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BYLAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE CROWNE AT WAILUNA. PHASE I

(Condominium Map *2040*)

(Exhibit "A" - The Land)

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BYLAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE CROWNE AT WAILUNA, PHASE I

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Not Valid for Real Property Transactions

BYLAWS OF THE
ASSOCIATION OF APARTMENT OWNERS
OF
THE CROWNE AT WAILUNA. PHASE I

WHEREAS, CASTLE & COOKE HOMES HAWAII, INC., a Hawaii corporation, whose address is 650 Iwilei Road, Honolulu, Hawaii 96817, herein sometimes called "Developer", owns in fee simple that certain parcel of land described in EXHIBIT "A" attached hereto and made a part hereof by this reference, the land described in EXHIBIT "A" being herein referred to as "said land"; and

WHEREAS, the Developer shall establish that certain condominium project to be known as

THE CROWNE AT WAILUNA, PHASE I

by Declaration of Condominium Property Regime to be recorded in said Bureau of Conveyances simultaneously herewith;

NOW, THEREFORE, the following Bylaws (herein called "Bylaws") shall apply to the above named condominium project (herein called the "Project"), as described in and created by Declaration of Condominium Property Regime of The Crowne at Wailuna, Increment I (herein called the "Declaration") recorded in the Bureau of Conveyances of the State of Hawaii immediately prior to the recordation of these Bylaws, and to all present and future owners, tenants and occupants of all units of the Project and all other persons who shall at any time use the Project.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership/Qualification. All unit owners of the Project shall constitute the Association of Apartment Owners, herein sometimes called the "Association of Home Owners" or "Association". The owner of a unit upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such ownership ceases for any reason, at which time membership of such owner in the Association shall automatically cease. Notwithstanding anything to the contrary provided in these Bylaws, the Developer shall be entitled to vote and act on all matters as the Association and as the Board of Directors until such time as the first meeting of the Association. Thereafter, the Developer, as the owner of any

unsold units, shall be entitled to vote the interest of each such unit.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or elsewhere within the City and County of Honolulu, as determined by the Board of Directors of the Association, herein called the "Board".

Section 3. First Meeting - Annual Meetings. The first meeting of the Association shall be held no later than one hundred eighty days after recordation of the first unit conveyance; provided forty per cent or more of the Project has been sold and the instrument conveying the same have been recorded. If within one (1) year after recordation of the initial unit conveyance forty per cent of the Project has not been sold and the instrument conveying the same recorded, then the first annual meeting shall be called by the Developer if ten per cent (10%) of the unit owners so request. In any event the first meeting of the Association must be held within five (5) years after the recordation of the first unit conveyance. Thereafter the annual meetings of the Association shall be held within ninety days after the end of the fiscal year selected by the Board. At such meetings the unit owners shall determine the number of persons to be on the Board of Directors and shall elect a Board of Directors.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President, or by resolution of the Board, or upon presentation to the President or the Secretary of a petition signed by the owners of at least twenty-five per cent (25%) of the common interests. Upon the receipt of such call, resolution or petition, the Secretary shall give written notice of the meeting to all unit owners and the meeting shall be held within sixty (60) days of the receipt of such call, resolution or petition at any reasonable time at the Project, unless another suitable place within the City and County of Honolulu has been designated by the Board. No business shall be conducted at a special meeting except as stated in the notice of said meeting, unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every unit owner according to the Association's record of ownership at least fourteen (14) days before the date set for the meeting. The notice shall state whether it is an annual or special meeting, the authority for the call of the meeting, the place, day and hour of the meeting, the purposes of the meeting and the agenda for the meeting. The notice shall include the

standard proxy form adopted by the Association. The notice shall be given in any of the following ways: (a) by delivering it to the unit owner personally, or (b) by mailing it, postage prepaid, addressed to the unit owner at the address of such owner as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of a unit owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings at the meeting. The presence of a unit owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless such owner shall at the opening of the meeting object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of unit owners shall constitute a quorum, and the acts of a majority of the unit owners at any meeting at which a quorum is present shall be the acts of the Association, except as otherwise provided in the Declaration or in these Bylaws or in the Condominium Property Act ("the Act").

Section 7. Voting. Each owner of a unit shall be entitled to vote that percentage of the total votes which is equal to the percentage of common interest appurtenant to such unit as set forth in the Declaration. The purchaser of a unit pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, provided that the seller under such agreement of sale may vote on matters substantially affecting his security interest in the unit if retained in such agreement of sale. Votes may be cast in person or by proxy by the respective unit owners as shown in the record of ownership of the Association. An executor, administrator, personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the vote of any unit owned or controlled by such person in such capacity, whether or not the same shall have been transferred to such person in the Association's record of ownership, provided that evidence satisfactory to the Secretary that such person owns or controls such unit in such capacity has been presented. The vote for a unit owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to a share of such vote equal to the share of such co-tenant's ownership in such unit. Notwithstanding the foregoing, if a unit is owned by three (3) or more persons, the presiding officer can require that the vote shall be in accordance with the decision of a majority of the co-owners of said unit.

Section 8. Proxies and Pledges.

(a) The Association shall adopt a standard proxy form to be sent with each notice of a meeting of the unit owners, whether annual or special. A proxy, to be valid, must be delivered to the secretary of the Association or the Managing Agent, no later than 4:30 P.M. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: The name of the Association of Home Owners, the date of the meeting of the Association of Home Owners, the printed name and signature of the person or persons giving the proxy, the unit or units for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and any adjournments of said meetings, 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.

(c) Proxies may be given to the Board provided that the proxy form shall contain a box wherein the owner may indicate that the owner wishes the vote to be shared with each Board member receiving an equal percentage. Proxy forms which are not marked shall be considered a choice by the owner that the vote be made on the basis of the preference of the majority of the Board.

(d) No officer of the Association shall use Association funds to solicit proxies; provided that this shall not prevent an officer from exercising his right as a unit owner under subsection (e) set forth immediately below.

(e) No resident manager, or Managing Agent shall solicit, for use by the manager or Managing Agent, any proxies from any unit owner, nor shall the resident manager or Managing Agent cast any proxy vote at any Association meeting except for the purpose of establishing a quorum. No member of a Board of Directors who uses Association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of Board members at any Association meeting unless the proxy form specifically authorizes the Board member to vote for the election or reelection of Board directors and the Board first posts notice of its intent to solicit proxies in prominent locations within the Project at least thirty days prior to its solicitation of proxies; provided that if the Board receives within seven days of the posted notice a request by any owner for use of Association

funds to solicit proxies accompanied by a statement, the Board shall:

- (i) Mail to all owners a proxy form containing either the names of all owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or
- (ii) Mail to all owners 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 shall not exceed one hundred words, indicating the owner's qualifications to serve on the Board and reasons for wanting to receive proxies.

(f) 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.

(g) Voting rights transferred or pledged by mortgage of any unit or interest therein, a true copy of which is filed with the Board through the Secretary or Managing Agent, shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in like manner.

(h) Any one of two or more persons owning any unit may give or revoke a proxy for the entire vote of such unit. No proxy may be given by a co-owner or co-owners for only a share of a unit's vote. Any proxy given by a co-owner or co-owners of a unit may be exercised to cast the entire vote for such unit in the absence of protest by another co-owner or the holder of a proxy from another co-owner, and, in case of such protest, each co-owner or holder of a co-owner's proxy shall be entitled to only a share of such vote in proportion to the co-owner's share of ownership in the unit. In the case of joint ownership, each co-owner's share shall be equal to the total vote allocated to the unit divided by the number of joint owners. Notwithstanding the foregoing provisions, in the event there are three or more owners of a unit and in the event the owners of said unit and persons holding a proxy for a co-owner not present at the meeting cannot decide unanimously on how to cast the vote for the entire unit, the presiding officer may require that the vote of said unit be in accordance with the decision of a majority of the owners of said unit present at the meeting and the person holding the proxy or proxies of co-owners not present at the meeting.

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 unit owners present, whether or not a quorum be present, without notice other than the announcement at such meeting, as long as any such adjourned meeting shall not be convened any earlier than 48 hours after the original 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. Registration of Association. Within thirty (30) days after the first meeting of the Association, the Association shall register with the Real Estate Commission of the State of Hawaii Department of Commerce and Consumer Affairs (the "Commission"), as required by Section 514A-95.1 of the Act. On or before January 1 of each year, the Association shall pay to the Commission an annual registration fee as prescribed by rules adopted by the Director of Commerce and Consumer Affairs, and as required by Section 514A-95.1 of the Act.

Section 11. Order of Business. The order of business at all annual meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of last annual meeting and last preceding meeting, if any.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of directors (when so required).
- (g) Unfinished business.
- (h) New business.

The order of business at all special 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) New business.

ARTICLE II

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) and not more than nine (9) persons, each of whom shall be the sole owner or co-owner of record of a unit, or a vendee under an agreement of sale, or, in the case of a corporate owner, an officer of the corporate owner, or in the case of a fiduciary owner, such fiduciary or an officer of such fiduciary. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of a unit for this purpose. No resident manager of the Project may serve on the Board. There shall not be more than one representative on the Board from any one unit.

Section 2. Reconstitution of Board Upon Merger. Notwithstanding anything to the contrary contained in these By-Laws, in the event that this Project is merged with one or more other condominium projects, as provided in the Declaration, a new Board of Directors of the Association as reconstituted by such merger, shall be elected to replace the existing Board. The Board to be elected shall be elected by the members of the Association as reconstituted by such merger.

Section 3. Conflict of Interest/Disclosure of a Conflict. Unless permitted by law, a Director shall not vote 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. If there is any disagreement as to whether or not there exists a conflict of interest, the determination of whether a conflict of interest exists as to a particular Director or Directors shall be made by a majority of the non-interested Directors, which determination shall be conclusive and binding on the parties.

Section 4. Method of Electing the Board. Election of Directors shall be by cumulative voting by secret ballot at each annual meeting of the unit owners and any special meeting called for that purpose.

Section 5. Term of Office. Subject to removal as herein provided, Directors shall hold office for a period of three years and until their respective successors have been

electd, except that at the first annual meeting and at any meeting held after a merger of condominium project(s) as provided in the Declaration, and at any meeting where the entire Board is being elected, one-third (1/3) of the Directors (the Directors receiving the highest number of votes) shall be elected for three years, one-third of the Directors (the Director receiving the next highest number of votes) shall be elected for two years, and the remainder of Directors (the Directors receiving the next highest number of votes) shall be elected for one year.

Section 6. Vacancies. Vacancies in the Board caused by any reason other than 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, at the next regular meeting of the Board or at any special meeting of the Board held prior thereto, but in any event not later than sixty (60) days from the occurrence of the vacancy, and each person so appointed shall be a director until a successor is elected at the next annual meeting of the Association. Such successor shall be elected to serve only during the remaining term of the Director who such successor succeeds. Death, incapacity or resignation of a Director or the continuous absence of a Director from the State of Hawaii for more than six (6) months or if a Director ceases to qualify for office as set forth above, shall cause the office to become vacant.

Section 7. Removal of Directors. At any regular or special meeting of the unit owners, any one or more of the members of the Board of Directors may be removed with or without cause by the unit owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created; provided that an individual Director shall not be removed (unless the entire Board is removed) if owners having sufficient votes to elect one Director by cumulative voting present at such meeting shall vote against his removal. A member of the Board of Directors whose removal is proposed by the unit owners shall be given an opportunity to be heard at the meeting. If such removal and replacement is to occur at a special meeting, the call for such meeting shall be by the President or by a petition to the Secretary or managing agent signed by not 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 does not 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 notices for the special meeting in accordance with the requirements for notice contained in these Bylaws. Except as otherwise provided in the Act, such meeting for the removal from office and replacement of Directors shall be scheduled, noticed and conducted in accordance

with these Bylaws. In addition, if any Director shall fail to attend three (3) consecutive meetings of the Board for any reason, the Board, by a vote of a majority of the other members, may remove him/her and select a replacement to serve his/her unexpired term.

Section 8. Organizational Meeting. An organizational meeting of the Board shall be held at the place of and immediately following each annual meeting of the Association. Notice of the organizational Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting; however, 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 9. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one such meeting shall be held during each calendar quarter. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, telephone or telegraph, at least fourteen days, if practicable, prior to the date of such meeting.

Section 10. Special Meetings. Special meetings of the Board may be called by the President on at least eight hours' notice to each director, given personally or by telephone or telegraph or facsimile, 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 directors.

Section 11. Posting Notice of Meetings. When practicable, notice of all Board meetings shall be posted by the Managing Agent 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 members of the Board of Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required and any business may be transacted at such meeting.

Section 13. Quorum of Board/Decisions. At all meetings of the Board a majority of the total number of Directors established by these Bylaws shall constitute a quorum for the transaction of business, and the acts of a majority of the Directors present at any meeting at which a quorum is present shall be the acts of 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 14. Board Meetings Open to Unit Owners. All meetings of the Board of Directors, other than executive sessions, shall be open to all members of the Association, and Association members who are not on the Board of Directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the Board of Directors votes otherwise.

Section 15. Executive Sessions. The Board, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or upon litigation in which the Association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 16. Compensation/Travel Expenses. No member of the Board shall receive any compensation from the Association for acting as such, except that a majority of the unit owners may at any meeting authorize a reasonable director's fee for attendance at meetings of the Board. In addition, directors shall not expend Association funds for their travel expenses (or per diem expense) unless the unit owners are informed and a majority of the unit owners approve of these expenses.

Section 17. Committees. The Board may create and appoint the members of such committees as the affairs of the Association may require and the Board shall define the authority and duties of such committees. Except as otherwise specifically provided for in these Bylaws, all members of Committees shall be unit owners.

Section 18. Inspection by Directors: Copies of Documents. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. This right of inspection by a Director includes the right to make extracts and copies of documents.

Every Director shall be provided with a current copy of the Declaration, these Bylaws and the House Rules, and, annually with a copy of the Act, as amended.

Section 19. Telephone Meetings. If permitted by applicable law, at any regular or special meeting of the board at which at least one (1) Board member is physically present, whether held in open or executive session, any member of the Board not physically present may participate in such meeting by telephone for purposes of constituting a quorum and for all other purposes, and the Board may carry on all business within the Board's authority as if all members participating by telephone were physically present at such meeting; provided, however, that any persons authorized to participate in such meeting that is present at such a meeting, including members of the Association who are not on the Board and who may participate pursuant to Section 514A-83.1(a) of the Act are at all times during such meeting able to hear and, when appropriate, be heard by all other participants.

ARTICLE III

OFFICERS

Section 1. Designation of Officers. 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 and from the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary, all of whom shall be elected by and from the Board. An officer may hold more than one office but no more than two. An owner shall not act as an officer of the Association and be an employee of the Managing Agent or be employed by the Association.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board and a successor shall be elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. 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. Subject to the control of the Board, the President shall exercise general

supervision and direction over the management and conduct of the business and affairs of the Association. He/she shall also have such other powers and duties as may be provided by these Bylaws or assigned to him/her from time to time by the Board.

Section 5. Vice-President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice-President shall also have such other powers and duties as may be assigned from time to time by the Board. If neither the President nor the Vice-President is able to act, the Board shall appoint another member of the Board to do so on an interim basis.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors. He/she shall see that all notices are given in accordance with these Bylaws. He/she shall have charge of such books and papers of the Association as the Board of Directors may direct. He/she shall, in general, perform all the duties incident to the office of Secretary of a corporation organized under the laws of the State of Hawaii. Duties of the Secretary may be delegated to and performed by the managing agent.

Section 7. Treasurer. The Treasurer shall keep the financial records and books of account of the Association showing all receipts and disbursements, and shall be responsible for the preparation of all required financial data. He/she shall be responsible for the deposit of all moneys and other valuable effects of the Association in such depositories as shall be designated by the Board of Directors. He/she shall, in general, perform all the duties incident to the office of Treasurer of a corporation organized under the laws of the State of Hawaii. Duties of the Treasurer may be delegated to and performed by the managing agent or any outside accounting organization.

Section 8. Compensation of Officers. 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 with the approval of the Board.

ARTICLE IV

ADMINISTRATION

Section 1. Management. Except as otherwise provided by the Act, the Declaration, or these Bylaws, the affairs of the Association shall be conducted and managed by the Board of Directors. Each Director shall owe the Association a fiduciary

duty in the performance of the Director's responsibilities. Pursuant to these Bylaws, the Board shall employ a responsible corporate managing agent with such powers and duties of the Board as shall be delegated by the Board.

Section 2. Powers of the Board. The powers and duties of the Board of Directors shall include, but shall not be limited to the following:

(a) Operations. Supervision of the immediate management and operation of the Project.

(b) Maintenance. Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto.

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

(d) Utilities. Provision at each unit of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary, either at the expense of such unit or as a common expense as determined by the Board.

(e) Employees. Employment, supervision and dismissal of such personnel as may be desirable for the maintenance and operation of the Project.

(f) Budget. Preparation at least 60 days before the commencement of each fiscal year of a proposed budget, replacement reserves and schedule of assessments for such year, as more particularly set forth below in a separate section.

(g) Assessments. Collection of all installments of assessments, including common assessments, levied by, and payment of all common expenses authorized by, the Board.

(h) Insurance. Purchase and maintenance of all policies of casualty and liability insurance for the Project required by the Declaration or these Bylaws and such other insurance and fidelity bond(s) as may be required or authorized by the Act, the Declaration, or these Bylaws.

(i) Funds. 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.

(j) Delinquencies. Notification of all persons having any interest in any unit according to the Association's record of ownership of any delinquency exceeding 60 days in the payment of any assessment against such unit.

(k) Professional Assistance. Engaging legal or accounting services as may be necessary for the maintenance and operation of the Project.

(l) Records. Keeping 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 and all other expenses incurred by the Association, and also keeping monthly statements indicating the total delinquent dollar amount of any unpaid assessments for common expenses and for special assessments assessed to units.

(m) Borrowing Money. Borrowing of money to be used by the Association for the repair, replacement, maintenance, operation, or administration of the common elements of the Project, or the making of any additions, alterations and improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the Project; provided that unit owners representing fifty percent (50%) of the common interest and fifty percent (50%) of units give written consent to such borrowing, having been first notified of the purpose and use of the funds.

(n) Background Checks. If the Board so chooses, arrange for a background check on applicants applying for employment as a security guard or manager or for a position which would allow such employees access to the keys of or entry into the units or access to Association funds, provided such employee applicant signs an authorization to conduct such background check.

(o) Penalties and Fines. Establishment of such penalties and fines, consistent with the law and the provisions herein, as it deems appropriate with respect to enforcement of the provisions of the Declaration, these Bylaws and any rules and regulations adopted pursuant to these Bylaws. The unpaid amount of such penalties and fines against any unit owner shall constitute a lien against his/her interest in his/her unit which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Act for common expenses; provided, however, that said lien for such penalties and fines shall be subordinate to liens for real property taxes and

assessments lawfully imposed by governmental authority against the unit and to all sums unpaid on mortgages of record.

(p) Delegation of Powers. Delegation of its powers to committees, agents, officers, representatives, employees and the Managing Agent.

Section 3. Budget and Reserves.

(a) Subject to the Act and any regulations adopted by the Real Estate Commission of the State of Hawaii, the Board shall prepare and adopt an annual operating budget and distribute it to the unit owners. At a minimum, the budget shall include the following:

- (i) The estimated revenues and operating expenses of the Association;
- (ii) Information as to whether the budget has been prepared on a cash or accrual basis;
- (iii) The total replacement reserves of the Association as of the date of the budget;
- (iv) The estimated replacement reserves the Association will require to maintain the Project based on a reserve study performed by the Association;
- (v) A general explanation of how the estimated replacement reserves are computed; and
- (vi) The amount the Association must collect for the fiscal year to fund the estimated replacement reserves.

(b) Beginning with the first fiscal year commencing after the Association's first annual meeting, the Association shall assess the unit owners to fund a minimum of fifty percent (50%) of the estimated replacement reserves. For each fiscal year the Association shall collect a minimum of fifty percent (50%) of the full amount required to fund the estimated replacement reserves for that fiscal year except that a longer period of time may be permitted to the extent that the Real Estate Commission of the State of Hawaii shall adopt rules to permit an existing association to fund its estimated replacement reserves in increments.

(c) The Association shall compute the estimated replacement reserves by a formula which 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 shall include:

- (i) Adjustments for revenues which will be received and expenditures which 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.

(d) Neither the Association nor any unit owner, director, officer, managing agent, or employee of the Association who makes a good faith effort to calculate the estimated replacement reserves for the Association shall be liable if the estimate subsequently proves incorrect.

(e) The Board of Directors may not exceed its total adopted annual operating budget by more than twenty percent (20%) during the fiscal year to which the budget relates, except in emergency situations. Prior to the imposition or collection of an assessment under this paragraph, the Board of Directors shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(f) Pursuant to the Act, the requirements of this Section shall override any requirements in the Declaration, these Bylaws, or any of the Association's other documents relating to preparation of budgets, calculation of reserve requirements, assessment and funding of reserves, with the exception of:

- (i) any provisions relating to the repair and maintenance of property; or
- (ii) any provisions relating to upgrading the common elements, such as additions, improvements, and alterations to the common elements.

(g) Subject to the procedures of Section 514A-94 of the Act and any rules adopted by the Real Estate Commission of the

State of Hawaii, any unit owner may enforce the Board's compliance with this Section 3 in the event the Board fails to so comply. In the event the Board has not prepared an annual operating budget and reserve study as required in this Section 3, the Board shall have the burden of proving it has complied with this Section 3 in any proceeding to enforce such compliance.

(h) As used in this Section:

"Capital expenditure" means an expense which results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset which extends the life of an existing asset for a period greater than one year.

"Emergency situation" means any of the following:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain any part of the property for which the Association is responsible where a threat to personal safety on the Project is discovered;
- (iii) An extraordinary expense necessary to repair any part of the Project for which the Association is responsible that could not have been reasonably foreseen by the Board of Directors in preparing and distributing the annual operating budget; or
- (iv) An extraordinary expense necessary to respond to any legal or administrative proceeding brought against the Association that could not have been reasonably foreseen by the Board in preparing and distributing the annual operating budget.

"Major Maintenance" means an expenditure for maintenance or repair which will result in extending the life of an asset for a period greater than one year.

"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the Project including, but not limited to roofs, walls, decks, paving, and equipment, which the Association is obligated to maintain.

Section 4. Casualty Insurance on Individual Units. In that each apartment is a detached dwelling unit, the Board may delegate to each owner the right to obtain and maintain coverage for fire insurance and other casualties for his/her/their unit. If required by law, the Association will be added as an additional insured.

Section 5. Disposition of Unclaimed Possessions.

(a) When personalty in or on the common elements of the Project has been abandoned, the Board may sell the personalty in a commercially reasonable manner, store such personalty at the expense of its owner, donate such personalty to a charitable organization, or otherwise dispose of such personalty in its sole discretion; provided that no such sale, storage, or donation shall occur until sixty days after the Board complies with the following:

- (i) The Board notifies the owner in writing of:
 - (A) The identify and location of the personalty, and
 - (B) The Board's intent to so sell, store, donate, or dispose of the personalty.

Notification shall be by certified mail, return receipt requested to the owner's address as shown by the records of the association or to an address designated by the owner for the purpose of notification or, if neither of these is available, to the owner's last known address, if any; or

- (ii) If the identity or address of the owner is unknown, the Board shall first advertise the sale, donation or disposition at least once in a daily paper of general circulation in Honolulu.

(b) The proceeds of any sale or disposition of personalty under subsection (a) shall, after deduction of any accrued costs of mailing, advertising, storage, and sale, be held for the owner for thirty days. Any proceeds not claimed within this period shall become the property of the Association.

Section 6. Managing Agent. The Board shall at all times employ, on such terms and at such compensation as the Board shall determine, a Managing Agent (herein called the "Managing Agent") to manage and control those portions of the Project

within the management jurisdiction of the Board, subject at all times to direction by the Board. The contract must contain a provision that the Association can terminate the contract on at least ninety (90) days prior written notice, without payment of any penalty.

Section 7. Managing Agent's Fidelity Bond. The Managing Agent shall provide evidence of a fidelity bond in the minimum amount required by the Act, or such higher amount as the Board may require, covering all of its officers, employees and agents.

Section 8. Meeting Minutes.

(a) Minutes of meeting of the Board of Directors and the Association shall include the recorded vote of each board member on all motions except motions voted on in executive session.

(b) Minutes of meetings of the Board of Directors and the Association shall be approved at the next succeeding meeting; provided that for Board of Directors meetings, no later than the second succeeding meeting.

(c) Minutes of all meetings shall be available within seven calendar days after approval and unapproved final drafts of the minutes of a meeting shall be available within sixty 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 9. Documents of the Association.

(a) The Association's most current financial statement and minutes of the Board of Directors' meetings, once approved, shall be available to any owner at no cost or on twenty-four hour loan, at a convenient location designated by the Board of Directors.

(b) Minutes of meetings of the Board of Directors and the Association for the current and prior year shall be available for examination by apartment owners at convenient hours at a place designated by the Board. Copies of meeting minutes shall be provided to any unit owner upon the owner's request provided that the unit owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(c) Financial statements, general ledgers, the accounts receivable ledger, records of receipts and expenditures,

accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the Association for the current and prior year and delinquencies of ninety days or more shall be available for examination by unit owners at convenient hours at a place designated by the Board; provided:

- (i) That 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 interests of the Association or its members or both; and
- (ii) That owners pay for administrative costs in excess of eight hours per year.

Copies of these items shall be provided to any unit owner upon the unit owner's request, provided that the unit owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(d) Owners shall also be permitted to view proxies, tally sheets, ballots, owners' check-in lists, and the certificate of election for a period of thirty days following any Association meeting; provided:

- (i) That 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
- (ii) That owners pay for administrative costs in excess of eight hours per year.

Proxies and ballots may be destroyed following the thirty-day period. Copies of tally sheets, owners' check-in lists, and the certificates of election from the most recent Association meeting shall be provided to any unit owner upon the unit owner's request, provided that the owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(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 calendar days of receipt of the request.

Section 10. Availability of Project Documents. An accurate copy of the Declaration of Condominium Property Regime, the Bylaws of the Association, the House Rules, a sample original conveyance document, all Public Reports and any amendments thereto, shall be kept at the Managing Agent's office. The Managing Agent shall provide copies of those documents to unit owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the Managing Agent of a reasonable charge to defray any administrative or duplicating costs.

Section 11. Audits. The Association shall require an annual audit of the Association financial accounts and no less than one annual unannounced verification of the Association's cash balance by a certified public accountant. The Board shall make available a copy of the annual audit to each unit owner at least thirty days prior to the annual meeting which follows the end of the fiscal year, and in no event within 120 days of the Association's fiscal year-end. The Board shall provide upon all official proxy forms a box wherein the unit owner may indicate that the unit owner wishes to obtain either a summary of the annual audit report, or an unabridged copy of the annual audit report. The Board shall not be required to submit a summary of the annual audit report or a copy of the annual audit report to the owner if the proxy form is not marked. 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 days prior to the annual meeting; and
- (ii) The annual audit to all unit owners at the annual meeting, or as soon as the audit is completed, whichever occurs later.

If the Association's fiscal year ends less than two 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 12. Representation. The President or Managing Agent, acting on behalf of and subject to the direction of the Board, shall represent the Association or any two 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, suit, hearing or other proceeding, without prejudice to the rights of any unit owner individually to appear, sue or be sued. Service of process on two or more unit owners in any such action, suit, hearing or other proceeding may be made on the President or Managing Agent.

Section 13. 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, or, in the absence of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

ASSESSMENTS AND ENFORCEMENT

Section 1. Assessments.

(a) All unit owners shall pay to the Managing Agent in advance on the first day of each and every month:

(i) The monthly installments of assessments against their respective units for common expenses of the Project;

(ii) Any assessments against a unit pertaining to a limited common element appurtenant to such unit; and

(iii) Any special assessment against a unit as permitted by or provided for in the Declaration, these Bylaws or the Act.

(b) Each monthly assessment and each special assessment shall be a separate, distinct and personal debt and obligation of the owner against whom the same is assessed. If the owner shall fail to pay any assessment when due, then such owner shall be required to pay interest on the delinquent amount at the rate set by the Board, and the Board may also establish a late charge for any assessment which is not paid within fifteen (15) days from the due date. All sums received from a defaulting owner shall be applied first to late fees, legal costs, attorneys' fees and interest, if any, and then to unpaid assessments.

Section 2. Notification of Increases in Maintenance Fees. The Managing Agent or Board shall notify the unit owners

in writing of increases in maintenance fees at least thirty (30) days prior to such an increase.

Section 3. Liens Securing Assessments.

(a) All sums assessed by the Association in accordance with Section 1 above but unpaid and chargeable to a unit, together with interest thereon, and expenses, costs and fees recoverable by the Association, and any penalties and late charges assessed pursuant to the provisions of these Bylaws or the rules as established by the Board, shall constitute a lien on the unit of the unit owner liable therefor, which lien shall be prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against the unit, and (2) all sums unpaid on mortgages of record, which was recorded prior to the recordation of the notice of a lien, and costs and expenses, including attorneys' fees, provided for in such mortgages. The lien may be foreclosed by suit by the Managing Agent or the Board of Directors, acting on behalf of the unit owners, in like manner as a mortgage of real property; provided that thirty (30) days' prior written notice of the intention to foreclose shall be mailed, postage prepaid, to the unit owner and all other persons having an interest in the unit as shown in the Association's record of ownership, including all mortgagees of record. In any such foreclosure, the unit owner shall be required to pay a reasonable rental for the unit. The Managing Agent or Board of Directors, acting on behalf of the unit owners, shall have the power to bid on the unit at foreclosure sale and to acquire, hold, lease, mortgage and convey the unit. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(b) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains title to the unit as a result of foreclosure of the mortgage, the acquirer of title, its successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to the unit which became due prior to the acquisition of title to the unit by the acquirer. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners, including the acquirer and the acquirer's successors and assigns.

Section 4. Disputes Concerning Assessments.

(a) A unit owner shall not withhold any assessment claimed by the Association. A unit owner who disputes the amount of an assessment may request a written statement clearly indicating:

- (i) The amount of common expenses included in the assessment, including the due date of each amount claimed;
- (ii) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment;
- (iii) The amount of attorneys' fees and costs, if any, included assessment.
- (iv) That under Hawaii law, a unit owner has no right to withhold assessments for any reason;
- (v) That a unit owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment, provided the unit owner immediately pays the assessment in full and keeps assessments current; and
- (vi) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.

Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.

(b) A unit owner who pays the Association the full amount claimed by the Association may file in small claims court or require the Association to mediate to resolve any disputes concerning the amount or validity of the Association's claim. If the unit owner and the Association are unable to resolve the dispute through mediation, either party may file for arbitration as provided for in the Act; provided that a unit owner may only file for arbitration if all amounts claimed by the Association are paid in full on or before the date of filing. If the unit owner fails to keep all Association assessments current during the arbitration, the Association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the unit owner pays all Association assessments within thirty days of the date of suspension, the unit owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all Association assessments by the end of the thirty day period, the Association may ask the arbitrator to dismiss the arbitration proceedings. The unit owner shall be entitled to a

refund of any amounts paid to the Association which were not properly due and payable.

Section 5. Certification Concerning Assessments. For the purposes of this Section, a certificate executed and acknowledged or made under penalty of perjury by any two members of the Board or by the Managing Agent shall be conclusive upon the Association 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 unit (or the fact that all assessments due are paid if such is the case) within ten (10) days after demand therefor and, if required by the Board, upon payment of a reasonable fee as shall be from time to time established by the Board of Directors. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, including all costs and expenses and reasonable attorneys' fees incurred by or on behalf of the Association, then upon demand of the owner and payment of a reasonable fee, the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the filing data with respect to the filing of the lien, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the owner upon receipt of all such payments. The cost and responsibility for recording the release shall be the owner's.

Section 6. Attorneys' Fees and 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;
- (iii) Enforcing any provision of the Declaration, Bylaws, the rules and regulations of the Real Estate Commission

against an owner, occupant, tenant, employee of an owner or any other person who may in any manner use the property shall be promptly paid on demand to the Association by such 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 such person

or persons as a result of the action of the Association, shall be promptly paid on demand to such person or persons by the Association.

(b) If any claim by an owner is substantiated in any action against the Association, any of its officers or directors, or its Board to enforce any provision of the Declaration, Bylaws, House Rules or the Act, then all reasonable and necessary expenses, costs and attorneys' fees incurred by an owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless:

- (i) The owner first shall have demanded and allowed reasonable time for the Board to pursue such enforcement; or
- (ii) The owner demonstrates to the satisfaction of the court that a demand for enforcement made to the Board would have been fruitless.

(c) If any claim by a unit owner is not substantiated in any court action against the Association, any of its officers or directors, or its Board to enforce any provision of the Declaration, Bylaws, House Rules, or the Act, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an Association shall be awarded to the Association, unless the action was filed in small claims court or prior to filing the action in a higher court the owner has first permitted the claim to mediation, or to arbitration under the Act, and made a good faith effort to resolve the dispute under any of those procedures.

ARTICLE VI

MAINTENANCE OF UNITS AND USE OF PROJECT

Section 1. Maintenance of Units. Except as otherwise provided by law or the Declaration or these Bylaws, every owner of a unit shall at such owner's expense at all times well and substantially repair, maintain, amend and keep his or her unit, including without limitation, all internal installations therein providing water, electricity, telephone and television services, all fixtures belonging to such apartment, the interior decorated or finished surfaces of all walls, floors and ceilings and lanais of such unit and all glass (including glass windows and doors), all structural walls and components, and the exterior walls, paint, and roof and roofing materials with all necessary reparations and amendments whatsoever in good order and condition. Many units include retaining walls located within the private yard. Some retaining walls are constructed so as to

cross over two (2) or more private yards. Unit owners are obligated to maintain the retaining wall or portion thereof that is within the appurtenant private yard. The Association has the right to correct any default of a unit owner under this section and the cost of same shall be assessed against the unit and such owner shall reimburse the Association promptly on demand for all expenses incurred by the Association in performing any such work authorized by the Board of Directors or the Managing Agent.

Section 2. Maintenance of Private Yards. Each unit has a private yard that is a limited common element. The unit owner shall be responsible for landscaping and maintaining the private yard appurtenant to his or her unit. The initial unit owner is obligated to commence to plant and landscape the front part of the private yard within ninety (90) days after the recordation of his/her Condominium Deed and to complete same within one (1) year, all in accordance with landscaping guidelines promulgated by the Developer, as may be amended by the Association. If not planted and landscaped, then upon acquisition of a unit by a subsequent owner, such unit owner shall promptly, and within sixty (60) days, plant and landscape his Private Yard in accordance with the provisions of these Bylaws and the landscaping guidelines promulgated by the Developer, as may be amended by the Association. Every unit owner shall at his own expense at all times keep the Private Yard neat and trim and well maintained and in good condition, except as otherwise provided by law or the Declaration. The Association has the right to correct any default of a unit owner under this section, and the cost of same shall be assessed against the unit and such owner 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.

Section 3. Front Yard Maintenance. The front portion of a Private Yard (the front yard) is defined as that yard area of the Private Yard of an apartment located between the front of the garage and the road that is a portion on the project. All units except for Unit 147 have a front yard. Notwithstanding any of the provisions of Section 2 above, in the sole discretion of the Board, the front yard of one or more units may be planted and cultivated and landscaped and maintained exclusively by the Association at the expense of the owner of the unit for the exclusive benefit of the unit owner. The cost incurred by the Association under this section shall be secured by a lien on the unit.

Section 4. Damage to Common Elements. Every unit owner and occupant shall reimburse the Association promptly on demand 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 occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered; and any such cost shall be secured by a lien on the unit of such an owner.

Section 5. Restrictions on Use of Project.

(a) Use of Apartment. The units shall be used only for residential purposes as more particularly set forth in the Declaration.

(b) Use of Common Elements. All common elements of the project shall be used only for their respective purposes as designed. No unit owner or occupant shall plant or cultivate or landscape the common elements or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(c) Design Control. There shall be strict compliance with the terms and conditions of Article VII of these Bylaws entitled "Design Control".

(d) Design Committee. The construction of improvements within a Private Yard and the landscaping of a Private Yard are subject to the prior written approval of the Design Committee. The unit owner shall be responsible to obtain all required governmental approvals.

(e) Installation of Wiring and Fixtures. No unit owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof. The Board can designate acceptable machines and only designated machinery and air conditioning units and other appliances may be installed or used. Any machinery including air conditioning units shall always be maintained properly to insure quiet performance. The Board can require the removal of any machinery that makes noise which may disturb the occupants of any other unit. This paragraph shall not be applicable to installations and work done by the Developer.

(f) Insurance Rates. Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the

cancellation or invalidation of any insurance thereon maintained by or for the Association.

(g) Signs. No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within the Project except:

- (i) Such signs as may be required by legal proceedings;
- (ii) Unit identification signs of a combined total face area of one square foot or less for each resident;
- (iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated;
- (iv) Signs installed by the developer;
- (v) Found necessary by Board of Directors or the Association.

(h) Repainting and Reroofing. All painting and repainting of exterior surfaces and reroofing of a unit must have the prior written approval of the Design Committee.

(i) Private Streets/Parking. The private streets within the Project shall not be used to park a vehicle, except the Board may allow temporary parking on one side of a street. Except for the foregoing limitations, the Board has the absolute power to regulate the use of the private roads, including without limitation, the regulation of traffic and parking. The adjoining property owner, Daitoh (Hawaii), Inc., its successors and assigns, has the right to maintain a center stripping within the road area over which it has an access easement. The section can be amended only with the prior written consent of Daitoh (Hawaii), Inc., its successor and assigns because of the terms and conditions of that certain document entitled "Partial Surrender Of Easement For Roadway And Utility Purposes And Grant Of Easement For Roadway And Utility Purposes" recorded in the Bureau of Conveyances at Honolulu, Hawaii as Document No. 92-105466.

(j) Use of Garages. Garage doors shall normally be in the closed position and only opened for short periods of time for entry and departure. No garage shall be used in a manner inconsistent to the use of same for other than the parking of

vehicles and boats. A garage shall not be used as a living area and no person shall be permitted to occupy a garage for purposes of sleeping.

(k) Drainage Patterns. Each unit owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his/her Private Yard.

(l) Swales - Ditches - Drains. Each unit owner shall: Keep all swales ditches, subdrains, and other drainageways on his/her Private Yard free of debris, open and in good and operating condition; divert the water from any eave, gutter or downspout on his/her unit well away from the foundations of the building and other improvements on the Private Yard and on adjoining properties; refrain from excessive watering of landscaping near or next to any building foundation within a Private Yard or on any adjoining property; maintain the earth in his/her Private Yard such that it slopes and drains away from the foundation of the building and other improvements on the Private Yard and on the adjoining properties, and this includes filling in any depressions and refraining from creating any depressions, including "planter areas," in the earth near or next to any foundation; and shall maintain, by sealing and caulking, all joints and any cracks in exterior concrete work on the improvements within his/her Private Yard, 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.

(m) Pets. Livestock, poultry, rabbits or other animals shall not be allowed or kept in any part of the property; except that dogs, cats and other household pets may be kept by Residents in reasonable numbers in their respective units and Private Yards, but shall not be kept, bred or used therein for any commercial purpose nor allowed on the Common Areas except in transit, when carried, or on a leash. Pets causing a nuisance or an unreasonable disturbance shall be permanently removed from the Project promptly upon notice given to the Resident by the Board of Directors or Managing Agent. Financial and all other responsibilities for any personal property damage caused to any Resident, guest, employee of the Project, or to any member of the public, shall be that of the pet owner and/or Resident and not that of the Association. It is the responsibility of the pet owner to remove their pet's litter from their Private Yard and/or the Common Areas. Litter is to be wrapped securely and disposed of in the trash. The Board of Directors has the authority to levy special assessments for damage done to Common Areas by pets and for removal of pet litter. All pets must be registered immediately with the Managing Agent.

Section 6. Guide Dogs, Signal Dogs, Etc. Certified guide dogs, signal dogs, or other animals upon which disabled or handicapped owners, occupants or guests depend for assistance shall be permitted to be kept by such owners, occupants and guests in their 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. If such a certified guide dog, signal dog or other animal causes a nuisance or unreasonable disturbance of 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 ejection of the animal from the Project. Ejection will be required only if the Board of Directors 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 guest.

Section 7. House Rules. The Developer may adopt initial House Rules for the Project. The Board, upon giving notice to all unit owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any initial or supplemental House Rules governing details of the operation and use of the common elements. Any such House Rules shall not be inconsistent with any provisions of applicable law, the Declaration or these Bylaws. All apartment owners and occupants, as well as their tenants, invitees and employees, shall be subject to and must abide by said House Rules.

ARTICLE VII

DESIGN CONTROL

Section 1. Appointment of Design Committee. Until the Association is formed, the Developer may act as the Design Committee or may, in the alternative, appoint a Design Committee. After the formation of the Association, the Board of Directors may act as the Design Committee, or may appoint a Design

Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The Board may provide that the members of the Design Committee shall be entitled to compensation for services performed pursuant to these Bylaws. The members of this Committee may but need not be unit owners or members of the Board of Directors.

Section 2. Guidelines. The Developer (until the Association is formed) and the Design Committee in their discretion, may promulgate, from time to time, guidelines or standards as to landscaping, painting, installation of the rain gutters, the construction of improvements, fences, walls and as to drainage patterns.

Section 3. Approval of Design. No work by a unit owner on any building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition to a unit or change or alteration therein, including patio covers and antennas, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Design Committee as to harmony of external design and location in relation to surrounding structures and topography.

Section 4. Approval of Landscaping. No trees, bushes, shrubs, ground cover or plants (plant material) shall be placed in the ground until the type of plant material and the plans and specifications for the placement of the plant material and landscaping material have been submitted to and approved in writing by the Design Committee. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, and approval of the Design Committee may be withheld if in the opinion of the Design Committee the proposed landscaping is not in harmony with the surrounding and adjoining land areas of the Project. In addition, the Design Committee shall have the right to require any owner to remove, trim, top, or prune any tree or shrub, which in the reasonable belief of the Design Committee impedes or detracts or adversely affects the harmony of the Project.

Note. Fences, walls, plant material and landscaping can cause drainage problems. Reference is made to the special provisions set forth in the Declaration of Condominium Property Regime and to the special provisions of the Bylaws in Article VI of these Bylaws relating to drainage and drainage patterns.

Section 5. Trees. Developer may plant one or more trees in the private yard of one or more units. Each unit owner agrees: (i) to use his/her best efforts to maintain and promote

the growth, health, good appearance and safe character of such trees; (ii) in the event any of such trees is seriously damaged or otherwise fails to survive for any reason (a "damaged tree"), to promptly replace such damaged tree with a similar, healthy tree as approved by the Design Committee; and (iii) further agrees to not replace, remove or relocate such trees (other than Damaged Trees) without first obtaining the written approval of the Design Committee.

Section 6. Design Control. If any landscaping is done or if any structure shall be altered, erected, placed or maintained within the Project (excluding any construction of improvements by Developer) which is not in accordance with plans and specifications approved by the Design Committee, such alteration, erection and maintenance shall be deemed to have been undertaken in violation of these Bylaws and without the approval required therein, and the Board can require that the owner remedy any violation. Failure to complete any approved work within a reasonable period of time shall cause such approval to be automatically withdrawn, unless, upon request, the Design Committee extends such approval in writing. After any such automatic withdrawal of approval, the structure being constructed or altered shall not then or thereafter be occupied or permitted to remain on any Private Yard for a period longer than thirty (30) days.

Section 7. Design Fee. The Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to this Article VII, payable at the time such plans and specifications are so submitted. The amount of such fee shall not exceed the cost of making such examination, including the cost of any architect's or engineer's fees incurred in connection therewith by the Committee.

Section 8. Waiver. The approval of the Design Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of said Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, drawings, specifications or other matters subsequently submitted for approval.

Section 9. Nonliability for Approval of Plans. The approval of any plans, drawings and specifications shall not be deemed approval of engineering design, and by approving such plans and specifications neither the Design Committee, the members thereof, the Association, the Board nor Developer assumes any liability or responsibility for any defect whatsoever in any

structure constructed from such plans and specifications. The unit owner is responsible to obtain all governmental approvals.

Section 10. Consents. The Design Committee is required to communicate within sixty (60) days of any submittal. In the event that the Design Committee fails to approve or disapprove a unit owner's request within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VIII

MORTGAGES

Section 1. Notice to Board. A unit owner who mortgages his/her interest in a unit shall notify the Board through the Managing Agent of the name and address of such mortgagee and also of the release of such mortgage. The Board or its designee shall maintain such information in its record of ownership of the Association.

Section 2. Copies of Documents. The Association shall have current copies of the Declaration, the Bylaws, and other rules concerning the Project as well as its own books, records and financial statements available for inspection by holders, insurers, and guarantors of the first mortgages that are secured by units in the project. These documents shall be available during normal business hours.

Section 3. Notice of Unpaid Common Expenses. The Board, through the Managing Agent, whenever so requested in writing by a mortgagee of an interest in a unit, shall promptly report any then unpaid assessments due from the owner of the unit involved.

Section 4. Notice of Default. When giving notice to a unit owner of a default in paying common expenses or other default, the Board of Directors shall send a copy of such notice to each holder and insurer of a mortgage covering any interest in such unit whose name and address has previously been furnished to the Board.

Section 5. Additional Notices to Mortgagees. A holder or insurer or guarantor of a first mortgage, upon written request to the Association (such request to state the name and address of such holder or insurer and the apartment number), will be entitled to:

(a) Timely written notice of any proposed amendment to the Declaration or these By-Laws effecting a change in (1) the boundaries of a unit, (2) the common interest appertaining to the unit, or (3) the purposes to which the unit, the limited common elements appurtenant thereto or the common elements are restricted;

(b) Prior written notice of any proposed termination of the Condominium Property Regime;

(c) Timely written notice of any sixty (60) day delinquency in the payment of assessments or charges payable to the Association by the owner of a unit on which it holds a mortgage;

(d) Timely notice of a lapse, cancellation, or material modification of any insurance policy maintained by the Association;

(e) Prior written notice of any actual or threatened condemnation or eminent domain proceedings affecting the Project or any portion thereof;

(f) Timely written notice of any significant damage or destruction to the common elements or a casualty loss affecting the unit on which there is a first mortgage held or insured by the party requesting notice;

(g) A copy of all pleadings recorded in any lawsuit, administrative proceeding or other action affecting the Project or any portion thereof excluding, however, judicial foreclosures of liens for common expenses in favor of the Association and any foreclosures of mortgages in which the Association is a named party;

(h) Prior written notice of any proposal to subdivide, encumber, sell or transfer all or part of the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause); and

(i) Timely written notice of all meetings of the Association. Said holder or insurer of a first mortgage shall be permitted to designate a representative to attend all such meetings.

Section 6. Mortgagee Protection. Notwithstanding all other provisions hereof:

(a) The liens by these By-Laws upon any unit shall be subject and subordinate to, and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interests made for value, which was recorded prior to the recordation of a notice of a lien by the Association. After the foreclosure of any such mortgage, there shall be a lien upon the interests of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed to such apartment if falling due after the date of such foreclosure sale, and such purchaser's pro rata share of unpaid assessments falling due before the conveyance to the purchaser.

(b) No amendment to this Section 7 shall affect the rights of the holder of any such mortgage which has been duly recorded prior to the recordation of such amendment, who does not join in the execution thereof.

ARTICLE IX

MISCELLANEOUS

Section 1. Amendments. Except as otherwise herein provided, these Bylaws may be amended in any respect consistent with law or the Declaration by affirmative vote of sixty-five percent (65%) of all unit owners at any meeting of the Association duly called for such purpose or by written consent of sixty-five percent (65%) of all unit owners, and shall be effective only upon the recording in the Bureau of an instrument setting forth such amendment duly executed by two (2) officers of the Association; provided that each one of the particulars set forth in Section 514A-82 of the Act shall be embodied in these Bylaws always. Any proposed amendment to these Bylaws with the rationale for such proposal may be submitted by the Board or by a volunteer unit owners' committee. If submitted by a volunteer unit owners' committee, any proposed amendment to these Bylaws with the rationale for the proposal shall be accompanied by a petition signed by not less than twenty-five percent (25%) of the unit owners whose names appear on the Association's list of members. The proposed amendments to these Bylaws, the rationale, and the ballots for voting on such amendments shall be mailed by the Board to the unit owners at the common expense of the Association for vote or written consent without change within thirty (30) days of the receipt of the petition by the Board. The vote or written consent required to adopt the proposed amendments to these Bylaws shall be sixty-five percent (65%) of all unit owners; provided that the vote or written consent must

be obtained within one hundred twenty (120) days after mailing. In the event that the proposed amendments to these Bylaws are duly adopted, then the Board shall cause the amendments to these Bylaws to be recorded in the Bureau set forth in a document executed by two (2) officers of the Association. The volunteer unit owners' committee shall be precluded from submitting a petition for proposed amendments to these Bylaws which are substantially similar to those which have been previously mailed to the unit owners within one (1) year after the original petition was submitted to the Board. This Section shall not preclude any unit owner or voluntary apartment owners' committee from proposing any amendment to these Bylaws at any annual meeting of the Association.

Section 2. Mediation/Arbitration of Disputes Concerning the Act, the Declaration, these Bylaws or the Rules and Regulations. If a dispute arises concerning or involving one or more unit owners and the Association, the Board, the managing agent or the other unit owners relating to the interpretation, application or enforcement of the Condominium Property Act ("Act") or the Declaration, these Bylaws or the Rules and Regulations adopted by the Board, the parties involved in such dispute shall first try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, at the request of any party, any remaining unresolved controversy, shall be submitted to arbitration as provided by Section 514A-121 of the Act. Nothing in this paragraph shall be interpreted to require the arbitration of any dispute which is either exempt from arbitration pursuant to Section 514A-121 of the Act or determined to be unsuitable for arbitration pursuant to Section 514A-122 of the Act.

Section 3. Membership List. The resident manager or managing agent or Board of Directors shall keep an accurate and current list of members of the Association and their current addresses, the names and addresses of the vendees of any unit under an agreement of sale, if any, and the names and addresses of unit mortgagees, if any. The list shall be maintained at a place designated by the Board of Directors, and a copy shall be available, at cost, to any unit owner, provided the unit owner furnishes to the resident manager or managing agent or Board of Directors a duly executed and acknowledged affidavit stating that the list (a) will be used by such Owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to Association matters and (b) shall not be used by such Owner or furnished to anyone else for any other purpose.

Each owner shall promptly record the unit deed or other conveyance to him of his unit, and any mortgage of his interest in his unit, and file a copy of such documents with the Board of Directors. Each vendor of a unit under an agreement of sale shall promptly record the agreement of sale and file a copy of such document with the Board of Directors. Each unit owner, vendor, vendee and unit mortgagee shall promptly notify the Board of Directors of any changes in his or its address.

Section 4. Liability and Indemnification of Directors and Officers and Members of Committees. The Directors and officers and members of the Design Committee established by Article VII of these Bylaws and all members of any committee established under the provisions of these Bylaws (herein collectively referred to as "representative of the Association") shall be free from all personal liability for any acts done on behalf of the Association and for any losses incurred by the Association or the unit owners unless the same shall have occurred through gross negligence or willful misconduct of the representative of the Association. The Association shall indemnify each representative of the Association, and the respective heirs, devisees and personal representatives of such representative of the Association, against all costs, expenses and liabilities, including legal fees, all of which shall constitute common expenses, incurred by or imposed upon such representative of the Association in connection with any claim, suit, proceeding or investigation of whatever nature in which such representative of the Association may be made a part because such representative of the Association is or was a representative of the Association, except for any such matter as to which such representative of the Association shall be finally adjudged to be liable for gross negligence or wilful misconduct; but, in the absence of any such final adjudication, indemnification shall be provided only if the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right to indemnification shall not be exclusive of any other rights to which such person may be entitled. The Board may procure such policy or policies of insurance as it shall deem appropriate to provide for the indemnification set forth above and the cost of such insurance shall be deemed a common expense.

Section 5. Incorporation. The Association may incorporate the Association as a non-profit corporation. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit, membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth. Said corporation may be formed by the Developer and shall be formed upon the written approval of a majority of unit owners. The formation of said

corporation shall in no way alter the terms, covenants and conditions herein set forth and the Articles and Bylaws of said corporation shall be subordinated to these Bylaws. Any action taken by said corporation which is in violation of any or all of the terms, covenants or conditions contained herein shall be void and of no effect.

Section 6. Rules of Order. All meetings of the Association and all meetings of the Board of Directors shall be conducted in accordance with the most current edition of Robert's Rules of Order.

Section 7. Restrictions on Employees. An employee of the Association shall not engage in selling or renting units within the Project, other than a unit(s) owned by said employee.

Section 8. Notices. All notices hereunder to the Board of Directors shall be mailed to the Board of Directors care of the Managing Agent or such other address as the Board of Directors may hereafter designate from time to time, by notice in writing to all owners and to all mortgagees of units. All notices to any owner shall be mailed to the owner's unit or to such other address as may have been designated by him/her from time to time, in writing, to the Board of Directors. All notices to mortgagees of units shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Board of Directors. 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 Bylaws, or the intent of any provisions thereof.

Section 10. Pronouns/Gender. All pronouns shall include the male, female and neuter genders. The use of any gender in these Bylaws shall be deemed to include either or both of the other genders and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 11. Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board, or the breach of any provision of these Bylaws, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws, 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 apartment owner, unless these Bylaws otherwise provide.

Section 12. Waiver. No term, covenant, condition, restriction, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur. 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 an owner under these Bylaws 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 a 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 resolution of the Board.

Section 13. Interpretation. The provisions of these Bylaws 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 maintenance of the Project as a mutually beneficial and efficient establishment.

Section 14. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or enforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

Section 15. Subordination. These Bylaws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, in effect on the date hereof, which shall control in case of conflict. All terms herein (except where clearly repugnant to the content) shall have the same meaning as in the Declaration or Condominium Property Act.

Section 16. Application. All present and future unit owners, mortgagees, tenants and occupants of units and their employees, and any other persons who may use the Project in any manner are subject to these Bylaws and the Declaration. The acceptance of conveyance or the entering into of a lease for a

unit or the act of occupancy of an apartment shall constitute an agreement that these Bylaws and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

ADOPTION

The foregoing Bylaws are hereby adopted as the Bylaws of the Association of Home Owners of The Crowne at Wailuna, Phase I, this 27th day of *May*, 1994.

CASTLE & COOKE HOMES HAWAII, INC.

By *Wallace Miyahira*
Its PRESIDENT WALLACE MIYAHIRA

By *B. Garcia*
Its CONTROLLER B. GARCIA
"Developer"

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

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) SS.
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On this 27th day of May, 1994, before me appeared WALLACE MIYAHIRA and B. GARCIA to me personally known, who, being by me duly sworn, did say that they are the PRESIDENT and CONTROLLER of CASTLE & COOKE HOMES HAWAII, INC., a Hawaii corporation, and that the instrument was signed in behalf of the corporation by authority of its Board of Directors, and WALLACE MIYAHIRA and B. GARCIA acknowledged the instrument to be the free act and deed of the corporation.

Cynthia Kadelhaus
 Notary Public, State of Hawaii

My commission expires: 3/22/98