and the built-in fixtures.

5. Common Elements. The common elements will include all other portions of the land and improvements other than the apartments, including the apartment buildings, the land on which all apartment buildings are located, and all common elements mentioned in the Horizontal Property Act which are actually constructed on the land described herein, and specifically shall include, but shall not be limited to:

(a) said land in fee;

(b) All foundations, supports, bearing walls and exterior stairs, landings and entranceways of said buildings;

(c) All Roofs;

(d) All housekeeping stations, yards and refuse areas;

(e) All ducts, electrical equipment, wiring and other central and appurtenant installations for services, including power, light cold and hot water, refuse and telephone;

(f) All parking stalls;

(g) one swimming pool adjacent to Building A\_ a second swimming pool and other recreational facilities;

(h) All other devices or installations upon the land existing for or rationally of common use to all the owners of apartments within the project;

(i) The term "common elements" shall include the limited common elements described below.

(j) Designation of additional areas to be common elements or subject to common expenses shall require the approval of 67% of the apartment owners, but the foregoing owner approval shall not apply to the purchase of an apartment for a resident manager, which may be purchased with the approval of the Board. (Section 514B-104(a)(8) of the Act)

6. Limited Common Elements. Limited common elements and apartments to which their use is reserved are:

(a) Exterior staircases, landings and entranceways shall be limited common elements for the exclusive use of the apartments they serve.

(b) Any trellis-covered privacy area adjacent to an apartment shall be a limited common element for the exclusive use of that apartment.

7. Percentage of Undivided ownership' to be Conveyed.

The percentage of undivided interest in all of the common elements appertaining to Building A shall be 2.696% and to the hundred (100) residential apartments the percentage is shown opposite each apartment under the heading "Description of Project" above. The aggregate percentage of undivided interest in the common elements of the apartments is allocated between them on the basis of their interior floor area. The Developer covenants and agrees that the undivided interest in the common areas and facilities and the title to the respective apartments to be conveyed shall not be separated or separately conveyed and each said undivided interest shall be deemed to be conveyed or encumbered with its respective apartment even though the description in the instrument of conveyance may refer only to one or other of the interests. The voting rights of apartment owners, as well as their share of the common expenses shall be in proportion to their common interest.

8. Easements. The apartments and common elements shall also have and be subject to the following easements:

(a) Each apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes; and in all other apartments in the same building for support;

(b) If any part of the common elements now or hereafter encroaches upon any apartment, or if any apartment now or hereafter encroaches upon any other apartment or

upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event the apartment buildings shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements upon any apartment, or of any apartment upon any other apartment, or upon any portion of the common elements due to construction, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist;

(c) The Association shall have the irrevocable right, to be exercised by the Board, to have access to each apartment at any time as may be necessary for making emergency repairs to prevent damage to the common elements or to another apartment or apartments. Each apartment owner shall afford the Association and the other apartment owners, and to the employees, independent contractors or agents of the Association or other apartment owners, during reasonable hours, access through the owner's apartment reasonably necessary for the operation the Project and the maintenance, repair and replacement of an apartment. Unless entry is made pursuant to the circumstances described in the first sentence of this subsection (c), if damage is inflicted on the common elements or on any apartment through which access is taken, the apartment owner responsible for the damage, or the Association if it is responsible, is liable for the prompt repair thereof; provided that the Association shall not be responsible to pay the cost of removing or replacing any finished surfaces or other barriers that impede its ability to maintain and repair the common elements; (Section 514B137 of the Act)

(d) Each apartment owner shall have an easement in common with the owners of all other apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other apartments or limited common elements and serving his apartment. Each apartment and its appurtenant limited common elements shall be subject to an easement for access to any common elements located in such apartment or its appurtenant limited common elements in favor of the owners of all other apartments served by such common elements.

9. Alteration and Transfer of Interests. The common interest and easements appurtenant to each apartment shall have a permanent character, and shall not be altered without the consent of all of the apartment owners affected expressed in an amendment to this Declaration duly recorded. The common interest and easements shall not be separated from the apartment to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument.

10. Purposes. (as amended in June 2008)

a. (i) The residential apartments hereinabove described shall at all times be used as permanent or temporary residences, or as hotel rooms, and for no other purposes.

(ii) If title to an apartment is not held by one person or entity as a tenant in severalty, then the following multiple ownership provisions shall apply:

(1) The title to the apartment may be divided into no more than two (2) undivided interests, with the minimum undivided interest share being no less than one-sixth of the total ownership interest in the apartment. The aggregate number of

persons holding title to one or more of the two (2) undivided interests when added to the aggregate number of persons designated as "apartment owners," (as described in the last paragraph of this subsection (iii)), by any entity holding title to one or more of the two (2) undivided interests shall not exceed four (4) in number; or, as an alternative,

(2) Title to the apartment may be held by no more than four (4) joint tenants.

(iii) If title to an apartment is held by more than one owner, (for purposes of this subparagraph (iii) a married couple or registered domestic partners being considered "one owner," whether they take title individually or as co-tmstees of a tmst), the owners of the undivided ownership interests in the apartment must designate a single managing agent with whom the Board or the resident manager will communicate on all Association matters and to whom all notices with respect to the owners' apartment may be sent - including, but not limited to, notice with respect to Association meetings and delinquencies - which communications and/or notices shall be deemed notice to all of the owners of the apartment.

All owners holding an undivided interest as multiple owners of an apartment shall be required to sign and be bound by an Owners' Operating Agreement for their apartment. The Owners' Operating Agreement shall designate the Managing Agent as chosen by the owners. The designated Managing Agent must be a natural person who is an owner of the apartment. The name, address and telephone number of the designated

Managing Agent shall be contained in the Owners' Operating Agreement. The Operating Agreement must be updated and resigned by all owners upon any change in ownership among the multiple owners.

A copy of the current Owners' Operating Agreement for every Ekahi apartment owned by multiple owners shall be kept on file in the office of the Resident Manager. The Resident Manager of Ekahi Village, the Board of Directors of the Association and the employees of the Association shall be entitled to rely on the accuracy and validity of the Owners' Operating Agreement for each apartment, as filed in the Resident Manager's office, for all purposes related to the official business of the Association.

If any owner of an undivided interest in an apartment is an entity, and not a natural person, each such owner entity may designate no more than three individuals who shall be recognized as "apartment owners" for purposes of this Section 10(a) and possessing and exercising all of such entity's use rights and privileges as an apartment owner at the Project as set forth in this Declaration and the Bylaws. Any other individuals occupying such entity's apartment shall be considered as guests or renters, subject to the provisions of this Declaration and the Bylaws concerning guests or renters.

(iv) The Association shall have the right and power, to be exercised by the Board of Directors of the Association, to deny any person entry to, or the possession of, any Apartment for which a time share plan has been created in violation of subsection 10(d) below, so long as such violation shall continue. The Board of Directors may also bring an action on behalf of the Association to obtain appropriate injunctive relief to prevent any violation of this Section 10, or to require the observance of this Section 10, without being required to post a bond as a condition to obtaining such injunctive relief, whether temporary, preliminary, or permanent. Nor shall the Association be required to show in any such action, that other relief is

inadequate or that the damages suffered by the Association or by any apartment owner are or may be irreparable.

(v) *(as amended 8/19/08)* If title to an apartment at the time of the recording of this Amendment to Section 10(a), "this Amendment," would be in violation of the provisions of this Amendment, the title to such apartment shall be allowed to remain as documented at the time of the recording of this Amendment and shall not be deemed a violation of the provisions of this Amendment. PROVIDED, HOWEVER, after the recording of this Amendment when all or any interest in such apartment shall be conveyed, the title to such apartment shall conform to the provisions of this Amendment.

(vi) - *(as amended 7/09)* Nothing in this Section 10(a) shall prohibit an owner from transferring, during the owner's lifetime or by a trust or testamentary instrument, an undivided interest in the owner's apartment to any lineal descendant of the owner. The term "lineal descendant" as used in this subparagraph (vi) shall mean a natural born or adopted child or grandchild of the owner. Provided, however, an undivided interest in any apartment acquired from a lineal descendant by any person who is not a lineal descendant of any owner of the apartment, shall be held and be subject to the terms and conditions of items (ii) through (v) of this Section 10(a).

(b) The owner of an apartment shall not use or permit to be used the same for any purpose which will injure the reputation of the Project. such owner shall not suffer anything to be done or kept in said apartment or elsewhere which will jeopardize the soundness of the buildings, or which will interfere with or unreasonably disturb the rights of other owners, or which will obstruct the exterior stairways or entranceways, or which will increase the rate of fire insurance on the buildings, or the contents thereof, or which will reduce the value of the buildings.

(c) The owner of an apartment shall not without the prior written consent of the Board, make any structural alterations in or additions to the apartment, or make any alterations in or additions to the exterior of the apartment (including awnings, jalousies or screens) or to any other portion or portions of the common elements unless otherwise provided in the Bylaws.

(d) Use or occupancy of any apartment for, in connection with, or pursuant to any time-sharing plan is expressly prohibited. As use herein, the phrase "time-sharing plan" shall be deemed to include, but shall not be limited to, any legal or equitable estate or interest in any apartment, pursuant to a plan or program whereby the right to use, occupy or possess such apartment shifts or circulates among two or more persons, corporation, partnerships, or other entities, on a periodically recurring or other basis, whether according to a fixed or floating time schedule or otherwise. This provision expressly includes time-sharing plans of every type whatsoever, including, but not limited to, plans or programs whereby the members' or participants' interest is of any of the following types: fee, leasehold, right to use, license, partnership, corporation, association or club membership. Notwithstanding the foregoing, this provision shall not be construed to prohibit any time-sharing plan or program which has been in existence prior to the enactment of this provision provided that any such plan or program is continued in existence up until the enactment of this

provision. (prior amendment recorded as Document No. 1210107)

11. Service of Process. Wailea Land Corporation with its address at 822 Bishop Street, Honolulu, Hawaii 96813 is hereby designated as the agent to receive service of process until such time as the Board of Directors of the Association of Apartment owners of this Condominium Property Regime is elected, at which time and thereafter process may be served upon any member of the Board.

12. Percentage of Votes Required for Rebuilding.  
In the event of damage or destruction of all or any part of buildings, the percentage of votes by the apartment owners which shall be determinative of whether not to rebuild, repair or restore a building shall be a vote of the owners in the building so damaged or destroyed, owning at least seventy-five percent (75%) of the common interests appurtenant to the apartments in such building and a vote of the owners of apartments so damaged in such building owning at least seventy-five percent (75%) of the common interests appurtenant to the damaged apartments in such building. That is to say, there shall be an affirmative obligation to rebuild in absence of a vote not to rebuild as herein provided. If more than one building is damaged or destroyed, the votes of apartment owners in each building shall be considered separately. In the event of substantial damage or destruction of all or part of any other common elements on the land, the percentage of votes which shall be determinative of whether not to rebuild, repair or restore such damaged or destroyed common elements shall be a vote of the owners of seventy-five percent (75%) of the interests in the common elements. That is to say, there shall be an affirmative obligation to rebuild in absence of a vote not to rebuild as herein provided.

13. Invalidity. The invalidity of any provision of this Declaration of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

14. Bylaws. In furtherance of the provisions of this Declaration, Declarant hereby approves and adopts the Bylaws. Declarant hereby affirms that the property described in this Declaration shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved in accordance with the Bylaws. In the event of any discrepancy between a provision of this Declaration and a provision of the Bylaws, the provisions of this Declaration shall prevail.

15. Amendment. This Declaration of Condominium Property Regime may be amended, consistent with the provisions of the Act, as amended, with the approval of the owners of at least sixty-seven percent (67%), (Section 5148-32(11) of the Act), of the interests in the common elements evidenced by an instrument in writing, signed and acknowledged by an two (2) officers of the Association of Apartment owners, which amendment shall be effective upon filing with the office of the Assistant Registrar of the Land Court of the State of Hawaii; provided, however, (deletion - no longer applicable), that the prior written consent by the mortgagees, if any, of the apartments to which are appurtenant the aforesaid sixty-seven percent (67%) interest in the common elements shall be required to any amendments of this paragraph and



paragraphs 2, 3, 5, 6, 7, 10 and 12 hereof.

16. Controlling Declarations. This Declaration of Condominium Property Regime is made subject to the provisions of the Declaration of Covenants and Restrictions and the Declaration of Merger, and in case of any conflict the provisions of the Declaration of Covenants and Restrictions and the Declaration of Merger shall control.

17. Binding Effect. All of the covenants, agreements and conditions herein contained shall extend to and be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

18. Governing Law. Notwithstanding anything to the contrary in this Declaration, the Project Bylaws, House Rules and/or the Condominium Map, this Project shall be governed by the provisions of Chapter 514B of the Hawaii Revised Statutes, as the same shall be amended from time to time, and this Declaration and the Project Bylaws, House Rules and/or Condominium Map, shall be deemed amended to the extent necessary to conform to and be consistent with the provisions of said Chapter 514B of the Hawaii Revised Statutes, as amended from time to time. (prior amendment recorded as Document No.

EXHIBIT A

All of that certain parcel of land situate at Honuaula, Island and County of Maui, State of Hawaii, described as follows:

Lot 40, area 13.00 acres, as shown on map 7, filed with Land Court Application No. 1804.

EXHIBIT "A"

WAILEA EKAHI I

<u>APT NO.</u>	<u>11PR NO.</u>	<u>TCT NO(S)</u>
1A	1	750,403
1B	2	525,372
1C	3	642,670
1D	4	724,842
1E	5	689,321
1F	6	407,312
2A	7	534,811
2B	8	687,175
2C	9	363,890
2D	10	478,026
2E	11	762,117
2F	12	477,282
3A	13	312,732
3B	14	179,567
3C	15	331,278
3D	16	786,851
3E	17	451,355
4A	18	636,800
4B	19	721,213
4C	20	525,230
4D	21	692,065
4E	22	397,061
5A	23	757,857
5B	24	637,371
5C	25	691,894
5D	26	317,503
5E	27	691,073
5F	28	577,422
6A	29	806,262
6B	30	801,494
6C	31	513,119
6D	32	271,226
6E	33	322,252
6F	34	483,600
7A	35	294,244
7B	36	500,490
7C	37	406,938
7D	38	283,611
<b>7E</b>	39	481,958
7F	40	628,878

AFT NO.	1-PR NO.	TCT NO(S)
7G	41	809,898
7H	42	553,827
7I	43	306,718
7J	44	493,751
8A	45	598,967
8B	46	524,051
8C	47	599,569
8D	48	841,706
8E	49	809,706
8F	50	651,686
9A	51	182,254
9B	52	828,254
9C	53	481,039
9D	54	463,646
9E	55	547,954
10A	56	584,884
10B	57	324,695
10C	58	430,720
10D	59	298,479,298,480
10E	60	639,570
10F	61	429,734
11A	62	639,040
11B	63	596,069
11C	64	807,868
11D	65	733,782
11E	66	743,954
11F	67	648,151
12A	68	438,260
12B	69	600,012
12C	70	642,983
12D	71	448,242
12E	72	492,592
13A	73	456,075
13B	74	645,536
13C	75	495,294
13D	76	578,135
13E	77	248,649
13F	78	847,941
14A	79	321,000
14B	80	425,536
14C	81	569,250
14D	82	288,703
14E	83	647,285
14F	84	488,725
15A	85	488,460
15B	86	647,284
15C	87	647,284

AFT NO.	1-PR NO.	TCT NO(S)
15D	88	456,056
15E	89	503,557
16A	90	746,076
16B	91	252,783
16C	92	739,490
16D	93	318,774
16E	94	789,947
17A	95	691,405
17B	96	519,853
17C	97	675,606
17D	98	583,171
17E	99	553,093
17F	100	230,766