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STATE OF HAWAII  
(BUREAU OF CONVEYANCES)

THE ORIGINAL OF THIS DOCUMENT WAS  
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DOCUMENT NO: Doc T - 11916209  
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LAND COURT SYSTEM	REGULAR SYSTEM
AFTER RECORDATION, RETURN TO:	BY: MAIL <input type="checkbox"/> PICKUP <input checked="" type="checkbox"/>

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Total pages: 74

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Tax Map Key: (1) 2-3-006-004

Condominium Map No.: 1227  
(Land Court)

**AMENDMENT AND RESTATEMENT OF DECLARATION OF CONDOMINIUM PROPERTY  
REGIME OF HAWAII TOWER**

WHEREAS, by Declaration of Condominium Property Regime of Hawaiki Tower (the "Declaration") dated December 19, 1997, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2428170 and **noted on the Certificates of Title shown on the attached Exhibit "1"**, the property described in the Declaration was submitted to the provisions of the Condominium Property Act, Chapter 514A, Hawai'i Revised Statutes, (now Chapter 514B, Hawai'i Revised Statutes), as amended<sup>1</sup>; and

WHEREAS, simultaneously with the recording of the Declaration and the By-Laws of the Association of Apartment Owners of Hawaiki Tower, Declarant also recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Condominium Map No. 1227 plans describing the improvements to the project;

WHEREAS, the Declaration was amended by instruments dated March 10, 1998, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2442735; dated March 29, 1999, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2542893; dated June 15, 2000, recorded in the Office of the Assistant Registrar of the Land Court of the State of

Hawai'i as Land Court Document No. 2634577; and dated November 26, 2007, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 3698590; and

WHEREAS, the By-Laws were amended by instrument dated March 10, 1998, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2442736; and

WHEREAS, the Association was incorporated under Chapter 415B, Hawaii Revised Statutes, as the Association of Apartment Owners of Hawaiki Tower, Inc.; and

WHEREAS, pursuant to HRS Section 514B-32(a)(11), owners of at least sixty-seven percent (67%) of the common interest of Hawaiki Tower approved amending Paragraph I.4 of the Declaration, to read as provided herein;

WHEREAS, Section 514B-109, Hawai'i Revised Statutes, as amended, empowers the Board of Directors of the Association established by the Bylaws to restate the Declaration to include any amendments to it and to conform it to the provisions of Chapter 514B and any other statute, ordinance, rule, or regulation enacted by any governmental authority, by a resolution adopted by the Board of Directors; and

WHEREAS, at a meeting duly held on May 24, 2021, the Board of Directors resolved to restate the Declaration in accordance with Section 514B-109, Hawai'i Revised Statutes, as amended.

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

**AMENDMENT AND RESTATEMENT OF DECLARATION OF  
CONDOMINIUM PROPERTY REGIME  
OF HAWAII TOWER**

**TABLE OF CONTENTS**

<b>A.</b>	<b>NAME OF PROJECT AND DESCRIPTION OF LAND.....</b>	<b>5</b>
<b>B.</b>	<b>DEFINITIONS.....</b>	<b>5</b>
<b>C.</b>	<b>DESCRIPTION OF THE PROJECT. ....</b>	<b>6</b>
<b>D.</b>	<b>DIVISION OF PROPERTY. ....</b>	<b>9</b>
<b>E.</b>	<b>COMMON INTEREST.....</b>	<b>13</b>
<b>F.</b>	<b>EASEMENTS.....</b>	<b>13</b>
<b>G.</b>	<b>ALTERATION AND TRANSFER OF INTERESTS.....</b>	<b>18</b>
<b>H.</b>	<b>USE.....</b>	<b>18</b>
<b>I.</b>	<b>ADMINISTRATION OF PROJECT.....</b>	<b>19</b>
<b>J.</b>	<b>MANAGING AGENT SERVICE OF LEGAL PROCESS.....</b>	<b>20</b>
<b>K.</b>	<b>COMMON EXPENSES .....</b>	<b>20</b>
<b>L.</b>	<b>COMPLIANCE WITH DECLARATION AND BY-LAWS.....</b>	<b>23</b>
<b>M.</b>	<b>INSURANCE.....</b>	<b>23</b>
<b>N.</b>	<b>INSURED DAMAGE OR DESTRUCTION.....</b>	<b>26</b>
<b>O.</b>	<b>CONDEMNATION.....</b>	<b>28</b>
<b>P.</b>	<b>UNINSURED CASUALTY; PARTIAL RESTORATION; DETERMINATION AGAINST RESTORATION.....</b>	<b>29</b>
<b>Q.</b>	<b>ALTERATION OF PROJECT.....</b>	<b>30</b>
<b>R.</b>	<b>AMENDMENT OF DECLARATION. ....</b>	<b>32</b>
<b>S.</b>	<b>RESERVATION TO MERGE PROJECTS AND RESERVED RIGHTS CONCERNING DEVELOPMENT OF SUBSEQUENT PROJECTS. ....</b>	<b>34</b>
<b>T.</b>	<b>RESERVED.....</b>	<b>34</b>

U. OWNERS MAY INCORPORATE .....34

V. NON-LIABILITY OF FEE OWNER.....35

W. PLANNED DEVELOPMENT AGREEMENT AND HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY’S DISTRICT-WIDE IMPROVEMENT DISTRICT ASSESSMENT  
PROGRAM.....35

X. INTERPRETATION AND CAPTIONS .....35

Y. WAIVER.....35

Z. GOVERNING LAW. ....36

**A. NAME OF PROJECT AND DESCRIPTION OF LAND.**

The Condominium Property Regime established hereby shall be known as "HAWAIIKI TOWER." All of the land is hereby submitted to the condominium property regime.

**B. DEFINITIONS.**

The terms used herein shall have the meanings given to them in the Condominium Property Act (the "Act"), except as otherwise expressly provided herein. Unless clearly repugnant to the context, the following terms, whenever used in this Declaration, shall be given the following meanings:

1. "Unit<sup>2</sup>" means the units in the Project, within the meaning of that term as used in the Act, as designated and described in this Declaration.
2. "Unit owner" or "owner" means a person owning, or the persons owning jointly or in common, a unit and the common interest appertaining thereto, to the extent of such ownership; provided that the purchaser of a unit pursuant to an agreement of sale filed as aforesaid shall have all the rights of a unit owner, including the right to vote, provided that the seller may retain the right to vote on "matters substantially affecting the seller's security interest in the unit" as that term is used in the Act.
3. "Association" means the Association of Apartment Owners of Hawaii Tower whose members consist of all owners of units in the Project.
4. "Board of Directors" or "Board" means the Board of Directors of the Association.
5. "By-Laws" means the By-Laws of the Association filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii contemporaneously herewith, as amended from time to time.
6. "Common elements" means those portions of the Project designated in this Declaration as common elements, including limited common elements.
7. "Common expenses" includes the expenses, costs and charges designated as common expenses in Paragraph K hereinbelow and all other expenses, costs and charges designated as common expense in this Declaration or in the By-Laws.
8. "Common interest" or "common interests" means the undivided percentage interest in the common elements appurtenant to each unit in the Project, as described in Paragraph E hereinbelow.
9. "Condominium Map" means the plans and elevations for the Project which have been filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Condominium Map No. 1227 as amended from time to time.

10. "Declaration" means this instrument, as amended from time to time in the manner herein provided.

11. "Developer" means Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, its successors and assigns.

12. "Fee Owner" means Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, its successors and assigns.

13. "Land" means the real property described in Exhibit A attached hereto.<sup>3</sup>

14. "Limited common elements" means those portions of the common elements designated in Paragraph D, Section 3 hereinbelow as limited common elements.

15. "Limited common expenses" includes the expenses, costs and charges designated as limited common expenses in Paragraph K hereinbelow and all other expenses, costs, and charges designated as limited common expenses in this Declaration or in the By-Laws.

16. "Majority of unit owners" means the owners of units to which are appurtenant more than fifty percent (50%) of the common interests.

17. "Managing Agent" means the agent, if any, employed by the Board of Directors or the Developer pursuant to Paragraph J hereinbelow.

18. Any specified "percentage of the unit owners" means the owners of units to which are appurtenant such specified percentage of the common interests.

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

### **C. DESCRIPTION OF THE PROJECT.**

The Project is constructed principally of concrete, hollow tile, wood, aluminum, glass and steel. The Project shall contain a six-level platform (hereinafter referred to as the "Platform"), which will be located adjacent to a forty-seven-level building (hereinafter referred to as the "Tower") as shown on the Condominium Map, and shall contain four hundred seventeen (417) residential units, eight (8) commercial units and two (2) retail units.

#### **1. The Platform.**

(a) Level 1. Level I of the Platform will include one (1) parking entry from/exit to Piikoi Street, one (1) parking ramp, one hundred five (105) standard-size covered parking stalls, eleven (11) compact-size covered parking stalls, one (1) standard-size tandem covered parking stall, eight (8) compact-size tandem covered parking stalls, two (2) handicap covered parking stalls, four (4) stairways, two (2) fan rooms, and two (2) storage rooms, as shown on the Condominium Map.<sup>4</sup>

(b) Level 2. Level 2 of the Platform will include one (1) parking ramp, one hundred twenty-five (125) standard-size covered parking stalls, ten (10) compact-size covered parking stalls, one (1) standard size tandem covered parking stall, two (2) compact-size tandem covered parking stalls, one (1) handicap covered parking stall, two (2) stairways, two (2) fan rooms, and two (2) storage rooms, as shown on the Condominium Map.

(c) Level 3. Level 3 of the Platform will include one (1) parking ramp, one hundred twenty (120) standard-size covered parking stalls, ten (10) compact-sized covered parking stalls, one (1) standard-size tandem covered parking stall, one (1) compact-size tandem covered parking stall, two (2) handicap covered parking stalls, two (2) stairways, two (2) fan rooms, and three (3) storage rooms, as shown on the Condominium Map.

(d) Level 4. Level 4 of the Platform will include one (1) parking ramp, one hundred sixteen (116) standard-size covered parking stalls, six (6) compact-size covered parking stalls, four (4) standard-size tandem covered parking stalls, four (4) compact-size tandem covered parking stalls, two (2) handicap covered parking stalls, two (2) stairways, two (2) fan rooms, and five (5) storage rooms, as shown on the Condominium Map.<sup>5</sup>

(e) Level 5. Level 5 of the Platform will include one (1) parking ramp, one hundred fourteen (114) standard-size covered parking stalls, four (4) compact-size covered parking stalls, three (3) standard-size tandem covered parking stalls, thirteen (13) compact-size tandem covered parking stalls, two (2) handicap covered parking stalls, two (2) stairways, two (2) fan rooms, six (6) storage rooms, and two (2) pool equipment rooms, as shown on the Condominium Map.<sup>6</sup>

(f) Level 6. Level 6 of the Platform will include one (1) lap pool, one (1) swimming pool, one (1) whirlpool spa, one (1) outdoor shower, one (1) walkway to the Nauru Tower parking structure, on landscaped deck, one (1) tennis court, one (1) pedestrian ramp, and two (2) stairways, as shown on the Condominium Map.

## 2. The Tower.

(a) Level 1. Level 1 of the Tower will include the main portion of Retail Unit No. 1, one (1) parking ramp, three (3) pedestrian ramps, eighteen (18) standard-size covered parking stalls, three (3) compact-size covered parking stalls, ten (10) standard-size tandem covered parking stalls, twenty-seven (27) compact-size tandem covered parking stalls, one (1) handicap covered parking stall, one (1) handicap tandem uncovered parking stall, one compact-size tandem uncovered parking stall, one (1) compact-size uncovered parking stall, five (5) loading zone uncovered parking stalls, five (5) stairways, two (2) fan rooms, five (5) storage rooms, one (1) Hawaiian Electric Company vault room, one (1) fire control room, one (1) main electrical room, one (1) generator room, one (1) mechanical equipment room, one (1) fire pump room, one (1) engineer's office, one (1) loading dock, one (1) loading area, one (1) cooling tower, and one (1) fuel tank, as shown on the Condominium Map.<sup>7</sup>

(b) Level 2. Level 2 of the Tower will include Retail Unit #2, a portion of Retail Unit #1, one (1) parking ramp, four (4) pedestrian ramps, twenty (20) standard-size covered parking stalls, two (2) compact-size covered parking stalls, eighteen (18) standard-size tandem

covered parking stalls, seventeen (17) compact-size tandem covered parking stalls, (1) handicap covered parking stall, four (4) elevators, eight (8) stairways, two (2) fan rooms, two (2) storage rooms, two (2) trash rooms, one (1) employee room, one (1) set of men's and women's restrooms, one (1) janitor's room, one (1) maintenance manager's office, two (2) mechanical rooms, one (1) telephone room, and one (1) cable television room, as shown on the Condominium Map.

(c) Level 3. Level 3 of the Tower will include two (2) commercial units, one (1) pedestrian ramp connecting the makai end of the Tower with the third level of the Platform, one (1) parking ramp, one (1) additional pedestrian ramp, eight (8) standard-size uncovered parking stalls, three (3) compact-size uncovered parking stalls, two (2) handicap uncovered parking stalls, one (1) set of men's and women's restrooms, one (1) janitor's room, six (6) elevators, four (4) stairways, two (2) trash rooms, one (1) main lobby area, one (1) manager's office and reception office, one (1) conference room, one (1) security room, one (1) mail room, one (1) porte cochere, and three (3) landscaped gardens, as shown on the Condominium Map.<sup>8</sup>

(d) Level 4. Level 4 of the Tower will include five (5) commercial units, one (1) pedestrian ramp connecting the makai end of the Tower with the fifth level of the Platform, one (1) pedestrian bridge connecting the makai and mauka ends of the Tower, six (6) elevators, three (3) stairways, and two (2) trash rooms, as shown on the Condominium Map.

(e) Level 5. Level 5 of the Tower will include five (5) residential units, one (1) pedestrian ramp connecting the makai end of the Tower to the sixth level of the Platform, one (1) pedestrian bridge connecting the makai and mauka ends of the Tower, one (1) set of men's and women's restrooms, one (1) janitor's room, one (1) electrical room, six (6) elevators, three (3) stairways, and two (2) trash rooms, as shown on the Condominium Map.

(f) Levels 6, 7, 11-17 and 20-34. Each of Levels 6, 7, 11-17, and 20-34 of the Tower will include eleven (11) residential units, six (6) elevators, two (2) stairways, two (2) trash rooms, two (2) electrical rooms, and two (2) mechanical rooms, as shown on the Condominium Map.

(g) Levels 8, 9, 10, 18 and 19. Each of Levels 8, 9, 10, 18 and 19 of the Tower will include ten (10) residential units, six (6) elevators, two (2) stairways, two (2) trash rooms, two (2) electrical rooms, and two (2) mechanical rooms, as shown on the Condominium Map.

(h) Level 35. Level 35 of the Tower will include nine (9) residential units, six (6) elevators, two (2) stairways, two (2) trash rooms, two (2) electrical rooms, two (2) mechanical rooms, and one (1) raised exterior lanai (accessible from Level 36 only), as shown on the Condominium Map.

(i) Level 36. Level 36 of the Tower will include nine (9) residential units, six (6) elevators, four (4) stairways, two (2) trash rooms, two (2) electrical rooms, and (2) mechanical rooms, as shown on the Condominium Map.

(j) Levels 37-44. Each of Levels 37-44 of the Tower will include nine (9) residential units, six (6) elevators, two (2) stairways, two (2) trash rooms, two (2) electrical rooms, and two (2) mechanical rooms, as shown on the Condominium Map.



(k) Level 45. Level 45 of the Tower will include the first level of eight (8) 2-level residential penthouse units, six (6) elevators, two (2) stairways, and two (2) trash rooms, as shown on the Condominium Map.

(l) Level 46. Level 46 of the Tower will include the second level of eight (8) 2-level residential penthouse units, two (2) storage rooms, and two (2) stairways, as shown on the Condominium Map.

(m) Level 47. Level 47 of the Tower will include two (2) stairways, and two (2) elevator machine rooms, as shown on the Condominium Map.

#### **D. DIVISION OF PROPERTY.**

The Project is hereby divided into the following separate freehold estates:

1. Units. There are hereby established in the Project four Hundred seventeen (417) residential units, seven (7) commercial units and two (2) retail units for a total of four hundred twenty-six (426) units as designated and shown on the Condominium Map.<sup>9</sup>

(a) Residential Units. Each residential unit consists of the spaces within the perimeter and party walls, windows, doors, floors and ceiling of the respective residential units as shown on the Condominium Map.

(i) Floor Plans and Location of Residential Units. The residential units are constructed according to thirty-seven (37) different floor plans. A description of each of the floor plans for the residential units is set forth in Exhibit B attached hereto and for every purpose made a part hereof.<sup>10</sup>

Each residential unit is numbered and located in the manner shown on the condominium Map.

Each residential unit will have the number of rooms (exclusive of lanai), approximate net living floor area in square feet (exclusive of lanai) and approximate net lanai floor area in square feet as set forth in Exhibit C attached hereto and for every purpose made a part hereof.<sup>11</sup>

The approximate net living floor areas set forth in Exhibit C are based on measurements taken from the interior surface of all perimeter walls, except that no reduction has been made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls. All approximate net lanai floor areas set forth in Exhibit C are based on measurements taken from the interior surface of all perimeter walls which do not separate the interior of the residential units from the lanais, from the exterior surface of all perimeter walls which separate the interior of the residential units from the lanais, and from the interior edge of the exterior railings or other boundaries of the lanais. All floor areas set forth in Exhibit C are not exact but are approximations based on the floor plans of each type of residential unit.

(ii) Access to Common Elements. Each of the residential units shall have immediate access to the corridors, stairways, and/or elevators of the Tower which lead to the lobby areas and all other common elements of the Project.

(iii) Limits of Residential Units. Notwithstanding the floor areas set forth in Exhibit C and the manner in which such floor areas have been measured, the respective residential units shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, supports, floors and ceilings surrounding each residential unit or any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust, or air conditioning running through or otherwise located within such unit which are utilized for or serve more than one residential unit, the same being deemed common elements as hereinafter provided. Each residential unit shall be deemed to include all of the walls and partitions which are not load-bearing and which are within its perimeter or party walls; all movable lanai doors and their door frames, louvers (if any), and shutters (if any); the inner decorated or finished surfaces of all walls, panels, windows and window frames, doors (except movable lanai doors) and their door frames, floors and ceilings; the lanais shown on the Condominium Map to the inner decorated or finished surfaces of the exterior perimeter walls of such lanais and to the exterior edge of the exterior railings or other boundaries of such lanais; and all fixtures originally installed therein.

(b) Commercial Units. Each commercial unit consists of the spaces within the perimeter and party walls, windows, doors, floors and ceiling of the respective commercial unit as shown on the Condominium Map. A description of each of the commercial units is set forth in Exhibit B attached hereto and for every purpose made a part hereof.

Each commercial unit is numbered and located in the manner shown on the Condominium Map.

Each commercial unit will have the approximate net floor area in square feet set forth in Exhibit C. The approximate net floor areas set forth in Exhibit C are based on measurements taken from the interior surface of all perimeter walls except that no reduction has been made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls. The floor areas set forth in Exhibit C are not exact but are approximations based on the floor plans of each type of commercial unit.

(i) Access to Common Elements. Each of the commercial units will have immediate access to the walkways, corridors, stairways, and/or elevators which lead to the lobby areas and other common elements of the Project.

(ii) Limits of Commercial Units. Notwithstanding the floor areas set forth in Exhibit C and the manner in which the manner in which such floor areas have been measured, the respective commercial units shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, supports, floors and ceilings surrounding each commercial unit, any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust or air conditioning running through or otherwise located within such unit which are utilized for or serve more than one unit, all of which are deemed

common elements as hereinafter provided. Each commercial unit shall be deemed to include all of the walls and partitions which are not load-bearing and which are within its perimeter or party walls, all movable lanai doors and their door frames, louvers (if any), and shutters (if any); the inner decorated or finished surfaces of all walls, panels, windows and window frames, doors (except movable lanai doors) and their door frames, floors and ceilings; the lanais shown on the Condominium Map to the inner decorated or finished surfaces of the exterior perimeter walls of such lanais and to the exterior edge of the exterior railings or other boundaries of such lanais; and all fixtures (if any) originally installed therein.

(c) Retail Units. Each retail unit consists of the spaces within the perimeter walls (if any) and/or the imaginary vertical planes (where there is no perimeter wall), floors and ceilings of the respective retail unit as shown on the Condominium Map. A description of each of the retail units is set forth in Exhibit D attached hereto and for every purpose made a part hereof.

Each retail unit is numbered and located in the manner shown on the Condominium Map.

Each retail unit will have the approximate net floor area in square feet set forth in Exhibit C. The approximate net floor areas set forth in Exhibit C are based on measurements taken from the interior surface of all perimeter walls and/or the imaginary vertical planes (where there is no perimeter wall) as shown on the Condominium Map, except that no reduction has been made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls and/or the imaginary vertical planes (where there is no perimeter wall). The floor areas set forth in Exhibit C are not exact but are approximations based on the Floor plans of each retail unit.

(i) Access to Common Elements. The retail units will have immediate access to the walkways, corridors, elevators and/or stairways which lead to the lobby areas and other common elements of the Project.

(ii) Limits of Retail Units. Notwithstanding the floor areas set forth in Exhibit C and the manner in which floor areas have been measured, the retail units shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, supports, floors and ceilings located within or at the perimeter of or surrounding each unit, any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust or air conditioning running through or otherwise located within such unit which are utilized for or serve more than one unit, all of which are deemed common elements as hereinafter provided. Each retail unit shall be deemed to include all of the walls and partitions which are not load-bearing and which are within its perimeter or party walls and/or imaginary vertical planes (where there is no perimeter wall); the inner decorated or finished surfaces of all walls, panels, floors, and ceilings all windows (if any), window frames (if any), louvers (if any), shutters (if any), doors and door frames along its perimeter; all of the fixtures (if any) originally installed therein; and any pipes, wires, vents, shafts, ducts, conduits, wires or other utility service lines which are utilized solely by or serve only the Retail Unit.

2. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, herein called the "common elements," including specifically, but not limited to:

- (a) The Land in fee simple;
- (b) All foundations, floor slabs, columns, girders, beams, supports, perimeter, party and load-bearing walls and partitions (excluding the finishes thereon), roofs, lobby areas, stairways (excluding private stairways located within and serving only the unit), elevators, walkways, corridors, ramps, loading areas, elevator lobby areas, entrances, entry ways and exits of said building(s), the porte cochere, the conference room, all storage rooms not located within a unit, one storage room located in each of units 4501 and 4505, all maintenance rooms, all elevator machine rooms, all mechanical rooms, all electrical rooms (including the room for the electrical vault of Hawaiian Electric Co., Inc.) and all trash rooms;
- (c) All yards, grounds, walkway railings, landscaping, refuse facilities and gardens;
- (d) The tennis court;
- (e) The whirlpool spa, lap pool, swimming pool and appurtenant deck area and barbecue areas;
- (f) All toilets and restroom facilities not located within a unit;
- (g) The cooling tower;
- (h) All driveways, driveway ramps, parking stalls and parking areas;
- (i) All mailboxes;
- (j) All vents, shafts, sewer lines, electrical equipment, pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one unit for services such as power, light, gas (if any), water, cable television (if any), air conditioning, sewer, refuse, telephone, and radio and television signal distribution (if any), except for the microwave antenna or antennae and/or other electronic or telecommunications equipment and facilities belonging to the Fee Owner or Developer or such persons or entities authorized by the Fee Owner or Developer, as more particularly set forth in Section 9 of Paragraph F herein below; and
- (k) Any and all other apparatus and installations existing for common use, such as tanks, pumps, motors, fans, compressors, and, in general, all other installations and apparatus existing for common use and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

3. Limited Common Elements. Certain parts of the common elements, herein called the "limited common elements," are hereby designated and set aside for the exclusive use of certain units, and such units shall have appurtenant thereto exclusive easements for the use of such limited common elements as follows:

- (a) Each unit shall have appurtenant thereto and reserved for its exclusive use the parking stall or stalls assigned to it as set forth in Exhibit C. The parking stalls are designated on the Condominium Map by numbers. The number or numbers of the parking stall or stalls assigned to each residential unit are set forth opposite the number of such unit in Exhibit C.
- (b) The eight (8) standard-size uncovered parking stalls, three (3) compact-size uncovered parking stalls and two (2) handicap uncovered parking stalls located on Level 3 of the Tower, designated on the Condominium Map as parking stall nos. 523 through 535, inclusive, shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(c) The residential units and commercial units shall have for the exclusive use of the parking areas on Levels 1 through 5 of the Platform, exclusive of (i) the parking stalls (which are assigned to the commercial and residential units as set forth in Exhibit C), and (ii) the retail parking area designated on the Condominium Map.

(d) Retail Unit No. 1 shall have for its exclusive use the portion of the retail parking area designated on the Condominium Map by cross hatching, exclusive of the parking stalls (which are assigned to either Retail Unit No. 1 or Retail Unit No. 2 as set forth in Exhibit C).<sup>12</sup>

(e) Each unit shall have for its exclusive use one (1) mailbox bearing the same number as such unit.

(f) The four (4) elevators servicing Levels 2 through 45 of the Tower shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(g) The two (2) elevators servicing Levels 3 through 45 of the Tower shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(h) The elevator lobbies Level 2 of the Tower shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(i) The elevator lobbies and corridors on Levels 3 and 4 of the Tower shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(j) The elevator lobbies and corridors on Levels 5 through 45 of the Tower shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential units.

(k) The lap pool, swimming pool, whirlpool spa and appurtenant deck area, the outdoor shower located on Platform, Level 6, the toilets and restroom facilities located on Tower Level 5 but not located within a unit, the barbecue area and the tennis court shall constitute limited common elements appurtenant to and for the exclusive use of all of the residential and commercial units.

(l) Certain units shall have appurtenant thereto and reserved for their exclusive use the storage room(s) assigned to them and/or storage cabinet(s) located above the parking stall(s) appurtenant to such units as set forth in Exhibit C.

(m) Retail Unit No. 1 shall have for its exclusive use (i) the portion of the rooftop of the Tower identified on Sheets A-9 and A-10 of the Condominium Map as the 'Rooftop Antenna Areas', and (ii) the RA1 Connections (as such term is defined in Paragraph F.10 hereinbelow).<sup>13</sup>

(n) All other common elements of the Project which are designated as limited common elements by operation of Section 514B-35 of the Hawaii Revised Statutes, as amended, including but not limited to fixtures which are located outside the boundaries of the unit, but serve only that unit (for example, pipes, conduits, wires or plumbing).<sup>14</sup>

**E. COMMON INTEREST.** Each unit shall have appurtenant thereto an undivided percentage interest in all common elements (herein called the "common interest"), and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting, as set forth in Exhibit C, subject to future adjustments pursuant to the provision of Paragraph S hereinbelow.

**F. EASEMENTS.** In addition to any (a) easements described in Exhibit A, (b) the exclusive easements herein designated in the limited common elements, and (c) any reserved

easements provided for in Paragraph S hereinbelow, the units and common elements shall also have and be subject to the following easements:

1. Each unit shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for and support, maintenance and repair of such unit; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements, if any, as herein provided; and in all other units of the building(s) for support.

2. If any part of the common elements now or hereafter encroaches upon any unit or limited common element or if any unit or limited common element now or hereafter encroaches upon any other unit or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof shall and does exist for so long as such encroachment continues. In the event any building(s) of the Project shall be partially or totally destroyed and then rebuilt or in the event of any shifting, settlement or movement of any portion of the Project, minor encroachments of any parts of the common elements or units or limited common elements due to such construction, shifting, settlement or movement shall be permitted and valid easements for such encroachments and the maintenance thereof shall and do exist for so long as such encroachments exist.

3. The unit owners shall have the irrevocable right, to be exercised by its Board of Directors, the Association's employees, independent contractors, or agents or other unit owners or Managing Agent, to have access to each unit and/or limited common elements, if any, from time to time during reasonable hours as may be necessary for the operation of the Project or at any time for making emergency repairs therein required to prevent damage to any units or common elements or for the inspection, repair, painting, resurfacing, maintenance, installation or replacement of any common elements.<sup>15</sup>

4. The Developer and its agents, employees, contractors, licensees, successors, and assigns shall have the right to conduct extensive sales activities on and at the Project, including without limitation, the use of model units, sales and management offices, and extensive sales displays and activities until the first to occur of (a) the date five (5) years after the closing of the first sale of a unit in the Project, or (b) the closing of the sale of the last unsold unit in the Project, provided that such sales activities are conducted in an unobtrusive manner which will not unreasonably interfere with the use, possession, and aesthetic enjoyment of the Project by the other unit owners. In the event that the Developer's mortgage lender or any successor to or assignee of the Developer's mortgage lender shall acquire any portion of the Project in the course of any foreclosure or other legal proceeding or by an assignment in lieu of foreclosure, such mortgage lender, its successors and assigns shall have the right to conduct such extensive sales activities on the Project until at least ninety-five percent (95%) of all of the units have been sold and closed, notwithstanding the foregoing,

5. The Developer and its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon the Project, including the common elements, limited common elements, and any unit, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punch list items in the common elements or any unit. Such easement shall terminate thirty-six (36) months after the later to occur of (i) the date of the filing in the Office of the Assistant Registrar of the Land Court

of the State of Hawaii of the first unit deed conveying a unit in favor of a party not a signatory to this Declaration; or (ii) "the date of completion" (as the term is used in Chapter 507, Part II, Hawaii Revised Statutes) of the improvement to be completed or corrected.

6. The Fee Owner and Developer hereby reserve the right to grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across or through the common elements for any reasonable purpose, which may include, but shall not be limited to, any easements for utilities or for any public purpose or any easements required for any Other Nauru Project(s) as described in Paragraph S hereinbelow, including, but not limited to, easements for ingress to such Other Nauru Project(s) from Piikoi Street, Waimanu Street, or other private or public streets or roads or for egress from said Other Nauru Project(s) to such streets or roads.

The Fee Owner and Developer hereby further reserve the right to accept any easements for ingress to and egress from the Project over, under, across or through portions of the land subject to withdrawal from the Project pursuant to Paragraph T hereinbelow and to incorporate such easements into the common elements of the Project.

The Fee Owner and Developer hereby further reserve the right to transfer, cancel, relocate or otherwise deal with any easement over, under, across or through any land adjacent to or across the street from the Project, which may be appurtenant to the Land or the Project, for any reasonable purpose, which may include, but shall not be limited to, any of the same purposes set forth above in this Section 6 of Paragraph F or for the reason that any owner of any such lands adjacent to or across the street from the Project exercise any right to require the relocation of any such easement.

The foregoing rights of the Fee Owner and Developer set forth in this Section 6 of Paragraph F shall terminate on December 31, 2010, or upon the merger of all of the Other Nauru Project(s) pursuant to Paragraph S hereinbelow, whichever shall first occur.

To the extent that joinder of any unit owner, lien holder or other person who may have any interest in the Land or the Project or any unit in it may be required in order to validate any Act or thing done pursuant to the foregoing reservations, such joinder shall be accomplished by power of attorney from each of the owners, lien holders and other such parties the acquiring or acceptance of ownership in a unit or of a lien covering a unit or any other interest in the Project or Land subject to this Declaration being a grant of such power in favor of the Developer and its successors and assigns and the grant being coupled with an interest, being irrevocable.

7. The Association shall have the right, exercisable by the Board of Directors, to grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across, or through the common elements for any reasonable purpose, which may include, but shall not be limited to those purposes which are necessary to the operation, care, upkeep, maintenance or repair of any unit, the common elements or any limited common element or any easements for utilities or for any public purpose.

8. The Association shall have the right, exercisable by the Board of Directors, to transfer, cancel, relocate and otherwise deal with any easement over, under, across or through

any lands adjacent to and across the street from the Project, for any reasonable purpose, which may include, but shall not be limited to, any of the same purposes set forth in Section 7 of this Paragraph F or for the reason that any owner of any such lands adjacent to or across the street from the Project exercises any right to require the relocation of any such easement.

9. The Fee Owner and Developer shall have the exclusive right in the nature of an easement (a) to install, maintain, operate, repair, and replace, from time to time and at all times at its sole expense: (1) microwave transmission dishes, reflectors, antennae, and other electronic and telecommunications equipment and facilities ('Communications Equipment') on and within all portions of the rooftops of the buildings in the Project, except the Rooftop Antenna Areas (the 'Rooftop Areas') for purposes of receiving television communications and transmitting and receiving other wireless communications, and (2) accessory lines, cables, wiring, equipment and conduits (collectively, the 'Connections') within all parts of the Project, except the units in the Project, and (b) to transmit and receive television, microwave and other wireless communications signals from the Fee Owner's and/or Developer's Communications Equipment; provided, however, that the installation, maintenance, operation, repair and replacement of Communications Equipment and Connections by the Fee Owner and/or Developer will not jeopardize the structural soundness or safety of the Project or interfere with the installation, maintenance, operation, repair or replacement of the RA1 Communications Equipment and RA1 Connections (as such terms are defined in Paragraph F.10 hereinbelow) by the owner of Retail Unit No. 1; and provided, further, that all such installation, maintenance, operation, repair, and replacement of Communications Equipment and Connections by the Fee Owner and/or Developer shall be performed in compliance with all applicable federal, state and local laws, ordinances and regulations. The Fee Owner and Developer shall also have a nonexclusive easement for access to the Rooftop Areas and any other parts of the Project in which the Fee Owner's or Developer's Connections are or may be located through the elevators, elevator lobbies, corridors and stairwells of the Project. The Fee Owner and Developer shall have the further right to grant, convey, assign and transfer any or all of the rights and easements described in this paragraph to any other persons or entities.<sup>16</sup>

10. Retail Unit No. 1 shall have appurtenant to it the exclusive right in the nature of an easement (a) to install, maintain, operate, repair, and replace, from time to time and at all times, at its sole expense: (1) Communications Equipment on and within the Rooftop Antenna Areas for purposes of transmitting and receiving television and other wireless communications (the 'RA1 Communications Equipment'), and (2) Connections from the Rooftop Antenna Areas to the conduit located in the electrical rooms on each level of the Tower, and through that conduit to Retail Unit No. 1, connecting the RA1 Communications Equipment to Retail Unit No. 1 (the 'RA1 Connections'), and (b) to transmit and receive television and other wireless communications signals from the RA1 Communications Equipment. Retail Unit No. 1 shall also have appurtenant to it a nonexclusive easement for access to the Rooftop Antenna Areas and any other parts of the Project in which the RA1 Connections are or may be located through Elevators 4, 5 and 6 of the Project and the elevator lobbies, corridors and stairwells adjacent to such elevators leading to the Rooftop Antenna Areas.

The Owner of Retail Unit No. 1 shall have the right, from time to time, to install Communications Equipment and Connections with only the prior written consent of the Board of Directors, which consent shall be given (it being stipulated and agreed that the



construction and installation of Communications Equipment and Connections constitute "nonmaterial structural additions" within the meaning of Section 514B-140 of the Act) unless the Board, within thirty (30) days of the date that the owner of Retail Unit No. 1 provides written notice to the Board of its intention to install Communications Equipment and/or Connections, decides by majority vote to disapprove such construction and installation on the ground that it will jeopardize the structural soundness or safety of the Project. If the Board does not object to the construction and installation of Communications Equipment and/or Connections as set forth above within such thirty (30) day period, then the Board shall be conclusively presumed to have consented to such installation and the owner of Retail Unit No. 1 thereafter shall have the absolute right to install such Communications Equipment and/or Connections. If the Board denies its approval of such construction and installation as aforesaid, the owner of Retail Unit No. 1 and the Board shall submit the matter to binding arbitration by a single arbitrator pursuant to the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association within fifteen (15) days of such decision by the Board. In any such arbitration, the Board shall have the burden of establishing by clear and convincing evidence that the construction and installation of the Communications Equipment and/or Connections in question will jeopardize the structural soundness or safety of the Project. The decision of the arbitrator shall be issued within twenty (20) days and shall be final, conclusive and binding on the parties hereto.

For purposes of this Paragraph F.10, it shall be presumed that the construction and installation of any type of Communications Equipment shown on Exhibit F attached hereto will not jeopardize the structural soundness or safety of the Project. Accordingly, notwithstanding anything herein to the contrary, such types of Communications Equipment are pre-approved for installation and the owner of Retail Unit No. 1 shall have the right to construct and install the types of Communications Equipment shown on Exhibit F at any time and from time to time without further approval of the Board. In granting any approvals required hereunder, it is expressly understood that neither the Board nor the Association shall be entitled to charge any fees for the installation or operation of the facilities permitted under this Paragraph F.10 or have the right to receive any revenues generated by the exercise by the owner of Retail Unit No. 1 of its rights hereunder except for a reasonable fee to review the request to install or construct such Communications Equipment or Connections. All Connections installed pursuant to this Paragraph F.10 shall be limited common elements appurtenant to Retail Unit No. 1. All RA1 Communications Equipment shall remain the personal property of the owner of Retail Unit No. 1 and may be removed by that owner with or without the installation of replacement or substitute Communications Equipment.

The owner of Retail Unit No.1 shall at all times comply with all applicable federal, state and local laws, ordinances, and regulations pertaining to the installation, maintenance, repair, replacement and operation of the RA1 Communications Equipment and the RA1 Connections, provided that such Owner shall have the right to contest any such law. The owner of Retail Unit No. 1 shall reimburse the Association for all costs the Association incurs to repair or restore the Rooftop Antenna Areas as a result of such owner's construction, installation, or removal of the RA1 Communications Equipment or RA1 Connections, or such owner's negligence or willful misconduct, but shall not otherwise be responsible for the maintenance or repair of the Rooftop Antenna Areas.<sup>17</sup>

**G. ALTERATION AND TRANSFER OF INTERESTS.** Except as otherwise expressly provided herein, the common interest and easements appurtenant to each unit shall have a permanent character, shall not be altered without the consent of all owners of units affected thereby as expressed in an amendment to this Declaration duly recorded, which amendment shall contain the consent thereto by the holders of any first mortgage on such units, as shown in the Association's record of ownership, or who have given the Board notice of their interest through the Secretary of the Association or the Managing Agent, shall not be separated from such unit and shall be deemed to be conveyed or encumbered with such unit even though not expressly mentioned or described in the conveyance or other instrument. Except as otherwise provided in Paragraph T hereinbelow, the common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by the Condominium Property Act, and, without limiting the provisions of Section 514B-47 of the Hawaii Revised Statutes, any such partition or division shall be subject to the prior written consent thereto by the holders of any first mortgage, filed of record, of any unit or of any unit deed demising the same.<sup>18</sup>

**H. USE.**

1. **Residential Units.** Except when the holder of the first mortgage on a residential unit has entered into possession of a residential unit following (i) a default under its first mortgage, (ii) a foreclosure proceeding or (iii) a conveyance in lieu of foreclosure, the residential units shall be occupied and used only for residential purposes by the respective owners thereof, their tenants, families, domestic servants and guests, and for no other purpose. The residential units shall not be used, leased, rented or any undivided interest therein transferred for time-sharing purposes or under any time-sharing plan, agreement or arrangement as the same is defined under Chapter 514E, Hawaii Revised Statutes, as amended. Except for time-sharing, the owners of the respective residential units shall have the absolute right to sell, lease, rent or otherwise transfer such residential units subject to all provisions of this Declaration and the By-Laws filed immediately following the filing of this Declaration.

2. **Commercial Units.** The commercial units shall be occupied and used for commercial purposes or uses as said term "commercial" is defined or described in the Kaka'ako Community Development District Plan and the Kaka'ako Community Development District Rules established by the Hawaii Community Development Authority, as amended from time to time, and for use by the respective owners thereof, their families and guests, for residential purposes in conjunction with or ancillary to said commercial uses; provided, however, that the kitchens and bathrooms located within the commercial units and the parking stalls solely appurtenant to the Commercial Units shall be used for residential purposes only. The owner or owners of each of the commercial units shall have the absolute right to rent or lease all or any portion or portions of their respective commercial units for any length of time and upon such terms and conditions as such owner or owners shall determine. Any amendment to this Section 2 of Paragraph H and any amendment to this Declaration that would limit or interfere in any way with the use of said commercial units or with ingress to or egress from any commercial unit in the Project shall require the prior written consent of all directly affected commercial unit owners.<sup>19</sup>

3. **Retail Units.** The retail units (and all retail units into which said unit may be divided pursuant to Paragraph "Q" hereinbelow) shall be operated and used only for "commercial" purposes or uses, as said term "commercial" is defined or described in the Kaka'ako Community Development District Plan and the Kaka'ako Community Development District Rules established

by the Hawaii Community Development Authority, as amended from time to time. The owner or owners of each of the retail units shall have the absolute right to rent or lease all or any portion or portions of their respective retail units in connection with such commercial operation or use for any length of time and upon such terms and conditions as the owner or owners of such retail units shall determine. Any amendment to this Section 3 of Paragraph H and any amendment to this Declaration that would limit or interfere in any way with the use of the retail units or the limited common elements appurtenant thereto or with ingress to or egress from any retail unit in the Project shall require the prior written consent of all directly affected retail unit owners.

4. Use of Common Elements. Subject to the rights reserved by the Developer elsewhere in this Declaration or in the By-Laws and subject also to the exclusive or limited use of the limited common elements, each unit owner may use the common elements in accordance with the purposes for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners, subject to the rights of the Board of Directors:

(a) Upon the approval of the owners of seventy-five percent (75%) of the common interests, to change the use of the common elements;

(b) On behalf of the Association, to lease or otherwise use for the benefit of the Association those common elements which are not actually used by any of the unit owners for an originally intended special purpose, as determined by the Board; provided that unless the approval of the owners of seventy-five percent (75%) of the common interest is obtained, any such lease shall not have a term exceeding five (5) years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days' written notice; and

(c) To lease or otherwise use for the benefit of the Association those common elements not falling within subparagraph (b) herein above, upon obtaining: (1) the approval of the owners of sixty-seven percent (67%) of the common elements, including all directly affected owners and all owners of units to which such common elements are appurtenant in the case of limited common elements, and (2) the approval of all mortgagees of record on units with respect to which owner approval is required by (1) above, if such lease or use would be in derogation of the interest of such mortgagees.

#### **I. ADMINISTRATION OF PROJECT.**

Administration of the Project shall be vested in its Association of Apartment Owners, herein called the "Association", consisting of all unit owners in accordance with the By-Laws. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Condominium Property Act, this Declaration and the By-Laws, and specifically but without limitation the Association shall:

1. Make, build, maintain and repair all fences, sewers, drains, roads, driveways, driveway ramps, curbs, sidewalks, parking areas and other improvements which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the Project or any part thereof.

2. Keep all common elements in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the Project or the use thereof.

3. Well and substantially repair, maintain, amend and keep all common elements, including without limitation the buildings thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and maintain and keep the Land and all adjacent land between any street boundary of the Project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary, and repair and make good all defects in the common elements herein required to be repaired by the Association, of which notice shall be given by any owner or the agent of any owner within thirty (30) days after the giving of such notice or such additional period as may be reasonably necessary to complete such work in the exercise of due diligence.

4. Observe any setback lines affecting the Project and not erect, place or maintain any building or structure whatsoever except approved fences or walls between any street boundary of the Project and the setback line along such boundary.<sup>20</sup>

5. Not make or suffer any strip or waste or unlawful, improper or offensive use of the Project.

6. Have the irrevocable right, to be exercised by the Board of Directors, the Association's employees, independent contractors, agents, or Managing Agent, to enter any unit or limited common elements appurtenant thereto from time to time during reasonable hours as may be necessary for the operation of the Project or at any time for making emergency repairs therein required to prevent damage to any units or common elements or for the installation, repair or replacement of any common elements.<sup>21</sup>

**J. MANAGING AGENT SERVICE OF LEGAL PROCESS.** Operation of the Project may be Conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws; provided that until such time as the Association appoints a Managing Agent, the Developer shall manage the Project. The Managing Agent shall be authorized to receive service of legal process in all cases provided in the Condominium Property Act.

**K. COMMON EXPENSES.** The term "common expenses" shall mean and include all charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration, management, and operation of the Project and all other sums designated common expenses under the Act, this Declaration or the By-Laws, including, without limiting the generality of the foregoing, the following: all charges for taxes (except real property taxes and other such taxes or assessments which are or may hereafter be assessed separately on each unit and the common interest in the common elements appertaining thereto or the personal property or any other interest of the unit owner), assessments, costs of maintenance, repair, rebuilding, replacement and restoration of the common elements and any additions and alterations thereto, any labor, services, materials, supplies and equipment therefor, any liability whatsoever for loss or damage arising out of or in connection with the common elements or any

accident, fire or nuisance thereon, yard, janitorial or other similar services, wages, accounting and legal fees, management fees, and other necessary expenses of upkeep, maintenance, management and operation incurred on or for the common elements, the cost of pest control services, whether or not affecting any particular unit or units, any premiums for insurance, including hazard and liability insurance herein required to be maintained by the Association, and the cost of all utility services, including water, electricity, gas (if any), garbage disposal, sewer, sewage treatment, telephone and other similar services, unless separately metered or otherwise separately attributable to a unit or group of units, in which case the amount charged or attributable to each unit or group of units, as determined by the Board of Directors, shall be payable by the owner or owners of such units. Except as otherwise provided herein or in the By-Laws, the common expenses shall be charged to the unit owners in proportion to the common interests appurtenant to their respective units; PROVIDED, HOWEVER, that all charges, costs and expenses incurred by the Association only for or in connection with any unit or any limited common elements (excluding the Rooftop Antenna Areas), including but not limited to, all costs of maintenance, repair, replacement, additions and improvements to the units or the limited common elements (excluding the Rooftop Antenna Areas) and utility costs arising therefrom and reserves therefor shall constitute limited common expenses of the Project for which only the owner of any such unit shall be liable, or for which only the owner of the unit to which such limited common elements are appurtenant shall be liable or, if the limited common elements are appurtenant to more than one unit, the owners of such units to which such limited common elements are appurtenant shall be severally liable in proportion to the ratio that the approximate square footage of their respective units, including lanais, bears to the sum of the approximate square footages of all units, including lanais, to which such limited common elements are appurtenant (such charges, costs and expenses incurred only for or in connection with any unit or limited common element being herein called "limited common expenses"); PROVIDED FURTHER, HOWEVER, that all charges, costs and expenses incurred by the Association which are necessitated by the negligence, misuse or neglect of a unit owner or occupant or any person under either of them shall be charged to such unit owner or the owner of the unit of such occupant, as a special assessment secured by the lien created under this Paragraph K.<sup>22</sup>

The residential and commercial unit owners' respective proportionate shares of the limited common expenses arising from limited common elements that, as set forth in Paragraph D.3 hereinabove, are appurtenant to the residential and/or commercial units as set forth in Exhibit C.<sup>23</sup>

The Board of Directors shall from time to time assess the common expenses and limited common expenses against all the units in their respective proportionate shares, and the unpaid amount of such assessments against any unit shall constitute a lien against such unit prior to all other liens, except only (i) liens for taxes and assessments lawfully imposed by governmental authority against such unit, and (ii) all sums unpaid on any mortgage of record which was filed prior to the filing of a notice of a lien by the Association and costs and expenses including attorney's fees provided in such mortgages. The lien of the Association for an unpaid assessment may be foreclosed by the Board of Directors or Managing Agent as provided by the Condominium Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to all persons having any interest in such unit as shown in the Association's record of ownership. When the mortgagee of a mortgage of record or other purchaser of a unit acquires title to such unit as a result of the remedies provided in the mortgage, foreclosure of the mortgage, or a sale in lieu of foreclosure, such mortgagee or such other purchaser, as the case may be, and their respective heirs, devisees, personal representatives,

successors and assigns, shall not be liable for the share of the common expenses, limited common expenses, or assessments chargeable to such unit which became due prior to such acquisition of title. Such unpaid shares shall be deemed common expenses collectible from all of the unit owners, including such mortgagee or such other purchaser and their respective heirs, devisees, personal representatives, successors and assigns.

If a unit owner shall default for a period of thirty (30) days or more in the payment of the unit owner's share of the common expenses, the Board of Directors may, at its option, so long as such default shall continue, demand and receive from any renter or lessee of the unit owner, the rent due or becoming due from such renter or lessee to the unit owner up to an amount sufficient to pay all sums due from the unit owner, including interest, if any, and any such payment of rent to the Board of Directors by the renter shall be sufficient discharge of such renter, as between such renter and the unit owner to the extent of the amount paid. Any such demand or acceptance of rent from any renter or lessee shall not be deemed to be a consent to or approval of any lease by the unit owner or a release or discharge of any of the obligations of the unit owner hereunder, or an acknowledgment or surrender of any rights or duties hereunder. In the event that the Board of Directors makes demand upon the renter or lessee, the renter or lessee shall not have the right to question the right of the Board of Directors to make such demand, but shall be obligated to make the payments to the Board of Directors as demanded by the Board; provided, however, that the Board of Directors may not exercise this right if a receiver has been appointed to take charge of the premises pending a mortgage foreclosure, if a mortgagee is in possession pending a mortgage foreclosure or if the Fee Owner or Developer is the unit owner. Before exercising this right, the Board shall comply with the requirements of Section 514B-145(b), Hawaii Revised Statutes.<sup>24</sup> In the event that assessments received during any year are in excess of the actual expenditures for such year by the Association for common expenses, the Board of Directors may, subject to approval by the unit owners at the next annual meeting, determine that such excess shall be:

- (a) Applied in whole or in part to reduce the assessments for the immediately subsequent year;
- (b) Designated in whole or in part as a capital contribution to the Association to be used for future capital improvements and replacements;
- (c) Segregated and held in whole or in part as a Custodial Fund to be expended solely for specifically designated capital improvements and replacements; or
- (d) Segregated and added in whole or in part to the Maintenance Reserve Fund established hereunder.

The proportionate interest of each unit owner in said capital contributions, Custodial Fund or Maintenance Reserve Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the Condominium Property Regime hereby created shall be terminated or waived, said capital contributions, Custodial Fund or Maintenance Reserve Fund remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares except for the owners of any units then reconstituted as a new condominium property regime.

**L. COMPLIANCE WITH DECLARATION AND BY-LAWS.**

All unit owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project or any part thereof, shall be bound by and comply strictly with the provisions of this Declaration and the By-Laws, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved unit owner; in the event of the failure of any unit owner to comply fully with any of the same within thirty (30) days after written demand therefor by the Association, the Association shall promptly give written notice of such failure to the holder of any first mortgage of such unit or of the unit deed covering the same, as shown in the Association's record of ownership or who has given the Board of Directors notice of its interest through the Secretary of the Association or the Managing Agent.

**M. INSURANCE.**

1. Hazard Insurance. The Association at its common expense shall at all times keep all buildings and common elements of the Project, and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings and all exterior glass, in accordance with the as-built plans and specifications therefor, insured against loss or damage by fire and other damages under a commercial property insurance policy which shall at a minimum cover the perils insured under the ISO special causes of loss form issued by an insurance company authorized to do business in Hawaii having a financial rating by Best's Insurance Reports of Class A VI or better in an amount sufficient to provide for the full repair or full replacement thereof without deduction for depreciation, with an inflation guard endorsement in the name of the Association, as trustee for all unit owners and all mortgagees of record according to the loss or damage to their respective units and appurtenant common interests. Such insurance shall be payable in case of loss to such bank or trust company authorized to do business in the State of Hawaii as the Board of Directors shall designate (herein sometimes called the Trustee") for the custody and disposition as herein provided of all proceeds of such insurance, and the Association shall from time to time cause to be deposited promptly with the Secretary of the Association and with each mortgagee of record with any interest in a unit who may have requested the same, true copies of such insurance policies or current certificates thereof and promptly notify in writing each such mortgagee of record of any deposit with the Trustee of any proceeds of such insurance, all without prejudice to the right of each unit owner to insure the unit for the unit owner's own benefit. Flood insurance shall also be provided under the provisions of the federal Flood Disaster Protection Act of 1973 if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development, with minimum limits equal to the aggregate of the outstanding principal balances of all mortgage loans on units in the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Except as provided in Paragraph N hereinbelow, in every case of such loss or damage all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the buildings and common elements in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved by the Board of Directors as herein provided, and the Association at its

common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall:

(a) Provide that the liability of the insurer thereunder shall not be affected by and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of any other insurance obtained by or for any unit owner;

(b) Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings or common elements is increased, whether or not within the knowledge or control of the Board of Directors or the Managing Agent or because of any breach of warranty or condition or any other act or neglect by the Board of Directors, the Managing Agent, any unit owner, or any other persons under any of them;

(c) Provide that such policy and the coverage thereunder may not be canceled or substantially modified (whether or not requested by the Association) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board of Directors, the Managing Agent, every first mortgagee of record of a unit and every other person in interest who shall have requested such notice of the insurer;

(d) Contain a waiver by the insurer of any right of subrogation to any right of the Board of Directors, the Association, or any unit owners against any of them or any other persons under any of them;

(e) Contain a waiver by the insurer of any right to deny liability because of vacancy of any unit or units;

(f) Contain a waiver by the insurer of any right of the insurer to repair, rebuild or restore the improvements of the Project, if the unit owners decide pursuant to Paragraph N hereof not to repair, rebuild or restore the damaged or destroyed improvements;

(g) Provide that the insurer, at the inception of the policy and on each anniversary date thereof, shall provide the Board of Directors with a written summary, in layman's terms, of the policy. This summary shall include, without limitation, a description of the type of policy, the coverage and limits thereof, the amount of the annual premium, and the renewal dates. Upon receipt of such summary from the insurer, the Board of Directors shall provide the summary to the unit owners;

(h) Contain a standard mortgagee clause which shall:

i. Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any unit in or unit deed covering any unit of the Project, in their respective order and preference, whether or not named therein;

ii. Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board of Directors, the Association, the Managing Agent, or unit owners or any persons under any of them;



iii. Waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, or any contribution clause; and

iv. Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board of Directors; and

(i) If obtainable, be accompanied by the certificate of a licensed insurance broker or agent certifying that the policy complies with and satisfies the requirements of this Section 1 of Paragraph M.

2. Liability Insurance. The Board of Directors, on behalf of the Association and at its common expense, shall also effect and maintain at all times commercial general liability insurance and, if necessary, commercial umbrella insurance, covering all unit owners, the Board of Directors, the Association, the Managing Agent and its employees, and the employees of the Association with respect to the Project issued by a responsible insurance company authorized to do business in Hawaii and having a financial rating by Best's Insurance Reports of Class A VI or better, with minimum limits or not less than FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00) for personal injury to or death of any number of persons in any one accident or occurrence and ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for property damage, or such higher limits as the Board of Directors may from time to time establish with due regard to then prevailing prudent business practice in the State of Hawaii as reasonably adequate for the protection of the Board of Directors, the Association, all unit owners, the Managing Agent and its employees and the employees Association and from time to time cause to be deposited promptly with each mortgagee of record of any interest in a unit current certificates of such insurance, all without prejudice to the right of any unit owners to maintain additional liability insurance for their respective units. Any such policy of insurance shall:

- (a) Provide that the same shall not be invalidated by any act or neglect of the Board of Directors, or the unit owners or any persons under any of them;
- (b) Contain a waiver by the insurer of any right of subrogation to any right of the Board of Directors, or the unit owners against any of them or any other persons under them;
- (c) Contain a "severability of interest" endorsement precluding the insurer from denying the claim of a unit owner because of negligent acts of the Board of Directors, the Association, the Managing Agent or any other unit owner; and,
- (d) Provide that the policy and the coverage thereunder may not be canceled or substantially modified (whether or not requested by the Association), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board of Directors, the Managing Agent, every first mortgagee of a unit or unit deed and every other person in interest who shall have requested such notice of the insurer.

3. Directors' and Officers' Liability Insurance. The Association, at its common expense, shall also procure and maintain directors' and officers' liability insurance covering the directors and officers of the Association with respect to their actions and activities as directors and officers of the Association, in any insurance company authorized to do business in the State

of Hawaii with minimum limits as established by the Board of Directors, and shall from time to time deposit promptly with the Secretary of the Association current certificates of any such insurance.

Any such policy of insurance shall provide that the insurer, at the inception of the policy and on each anniversary date thereof, shall provide the Board of Directors with a written summary in laymen's terms, of the policy. This summary shall include, without limitation, a description of the type of policy, the coverage and limits thereof, the amount of the annual premium and the renewal dates. Upon receipt of such summary from the insurer, the Board of Directors shall provide a copy of the summary to each unit owner.

4. Additional Insurance Coverage. The Board of Directors may also procure insurance, of a character normally carried with respect to properties of comparable character and use in the State of Hawaii, against such additional risks as the Board of Directors may deem advisable for the protection of the unit owners.

5. Annual Review of Insurance Programs. The Board of Directors shall review not less frequently than annually the adequacy of its entire insurance program and shall adjust its insurance program accordingly; the Board of Directors shall then report in writing its conclusions and action taken on such review to each unit owner, and to the holder of any first mortgage on any unit who shall have requested a copy of such report or copies of all such reports. Copies of every policy of insurance procured by the Board of Directors shall be available for inspection by any unit owner or purchaser holding a contract to purchase an interest in a unit) at the office of the Managing Agent.

6. Insurance Deductible. The Board, in the case of a claim for damage to a unit or the common elements, may:

- (a) Pay the deductible amount as a common expense;
- (b) After notice and an opportunity for a hearing, assess the deductible amount against the owners who caused the damage or from whose units the damage or cause of loss originated; or
- (c) Require the unit owners of the units affected to pay the deductible amount.<sup>25</sup>

#### **N. INSURED DAMAGE OR DESTRUCTION.**

1. If the Project is damaged by fire or other casualty which is insured against and said damage is limited to single unit and/or the limited common elements appurtenant thereto, all of the insurance proceeds shall be used by the Trustee for payment of the contractor employed by the Board of Directors to rebuild or repair such unit and/or said limited common elements, including paint, floor covering and fixtures, in accordance with the original plans and specifications therefor, or if reconstruction in accordance with said plans and specifications is not permissible under the laws then in force, in accordance with such modified plans and specifications as shall be previously approved by the Board of Directors and any mortgagee of record of any interest in the unit so damaged.

2. If such damage extends to two or more units and/or the limited common elements appurtenant thereto, or to any other common elements, the Board of Directors shall thereupon contract to repair or rebuild the damaged portions of the buildings, including all units and limited common elements so damaged, as well as the common elements, in accordance with plans and specifications therefor which will restore the same to the design immediately prior to destruction, or if reconstruction in accordance with said design is not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board of Directors and any mortgagee of record of any interest in a unit directly affected thereby; provided that in the event said modified plan eliminates any unit and such unit is not reconstructed, the Trustee shall pay the owner of said unit and any mortgagee of record of any interest in said unit, as their interests may appear. The portion of said insurance proceeds allocable to said unit (less the proportionate share of said unit in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds.

3. The insurance proceeds shall be paid by the Trustee to the contractor employed for such work, in accordance with the terms of the contract for such construction and in accordance with the terms of this Paragraph N. If the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding any common elements other than any limited common elements, the Board of Directors shall levy, as soon as reasonably possible following the determination of the amount of such insufficiency, a special assessment on the owners of all units in proportion to their respective common interests. Any costs in excess of the insurance proceeds for the repairing and/or rebuilding of any unit or limited common element appurtenant thereto (but not including any common elements within any unit) shall be specially assessed against the owner of such unit and said special assessment shall be secured by the lien created under Paragraph K hereinabove.

4. The cost of the work (as estimated by the Board of Directors) shall be paid out from time to time or at the direction of the Board of Directors as the work progresses, but subject to the following conditions:

(a) An architect or engineer (who may be an employee of the Board of Directors) shall be in charge of the work;

(b) Each request for payment shall be made on seven (7) days' prior notice to the Trustee and shall be accompanied by a certificate to be made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is justly required to reimburse the Board of Directors for payments by the Board of Directors to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the work (giving a brief description of such services or materials), and that when added to all sums previously paid out by the Trustee the sum requested does not exceed the value of the work done to the date of such certificate;

(c) Each request shall be accompanied by waivers of liens satisfactory to the Trustee, covering that part of the work for which payment or reimbursement is being requested, and by a search prepared by a title company or licensed abstractor or by other

evidence satisfactory to the Trustee, that there has not been filed with respect to the premises any mechanics' or other lien or instrument for the retention of title with respect to any part of the work not discharged of record;

(d) The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the premises legal;

(e) The fees and expenses of the Trustee as determined by the Board of Directors and the Trustee shall be paid by the Association as common expenses, and such fees and expenses may be deducted from any proceeds at any time in the hands of the Trustee; and

(f) Such other conditions not inconsistent with the foregoing as the Trustee may reasonably request.

5. Upon completion of the work and payment in full therefor, any remaining proceeds of insurance then or thereafter in the hands of the Board of Directors or the Trustee shall be paid or credited to all of the owners of the units and the holders of any mortgage on the units, as their interests may appear, in proportion to the respective common interests appurtenant to each unit.

6. To the extent that any loss, damage or destruction to any building or other property is covered by insurance procured by the Board of Directors, the Board of Directors shall have no claim or cause of action for such loss, damage or destruction against any unit owner or lessee. To the extent that any loss, damage or destruction to the property of any unit owner or lessee is covered by insurance procured by such owner or lessee, such owner or lessee shall have no claim or cause of action for such loss, damage or destruction against the Board of Directors, the Association, the Managing Agent or any other unit owner or any person claiming under any of them.

#### **O. CONDEMNATION.**

In case at any time or times the Project or any part thereof shall be taken or condemned by any entity having the power of eminent domain, or shall be sold to such entity under threat of condemnation, all compensation and damages payable for or on account of such taking shall be payable to a condemnation trustee, who shall be a bank or trust company designated by the Board of Directors doing business in the City and County of Honolulu, State of Hawaii. The Board of Directors shall arrange for the repair and restoration of the buildings and improvements in accordance with the design thereof immediately prior to such condemnation or, if such repair and restoration in accordance with said design are not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board of Directors and the mortgagees of record of any interest in a unit directly affected thereby. In the event of a partial taking under which any unit is eliminated or not restored, the condemnation trustee shall disburse the portion of the proceeds of such award allocable to said unit, less the proportionate share of said unit in the cost of debris removal, to the owner of said unit and the owner's mortgagees, if any, in satisfaction of the owner's interest in said unit. The condemnation trustee shall disburse the remainder of the proceeds of such award to the contractor engaged in such repair and restoration in appropriate progress payments and in the event such proceeds are insufficient to

pay the costs thereof, the Board of Directors is expressly authorized to pay such excess costs from the maintenance fund, and if the maintenance fund is insufficient for this purpose, the Board of Directors shall levy a special assessment on the owners of units in proportion to their common interests and said special assessment or assessments shall be secured by the lien created under Paragraph K hereinabove. In the event sums are received by the condemnation trustee in excess of the cost of repairing, restoring or removing said buildings and improvements, or in the event all the buildings and improvements are so taken or condemned, such excess proceeds or such proceeds, as the case may be, shall be divided between the owners of units and their respective mortgagees, if any, in proportion to their respective common interests appurtenant to each unit.

**P. UNINSURED CASUALTY; PARTIAL RESTORATION; DETERMINATION AGAINST RESTORATION.**

1. Uninsured Casualty. In case at any time or times any improvements of the Project shall be substantially damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless unit owners owning eighty percent (80%) or more of the units in number and owning units to which are appurtenant eighty percent (80%) or more of the common interests vote to the contrary. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the unit owners shall be solely responsible for any restoration of their respective units so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved by the Board of Directors, and the mortgagees of record of any interest in a unit directly affected thereby. Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

2. Partial Restoration. Restoration of the Project with less than all of the units after any casualty or condemnation may be undertaken by the Association only pursuant to an amended declaration, duly adopted by the affirmative vote of not less than eighty percent (80%) of the unit owners, including at least eighty percent (80%) of the owners of units that will not be restored, and by all holders of liens affecting all or any part of the Project, by (a) removing the Project from the condominium property regime established by the execution and recordation of this Declaration, (b) reconstituting all of the remaining units and common elements to be restored as a new condominium property regime, and (c) providing for payment to the owner of each unit not to be restored the agreed value of such unit and its common interest.

3. Determination Against Restoration. Except as otherwise provided in Section 1 or Section 2 of this Paragraph P, in the event of an insured casualty or the condemnation of any part or all of the Project, the Project shall be repaired, rebuilt and restored as provided in Paragraph N hereinabove in the case of an insured casualty, and as provided in Paragraph O hereinabove in the case of condemnation, unless, within ninety (90) days after such a casualty or condemnation, it is determined by the affirmative vote of eighty percent (80%) of the unit owners (including the owners of eighty percent (80%) of the damaged or condemned units) that the Project will not be so repaired, rebuilt or restored.

**Q. ALTERATION OF PROJECT.**

1. Except as otherwise provided by the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), as amended by the Fair Housing Amendments Act of 1988, Chapter 515, Hawaii Revised Statutes, and the rules and regulations promulgated thereunder, as the same may be amended from time to time in the future and except as otherwise provided herein, restoration or replacement of the Project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map, shall be undertaken by the Association or any unit owner only pursuant to an amendment of this Declaration, duly executed by or pursuant to a vote or the written consent of sixty-seven percent (67%) of the unit owners together with the consent of all unit owners whose units or the limited common elements appurtenant thereto are directly affected (as determined in a reasonable manner by the Board of Directors) and in accordance with complete plans and specifications therefor first approved in writing by the Board of Directors, and promptly upon completion of such restoration, replacement, construction, alteration or addition, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer; PROVIDED, HOWEVER, that this Section 1 of Paragraph Q shall not apply to or limit in any manner the rights and easements described in or referred to in Section 9 of Paragraph F hereinabove; PROVIDED FURTHER, HOWEVER, that the owner of any unit may make any alterations or additions within the owner's unit, except for enclosing any exterior lanai, and that the owner of any two (2) adjacent units which are separated by a common element that is a wall, with only the approval required hereinbelow, may alter or remove all or portions of the intervening wall, if the structural integrity of the building is not thereby adversely affected and if the finish of the common element then remaining is then restored to a condition substantially comparable to that of the common element prior to such alterations.<sup>26</sup>

The owner of any two (2) such adjacent units may install a door or doors to such opening or openings in the intervening common element. Alterations or additions within any such adjacent units shall require only the written approval thereof, including the unit owner's plans therefor, by the holders of first mortgage liens affecting such units (if the lien holders require such approval), by the appropriate agencies of the State of Hawaii and the City and County of Honolulu (if such agencies so require), by the Board of Directors (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other unit owners thereby directly affected (as determined in a reasonable manner by the Board of Directors), and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered; provided, however, if the alterations or additions are substantial in nature, as reasonably determined by the Board of Directors, the Board of Directors may require that the owner of the unit provide evidence satisfactory to the Board of Directors of sufficient financing to complete such alterations or additions or, in lieu thereof require that the owner obtain a performance and labor and materials payment bond, naming as obligees the Board of Directors, the Association and collectively all unit owners and their respective mortgagees of record, as their interests may appear, for a penal sum of not less than one hundred percent (100%) of the estimated cost of such construction. Prior to the termination of the common ownership of any such adjacent units, if the intervening wall shall have been altered or removed pursuant to the foregoing provisions and/or any entry to hallways sealed, the owner of such units shall be obligated to restore such intervening wall and/or hallway entries to substantially the same condition in which the same existed prior to such alteration or removal.

Notwithstanding any provision in this Declaration to the contrary, neither the Association nor any unit owner may enclose any exterior lanai within any unit in the Project.

2. Notwithstanding any other provision in this Declaration to the contrary, prior to (i) the time all units in the Project have been sold and recorded, and (ii) the filing by the Developer of the "as built" verified statement (with plans, if applicable) required by Section 514B-34, Hawai'i Revised Statutes, of the Hawaii Revised Statutes (but in no event later than December 31, 2002), the Developer shall have the right, without the consent, approval or joinder of any unit owner, (a) to make alterations in the Project (and/or to amend this Declaration and the Condominium Map accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any unit (and the limited common elements appurtenant thereto) in the Project which is not sold and recorded; or (b) to make alterations in the Project (and/or to amend this Declaration and the Condominium Map accordingly) which divide any of the retail or commercial units (and/or the limited common elements appurtenant thereto) into any number of separate retail or commercial units, provided that (i) the total undivided percentage common interest appurtenant to all retail units in the Project shall at all times equal 6.3950%, (ii) the total undivided percentage common interest appurtenant to all commercial units in the Project shall at all times equal 1.6666%, (iii) the limited common elements appurtenant to the retail units shall remain, after any such division, limited common elements appurtenant to one or more of the retail units, and (iv) the limited common elements appurtenant to the commercial units shall remain, after any such division, limited common elements appurtenant to one or more of the commercial units; or (c) to make other alterations in the Project (and/or to amend this Declaration and the Condominium Map accordingly) which make minor changes in any unit in the Project or the common elements which do not affect the physical location, design or size of any unit which has been sold and recorded; PROVIDED, HOWEVER, that as to (a), (b) and (c) hereinabove, any such changes shall be reflected in an amendment to the Declaration as provided in Section 2 of Paragraph R hereinbelow. As used herein the term "sold and recorded" shall mean and refer to the sale of units in the Project, and the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of the unit deeds transferring said units from the Fee Owner and Developer to parties not signatory to the Declaration.<sup>27</sup>

3. Notwithstanding any other provision in this Declaration to the contrary, the respective owners of Retail Units Nos. 1 and 2 may divide each such retail unit (and the limited common elements appurtenant thereto) into any number of separate retail units, provided that with respect to each of the aforesaid retail units: (a) the total undivided percentage common interest appurtenant to the separate retail unit shall at all times equal the percentage common interest appurtenant to the original retail unit from which the separate units were created, and (b) the limited common elements appurtenant to the original retail unit shall, after any such division, be designated limited common elements appurtenant to one or more of the separate retail units. The subdivision of any one of Retail Units Nos. 1 or 2 into separate retail units shall be reflected in an amendment to this Declaration which amendment need only be signed and approved by the owner or owners of the subdivided retail unit and their mortgagees, if any.

**R. AMENDMENT OF DECLARATION.**

1. Except as otherwise provided herein or in the Condominium Property Act, this Declaration may be amended by vote or written consent of sixty-seven percent (67%) of the unit owners, and shall be effective only upon the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of an instrument setting forth such amendment and vote duly executed by the proper officers of the Association.<sup>28</sup>

2. Notwithstanding the foregoing and notwithstanding the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of any or all unit deeds conveying any or all of the units to any person, the Developer hereby reserves the right to successively amend this Declaration (including the By-Laws and when applicable, the Condominium Map), without the consent, approval or joinder of the persons then owning or leasing the units, to file the "as built" verified statement (with plans, if applicable) required by Section 514B-34, Hawaii Revised Statutes, as amended, (a) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, unit numbers and dimensions of the units as built, or (b) so long as any plans filed therewith involve only changes to the layout, location, unit numbers, dimensions of or other changes to the units and common elements as built which the Developer is permitted to make in accordance with Paragraph Q hereinabove.<sup>29</sup>

3. Notwithstanding the foregoing and until the filing in the Office of the Assistant Registrar of the Land Court of the State of Hawaii of unit deeds covering all of the units in the Project (including all interests therein) in favor of parties not a signatory to the Declaration and other than to any mortgagee of the Fee Owner and Developer, the Fee Owner and Developer hereby reserve the right to amend this Declaration, the By-Laws and the Condominium Map, without the consent, approval or joinder of any purchaser of a unit or any inter therein (including any lessee), and to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Project or any of the units or any interest therein, by any institutional lender lending funds on the security of the Project or any of the units or any interest therein, or by any governmental agency of any state, territory, possession or foreign county or other foreign jurisdiction as a condition precedent to the marketing or sale of units or any interests therein in any such jurisdiction; provided, however, that no such amendment which would change the common interest appurtenant to a unit or substantially change the design, location or size of a unit shall be made without the consent to such amendment by all persons having an interest in such unit.

4. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. For example, if the Declaration expressly states that eighty percent (80%) of the owners must concur with a proposal to remove any part of the Project from the condominium property regime, then the vote of eighty percent (80%) of the owners is necessary to amend this provision regardless of the percentage prescribed in the general provision pertaining to amendments of the Declaration. As used herein, a "material" amendment to the Declaration includes a change to provisions directly affecting any of the following: voting rights; responsibility for maintenance and repair; boundaries of any unit; convertibility of units into common elements or vice versa; expansion or contraction of the Project



(other than by the exercise of the Developer's reserved rights); imposition of restrictions on an owner's right to sell or transfer his unit; a decision to establish self-management rather than professional management; or an action to terminate the legal status of the Project after substantial destruction or condemnation occurs.

5. No amendment of any provision contained in this Declaration or in the By-Laws that grants or reserves rights in favor of the Fee Owner or Developer shall be effective unless signed and acknowledged by the Fee and/or Developer whose rights are to be affected.

6. Notwithstanding the foregoing provisions of this paragraph, the Owners of the respective units, with the consent of the mortgagee(s) of the affected units, if any, shall have the right, subject to all applicable statutes, ordinances and rules and regulations of governmental agencies, to change the designation of the parking spaces which are appurtenant to their respective units solely by amendments to this Declaration, such amendments to be executed solely by the respective unit owners of such units and such mortgagee(s), if any, provided that such amendments shall be effective only upon the filing of the same in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, and provided further that at all times at least one (1) parking space shall be appurtenant to each residential unit in the Project. A copy of such conveyance and amendment shall be given to the Board of Directors of the Association by the affected owners within fifteen (15) days of the filing thereof.

7. Notwithstanding the foregoing provisions of this paragraph, no amendment of any provision of this Declaration specifically pertaining to a retail unit, the common interest or limited common elements appurtenant to a retail unit, the use of a retail unit or its limited common elements, or the rights of the owner of a retail unit shall be effective without the prior written consent of the owner of such retail unit.<sup>30</sup>

8. Any other provision of this Declaration notwithstanding, the approval of Eligible Holders of First Mortgages (as defined below) holding mortgages on Units to which are allocated at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders of First Mortgages shall be required to materially amend any provision herein, or to add any material provisions hereto, which establish, provide for, govern or regulate any of the following with respect to the Project: (a) voting; (b) assessments, assessment liens or subordination of such liens; (c) reserves for maintenance, repair and replacement of the common elements; (d) insurance or fidelity bonds; (e) right to use of the common elements; (f) responsibility for maintenance and repair of the several portions of the Project; (g) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (h) boundaries of any Unit; (i) the interests in the common elements or limited common elements; (j) convertibility of Units into common elements or of common elements into Units; (k) leasing of Units; (l) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer or otherwise convey his or her Unit; (m) establishment of self-management of the Project by the Association where professional management has been required by any agency or corporation which has an interest or prospective interest in the Project; and (n) any provision that expressly benefits holders, insurers or guarantors of mortgages on Units in the Project.

In addition to the foregoing, no amendment to this Declaration which would allow any action to terminate the condominium property regime created hereby for reasons other than

substantial destruction or condemnation shall be made without the prior written approval of not less than sixty-seven percent (67%) of the Eligible Holders of First Mortgages.

For the purposes of this Paragraph R.8., an "Eligible Holder of a First Mortgage" shall be a holder of a first mortgage on a Unit in the Project who has made a written request to the Association for timely receipt of written notice of proposed amendments to the condominium documents. The request must state the name and address of the holder of the first mortgage and the number of the unit covered by the mortgage. In the event that an Eligible Holder of a First Mortgage fails to appear at a meeting of the Association at which amendments of a material nature to this Declaration are proposed and considered, or fails to file a written response with the Association within thirty (30) days after receipt of proper notice of the proposed amendments, delivered by certified or registered mail, with a return receipt requested, then and in any such event such amendments shall conclusively be deemed approved by such Eligible Holder of a First Mortgage.<sup>31</sup>

**S. RESERVATION TO MERGE PROJECTS AND RESERVED RIGHTS CONCERNING DEVELOPMENT OF SUBSEQUENT PROJECTS.**

1. Notwithstanding any provision to the contrary contained or implied in this Declaration, the Developer shall have the right, but not the obligation, at its sole option and discretion, (a) at any time up to but not later than December 31, 2010, to merge or cause the merger of the Project with the Nauru Tower condominium project established by Declaration of Condominium Property Regime dated October 25, 1989, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1686055, as amended, and/or (b) at any time up to but not later than December 31, 2020, to merge or cause the merger of the Project with another project or projects to be developed by the Developer on any portion of the real property constituting the "Land" as of the date of this Declaration (exclusive of the real property constituting the land of the Project as described in Exhibit A attached hereto, which description may be amended in the future pursuant to Paragraph T hereinbelow) (collectively, the "Other Nauru Project(s)"), as permitted under the Planned Development Permit for 404 Piikoi Project dated November 7, 1984 (PD 2-84), as approved by the Hawaii Community Development Authority of the State of Hawaii, as amended, and as the same may be further modified or from time to time in the future (hereinafter called the "Planned Development Permit") The Other Nauru Project(s) may include up to the total number of residential, commercial, and industrial units allowed under the Planned Development Permit, together with such supporting and servicing common elements as the Developer determines in its sole discretion are beneficial to the Other Nauru Project(s). The Developer further reserves the right to construct said additional units in two or more phases, in which case any portion of the real property described hereinabove for the development of the Other Nauru Project(s) may be subdivided to accommodate such phases.

**T. RESERVED.**<sup>32</sup>

**U. OWNERS MAY INCORPORATE.** All of the rights, powers, obligation and duties of the unit owners imposed by this Declaration and the By-Laws may be exercised and enforced by a nonprofit membership corporation formed by the unit owners under the laws of the State of Hawaii for the purposes herein set forth. The formation of such corporation shall in no way alter the covenants, conditions and restrictions set forth in this Declaration or in the By- Laws, and the Articles of Incorporation and By-Laws of such corporation shall be subordinated to and controlled

by this Declaration and the By-Laws of the Association. Any action taken by such corporation in violation of any or all of the covenants, conditions and restrictions contained in this Declaration or in the By-Laws of the Association shall be void and of no effect.

**V. NON-LIABILITY OF FEE OWNER.** The parties hereto expressly acknowledge and declare that:

1. The Fee Owner has joined in this Declaration solely for the purpose of submitting the Fee Owner's interest in the Land to the condominium property regime in accordance with Section 514B-31 of the Hawaii Revised Statutes, as amended;<sup>33</sup>

2. The Project is the consequence of a development undertaken solely by Developer, and the Fee Owner has not controlled or participated in any way, either as a joint venturer or in any other capacity, in the planning or construction of any buildings or other improvements of the Project or any part thereof; and

3. The Fee Owner shall not be responsible for any design or construction defects of the Project or for any other claims or liabilities arising therefrom or for any redesign or for any reconstruction or repair hereafter.

**W. PLANNED DEVELOPMENT AGREEMENT AND HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S DISTRICT-WIDE IMPROVEMENT DISTRICT ASSESSMENT PROGRAM.**

The conditions imposed by the Planned Development Agreement dated October 19, 1988, executed by the Hawaii Community Development Authority, State of Hawaii, and Fee Owner, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1645703, shall run with the Land and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who shall claim an interest in the Land, and the Hawaii Community Development Authority shall have the right to enforce the Planned Development Agreement by appropriate action at law or suit in equity against all such persons.

The Project is subject to Hawaii Community Development Authority's District-Wide Improvement District Assessment Program and may be assessed for the cost of improvements made in the vicinity of the Project.

**X. INTERPRETATION AND CAPTIONS.**

In case any provision of this Declaration shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect.

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 this Declaration or any provision hereof.

**Y. WAIVER.** No provision contained in this Declaration 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 which may occur.

**Z. GOVERNING LAW.** Notwithstanding anything to the contrary in the Project governing documents, including but not limited to the Declaration, Bylaws, House Rules, and Condominium Map:

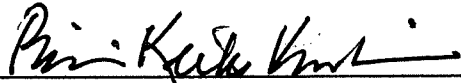
1. This Project shall be governed by the provisions of Hawai'i Revised Statutes, Chapter 514B, as amended;
2. Any unit deed, and the Project's Declaration, Bylaws, House Rules, and Condominium Map shall be liberally construed to facilitate the operation of the Project under the law;
3. Amendments to the Declaration and Bylaws, including but not limited to amendments relating to the alteration of the Project, shall require approval of 67% of the owners;
4. Approval requirements of 75% for alterations to the common elements shall be reduced to 67%;
5. Punitive damages may not be awarded except as provided in Hawai'i Revised Statutes, Section 514B-10; and
6. Approval requirements for leases or uses of the common elements shall be governed by Hawai'i Revised Statutes, Section 514B-38.<sup>34</sup>

Each of the undersigned officers of the Association warrants and represents that he or she is legally authorized to sign this Amendment and Restatement of the Declaration of Condominium Property Regime of Hawaiki Tower on behalf of the Association. The officers of the Association agree that this Amendment and Restatement of the Declaration of Condominium Property Regime of Hawaiki Tower may be executed in counterparts, each of which shall be deemed an original, and those counterparts shall together constitute one and the same instrument, binding all the Parties, notwithstanding that all the Parties are not signatories to the original or the same counterpart.

*(The remaining portion of this page is intentionally left blank; signature pages follow.)*

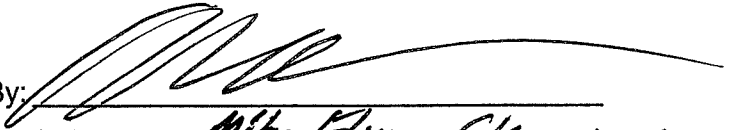
20th day of May, 2022. IN WITNESS WHEREOF, the undersigned have executed this instrument on this

ASSOCIATION OF APARTMENT OWNERS  
OF HAWAII TOWER, INC.

By:   
(Print name: PATRICIA KEIKO KAWAKAMI)  
Its: PRESIDENT

(Signatures continued on next page)

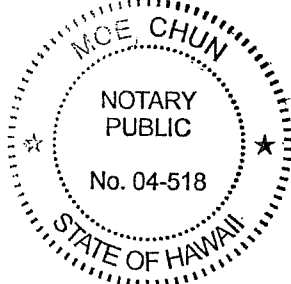
ASSOCIATION OF APARTMENT OWNERS  
OF HAWAII TOWER, INC.

By:   
(Print name: Mike Elmar Chapman)  
Its: Treasurer

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

On this 23rd day of May, 2022, in the First Circuit of the State of Hawai'i, before me personally appeared Patricia Keiko Kawakami, personally known to me or proven to me on the basis of satisfactory evidence, who being duly sworn or affirmed, did say that such person was the President of the Association of Apartment Owners of Hawaiiki Tower, Inc., a Hawai'i nonprofit corporation, that said person executed the foregoing instrument identified or described as "Amendment And Restatement Of Declaration Of Condominium Property Regime of Hawaiiki Tower," as such person's free act and deed on having been duly authorized to execute such instrument in such capacity.

The foregoing instrument is dated May 23, 2022 and contained 74 pages at the time of this acknowledgment/certification.



Moe Chun

Print Name: Moe Chun  
Notary Public, State of Hawai'i

My Commission Expires: Sept. 12 - 2024

#### NOTARY CERTIFICATION STATEMENT

##### Document Identification or Description:

Amendment And Restatement of Declaration of Condominium Property Regime of Hawaiiki Tower

Document Date: May 23, 2022

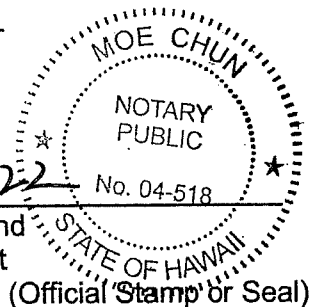
No. of Pages: 74 Jurisdiction: First Circuit  
(in which notarial act is performed)

Moe Chun

Signature of Notary

Moe Chun  
Printed Name of Notary

May 23, 2022  
Date of Notarization and  
Certification Statement



(Official Stamp or Seal)

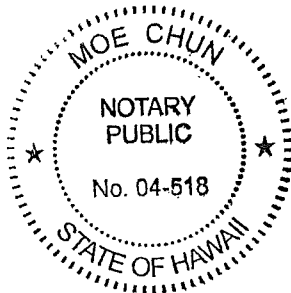
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)  
) ss.  
)

On this 23rd day of May, 2022, in the First Circuit of the State of Hawai'i, before me personally appeared Mike Elmer Chapman, personally known to me or proven to me on the basis of satisfactory evidence, who being duly sworn or affirmed, did say that such person was the Treasurer of the Association of Apartment Owners of Hawaiiki Tower, Inc., a Hawai'i nonprofit corporation, that said person executed the foregoing instrument identified or described as "Amendment And Restatement Of Declaration Of Condominium Property Regime of Hawaiiki Tower," as such person's free act and deed on having been duly authorized to execute such instrument in such capacity.

The foregoing instrument is dated May 23, 2022 and contained 74 pages at the time of this acknowledgment/certification.



[Signature]  
Print Name: Moe Chun  
Notary Public, State of Hawai'i  
My Commission Expires: Sept 17, 2024

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Amendment And Restatement of Declaration of Condominium Property Regime of Hawaiiki Tower

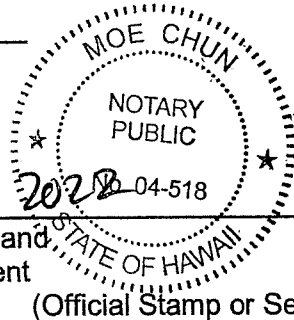
Document Date: May 23, 2022

No. of Pages: 74 Jurisdiction: First Circuit  
(in which notarial act is performed)

[Signature]  
Signature of Notary

Moe Chun  
Printed Name of Notary

May 23, 2022  
Date of Notarization and  
Certification Statement  
(Official Stamp or Seal)





## ENDNOTES

The following endnotes correspond to provisions in the Declaration which have been amended and/or restated to conform to Chapter 514B, Hawai'i Revised Statutes ("HRS"), as amended, the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, HRS Chapter 515, as amended, the Americans with Disabilities Act, as amended (Title 42, Chapter 126 of the United States Code) and its State counterpart, HRS Chapter 489, as amended, and to integrate all amendments made to the Declaration. This Amendment and Restatement of the Declaration correctly states without change the corresponding provisions of the original Declaration, as amended and restated, and supersedes the original Declaration and all prior amendments and restatements thereto. This Amendment and Restatement has been made solely for the purpose of information and convenience. In the event of a conflict, the Amendment and Restatement shall be subordinate to the cited statute.

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<sup>1</sup> Act 164 (SLH, 2004) recodified Chapter 514A as Chapter 514B, HRS. Therefore, throughout this restatement, references to the previous usage have been amended to reflect present terminology.

<sup>2</sup> Sections 514B-3 and 514B-22, HRS, replaced the word "apartment" with the word "unit." Therefore, the word "apartment" has been changed to "unit" throughout this restatement. Nevertheless, the official name of the Association remains "Association of Apartment Owners of Hawaiiki Tower, Inc."

<sup>3</sup> Exhibit "A" was amended by "Amendment to the Declaration of Condominium Property Regime of Hawaiiki Tower" dated March 29, 1999, recorded in the Office of the Assistant Registrar as Land Court Document No. 2452893 (the "March 1999 Amendment").

<sup>4</sup> Paragraph C.1.(a) of the Declaration was amended by "Amendment to Declaration of Condominium Property Regime of Hawaiiki Tower" dated June 3, 1999, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2551754 (the "June 1999 Amendment"), to reduce the number of standard sized parking stalls.

<sup>5</sup> Paragraph C.1.(d) of the Declaration was amended by the June 1999 Amendment to reduce the number of parking stalls.

<sup>6</sup> Paragraph C.1.(e) of the Declaration was amended by the June 1999 Amendment regarding parking stalls.

<sup>7</sup> Paragraph C.2.(a) of the Declaration was amended by the June 1999 Amendment regarding parking stalls.

<sup>8</sup> Paragraph C.2(c) of the Declaration was amended by instrument dated July 31, 2001, recorded in said Office as Land Court Document No. 2728611 to revise the number of commercial units from three (3) to two (2).

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<sup>9</sup> Paragraph D.1 of the Declaration was amended by instrument dated July 31, 2001, recorded in said Office as Land Court Document No. 2728611 to revise the number of commercial units from eight (8) to seven (7) and the total number of units from four hundred twenty-seven (427) to four hundred twenty-six (426).

<sup>10</sup> Exhibit "B" of the Declaration was amended by instrument dated July 31, 2001, recorded in said Office as Land Court Document No. 2728611 to amend paragraphs 38, 39, 40, 43, and 44 regarding commercial units.

<sup>11</sup> Exhibit "C" was replaced in its entirety by the Exhibit "C" attached to the June 1999 amendment regarding parking stalls.

<sup>12</sup> Paragraph D.3.(d) of the Declaration was amended by the June 1999 Amendment to designate the parking assigned to the retail units.

<sup>13</sup> Paragraph D.3 of the Declaration was amended to include a new subsection (m) by the June 1999 Amendment regarding exclusive use of rooftop areas by Retail Unit No. 1.

<sup>14</sup> Paragraph D.3 of the Declaration has been restated to include a new subsection (n) to conform to Section 514B-35, HRS, which designates certain parts of the Project as limited common elements.

<sup>15</sup> Paragraph F.3 of the Declaration has been restated to conform to Section 514B-137 (a), HRS, which clarifies that the Association and the unit owners, employees, independent contractors, or agents of the Association or other unit owners have the right to enter units and limited common elements for repair and maintenance of the common elements.

<sup>16</sup> Paragraph F.9 of the Declaration was amended by the June 1999 Amendment regarding communications equipment.

<sup>17</sup> Paragraph F of the Declaration was amended to add a new Paragraph F.10, by the June 1999 Amendment, to provide an easement to Retail Unit No. 1 for communications equipment on the Rooftop Antenna Areas. Paragraph F.10 has been restated to replace reference to 514A-89 with 514B-140, HRS, regarding "material alterations." Exhibit "F" was also replaced by the Exhibit "F" attached to the June 1999 amendment regarding communications equipment that has been preapproved for installation.

<sup>18</sup> Paragraph G has been restated to replace reference to 514A-21 (a), HRS, which was recodified as 514B-47, HRS.

<sup>19</sup> Paragraph H.2 of the Declaration was amended by "Amendment to Declaration of Condominium Property Regime of Hawaiki Tower" dated March 10, 1998, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2442735 (the "March 1998 Amendment") to allow commercial unit owners to use the units for residential purposes and to rent or lease the commercial unit for residential purposes. This paragraph was further amended by the June 1999 Amendment to remove reference to the requirement that the commercial units be leased or rented in connection with commercial operation or use.

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<sup>20</sup> Paragraph I of the Declaration has been amended to delete paragraph I.4 which required the Association to obtain a bond for alteration projects. The remaining subsections of Paragraph I were renumbered to accommodate this change. This amendment was approved in 2022 via the written consent of at least 67% of all unit owners.

<sup>21</sup> Paragraph I.7 of the Declaration has been restated to conform to Section 514B-137 (a), HRS, which clarifies that the Association and the unit owners, employees, independent contractors, or agents of the Association or other unit owners have the right to enter units and limited common elements for repair and maintenance of the common elements.

<sup>22</sup> The second sentence of the first paragraph of Paragraph K of the Declaration was amended by the June 1999 Amendment to: (1) exclude the Rooftop Antenna Area from the portions of the Project the charges and costs for which can be charged to the individual owners; (2) remove language regarding exemption of owners from liability for the owner's contribution toward the common expenses and limited common expenses by waiver of the use or enjoyment of the common elements or abandonment of the owner's unit.

<sup>23</sup> The second paragraph of Paragraph K of the Declaration was amended by the June 1999 Amendment regarding limited common element expenses of the residential and commercial units.

<sup>24</sup> Paragraph K has been restated to add this sentence, to conform to Section 514B-145 (b), HRS, regarding notice to the owner of the Board's intent to collect rent.

<sup>25</sup> Paragraph M has been restated to add this Subsection (6) to conform to Section 514B-143 (d), HRS, which permits the Association to assess the deductible amount of the Association's policy, after notice and an opportunity for a hearing, if the Board determines the unit owners caused the damage or from whose unit the damage or loss originated.

<sup>26</sup> The first paragraph of Paragraph Q.1 of the Declaration has been restated to: (1) reference Chapter 515, HRS, Hawaii's counterpart to the federal Fair Housing Act; and (2) conform to Section 514B-140 (b), HRS, to reduce the approval requirement, from 75% to 67%, for material alterations.

<sup>27</sup> Paragraph Q.2 of the Declaration has been restated to replace the reference to 514A-12, HRS, with 514B-34, HRS, regarding the "as built" verified statement.

<sup>28</sup> Paragraph R.1 of the Declaration has been restated to conform to Section 514B-32 (a) (11), HRS, which reduces the owner approval requirement from 75% to 67% for amendments to the Declaration and to conform to Paragraph Z of the Declaration, which was added by "Amendment to Declaration of Condominium Property Regime of Hawaiiki Tower" dated November 26, 2007, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 3698590 (the "November 2007 Amendment"), to opt-in to Chapter 514B, HRS.

<sup>29</sup> Paragraph R.2 has been restated to replace reference to 514A-12, HRS, with 514B-34, HRS.

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<sup>30</sup> Paragraph R.7 of the Declaration was amended by the June 1999 Amendment to require the prior written consent of the owner of the retail units for the amendment of any provision of the Declaration specifically pertaining to the retail units.

<sup>31</sup> Paragraph R of the Declaration was amended to add a new subsection 8 by the March 1998 Amendment, requiring the vote of Eligible Holders of First Mortgages to amend the Declaration in certain situations.

<sup>32</sup> Paragraph T and Exhibit "E" were deleted in their entirety by the March 1999 amendment.

<sup>33</sup> Paragraph V.1 of the Declaration has been restated to replace reference to 514A-20, HRS, which was recodified to Section 514B-31, HRS.

<sup>34</sup> The Declaration was amended to add a new Paragraph Z by the November 2007 Amendment to opt-in to 514B, HRS.

# EXHIBIT A

That certain parcel of land situated at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 3, area 147,044 square feet, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation 194 of Nauru Phosphate Royalties (Honolulu), Inc.;

Together with the following:

- a. an easement for sanitary sewer purposes (Easement "1"), area 1,339 square feet, more or less, as shown on Map 1 of Land Court Consolidation No. 194, as set forth by Land Court Order No. 133679, filed December 22, 1998;
- b. Easement 1 (for building purposes), area 148 square feet, as shown on Map 6 of Land Court Application No. 1306, affecting Lot 1, as shown on Map 5 of Land Court Application No. 1306;
- c. Easement 2 (for building purposes), area 384 square feet, as shown on Map 6 of Land Court Application No. 1250, affecting Lot 6, as shown on Map 5 of Land Court Application No. 1250; and
- d. Easement 3 (for building purposes), area 38 square feet, as shown on Map 6 of Land Court Application No. 1250, affecting Lot 6, as shown on Map 5 of Land Court Application No. 1250.

Being a portion of the lands described in Transfer Certificate of Title No. 523,281 issued to Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation.

**SUBJECT, HOWEVER, to the following:**

- a. The Kakaako Community Development District Plan, and of the Planned Development Permit No. PD 2-84, issued to the Nauru Phosphate Royalties Trust by the Hawaii Community Development Authority, dated November 7, 1984, as amended by instruments dated October 1, 1986, October 19, 1988, April 11, 1989, February 4, 1991, October 14, 1991, October 20, 1994 and January 24, 1997.
- b. The Planned Development Agreement dated October 19, 1988, filed as Land Court Document No. 1645703, by and between Hawaii Community Development Authority, State of Hawaii and Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation.

i. Partial Assignment of Rights and Obligations Under Planned Development Permit dated October 19, 1988, between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, filed in said Office as Document No. 1646277. Consent given by Hawaii Community Development Authority, State of Hawaii, by instrument filed in said Office as Document No. 1646278.

ii. Partial Assignment of Rights and Obligations Under Planned Development Permit dated November 2, 1994, between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, as assignor, and Waimanu Investment Venture, a Hawaii limited partnership, and Waldron Ventures, a Hawaii general partnership, as assignee, filed in said Office as Document No. 2192784. Consent given by Hawaii Community Development Authority, State of Hawaii, by instrument filed in said Office as Document No. 2192785.

iii. Partial Assignment of Rights and Obligations Under Planned Development Permit dated June 1, 1997, between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, as assignor, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, as assignee, filed in said Office as Document No. 2387444.

iv. Assignment of Rights and Obligations Under Planned Development Permit and Cancellation and Termination of Partial Assignment dated May 1, 1998, between Nauru Phosphate Royalties (Waimanu), Inc., as assignor, and Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, as assignee, filed in said Office as Document No. 2461954.

c. The Agreement Regarding Allocation of Space to Industrial Use dated October 19, 1988, filed as Land Court Document No. 1646279, made by and between Hawaii Community Development Authority, State of Hawaii and Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation.

d. The Agreement to Provide Necessary Perpetual Public Easement Areas for Upper-Level Pedestrian Walkways dated October 19, 1988, filed as Land Court Document No. 1646280, made by and between Hawaii Community Development Authority, State of Hawaii and Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation.

e. The terms and provision of that certain Ground Lease dated August 1, 1996, by and between NAURU PHOSPHATE ROYALTIES (HONOLULU), INC., a Delaware corporation, as Lessor, and NAURU PHOSPHATE ROYALTIES DEVELOPMENT (HONOLULU), INC., as Lessee, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2329510.

f. Real Property Mortgage and Financing Statement dated October 10, 1997, filed as Land Court Document No. 2408251, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, as Mortgagor, and International Commercial Bank of China, Los Angeles Branch, a Taiwan corporation, and Central Pacific Bank, a Hawaii corporation, as Co-Agents for those certain Lenders under that certain unrecorded Agency Agreement dated October 10, 1997 and that certain unrecorded Loan Agreement dated October 10, 1997, as Mortgagee.

(i) Consent to Mortgage dated March 18, 1998, made and executed by the Hawaii Community Development Authority, State of Hawaii, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 2450956.

g. Assignment of Rents (Development Lease) dated October 10, 1997, filed as Land Court Document No. 2408252, made by Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, "Assignor", to International Commercial Bank of China, Los Angeles Branch, a Taiwan corporation, and Central Pacific Bank, a Hawaii corporation, as Co-Agents for those certain Lenders under that certain unrecorded Agency Agreement and that certain unrecorded Loan Agreement, both dated October 10, 1997, "Assignee", assigning all of the Assignor's present and future receivables, receipts, and revenues derived or to be derived pursuant to that certain Lease filed as Land Court Document No. 2329510, to secure the obligations under said Loan Agreement.

h. Assignment of Rents (Subleases) dated October 10, 1997, recorded as Document No. 97-137906, made by Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, "Assignor", to International Commercial Bank of China, Los Angeles Branch, a Taiwan corporation, and Central Pacific Bank, a Hawaii corporation, as Co-Agents for those certain Lenders under that certain unrecorded Agency Agreement and that certain unrecorded Loan Agreement, both dated October 10, 1997, "Assignee", assigning all of the Assignor's present and future receivables, receipts, and revenues derived or to be derived pursuant to all of the subleases or agreements now or hereafter entered into, demising any portion of the premises leased by the Assignor as lessee under that certain Lease filed as Land Court Document No. 2329510, to secure the obligations under said Loan Agreement.

i. Mortgage and Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of February 2, 1998, filed as Land Court Document No. 2441406, and also recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 98-027743, made by and between Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, and Nauru Phosphate Royalties (Waimanu), Inc., a Hawaii corporation, as Mortgagor, and FinCapital, L.P., a Caymans Islands exempted limited partnership, as Mortgagee.

j. The terms and provisions of that certain Subordination and Stand Aside Agreement dated March 2, 1998, filed as Land Court Document No. 2441407, made by FinCapital L.P., a Cayman Islands limited partnership, in favor of International Commercial Bank of China, Los Angeles Branch, a Taiwan corporation, Central Pacific Bank, a Hawaii corporation, (and other lenders named therein), which agreement subordinates the lien and security interest of the Mortgage filed as Land Court Document No. 2441406 to the Real Property Mortgage filed as Land Court Document No. 2408251.

k. The restrictions, covenants, agreements, obligations, conditions, easements and other provisions set forth in that certain Declaration of Condominium Property Regime of Hawaiki Tower dated December 19, 1997, filed as Land Court Document No. 2428170, as the same may be amended from time to time.

l. The restrictions, covenants, agreements, obligations, conditions, easements and other provisions set forth in the By-Laws of the Association of Apartment Owners of Hawaiki Tower dated December 19, 1997, filed as Land Court Document No. 2428171, as the same may be amended from time to time.

m. Condominium Map No. 1227 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as the same may be amended from time to time.

n. Recognition Nondisturbance and Attornment Agreement Concerning Ground Lease dated June 4, 1998 (the "Agreement"), filed in said Office as Land Court Document No. 2477695, made by and among SF Broadcasting of Honolulu, Inc., a Delaware corporation, as "Buyer", Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, as "Seller", Nauru Phosphate Royalties (Honolulu), Inc., a Delaware corporation, as "Fee Owner", and International Commercial Bank of China, Los Angeles Branch, a Taiwan corporation, and Central Pacific Bank, a Hawaii corporation, as Co-Agents for the Lenders listed on Exhibit 1 to the Agreement, relating to and effecting Retail Apartment Nos. 1 and 2 in the Hawaiki Tower Project.

o. Recognition Nondisturbance and Attornment Agreement Concerning Ground Lease dated June 4, 1998, filed in said Office as Land Court Document No. 2477696, made by and among SF Broadcasting of Honolulu, Inc., a Delaware corporation, as "Buyer", Nauru Phosphate Royalties Development (Honolulu), Inc., a Delaware corporation, as "Seller", Nauru Phosphate



Royalties (Honolulu), Inc., a Delaware corporation, as "Fee Owner", and FinCapital, L.P., a Cayman Islands exempted limited partnership, as "Lender", relating to and effecting Retail Apartment Nos. 1 and 2 in the Hawaiki Tower Project.

p. The restriction of vehicular access rights into a portion of Lot 2 and a portion of Piikoi Street as shown on the Map filed herein.

End of Exhibit A.

## **EXHIBIT B**

### **DESCRIPTION OF FLOOR PLANS FOR RESIDENTIAL AND COMMERCIAL APARTMENTS**

#### **RESIDENTIAL APARTMENTS**

1. There are forty (40) Type 1 residential apartments, each containing four (4) rooms, including one (1) bedroom, one (1) bathroom, a kitchen, a living/dining room and a foyer, and having a net living area of approximately 842 square feet.
2. There are twenty (20) Type 2 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an exterior lanai, and having a net living area of approximately 1,050 square feet and a lanai of approximately 78 square feet.
3. There are twenty (20) Type 2A residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an exterior lanai, and having a net living area of approximately 1,095 square feet and a lanai of approximately 78 square feet.
4. There are twenty (20) Type 3 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an exterior lanai, and having a net living area of approximately 1,228 square feet and a lanai ranging from approximately 50 square feet to approximately 52 square feet.
5. There are nineteen (19) Type 3A residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,365 square feet.
6. There is one (1) Type 3B residential apartment, containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and a foyer and having a net living area of approximately 1,300 square feet.
7. There are twenty (20) Type 4 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,035 square feet to 1,059 square feet.
8. There are twenty (20) Type 4R residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and

**EXHIBIT B**

Page 1 of 5

41331-Dec-Exh.B

an interior lanai, and having a net living area ranging from approximately 1,035 square feet to 1,059 square feet.

9. There are twenty (20) Type 4A residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,035 square feet to 1,059 square feet.
10. There are twenty (20) Type 4AR residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,035 square feet to 1,059 square feet.
11. There are twenty-two (22) Type 5 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room a foyer and an interior lanai, and having a net living area ranging from approximately 1,018 square feet to 1,039 square feet.
12. There are twenty-two (22) Type 5R residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,018 square feet to 1,039 square feet.
13. There are twenty-two (22) Type 5A residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,020 square feet.
14. There are two (2) Type 5B residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,039 square feet.
15. There are two (2) Type 5BR residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,039 square feet.
16. There are two (2) Type 5C residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,020 square feet.
17. There are nine (9) Type 5D residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior

**EXHIBIT B**

Page 2 of 5

lanai, and having a net living area ranging from approximately 1,087 square feet to 1,361 square feet.

18. There are nine (9) Type 5DR residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,087 square feet to 1,361 square feet.
19. There are five (5) Type 5E residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area ranging from approximately 1,079 square feet to 1,207 square feet.
20. There are four (4) Type 5F residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an exterior lanai, and having a net living area of approximately 1,094 square feet and a lanai ranging from approximately 119 square feet to 233 square feet.
21. There is one (1) Type 5G residential apartment, containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,395 square feet.
22. There is one (1) Type 5GR residential apartment, containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,395 square feet.
23. There is one (1) Type 5H residential apartment, containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,398 square feet.
24. There are nineteen (19) Type 6 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an exterior lanai, and having a net living area of approximately 1,413 square feet and a lanai of approximately 55 square feet.
25. There are twenty (20) Type 6A residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a foyer and an interior lanai, and having a net living area of approximately 1,618 square feet.
26. There are twenty-nine (29) Type 7 residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room and a foyer, and having a net living area of approximately 997 square feet.

27. There are twenty-nine (29) Type 7R residential apartments, each containing six (6) rooms, including two (2) bedrooms, two (2) bathrooms, a kitchen, a living/dining room and a foyer, and having a net living area of approximately 997 square feet.
28. There are five (5) Type 8 residential apartments, each containing eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a laundry room, a foyer and an interior lanai, and having a net living area of approximately 1,550 square feet.
29. There are five (5) Type 8A residential apartments, each containing eight (8) rooms, including three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, a laundry room, a foyer and an interior lanai, and having a net living area of approximately 1,550 square feet.
30. There is one (1) Type PH1 residential apartment, containing ten (10) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room, a storage room and a foyer, and having a net living area of approximately 2,318 square feet.
31. There is one (1) Type PH1A residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room and a foyer, and having a net living area of approximately 2,298 square feet.
32. There is one (1) Type PH2 residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room, a foyer and an exterior lanai, and having a net living area of approximately 2,126 square feet and a lanai of approximately 355 square feet.
33. There is one (1) Type PH2R residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room, a foyer and an exterior lanai, and having a net living area of approximately 2,126 square feet and a lanai of approximately 355 square feet.
34. There is one (1) Type PH2A residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room, a foyer, and an exterior lanai, and having a net living area of approximately 2,152 square feet and a lanai of approximately 369 square feet.
35. There is one (1) Type PH3 residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room and a foyer, and having a net living area of approximately 2,359 square feet.

36. There is one (1) Type PH3R residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room and a foyer, and having a net living area of approximately 2,359 square feet.
37. There is one (1) Type PH3A residential apartment, containing nine (9) rooms, including three (3) bedrooms, two and one half (2½) bathrooms, a kitchen, a living/dining room, a laundry room and a foyer, and having a net living area of approximately 2,369 square feet.

COMMERCIAL APARTMENTS

38. There are two (2) Type 1 commercial apartments, each containing one (1) room, one (1) bathroom and a kitchen, and having a net floor area of approximately 842 square feet.
39. There are two (2) Type 2A commercial apartments, each containing two (2) rooms, two (2) bathrooms and a kitchen, and having a net floor area of approximately 1,095 square feet and an exterior lanai of approximately 78 square feet.
40. There are two (2) Type 3B commercial apartments, each containing two (2) rooms, two (2) bathrooms and a kitchen, and having a net floor area of approximately 1,300 square feet.
41. There is one (1) Type 4 commercial apartment, containing two (2) rooms, two (2) bathrooms and a kitchen, and having a net floor area of approximately 1,035 square feet.
42. There is one (1) Type 4R commercial apartment, containing two (2) rooms, two (2) bathrooms and a kitchen, and having a net floor area of approximately 1,035 square feet.

# EXHIBIT C

## 404 PIIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
<b>Retail Apartments</b>												
Retail 1					30004		30004	5.7470%		1, 2, 3, 4, 5, 6, 7, 8, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 77, 78, 79, 80, 81, 82, 83, 84, 85, OTC, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 124, 125, 126, 128, 129, 130, 131, 132, 133, 806, 807, 808		
Retail 2					3381		3381	0.6476%		9, 10, 11, 12, 13, 14, 32, 33, 56, 57, 75, 76, 96, 97, 122, 123		
<b>Commercial Apartments</b>												
301	1	6	1		1429	78	1507	0.2877%	0.3073%	733, 780, 782		510, 511
303	3B	7	1		1819		1819	0.3473%	0.3710%	138TC, 139TC*, 261, 331TC, 32TC*, 645		217
401	1	1	1		842		842	0.1613%	0.1723%	23		
402	2A	2	2		1095	78	1173	0.2247%	0.2400%	29		
403	3B	2	2		1300		1300	0.2490%	0.2660%	194		
404	4	2	2		1035		1035	0.1982%	0.2118%	673		
405	4R	2	2		1035		1035	0.1982%	0.2118%	691		
<b>Residential Apartments</b>												
501	1	1	1		842		842	0.1613%	0.1723%	67		
502	2A	2	2		1095	78	1173	0.2247%	0.2400%	240		
503	3B	2	2		1300		1300	0.2490%	0.2660%	679		
504	4	2	2		1035		1035	0.1982%	0.2118%	692	262	
505	4AR	2	2		1035		1035	0.1982%	0.2118%	726		
601	1	1	1		842		842	0.1613%	0.1723%	30		
602	2	2	2		1050	78	1128	0.2161%	0.2308%	197		
603	3	2	2		1278	50	1328	0.2544%	0.2717%	674		
604	4	2	2		1035		1035	0.1982%	0.2118%	695		
605	5R	2	2		1018		1018	0.1950%	0.2083%	690		
606	5A	2	2		1020		1020	0.1954%	0.2087%	387H		
607	5	2	2		1018		1018	0.1950%	0.2083%	313H		
608	4R	2	2		1035		1035	0.1982%	0.2118%	63		
609	6A	2	2		1618		1618	0.3099%	0.3311%	151		
610	7	2	2		997		997	0.1910%	0.2040%	234	237	
611	7R	2	2		997		997	0.1910%	0.2040%	198		
701	1	1	1		842		842	0.1613%	0.1723%	22		
702	2	2	2		1050	78	1128	0.2161%	0.2308%	184		
703	3	2	2		1228	52	1280	0.2452%	0.2619%	670		
704	4	2	2		1035		1035	0.1982%	0.2118%	699		
705	5R	2	2		1018		1018	0.1950%	0.2083%	734	390	
706	5A	2	2		1020		1020	0.1954%	0.2087%	765		
707	5	2	2		1018		1018	0.1950%	0.2083%	61		
708	4R	2	2		1035		1035	0.1982%	0.2118%	500	501	
709	6A	2	2		1618		1618	0.3099%	0.3311%	59		
710	7	2	2		997		997	0.1910%	0.2040%	760		
711	7R	2	2		997		997	0.1910%	0.2040%	199		

**EXHIBIT C**  
**404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME**

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
801	1	1	1		842		842	0.1613%	0.1723%	16		
802	2	2	2		1050	78	1128	0.2161%	0.2308%	522		
803	3	2	2		1228	52	1280	0.2452%	0.2619%	705C		
804	4	2	2		1035		1035	0.1982%	0.2118%	62		
805	8A	3	2		1550		1550	0.2969%	0.3172%	502, 503	436	309
807	8	3	2		1550		1550	0.2969%	0.3172%	702	703	
808	4R	2	2		1035		1035	0.1982%	0.2118%	507H		
809	6A	2	2		1618		1618	0.3099%	0.3311%	28		
810	7	2	2		997		997	0.1910%	0.2040%	201		
811	7R	2	2		997		997	0.1910%	0.2040%	200		
901	1	1	1		842		842	0.1613%	0.1723%	17		
902	2	2	2		1050	78	1128	0.2161%	0.2308%	541		
903	3	2	2		1228	52	1280	0.2452%	0.2619%	697	58	
904	4	2	2		1035		1035	0.1982%	0.2118%	701		
905	8A	3	2		1550		1550	0.2969%	0.3172%	456	457	304
907	8	3	2		1550		1550	0.2969%	0.3172%	185	226	
908	4R	2	2		1035		1035	0.1982%	0.2118%	26		
909	6A	2	2		1618		1618	0.3099%	0.3311%	384		218
910	7	2	2		997		997	0.1910%	0.2040%	203		
911	7R	2	2		997		997	0.1910%	0.2040%	202		
1001	1	1	1		842		842	0.1613%	0.1723%	18		
1002	2	2	2		1050	78	1128	0.2161%	0.2308%	655H		
1003	3	2	2		1228	52	1280	0.2452%	0.2619%	789		507
1004	4	2	2		1035		1035	0.1982%	0.2118%	375	376	
1005	8A	3	2		1550		1550	0.2969%	0.3172%	286	536	
1007	8	3	2		1550		1550	0.2969%	0.3172%	537	736	
1008	4R	2	2		1035		1035	0.1982%	0.2118%	359	306	
1009	6A	2	2		1618		1618	0.3099%	0.3311%	433	434	
1010	7	2	2		997		997	0.1910%	0.2040%	205		
1011	7R	2	2		997		997	0.1910%	0.2040%	204		
1101	1	1	1		842		842	0.1613%	0.1723%	19		
1102	2	2	2		1050	78	1128	0.2161%	0.2308%	545		
1103	3	2	2		1228	52	1280	0.2452%	0.2619%	711	715	
1104	4AR	2	2		1041		1041	0.1994%	0.2130%	365	366	
1105	5R	2	2		1018		1018	0.1950%	0.2083%	162	163	
1106	5A	2	2		1020		1020	0.1954%	0.2087%	182	183	
1107	5	2	2		1018		1018	0.1950%	0.2083%	361	362	
1108	4AR	2	2		1041		1041	0.1994%	0.2130%	355	356	
1109	6A	2	2		1618		1618	0.3099%	0.3311%	105	113	
1110	7	2	2		997		997	0.1910%	0.2040%	207		
1111	7R	2	2		997		997	0.1910%	0.2040%	761		
1201	1	1	1		842		842	0.1613%	0.1723%	20		
1202	2	2	2		1050	78	1128	0.2161%	0.2308%	547		
1203	3	2	2		1228	52	1280	0.2452%	0.2619%	140	141	
1204	4	2	2		1041		1041	0.1994%	0.2130%	787		509
1205	5R	2	2		1018		1018	0.1950%	0.2083%	170	171	
1206	5A	2	2		1020		1020	0.1954%	0.2087%	176	177	
1207	5	2	2		1018		1018	0.1950%	0.2083%	367	368	
1208	4R	2	2		1041		1041	0.1994%	0.2130%	106	107	
1209	6A	2	2		1618		1618	0.3099%	0.3311%	730	732	504
1210	7A	2	2		997		997	0.1910%	0.2040%	209		
1211	7R	2	2		997		997	0.1910%	0.2040%	208		



# EXHIBIT C

## 404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
1301	1	1	1		842		842	0.1613%	0.1723%	21		
1302	2	2	2		1050	78	1128	0.2161%	0.2308%	597		404
1303	3	2	2		1228	50	1278	0.2448%	0.2615%	178	179	
1304	4A	2	2		1041		1041	0.1994%	0.2130%	369	370	
1305	5R	2	2		1018		1018	0.1950%	0.2083%	339	340	
1306	5A	2	2		1020		1020	0.1954%	0.2087%	150	161	
1307	5	2	2		1018		1018	0.1950%	0.2083%	142	143	
1308	4AR	2	2		1041		1041	0.1994%	0.2130%	755	756	
1309	6A	2	2		1618		1618	0.3099%	0.3311%	283	412	215
1310	7A	2	2		997		997	0.1910%	0.2040%	211		
1311	7R	2	2		997		997	0.1910%	0.2040%	210		
1401	1	1	1		842		842	0.1613%	0.1723%	72		
1402	2	2	2		1050	78	1128	0.2161%	0.2308%	551		
1403	3	2	2		1228	52	1280	0.2452%	0.2619%	158	159	
1404	4	2	2		1041		1041	0.1994%	0.2130%	706		512
1405	5R	2	2		1018		1018	0.1950%	0.2083%	576	577	
1406	5A	2	2		1020		1020	0.1954%	0.2087%	574	575	
1407	5	2	2		1018		1018	0.1950%	0.2083%	357	358	
1408	4R	2	2		1041		1041	0.1994%	0.2130%	65	66	123
1409	6A	2	2		1618		1618	0.3099%	0.3311%	70	71	
1410	7	2	2		997		997	0.1910%	0.2040%	213		
1411	7R	2	2		997		997	0.1910%	0.2040%	212		
1501	1	1	1		842		842	0.1613%	0.1723%	196		
1502	2A	2	2		1095	78	1173	0.2247%	0.2400%	573		407
1503	3A	2	2		1365		1365	0.2615%	0.2793%	710ATC	710	
1504	4A	2	2		1048		1048	0.2007%	0.2144%	707	724	
1505	5R	2	2		1025		1025	0.1963%	0.2097%	783	784	
1506	5A	2	2		1020		1020	0.1954%	0.2087%	785	786	
1507	5	2	2		1025		1025	0.1963%	0.2097%	341	342	
1508	4AR	2	2		1048		1048	0.2007%	0.2144%	385	386	219
1509	6	2	2		1413	55	1468	0.2812%	0.3004%	114	115	
1510	7	2	2		997		997	0.1910%	0.2040%	190H		
1511	7R	2	2		997		997	0.1910%	0.2040%	216		
1601	1	1	1		842		842	0.1613%	0.1723%	193		
1602	2A	2	2		1095	78	1173	0.2247%	0.2400%	571		
1603	3A	2	2		1365		1365	0.2615%	0.2793%	796H		
1604	4	2	2		1048		1048	0.2007%	0.2144%	379	380	
1605	5R	2	2		1025		1025	0.1963%	0.2097%	435	556	
1606	5A	2	2		1020		1020	0.1954%	0.2087%	31	186	
1607	5	2	2		1025		1025	0.1963%	0.2097%	144	145	
1608	4AR	2	2		1048		1048	0.2007%	0.2144%	539	653	
1609	6	2	2		1413	55	1468	0.2812%	0.3004%	154	155	
1610	7	2	2		997		997	0.1910%	0.2040%	219		
1611	7R	2	2		997		997	0.1910%	0.2040%	245		
1701	1	1	1		842		842	0.1613%	0.1723%	287		
1702	2A	2	2		1095	78	1173	0.2247%	0.2400%	658		
1703	3A	2	2		1365		1365	0.2615%	0.2793%	180	181	
1704	4A	2	2		1048		1048	0.2007%	0.2144%	598	649	
1705	5R	2	2		1025		1025	0.1963%	0.2097%	24	25	
1706	5A	2	2		1020		1020	0.1954%	0.2087%	233	238	
1707	5	2	2		1025		1025	0.1963%	0.2097%	284	289	
1708	4AR	2	2		1048		1048	0.2007%	0.2144%	328	329	
1709	6	2	2		1413	55	1468	0.2812%	0.3004%	147	148	
1710	7	2	2		997		997	0.1910%	0.2040%	221		
1711	7R	2	2		997		997	0.1910%	0.2040%	220		

**EXHIBIT C**  
**404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME**

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
1801	1	1	1		842		842	0.1613%	0.1723%	686		
1802	2A	2	2		1095	78	1173	0.2247%	0.2400%	791		
1803	3A	2	2		1365		1365	0.2615%	0.2793%	643	644	
1804	4	2	2		1048		1048	0.2007%	0.2144%	477	619	
1805	8A	3	2		1550		1550	0.2969%	0.3172%	729	731	
1807	8	3	2		1550		1550	0.2969%	0.3172%	101	102	
1808	4AR	2	2		1048		1048	0.2007%	0.2144%	99	100	
1809	6	2	2		1413		1413	0.2706%	0.2891%	265	286	
1810	7	2	2		997	55	1052	0.2015%	0.2153%	223		
1811	7R	2	2		997		997	0.1910%	0.2040%	222		
1901	1	1	1		842		842	0.1613%	0.1723%	542		
1902	2A	2	2		1095	78	1173	0.2247%	0.2400%	583		
1903	3A	2	2		1365		1365	0.2615%	0.2793%	574	575	
1904	4	2	2		1048		1048	0.2007%	0.2144%	720	721	
1905	8A	3	2		1550		1550	0.2969%	0.3172%	506H	518	
1907	8	3	2		1550		1550	0.2969%	0.3172%	103	190	
1908	4AR	2	2		1048		1048	0.2007%	0.2144%	120	620	408
1909	6	2	2		1413		1413	0.2706%	0.2891%	304	343	
1910	7	2	2		997	55	1052	0.2015%	0.2153%	225		
1911	7R	2	2		997		997	0.1910%	0.2040%	224		
2001	1	1	1		842		842	0.1613%	0.1723%	544		
2002	2A	2	2		1095	78	1173	0.2247%	0.2400%	119		
2003	3A	2	2		1365		1365	0.2615%	0.2793%	432	560	
2004	4	2	2		1048		1048	0.2007%	0.2144%	714	715	
2005	5R	2	2		1025		1025	0.1963%	0.2097%	687	688	
2006	5A	2	2		1020		1020	0.1954%	0.2087%	235	235	
2007	5	2	2		1025		1025	0.1963%	0.2097%	280	561	
2008	4R	2	2		1048		1048	0.2007%	0.2144%	260	685	
2009	6	2	2		1413	55	1468	0.2812%	0.3004%	275	276	
2010	7	2	2		997		997	0.1910%	0.2040%	227		
2011	7R	2	2		997		997	0.1910%	0.2040%	192		
2101	1	1	1		842		842	0.1613%	0.1723%	546		
2102	2A	2	2		1095	78	1173	0.2247%	0.2400%	678		
2103	3A	2	2		1365		1365	0.2615%	0.2793%	667	668	
2104	4A	2	2		1048		1048	0.2007%	0.2144%	750	751	
2105	5R	2	2		1025		1025	0.1963%	0.2097%	478	563	
2106	5A	2	2		1020		1020	0.1954%	0.2087%	60	68	
2107	5	2	2		1025		1025	0.1963%	0.2097%	285	288	
2108	4AR	2	2		1048		1048	0.2007%	0.2144%	136	146	
2109	6	2	2		1413	55	1468	0.2812%	0.3004%	305	306	
2110	7	2	2		997		997	0.1910%	0.2040%	206		
2111	7R	2	2		997		997	0.1910%	0.2040%	228		
2201	1	1	1		842		842	0.1613%	0.1723%	548		
2202	2A	2	2		1095	78	1173	0.2247%	0.2400%	676		
2203	3A	2	2		1365		1365	0.2615%	0.2793%	804	805	
2204	4	2	2		1048		1048	0.2007%	0.2144%	798	799	
2205	5R	2	2		1025		1025	0.1963%	0.2097%	64	480	
2206	5A	2	2		1020		1020	0.1954%	0.2087%	312	538	
2207	5	2	2		1025		1025	0.1963%	0.2097%	326	327	
2208	4R	2	2		1048		1048	0.2007%	0.2144%	149	150	
2209	6	2	2		1413	55	1468	0.2812%	0.3004%	298	299	
2210	7	2	2		997		997	0.1910%	0.2040%	282		
2211	7R	2	2		997		997	0.1910%	0.2040%	195		

**EXHIBIT C**  
**404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME**

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
2301	1	1	1		842		842	0.1613%	0.1723%	549		
2302	2A	2	2		1095	78	1173	0.2247%	0.2400%	672		
2303	3A	2	2		1365		1365	0.2615%	0.2793%	742	743	
2304	4A	2	2		1048		1048	0.2007%	0.2144%	593	594	
2305	5R	2	2		1025		1025	0.1963%	0.2097%	722	723	
2306	5A	2	2		1020		1020	0.1954%	0.2087%	740	741	
2307	5	2	2		1025		1025	0.1963%	0.2097%	73	214	
2308	4AR	2	2		1048		1048	0.2007%	0.2144%	258	259	
2309	6	2	2		1413	55	1468	0.2812%	0.3004%	398	399	
2310	7	2	2		997		997	0.1910%	0.2040%	231		
2311	7R	2	2		997		997	0.1910%	0.2040%	232		
2401	1	1	1		842		842	0.1613%	0.1723%	550		
2402	2A	2	2		1095	78	1173	0.2247%	0.2400%	737		
2403	3A	2	2		1365		1365	0.2615%	0.2793%	744	745	
2404	4	2	2		1048		1048	0.2007%	0.2144%	585	586	
2405	5R	2	2		1025		1025	0.1963%	0.2097%	718	719	
2406	5A	2	2		1020		1020	0.1954%	0.2087%	716	717	
2407	5	2	2		1025		1025	0.1963%	0.2097%	69	137	
2408	4R	2	2		1048		1048	0.2007%	0.2144%	314	315	
2409	6	2	2		1413	55	1468	0.2812%	0.3004%	318	319	
2410	7	2	2		997		997	0.1910%	0.2040%	242		
2411	7R	2	2		997		997	0.1910%	0.2040%	241		
2501	1	1	1		842		842	0.1613%	0.1723%	709		
2502	2A	2	2		1095	78	1173	0.2247%	0.2400%	116		
2503	3A	2	2		1365		1365	0.2615%	0.2793%	758	759	
2504	4A	2	2		1048		1048	0.2007%	0.2144%	603	604	
2505	5R	2	2		1025		1025	0.1963%	0.2097%	746	747	
2506	5A	2	2		1020		1020	0.1954%	0.2087%	748	749	
2507	5	2	2		1025		1025	0.1963%	0.2097%	117	117	
2508	4AR	2	2		1048		1048	0.2007%	0.2144%	271	272	
2509	6	2	2		1413	55	1468	0.2812%	0.3004%	353	354	
2510	7	2	2		997		997	0.1910%	0.2040%	244		
2511	7R	2	2		997		997	0.1910%	0.2040%	243		
2601	1	1	1		842		842	0.1613%	0.1723%	540		
2602	2A	2	2		1095	78	1173	0.2247%	0.2400%	174	175	
2603	3A	2	2		1365		1365	0.2615%	0.2793%	564	565	
2604	4	2	2		1048		1048	0.2007%	0.2144%	762	763	
2605	5R	2	2		1025		1025	0.1963%	0.2097%	802	803	
2606	5A	2	2		1020		1020	0.1954%	0.2087%	800	801	
2607	5	2	2		1025		1025	0.1963%	0.2097%	156	157	
2608	4R	2	2		1048		1048	0.2007%	0.2144%	277	278	
2609	6	2	2		1413	55	1468	0.2812%	0.3004%	349	350	
2610	7	2	2		997		997	0.1910%	0.2040%	246		
2611	7R	2	2		997		997	0.1910%	0.2040%	654H		
2701	1	1	1		842		842	0.1613%	0.1723%	727		
2702	2A	2	2		1095	78	1173	0.2247%	0.2400%	377	378	
2703	3A	2	2		1365		1365	0.2615%	0.2793%	591		
2704	4A	2	2		1059		1059	0.2028%	0.2167%	792		
2705	5R	2	2		1039		1039	0.1990%	0.2126%	565		
2706	5A	2	2		1020		1020	0.1954%	0.2087%	627	628	
2707	5	2	2		1039		1039	0.1990%	0.2126%	152		
2708	4AR	2	2		1059		1059	0.2028%	0.2167%	292		
2709	6	2	2		1413	55	1468	0.2812%	0.3004%	310		
2710	7	2	2		997		997	0.1910%	0.2040%	248		
2711	7R	2	2		997		997	0.1910%	0.2040%	247		

**EXHIBIT C**  
**404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME**

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
2801	1	1	1		842		842	0.1613%	0.1723%	671		
2802	2A	2	2		1095	78	1173	0.2247%	0.2400%	373	374	
2803	3A	2	2		1365		1365	0.2615%	0.2793%	583	584	
2804	4	2	2		1059		1059	0.2028%	0.2167%	629	630	
2805	5R	2	2		1039		1039	0.1990%	0.2126%	570	580	
2806	5A	2	2		1020		1020	0.1954%	0.2087%	595	596	
2807	5	2	2		1039		1039	0.1990%	0.2126%	134	135	
2808	4R	2	2		1059		1059	0.2028%	0.2167%	296	297	
2809	6	2	2		1413	55	1468	0.2812%	0.3004%	381	382	
2810	7	2	2		997		997	0.1910%	0.2040%	250		
2811	7R	2	2		997		997	0.1910%	0.2040%	249		
2901	1	1	1		842		842	0.1613%	0.1723%	684		
2902	2A	2	2		1095	78	1173	0.2247%	0.2400%	371		
2903	3A	2	2		1365		1365	0.2615%	0.2793%	601	602	
2904	4A	2	2		1059		1059	0.2028%	0.2167%	607	608	
2905	5R	2	2		1039		1039	0.1990%	0.2126%	589	590	
2906	5A	2	2		1020		1020	0.1954%	0.2087%	587	588	
2907	5	2	2		1039		1039	0.1990%	0.2126%	27	191	
2908	4AR	2	2		1059		1059	0.2028%	0.2167%	300	301	
2909	6	2	2		1413	55	1468	0.2812%	0.3004%	395	393	
2910	7	2	2		997		997	0.1910%	0.2040%	252		
2911	7R	2	2		997		997	0.1910%	0.2040%	251		
3001	1	1	1		842		842	0.1613%	0.1723%	682		
3002	2A	2	2		1095	78	1173	0.2247%	0.2400%	599		
3003	3A	2	2		1365		1365	0.2615%	0.2793%	764	765	
3004	4	2	2		1059		1059	0.2028%	0.2167%	611	612	
3005	5R	2	2		1039		1039	0.1990%	0.2126%	581	582	
3006	5A	2	2		1020		1020	0.1954%	0.2087%	600		
3007	5	2	2		1039		1039	0.1990%	0.2126%	344	345	
3008	4R	2	2		1059		1059	0.2028%	0.2167%	322	323	
3009	6	2	2		1413	55	1468	0.2812%	0.3004%	427	428	
3010	7	2	2		997		997	0.1910%	0.2040%	15		
3011	7R	2	2		997		997	0.1910%	0.2040%	363	364	
3101	1	1	1		842		842	0.1613%	0.1723%	680		
3102	2A	2	2		1095	78	1173	0.2247%	0.2400%	337	338	
3103	3A	2	2		1365		1365	0.2615%	0.2793%	217	262	
3104	4A	2	2		1059		1059	0.2028%	0.2167%	665	666	
3105	5R	2	2		1039		1039	0.1990%	0.2126%	768	769	
3106	5A	2	2		1020		1020	0.1954%	0.2087%	766	767	
3107	5	2	2		1039		1039	0.1990%	0.2126%	267	268	
3108	4AR	2	2		1059		1059	0.2028%	0.2167%	320	321	
3109	6	2	2		1413	55	1468	0.2812%	0.3004%	438	439	
3110	7	2	2		997		997	0.1910%	0.2040%	778	779	
3111	7R	2	2		997		997	0.1910%	0.2040%	164	165	
3201	1	1	1		842		842	0.1613%	0.1723%	667		
3202	2A	2	2		1095	78	1173	0.2247%	0.2400%	187	188	126
3203	3A	2	2		1365		1365	0.2615%	0.2793%	625	626	
3204	4	2	2		1059		1059	0.2028%	0.2167%	623	624	
3205	5R	2	2		1039		1039	0.1990%	0.2126%	229	230	
3206	5A	2	2		1020		1020	0.1954%	0.2087%	788		
3207	5	2	2		1039		1039	0.1990%	0.2126%	369	270	
3208	4R	2	2		1059		1059	0.2028%	0.2167%	316	317	
3209	6	2	2		1413	55	1468	0.2812%	0.3004%	471	472	
3210	7	2	2		997		997	0.1910%	0.2040%	543		
3211	7R	2	2		997		997	0.1910%	0.2040%	479		306

# EXHIBIT C

## 404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net		Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
					Living Area (Sq. Ft.)	Lanai Area (Sq. Ft.)						
3301	1	1	1		842		842	0.1613%	0.1723%	675		
3302	2A	2	2		1095	78	1173	0.2247%	0.2400%	189	189	127
3303	3A	2	2		1365		1365	0.2615%	0.2793%	605	606	
3304	4A	2	2		1059		1059	0.2028%	0.2167%	642	650	
3305	5BR	2	2		1039		1039	0.1990%	0.2126%	388	797	
3306	5C	2	2		1020		1020	0.1954%	0.2087%	681	794	
3307	5BR	2	2		1039		1039	0.1990%	0.2126%	273	274	
3308	4R	2	2		1059		1059	0.2028%	0.2167%	351	352	
3309	6A	2	2		1413	55	1468	0.2812%	0.3004%	485	486	
3310	7	2	2		997		997	0.1910%	0.2040%	166	167	
3311	7R	2	2		997		997	0.1910%	0.2040%	753	754	
3401	1	1	1		842		842	0.1613%	0.1723%	696		
3402	2	2	2		1050	78	1128	0.2161%	0.2308%	172	173	
3403	3	2	2		1228	52	1280	0.2452%	0.2619%	609	610	
3404	4	2	2		1059		1059	0.2028%	0.2167%	637	638	
3405	5BR	2	2		1039		1039	0.1990%	0.2126%	568	569	
3406	5C	2	2		1020		1020	0.1954%	0.2087%	713	698	
3407	5BR	2	2		1039		1039	0.1990%	0.2126%	290	291	
3408	4R	2	2		1059		1059	0.2028%	0.2167%	263	264	
3409	6A	2	2		1618		1618	0.3099%	0.3311%	400	401	
3410	7	2	2		997		997	0.1910%	0.2040%	121		
3411	7R	2	2		997		997	0.1910%	0.2040%	307	308	
3501	1	1	1		842		842	0.1613%	0.1723%	669		
3502	2	2	2		1050	78	1128	0.2161%	0.2308%	254	255	
3503	3	2	2		1228	52	1280	0.2452%	0.2619%	613	614	
3504	4	2	2		1059		1059	0.2028%	0.2167%	651	652	
3505	5DR	2	2		1087		1087	0.2082%	0.2224%	659	660	
3506	5E	2	2		1079		1079	0.2067%	0.2208%	728	795H	
3507	5DR	2	2		1087		1087	0.2082%	0.2224%	294	295	
3508	4R	2	2		1059		1059	0.2028%	0.2167%	346	347	
3509	6A	2	2		1618		1618	0.3099%	0.3311%	408	409	
3601	1	1	1		842		842	0.1613%	0.1723%	693		
3602	2	2	2		1050	78	1128	0.2161%	0.2308%	215	752	
3603	3	2	2		1228	52	1280	0.2452%	0.2619%	621	622	
3604	4	2	2		1059		1059	0.2028%	0.2167%	257	781	
3605	5DR	2	2		1100		1100	0.2107%	0.2251%	617	618	
3606	5E	2	2		1092		1092	0.2092%	0.2235%	615	616	
3607	5DR	2	2		1100		1100	0.2107%	0.2251%	302	303	
3608	4R	2	2		1059		1059	0.2028%	0.2167%	256	383	
3609	6A	2	2		1618		1618	0.3099%	0.3311%	516	517	
3701	1	1	1		842		842	0.1613%	0.1723%	572	324	406
3702	2	2	2		1050	78	1128	0.2161%	0.2308%	281	309	
3703	3	2	2		1228	52	1280	0.2452%	0.2619%	631	632	
3704	4A	2	2		1059		1059	0.2028%	0.2167%	473	474	
3705	5DR	2	2		1138		1138	0.2180%	0.2329%	633	634	
3706	5E	2	2		1131		1131	0.2166%	0.2314%	656	657	
3707	5DR	2	2		1138		1138	0.2180%	0.2329%	421	422	
3708	4AR	2	2		1059		1059	0.2028%	0.2167%	520	521	
3709	6A	2	2		1618		1618	0.3099%	0.3311%	446	447	
3801	1	1	1		842		842	0.1613%	0.1723%	333		
3802	2	2	2		1050	78	1128	0.2161%	0.2308%	239	757	
3803	3	2	2		1228	52	1280	0.2452%	0.2619%	639	641	
3804	4	2	2		1059		1059	0.2028%	0.2167%	444	445	
3805	5DR	2	2		1174		1174	0.2249%	0.2402%	773	774	
3806	5E	2	2		1168		1168	0.2237%	0.2390%	771	772	
3807	5DR	2	2		1174		1174	0.2249%	0.2402%	348	389	

# EXHIBIT C

## 404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME

Unit No.	Unit Type	No. Bdrn	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
3808	4R	2	2		1059		1059	0.2028%	0.2167%	325		
3809	6A	2	2		1618		1618	0.3099%	0.3311%	450	451	
3901	1	1	1		842		842	0.1613%	0.1723%	279		
3902	2	2	2		1050	78	1128	0.2161%	0.2308%	554	555	
3903	3	2	2		1228	52	1280	0.2452%	0.2619%	635	636	
3904	4A	2	2		1059		1059	0.2028%	0.2167%	406	407	
3905	5DR	2	2		1212		1212	0.2321%	0.2480%	394	395	
3906	5E	2	2		1207		1207	0.2312%	0.2470%	396	397	
3907	5DR	2	2		1212		1212	0.2321%	0.2480%	519	557	
3908	4AR	2	2		1059		1059	0.2028%	0.2167%	410	411	
3909	6A	2	2		1618		1618	0.3099%	0.3311%	452	453	
4001	1	1	1		842		842	0.1613%	0.1723%	704		
4002	2	2	2		1050	78	1128	0.2161%	0.2308%	558	559	
4003	3	2	2		1228	52	1280	0.2452%	0.2619%	663	664	
4004	4	2	2		1059		1059	0.2028%	0.2167%	419	420	
4005	5DR	2	2		1247		1247	0.2389%	0.2552%	475	476	
4006	5F	2	2		1094	119	1213	0.2323%	0.2482%	440	441	
4007	5DR	2	2		1247		1247	0.2389%	0.2552%	442	443	
4008	4R	2	2		1059		1059	0.2028%	0.2167%	417	418	
4009	6A	2	2		1618		1618	0.3099%	0.3311%	459	460	
4101	1	1	1		842		842	0.1613%	0.1723%	334		
4102	2	2	2		1050	78	1128	0.2161%	0.2308%	582	648	
4103	3	2	2		1228	52	1280	0.2452%	0.2619%	661	662	
4104	4A	2	2		1059		1059	0.2028%	0.2167%	413	414	
4105	5DR	2	2		1265		1265	0.2423%	0.2589%	483	484	
4106	5F	2	2		1094	174	1268	0.2429%	0.2595%	775		
4107	5DR	2	2		1285		1285	0.2461%	0.2629%	429	430	
4108	4AR	2	2		1059		1059	0.2028%	0.2167%	454	455	
4109	6A	2	2		1618		1618	0.3099%	0.3311%	504	505	
4201	1	1	1		842		842	0.1613%	0.1723%	104		
4202	2	2	2		1050	78	1128	0.2161%	0.2308%	552	553	
4203	3	2	2		1228	52	1280	0.2452%	0.2619%	725	777	
4204	4	2	2		1059		1059	0.2028%	0.2167%	458	499	
4205	5DR	2	2		1323		1323	0.2534%	0.2707%	402	403	
4206	5F	2	2		1094	195	1289	0.2469%	0.2638%	431	437	
4207	5DR	2	2		1323		1323	0.2534%	0.2707%	404	405	
4208	4R	2	2		1059		1059	0.2028%	0.2167%	497	498	
4209	6A	2	2		1618		1618	0.3099%	0.3311%	467	468	
4301	1	1	1		842		842	0.1613%	0.1723%	253		
4302	2	2	2		1050	78	1128	0.2161%	0.2308%	698	776	
4303	3	2	2		1228	52	1280	0.2452%	0.2619%	646	647	
4304	4A	2	2		1059		1059	0.2028%	0.2167%	689	694	
4305	5DR	2	2		1361		1361	0.2607%	0.2785%	423	424	
4306	5F	2	2		1094	233	1327	0.2542%	0.2715%	425	426	
4307	FD	2	2		1361		1361	0.2607%	0.2785%	335	336	
4308	4AR	2	2		1059		1059	0.2028%	0.2167%	469	470	
4309	6A	2	2		1618		1618	0.3099%	0.3311%	463	464	

**EXHIBIT C**  
**404 PIKOI PHASE IIB - HAWAII TOWER CONDOMINIUM PROPERTY REGIME**

Unit No.	Unit Type	No. Bdrm	No. Bth	No. of Rooms	Appr. Net Living Area (Sq. Ft.)	Appr. Net Lanai Area (Sq. Ft.)	Appr. Total Floor Area (Sq. Ft.)	% Common interest	% Limited Common interest	Parking Stall #1	Parking Stall #2	Storage Room
4401	1	1	1		842		842	0.1613%	0.1723%	168	169	
4402	2	2	2		1050	78	1128	0.2161%	0.2308%	738	739	
4403	3	2	2		1228	52	1280	0.2452%	0.2619%	391	392	
4404	4	2	2		1059		1059	0.2028%	0.2167%	465	466	
4405	5GR	2	2		1395		1395	0.2672%	0.2855%	448	449	
4406	5H	2	2		1398		1398	0.2678%	0.2861%	481	482	
4407	5GR	2	2		1395		1395	0.2672%	0.2855%	415	416	
4408	4R	2	2		1059		1059	0.2028%	0.2167%	461	462	
4409	6A	2	2		1618		1618	0.3099%	0.3311%	487	488	
4501	PH1	3	2.5		2318		2318	0.4440%	0.4743%	510	511	4601
4502	PH2	3	2.5		2126	355	2481	0.4752%	0.5077%	495	496	
4503	PH2A	3	2.5		2152	369	2521	0.4829%	0.5159%	514	515	
4504	PH2R	3	2.5		2126	355	2481	0.4752%	0.5077%	512	513	
4505	PH1A	3	2.5		2298		2298	0.4402%	0.4702%	508	509	4602
4506	PH3R	3	2.5		2359		2359	0.4518%	0.4827%	489	490	
4507	PH3A	3	2.5		2369		2369	0.4538%	0.4848%	491	492	
4508	PH3	3	2.5		2359		2359	0.4518%	0.4827%	493	494	
							488,696	93.6033%	100.00%			
							30,004	5.7470%				
							3,381	0.6476%				
Total Common Interest					514,924	7,157	522,081	100.00%				
Total Limited Common Interest							488,696		100.00%			

## **EXHIBIT D**

### **DESCRIPTION OF RETAIL APARTMENTS**

1. Retail Apartment No. 1 is located on Levels 1 and 2 of the Tower and consists of the spaces within the boundaries shown on the Condominium Map, which is enclosed by the perimeter walls, floors and ceilings. The net floor area of Commercial Apartment No. 1 is approximately 30,004 square feet.
2. Retail Apartment No. 2 is located on Level 2 of the Tower and consists of the spaces within the boundaries shown on the Condominium Map, which is enclosed by the perimeter walls, floors and ceilings. The net floor area of Commercial Apartment No. 2 is approximately 3,381 square feet.



## **EXHIBIT F**

### **COMMUNICATIONS EQUIPMENT PREAPPROVED FOR INSTALLATION**

- Microflect Corp. antenna support structures (or similar models) in each of the Rooftop Antenna Areas
- 8-foot KAH Dishes
- 6-foot STL Dishes
- 2-foot DOT Dishes
- 4-foot Scoop Dishes
- 6-foot Red Hill Dishes
- 6-foot Sky Cam Dishes
- 16-foot whip radio antennas
- Microwave parabolic dish antennas and support equipment up to 8 feet in diameter and 500 pounds
- Disc rod, GPS, loop, and panel antennas up to 8 feet long and 100 pounds
- Horizontal beam antennas, such as Yagi and log-periodics up to 16 feet long and 100 pounds
- Whip, co-linear, and slot-array type vertical pole-like antennas up to 8 feet high and 100 pounds
- Transmitters, receivers, and optical links chassis and control boxes weighing up to 100 pounds
- Video cameras and related support and remote control equipment weighing up to 100 pounds
- Interconnecting flexible transmission lines including waveguide, coaxial, power, and signal cables between antennas and support equipment such as the equipment rack, up to 3 inches in diameter

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<u>Unit No.</u>	<u>TCT No.</u>	<u>Unit No.</u>	<u>TCT No.</u>
301	1159154	703	789909
303	594969	704	1086769
401	1150330	705	1145641
402	1050502	706	716146
403	897701	707	533466
404	1049520	708	1152474
405	1145205	709	1049094
501	533954	710	1092439
502	1226793	711	1217727
503	540480	801	533470
504	1169222	802	1171503
505	533451	803	1187913
601	1067244	804	1085716
602	1161354	805	875357
603	533453	807	628900
604	1154568	808	559903
605	566081	809	1053508
606	713526	810	991219
607	1042025	811	1049704
608	1183256	901	1225642
609	1061058	902	959714
610	535611	903	1130747
611	1210788	904	1024712
701	533461	905	556655
702	818352	907	1113291

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
908	1236159	1201	1011536
909	1173149	1202	533498
910	533480	1203	893788
911	533481	1204	1142621
1001	533482	1205	1174469
1002	992991	1206	1150219
1003	1050525	1207	533500
1004	850186	1208	1197082
1005	1208274	1209	691572
1007	1184874	1210	1108057
1008	861294	1211	1201937
1009	1079721	1301	1206551
1010	1228141	1302	1240485
1011	702909	1303	577053
1101	1203851	1304	973880
1102	533491	1305	1093414
1103	1073062	1306	646412
1104	1232796	1307	775213
1105	541173	1308	1066957
1106	1162859	1309	801562
1107	629603	1310	533506
1108	1092563	1311	965220
1109	1067417	1401	537646
1110	1134202	1402	1038538
1111	1211954	1403	1216832

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
1404	1071916	1607	776719
1405	550547	1608	1218082
1406	1146904	1609	1222557
1407	1102382	1610	1145632
1408	953011	1611	533527
1409	1083130	1701	1048933
1410	638662	1702	957663
1411	1180298	1703	537691
1501	721664	1704	607041
1502	1225375	1705	909943
1503	1036317	1706	1195709
1504	746567	1707	744967
1505	1075747	1708	1160713
1506	889457	1709	1109316
1507	1135306	1710	760118
1508	562344	1711	917024
1509	1181981	1801	899294
1510	1057963	1802	1012720
1511	623000	1803	1227768
1601	533521	1804	820664
1602	1066665	1805	533533
1603	1130611	1807	537627
1604	628529	1808	1139569
1605	1072142	1809	1208760
1606	533524	1810	642862

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<u>Unit No.</u>	<u>TCT No.</u>	<u>Unit No.</u>	<u>TCT No.</u>
1811	1061334	2104	1059454
1901	1086417	2105	1144953
1902	874928	2106	757891
1903	546067	2107	1131838
1904	1133560	2108	1175764
1905	611489	2109	662194
1907	1235304	2110	1201389
1908	1177627	2111	1159890
1909	974278	2201	533546
1910	1079666	2202	1036750
1911	1210807	2203	1096669
2001	1045733	2204	1031602
2002	1044323	2205	1102485
2003	1021754	2206	1214869
2004	1190179	2207	1144654
2005	1216676	2208	1188091
2006	548766	2209	1104404
2007	1146790	2210	552222
2008	847344	2211	847229
2009	1117489	2301	1056029
2010	1072548	2302	1102694
2011	889860	2303	576601
2101	750418	2304	1236258
2102	533544	2305	786451
2103	1069234	2306	1151265

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
2307	1125479	2510	1133677
2308	1231518	2511	1228018
2309	1066525	2601	1130967
2310	1111124	2602	533554
2311	772618	2603	540508
2401	1193040	2604	1181261
2402	1207582	2605	605579
2403	536763	2606	1193413
2404	547132	2607	569299
2405	1051407	2608	1102170
2406	551677	2609	1158336
2407	1139346	2610	1192874
2408	884417	2611	1211234
2409	1060833	2701	1044304
2410	1225284	2702	554713
2411	1000704	2703	1127369
2501	546772	2704	1064862
2502	1194179	2705	1052212
2503	1027154	2706	1128856
2504	1101649	2707	1141691
2505	1142095	2708	1226941
2506	1033422	2709	1144819
2507	1240084	2710	805386
2508	1071135	2711	645308
2509	533553	2801	1182194

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
2802	724101	3005	1104151
2803	617083	3006	1104152
2804	628741	3007	1094892
2805	1090641	3008	621203
2806	1084346	3009	543224
2807	856884	3010	1137196
2808	1018258	3011	1102671
2809	1227493	3101	695144
2810	1162753	3102	587705
2811	1131606	3103	1176363
2901	1035726	3104	765523
2902	1217854	3105	1001131
2903	1148664	3106	1202312
2904	1139668	3107	1119069
2905	1172205	3108	688417
2906	1179069	3109	1048201
2907	1132428	3110	1090896
2908	1062553	3111	1191615
2909	547733	3201	1181263
2910	1005103	3202	955805
2911	886197	3203	545168
3001	1086141	3204	1117584
3002	1008517	3205	647157
3003	1069125	3206	694817
3004	828252	3207	533557

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
3208	1065382	3411	840105
3209	957252	3501	1114031
3210	575828	3502	1114031
3211	1179546	3503	1154657
3301	1118567	3504	986919
3302	1175356	3505	851685
3303	1082644	3506	1183692
3304	1107433	3507	570759
3305	1052779	3508	1237000
3306	1052778	3509	1116753
3307	1052777	3601	1045752
3308	1080306	3602	1045752
3309	890364	3603	950727
3310	1167038	3604	1072064
3311	1238846	3605	1054588
3401	1097421	3606	735712
3402	1179329	3607	1111212
3403	930449	3608	776720
3404	557702	3609	1084079
3405	1165186	3701	1052765
3406	1165186	3702	1014743
3407	1195117	3703	781968
3408	1237417	3704	1059656
3409	1032578	3705	1075836
3410	617082	3706	1075836



**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<u>Unit No.</u>	<u>TCT No.</u>	<u>Unit No.</u>	<u>TCT No.</u>
3707	1207128	4005	833431
3708	1077771	4006	833431
3709	816160	4007	943466
3801	592935	4008	1111601
3802	1228897	4009	1184232
3803	552223	4101	1191310
3804	1187071	4102	705868
3805	960935	4103	1181891
3806	927188	4104	1193847
3807	892657	4105	956832
3808	1165807	4106	956832
3809	1217081	4107	1172249
3901	590421	4108	1080647
3902	1076042	4109	957469
3903	1162533	4201	1207408
3904	970608	4202	569639
3905	1156362	4203	1175102
3906	729452	4204	555487
3907	559737	4205	558285
3908	841914	4206	1022614
3909	994070	4207	1120463
4001	1193693	4208	533568
4002	1051141	4209	1101428
4003	1095782	4301	1098429
4004	1199003	4302	1098429

**Exhibit "1"**

**Hawaiki Tower  
Land Court Condominium Map No. 1227**

**List of Current Transfer Certificate of Title Numbers**

<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>	<b><u>Unit No.</u></b>	<b><u>TCT No.</u></b>
4303	1182990	4407	542243
4304	909267	4408	731605
4305	584954	4409	830796
4306	1184069	4501	1171681
4307	1062924	4502	958891
4308	959010	4503	1178648
4309	1075515	4504	749570
4401	1217901	4505	1084429
4402	1025871	4506	1144954
4403	1060103	4507	1231335
4404	1112243	4508	1002058
4405	1165896	RET 1	1002329
4406	792002	RET 2	1002330