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STATE OF HAWAII
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ASSISTANT REGISTRAR

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BUREAU OF CONVEYANCES
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/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES ^{HO}

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup (X) To:

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TITLE OF DOCUMENT:

BYLAWS OF THE ASSOCIATION OF APARTMENT OWNERS
OF ONE ARCHER LANE

PARTIES TO DOCUMENT:

DEVELOPER: MYERS KING STREET PARTNERS
FEE OWNER: F. SCHUBERT PROPERTIES LIMITED PARTNERSHIP
FEE OWNER: MALAMA DEVELOPMENT CORP.

TAX MAP KEY(S): Oahu 2-1-44: 41, 42 & 43

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BYLAWS OF THE ASSOCIATION
OF APARTMENT OWNERS OF
ONE ARCHER LANE

MYERS KING STREET PARTNERS, a Hawaii limited partnership (the "Developer"), and P. SCHUBERT PROPERTIES LIMITED PARTNERSHIP, a Hawaii limited partnership, and MALAMA DEVELOPMENT CORP., a Hawaii corporation (collectively, "Fee Owners"), the owners of the land described in Exhibit "A" of the Declaration of Condominium Property Regime of One Archer Lane ("the Declaration"), of even date and which is recorded in the Bureau of Conveyances of the State of Hawaii and the Office of the Assistant Registrar of the Land Court of the State of Hawaii concurrently herewith, hereby submit the Condominium Property Regime described in said Declaration to the following Bylaws:

ARTICLE I

INTRODUCTORY PROVISIONS

SECTION 1. Authority for Bylaws. The Developer, acting as the present Association of Apartment Owners of the Project, and the Fee Owners hereby approve and adopt these Bylaws pursuant to the Act.

SECTION 2. Definitions. The terms used herein with initial capital letters shall have the meanings given to them in the Declaration, except as expressly otherwise provided herein.

SECTION 3. Purpose of Bylaws: Covenants to Run with the Land. The Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following Bylaws all of which are declared and agreed to be in furtherance of the plan set forth in the Declaration, to constitute a Condominium Property Regime under the Act and for the purposes of enhancing and perfecting the value, desirability and attractiveness of the Project. These Bylaws shall run with the Land and Apartments and shall be binding upon all parties having or acquiring any right, title or interest therein.

SECTION 4. Conflicts. These Bylaws are set forth to comply with the Declaration and the requirements of the Act and Title 16, Chapter 107 of the Hawaii Administrative Rules. In any case where any of these Bylaws conflict with the provisions of the

Declaration, the Act or said rules, the provisions of the Declaration, the Act, or said rules, as the case may be, shall control and the Board shall be authorized to act in accordance with such provisions of the Declaration, the Act, or said rules.

SECTION 5. Binding Effect of Bylaws on Owners, Mortgagees and Lessees. All present and future Owners, mortgagees, vendors and vendees under Agreements of Sale, tenants and occupants of Apartments and their employees, invitees and any other persons who may use any part of the Project in any manner are subject to these Bylaws, the Declaration and the House Rules. The acceptance of an Apartment Deed, or conveyance or mortgage or Agreement of Sale or the entering into of a lease or the act of occupancy of an Apartment shall constitute an acceptance, ratification and agreement to comply with the provisions of these Bylaws, the House Rules and the Declaration, as the same may be amended from time to time.

ARTICLE II

ASSOCIATION OF APARTMENT OWNERS

SECTION 1. Purpose and Voting. The Association shall be organized and operated for the purposes of managing, maintaining, acquiring, constructing and caring for the Association property which includes the Common Elements, funds and other property held by the Association or the nominee of the Association, property owned by one (1) or more Apartment Owners, but held by the Association, property within or forming part of the Project privately held by one (1) or more Apartment Owners, but which may be subject to a common maintenance assessment by the Association for such purposes as insurance, and property owned by a government agency, public utility or other third party and used for the benefit of the Association or one (1) or more Apartment Owners. Each Apartment Owner shall be a member of the Association and shall be entitled to that fraction of the total vote of all of the Apartment Owners which equals the percentage of the Common Interest appurtenant to such Apartment as set forth in the Declaration. Votes may be cast in person or by proxy by the respective Apartment Owners. The vendee of an Apartment pursuant to a recorded Agreement of Sale shall have the right to vote unless the vote is retained by the vendor as may be provided in said Agreement of Sale pursuant to Section 514A-83 of the Act. The vote for any Apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such Apartment. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association, the percentage of vote for any Apartment owned or controlled by him in such capacity, provided that he shall first present satisfactory written evidence to the secretary of the Board or the Managing Agent that he owns or controls such Apartment in such capacity. Corporations and general partnerships and limited partnerships which are Owners shall designate

a general partner or officer for the purpose of exercising the vote; such representative of an Owner which is a corporation, general partnership or limited partnership shall present satisfactory written evidence to the Secretary or the Managing Agent of their designation as representative. In the absence of a challenge to such capacity, a written statement signed by an executor, administrator, guardian, trustee, officer of a corporation, or partner of a partnership shall constitute satisfactory written evidence; such statement shall be delivered to the Secretary or the Managing Agent not later than 4:30 p.m. on the second business day prior to the date of the meeting to which the written statement pertains and shall be effective until changed, revoked, or superseded.

SECTION 2. Quorum of Association. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners of Apartments to which are appurtenant at least fifty percent (50%) of the Common Interest shall constitute a quorum at all meetings of the Association.

SECTION 3. Majority Vote. The vote of a majority of Apartment Owners at a meeting at which a quorum shall be present shall be binding upon all Owners for all purposes, except where a higher percentage vote is required in the Declaration or these Bylaws or by law.

SECTION 4. Majority of Apartment Owners. As used in these Bylaws, the term "Majority of Apartment Owners" shall mean Owners of Apartments to which are appurtenant more than fifty percent (50%) of the Common Interest.

SECTION 5. Cumulative Voting. Election of Directors shall be by cumulative voting and each Owner may cast for any one or more nominees to the Board a vote equivalent to the votes to which such Owner is entitled multiplied by the number of Directors to be elected. Each Owner shall be entitled to cumulate his votes and give all thereof to one nominee or to distribute his votes in such manner as he shall determine among any or all of the nominees, provided that an Owner shall not distribute portions or fractions of a vote. The nominees receiving the highest number of votes on the foregoing basis, up to the total number of Directors to be elected, shall be deemed elected.

SECTION 6. Proxies and Pledges. A proxy, to be valid, must be delivered to the Secretary of the Association or the Managing Agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: the name of the Association, the date of the meeting of the Association, the printed name and signature of the person or persons giving the proxy, the Apartment or Apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments and may be limited as the Apartment Owner desires and indicates. All proxy forms shall, at a minimum, contain four boxes wherein an Owner may indicate that the

Owner desires the proxy to be given (1) to the Board or a specific individual whose name is printed by the Owner next to the box for purposes of establishing a quorum only, (2) to a specific individual whose name is printed by the Owner next to the box, (3) to the Board as a whole to be voted based on the preference of a majority of the Board, or (4) to the Board with each member thereof present at the meeting to vote an equal share of the proxy. A proxy form which does not have one of these four boxes marked shall be considered a proxy given to the Board for purposes of establishing a quorum only. No proxy shall be irrevocable unless coupled with a financial interest in the Apartment. Proxies shall be revoked by writing filed with the Secretary or by the death or incapacity of such Owner or by the attendance of such Owner at the meeting. Voting rights transferred or pledged by a recorded lease, mortgage, or Agreement of Sale of any Apartment or interest therein, a true copy of which is filed with the Board through the Secretary or Managing Agent, shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in like manner. Nothing contained in this Section 6 or Section 7, below, shall affect the holder of any proxy under a first mortgage of record encumbering an Apartment or under an Agreement of Sale affecting an Apartment.

SECTION 7. Prohibited Proxy Practices.

a. No Resident Manager, or Managing Agent shall solicit, for use by such manager or Managing Agent, any proxies from any Apartment Owner, nor shall he cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

b. No Director who uses Association funds to solicit proxies shall vote any such proxies for the election or reelection of any Director at any Association meeting unless the proxy form specifically authorizes such vote for the election or reelection of Directors and the Board first posts notice of such intention to solicit proxies in prominent locations within the Project at least thirty (30) days prior to its solicitation of proxies; provided that if the Board receives within seven (7) days of the posted notice a request by any Owner for use of Association funds to solicit proxies accompanied by a statement, the Board shall:

(1) Mail to all Owners a proxy form containing either the names of all Owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or

(2) Mail to all Owners a proxy form containing no names, but accompanied by a list of names of all Owners who have requested the use of Association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words and shall indicate the Owner's qualifications to serve on the Board and reasons for wanting to receive proxies.

c. No officer of the Association may use Association funds to solicit proxies; provided that if any member of the Board shall post notice of intention to solicit proxies as provided in Section 7(b) of this Article II, such officer shall have the same rights as any other Owner to request the use of Association funds to solicit proxies.

SECTION 8. Place of Meetings. All meetings of the Association shall be held at such place within the Project, or as close thereto as may be practical within the City and County of Honolulu, as may be designated by the Board.

SECTION 9. First Annual Meeting. The first annual meeting of the Apartment Owners shall be held as called by the Developer and shall be held not later than (1) one hundred and twenty days after the date on which Apartment Deeds for seventy five percent (75%) of the Apartments in the Project have been recorded in the Bureau and Land Court, (2) one hundred eighty (180) days after recordation of the first Apartment Deed, provided that Apartment Deeds for not less than forty percent (40%) of the Apartments in the Project have been recorded in the Bureau and Land Court, or (3) three years after the recordation of the first Apartment Deed, whichever occurs first. If Apartment Deeds for less than forty percent (40%) of the Apartments in the Project shall not have been recorded within one (1) year of the recordation of the first Apartment Deed, an annual meeting shall be called if ten percent (10%) of the Apartment Owners so request in writing. At such meeting the Apartment Owners shall elect a Board. Prior to that time, the Association shall consist solely of the Developer which shall have authority to act in all matters as the Association.

SECTION 10. Annual Meetings. All annual meetings of the Association (after the first annual meeting) shall be held within one hundred and twenty (120) days following the close of the calendar year or at such other time as the Board shall from time to time determine. Not less than thirty (30) days prior to each such annual meeting, the Board shall make available to each Apartment Owner a copy of the Association's annual audit report, or if the same is not then available, an unaudited financial statement, and the Annual Budget and reserve study prepared pursuant to Article VI, Section 8 of these Bylaws. Any audit reports not made available at the annual meeting will be made available in accordance with the provisions of the Act. At such meetings the Board shall be elected by ballot of the Apartment Owners in accordance with the requirements of Article III, Section 1 of these Bylaws. The Apartment Owners may transact such other business at such meetings as may properly come before them.

SECTION 11. Regular Meetings. In addition to annual meetings as provided in Section 10 of this Article II, the Board by resolution or a Majority of the Apartment Owners by petition may establish regular meetings at semiannual, quarterannual, or other regular intervals.

SECTION 12. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or of any two (2) Directors, or upon the written

request of Owners of Apartments to which are appurtenant at least twenty-five percent (25%) of the Common Interest to the Managing Agent, on behalf of the Board.

SECTION 13. Notice of Meetings and Other Notices. Written notice of all meetings, annual, regular, special or otherwise, stating the date, time and place of the meeting and whether it is annual, regular or special and stating briefly the business proposed to be transacted thereat and items on the agenda for such meeting, and a standard proxy form authorized by the Board, if any, and any other notices permitted or required to be delivered by these Bylaws shall be given by mailing such notice, postage prepaid, at least fourteen (14) days before the date assigned for the meeting, to the Owners of the Apartments at their address at the Project or at the address given to the Board for the purpose of service of such notices. Upon written request for notices delivered to the Board, the holder of any duly recorded mortgage from any Owner of an Apartment may obtain, at such Owner's expense, a copy of any and all notices permitted or required to be given to the Owner of an Apartment, whose interest is subject to said mortgage. Upon notice being given in accordance with the provisions hereof, the failure of any Owner of an Apartment to receive actual notice of any meeting shall not in any way invalidate the meeting or the proceedings thereat. Each such Owner shall keep the Board informed of any changes in address.

SECTION 14. Adjournment of Meetings. If any meeting of Apartment Owners cannot be held because a quorum is not present, a majority of the holders of the Common Interest who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

SECTION 15. Conduct of Meetings and Order of Business. All meetings of the Association shall be conducted in accordance with the most current edition of Robert's Rules of Order. The order of business at all meetings of the Apartment Owners shall be as follows:

- a. Determination of Quorum;
- b. Proof of notice of meeting;
- c. Adoption of meeting rules;
- d. Approval of minutes of preceding meeting;
- e. Reports of Officers;
- f. Reports of committees;
- g. Election of inspectors of election (when so required);

- h. Election of members of the Board (when so required);
- i. Unfinished business;
- j. New business; and
- k. Adjournment.

SECTION 16. Annual Registration. The Association shall be registered annually with the Real Estate Commission. The registration shall be in the form required by said Commission and shall include proof of fidelity bond coverage (Article III, Section 14, below), registration fee, names and positions of those persons who handle the Association's funds, name of the Managing Agent, postal address of the Project and name, business address and telephone numbers of the designated contact person for the Association.

ARTICLE III

BOARD OF DIRECTORS

SECTION 1. Number and Qualification. The affairs of the Project shall be governed by a Board of Directors who shall owe a fiduciary duty to the Association. The Board shall be composed of nine (9) persons, unless the Owner of the Industrial Apartment has exercised its right pursuant to Section 4 of this Article III to appoint the a member of the Board, in which case the Board shall be composed of ten (10) persons, including said Industrial Apartment appointee, throughout the term of said appointee's appointment. The number of Board members may be changed only by amendment of these Bylaws in accordance with Article X, Section 15. Each member of the Board shall be an Owner, co-Owner, a vendee under Agreement of Sale, designated general partner, or officer of an Owner which is a corporation, general partnership or limited partnership. There shall not be more than one representative on the Board from any one Apartment. Neither the Resident Manager of the Project, nor any employee of the Managing Agent shall serve on the Board.

SECTION 2. Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Project in compliance with all governmental requirements and for the maintenance, upkeep and repair of the Project in good order and condition and may do all such acts and things except as by law or by the Declaration or by these Bylaws may not be delegated to the Board by the Apartment Owners. The Board shall have all rights set forth in the Act subject to any and all approval requirements as set forth in the Act, the Declaration and these Bylaws. A Director shall not cast any proxy vote at any Board meeting, nor shall a Director vote at any Board meeting on any issue in which the Director has a conflict of interest. The Director shall disclose the nature of any conflict of interest prior to a vote at the

Board meeting, and the minutes of the meeting shall record the fact that a disclosure was made. The powers and duties of the Board shall include, but shall not be limited to, the following:

- a. Enforcing the provisions of the Declaration, these Bylaws and the House Rules;
- b. Making payment of all taxes and assessments which are or could become a lien on the Project, the Common Elements or Limited Common Elements or some portion thereof. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and costs incurred by the Board by reason of such lien or liens;
- c. Delegating of its powers to committees, agents, officers, representatives and employees;
- d. Contracting for materials and/or services for the Common Elements or the Association, provided that any contract for goods or services, other than the contract for elevator maintenance services and cable television service, shall provide that such contract may be terminated by either party thereto, without the necessity of cause and without penalty, upon not more than ninety (90) days' written notice.
- e. Contracting for fire, casualty, liability and other insurance on behalf of the Association, pursuant to the provisions of Article VII hereof;
- f. Exercising its right, pursuant to Article X, Section 7 of these Bylaws, of entry in or upon any privately owned Apartment at any time and from time to time and without liability to any Owner for trespass or other consequential damage, but only where necessary (in connection with construction, maintenance or repair) to protect the Common Elements and Limited Common Elements, or any Apartment or Apartments;
- g. Making repairs to Apartments, or Limited Common Elements for which an Apartment Owner is responsible for repairing, if for any reason an Owner fails or refuses to maintain and repair such Apartment, or Limited Common Element, within a reasonable time after written notice of the necessity of such maintenance or repair is delivered by the Board to said Owner, provided that the Board shall levy a special assessment against such Apartment for the cost of such maintenance or repair;
- h. Making a determination of the Common Expenses and special assessments required for the affairs of the Project, including, without limitation, the operation and maintenance of the Project;

- i. Collecting the Common Expenses and special assessments from the Apartment Owners;
- j. Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements, including a Resident Manager;
- k. Subject to the provisions of Article X, Section 1 of these Bylaws, adoption and amendment of House Rules covering the details of the operation and use of the Common Elements of the Project;
- l. Opening bank accounts on behalf of the Association and designating the signatories required therefor;
- m. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, purchasing or leasing or otherwise acquiring in the name of the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners, Apartments offered for sale or lease for use by the Resident Manager or other person or persons engaged in the operation, repair or maintenance of the Project, but, except as provided in Section 2(n) immediately below, only with prior approval of Apartment Owners owning not less than sixty-five percent (65%) of the Common Interest;
- n. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, purchasing of Apartments at foreclosure or other judicial sale in the name of the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners, without securing the prior approval of the Owners. Any Apartment acquired pursuant to this Section or the preceding Section 2(m) shall be treated as an Apartment for all purposes, and the expense of leasing, acquiring, maintaining or operating any such Apartment by the Board shall be a Common Expense;
- o. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to exercise of such power, selling, leasing, subleasing, mortgaging, voting the votes appurtenant to, or otherwise dealing with Apartments acquired by the Board or its designee, corporate or otherwise, on behalf of all Apartment Owners;
- p. Incorporating the Association and organizing corporations to act as designees of the Board in acquiring title to or leasing of Apartments on behalf of all Apartment Owners;

q. Making of repairs, additions and improvements to or alterations of the Project and repairs to and restoration of the Project in accordance with the other provisions of these Bylaws;

r. To the extent permitted by law and upon obtaining an Opinion of Counsel prior to the exercise of such power, the Board may borrow funds from time to time on behalf of the Association for (i) the repair, replacement, maintenance, operation, or administration of the Common Elements, or (ii) the making of additions, alterations, or improvements to the Common Elements from one (1) or more lenders, up to One Hundred Thousand and No/100 Dollars (\$100,000.00) in the aggregate, upon receiving the prior approval of a Majority of Apartment Owners; the Board may borrow in excess of such amount, but only with the prior approval of Apartment Owners owning not less than sixty-five percent (65%) of the Common Interest, provided that said One Hundred Thousand and No/100 Dollar (\$100,000.00) limit may be adjusted from time to time by the Board by multiplying such dollar limit by the Cost of Living Factor. The cost of any such borrowing, including without limitation, any principal, interest, loan fees or other expense, shall be a Common Expense;

s. Procuring legal and accounting services, including Opinions of Counsel, necessary or proper in the operation of the Project or the enforcement of the Declaration, these Bylaws, or the Act;

t. Paying for all Common Expenses which the Board is required to pay for pursuant to the terms of these Bylaws or by law or which in the Board's opinion shall be necessary or proper for the operation of the Project or for the enforcement of these Bylaws, provided that if any such payment is required because of the negligence or other misconduct of the Owners of particular Apartments, the cost thereof shall be specially assessed to such Owners;

u. Keeping, maintaining and making available for inspection and copying in the manner set forth in the Act the records required by the Act, the Declaration and these Bylaws to be kept, maintained and made available for inspection and copying, including, without limitation, the following:

- (1) financial records (Article VI, Section 14);
- (2) record of mortgagees (Article VIII, Section 1);
- (3) membership documents (Article X, Section 18); and
- (4) project documents (Article X, Section 19).

- v. Reviewing for the purpose of approval or disapproval of any Owner's request to alter the Owner's Apartment.
- w. Representing the Owners in all proceedings, negotiations, settlements, and agreements relating to any taking by condemnation or by eminent domain affecting the Project.
- x. Maintaining all lights, traffic warning systems, signage and other installations required in connection with the use of Archer Lane for access to and from the Project.
- y. Enforcing and complying with all agreements, easements, and other matters to which the Association is subject that are set forth in Article G, Section 9 of the Declaration.

SECTION 3. Managing Agent.

- a. The Board shall at all times employ a responsible Managing Agent duly qualified to act as a Managing Agent under the requirements of the Act to manage and control the Project, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to said Managing Agent by the Board; provided that the term of any such management contract shall be limited to a duration of one (1) year, except with the approval of a Majority of Apartment Owners, provided further that such management contract shall also comply with Section 2(d) of this Article III. If Developer or a division, subsidiary or affiliate of Developer acts as the first Managing Agent, such management contract shall be subject to termination by either party thereto on not more than sixty (60) days' written notice.
- b. The Managing Agent shall have such powers and duties as may be necessary or proper in connection with (i) supervision of the immediate management and operation of the Project, (ii) maintenance, repair, replacement and restoration of the exterior of the building(s) and other Common Elements and any additions or alteration thereto, (iii) purchase, maintenance and replacement of any equipment, (iv) servicing of all utilities to the building(s) and the various Apartments, (v) employment, supervision and dismissal of such personnel as it deems necessary for the maintenance and operation of the Project, (vi) contracting with others for the furnishing of such services as it deems proper for the Project, (vii) preparation of a proposed budget and schedule of assessments, (viii) collection of assessments, and payment of bills to third parties, (ix) purchase of such insurance as is contemplated by these Bylaws, and (x) custody and control of all funds and maintenance of books and records and preparation of financial reports.
- c. The Board may in its discretion limit any of the powers herein granted to the Managing Agent or grant additional powers to the Managing Agent.

d. Upon written request of any Owner or prospective purchaser of an Apartment or the holder, insurer or guarantor of a mortgage of an interest in any Apartment and upon payment of a reasonable charge therefor, the Managing Agent shall deliver to such party a certified statement of the status of the account of such Apartment.

e. The appointment and terms of compensation of the Managing Agent (other than the initial Managing Agent) shall be submitted to the Association for approval at each annual meeting but if not ratified by a majority of the Apartment Owners, such contract shall be deemed terminated ninety (90) days after such non-ratification by the Association, and the Board shall give prompt written notice thereof to the Managing Agent and appoint a qualified successor Managing Agent subject to ratification by the Association in the manner set forth above. In no event shall the contract with any Managing Agent (other than the initial Managing Agent) be for a term exceeding three years and any such contract shall be subject to termination, without penalty, by either party thereto on not more than ninety (90) days written notice.

f. The Managing Agent, subject to the direction of the Board, may represent the Apartment Owners or any two or more Apartment Owners similarly situated, as a class, in any action, suit, or other proceeding concerning the Apartment Owners, the Common Elements, or more than one (1) Apartment, or the Association.

SECTION 4. Election and Term of Office. At the first annual meeting of Apartment Owners three (3) Directors shall be elected for a term of three (3) years, three (3) Directors shall be elected for a term of two (2) years, and three (3) Directors shall be elected for a term of one (1) year. At the expiration of the term of office of each Director, each Director's successor shall be elected to serve a term of three (3) years. Each member of the Board shall continue to exercise the powers and duties of the office until his successor shall have been elected by the Apartment Owners in case of delay in the election of a successor. Whenever the Association elects more than one (1) director at the same meeting, the candidate receiving the highest number of votes will be deemed to have been elected to the longer term of office. Notwithstanding the foregoing, at each annual meeting of the Association the Owner of the Industrial Apartment shall have the option to appoint one Director, in addition to those elected under this Section 4, who shall serve for a term of one (1) year. Such appointee shall have the same rights and obligations as all other Directors. In the event such appointee's seat on the Board is vacated before the expiration of the appointee's one (1) year term, the Owner of the Industrial Apartment may appoint a replacement by giving written notice thereof to the President and the Managing Agent, and such replacement appointee shall serve for the remaining balance of the appointee's term.

SECTION 5. Removal of Members of the Board. Members of the Board may be removed for cause for any of the following reasons:

- a. Failure to permit Apartment Owners to attend or speak at meetings of the Board as provided in the Act, the Declaration, or these Bylaws;
 - b. Failure to comply with the notice and posting requirements or the requirement to call meetings as in this Act;
 - c. Failure to record the vote of each Board member as provided in this Act;
- or
- d. Failure to provide Owners with records as provided in this Act.

Any Apartment Owner who is aggrieved by any of the foregoing acts or omissions by any member of the Board shall have, in addition to any rights granted under the Act, the right to file a written demand to the Board setting forth the particulars of the Act or omission and the relief or other corrective action requested. The Board shall act upon such demand within an reasonable time, in no event to exceed forty-five (45) days from the receipt of the demand, and shall advise the complaining party in writing of its actions. The Board shall have the power in acting upon such demand to take all appropriate action to resolve the matter, including, without limitation, removing the member of the Board, taking corrective action or rejecting the demand.

At any regular or special meeting of Apartment Owners, any one or more of the members of the Board may be removed with or without cause by a Majority of the Apartment Owners, and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created; provided, however, that an individual member of the Board may not be removed (unless the entire Board is removed) if Owners having sufficient votes to elect one member of the Board by cumulative voting present in person or by proxy at such meeting shall vote against his removal. If such removal and replacement is to occur at a special Association meeting, the call for such meeting shall be by the President or by a petition to the Secretary or Managing Agent signed by Owners of Apartments as shown in the Association's record of ownership, to which not less than twenty-five percent (25%) of the Common Interest is appurtenant; and provided further that if the Secretary or Managing Agent shall fail to send out the notices for the special meeting within fourteen (14) days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of Article II, Section 13 hereof. Any member of the Board whose removal has been proposed by the Apartment Owners shall be given an opportunity to be heard at the meeting.

SECTION 6. Vacancies. Vacancies in the Board caused by any reason other than the removal of a member thereof by a vote of the Apartment Owners, shall be filled by a vote of a majority of the remaining members at a regular or special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at

such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board for the remainder of the term of the member whose vacancy he filled (unless sooner removed). A vacancy will be deemed to occur upon the death, mental incapacity, or voluntary resignation of any Director, or upon such person ceasing to have the qualifications for a Director as defined in Article III, Section 1.

SECTION 7. Organization Meeting; Conduct of Meetings; Minutes. The first meeting of the Board shall be held immediately after the first annual meeting of the Association or as soon thereafter as a quorum may be obtained and no notice shall be necessary to the newly elected members of the Board in order legally to constitute such meeting, provided that a majority of the whole Board shall be present thereat. All meetings of the Board (whether organization, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order. The Association shall provide each Director with a current copy of the Declaration, Bylaws, House Rules and, annually, Hawaii Revised Statutes Chapter 514A, as amended. Minutes of all meetings shall include the recorded vote of each Director on all motions, except motions voted on in executive session. In the event that the Board shall resolve to go into executive session, the Board shall record such resolution as part of the record of such meeting; the Board shall not be required to maintain any other minutes of the matters discussed, the votes of Board members, or other actions taken in executive session.

SECTION 8. Regular Meetings.

a. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the members of the Board, but at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board shall be given to each member of the Board personally or by mail, telephone, fax, or other prevalent means of electronic communication at least fourteen (14) business days, if practicable, prior to the day named for such meeting. All meetings of the Board shall be open to all members of the Association, and Association members who are not on the Board may participate in any deliberation or discussion unless a majority of a quorum of the Board determines that such non-Board members shall not so participate in the meeting.

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

SECTION 9. Special Meetings. Special meetings of the Board may be called by the President on three (3) business days' notice to each member of the Board, given personally or by mail, telephone, fax, or other prevalent means of electronic communication. Such notice shall

state the time, place and purpose of the meeting; upon the written request of at least two (2) members of the Board, the President shall call a special meeting of the Board in like manner and upon like notice.

SECTION 10. Posting of Notice. Notice of all meetings of the Board, whether regular or special meetings, shall be posted at two (2) or more prominent locations within the Project at the same time that notice is given to Directors.

SECTION 11. Waiver of Notice. Any member of the Board may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 12. Meetings by Phone or Written Consent. Provided that all requirements of notice as provided herein have been complied with (or that the same have been waived or provided herein) and provided further that the provisions contained herein for regular meetings of the Board to be open to Association members have been complied with, the Board may conduct meetings by telephone or by unanimous decision in writing signed by all Board members.

SECTION 13. Quorum of Board. At all meetings of the Board, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board present at a meeting at which a quorum is present shall constitute the decision of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

SECTION 14. Fidelity Bonds. The Board shall obtain a fidelity bond covering the acts of the Managing Agent and all directors, officers and employees of the Association handling or responsible for Association funds. The amount of such fidelity bond shall be the greater of (a) One Hundred Thousand and No/100 Dollars (\$100,000.00), (b) the amount of the fidelity bond required by the Act, or (c) the amount of the fidelity bond required by regulations published by the Federal National Mortgage Association or by the United States Department of Housing and Urban Development (but only to the extent that one or more Apartments are subject to a mortgage affected by such regulations). The premiums on such bond shall constitute a Common Expense. Such bond must contain a provision providing that it may not be cancelled or substantially modified except by giving thirty (30) days' written notice thereof to the Association, the Board, the Trustee (if any), and to the Owner and/or mortgagee of each Apartment who shall

have requested such notice. The Managing Agent shall likewise obtain a fidelity bond in the amount required by the Act and shall provide evidence of the same to the Association.

SECTION 15. Compensation. No member of the Board shall receive any compensation from the Association for acting as such, or reimbursement for any expense, including without limitation, travel expense and per diem expense, except as may be approved by a Majority of the Owners at any annual meeting or as may be specifically permitted by the Act.

SECTION 16. Liability and Indemnity of the Board and Officers. The members of the Board and Officers shall not be liable to the Apartment Owners for any mistake of judgment or otherwise except for their own individual gross negligence or willful misconduct. The Association shall obtain and maintain at the Association's expense a policy of directors' and officers' liability insurance covering the Board and Officers of the Association and shall defend and indemnify each Director and Officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid to settle claims and liabilities, and amounts paid for reasonable attorneys' fees and other related expenses which may be incurred by or imposed on any Director or Officer in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been such Director or Officer, or by reason of any past or future action taken or authorized or approved by him or any omission to act as such Director or Officer, whether or not he continues to be such Director or Officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such Director or Officer. As to whether or not a Director or Officer was liable by reason of gross negligence or willful misconduct toward the Association in the performance of his duties as such Director or Officer, in the absence of such final adjudication of the existence of such liability, each Director and Officer may conclusively rely upon an Opinion of Counsel obtained by the Board. The foregoing right of indemnification shall not be exclusive of other rights to which any such Director or Officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, executors, administrators and assigns of each such Director and Officer.

ARTICLE IV

OFFICERS

SECTION 1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Vice President shall, but no

other officers need be, members of the Board. The Secretary and the Treasurer may be the same person, and also the Assistant Secretary and Assistant Treasurer may be the same person. Neither the Resident Manager of the Project, nor any employee of the Managing Agent shall be designated as an officer.

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

SECTION 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer of the Association may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

SECTION 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are incident to the office of a president of a stock corporation organized under Hawaii law, including but not limited to the power to appoint committees from among the Apartment Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

SECTION 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President.

SECTION 6. Secretary. The Secretary shall keep a minutes book wherein all resolutions shall be recorded and shall keep the minutes of all meetings of the Apartment Owners and of the Board; he shall have charge of such books and papers as the Board may direct; and he shall, in general, perform all the duties incident to the office of Secretary of a stock corporation organized under the laws of the State of Hawaii. The duties of the Secretary may be delegated to and performed by the Managing Agent under the Secretary's supervision.

SECTION 7. Treasurer. The Treasurer shall be responsible for the keeping of full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He shall be responsible for the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the Board, and he shall, in general, perform all the duties incident to the office of

