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BY-LAWS

OF

KEALIA MAKAI OWNERS ASSOCIATION

Article I Name, Principal Office and Definitions

1.1 Name

The name of the corporation is Kealia Makai Owners Association (the "Association").

1.2 Principal Office

The principal office of the Association shall be located in the County of Kauai, State of Hawaii. The Association may have such other offices, either within or outside Hawaii, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions

a. "Association" shall mean the Association of Owners of Kealia Makai.

b. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

c. "Articles of Incorporation" shall mean the Articles of Incorporation of Kealia Makai Owners Association, as the same may be from time to time hereafter duly amended.

d. "Corporation" shall mean the Association of Owners of Kealia Makai.

e. "Declarant" shall mean Kealia Makai Holdings, LLC.

f. "Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions for the Kealia Makai Subdivision dated March 21, 2000, executed by Declarant, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2000-042906, as the same may be amended from time to time.

g. "Housesite" shall mean any farm dwelling that may be constructed on any Lot, whether such Dwelling is actually

constructed or not. The number of Housesites for each Lot is as follows:

Lot 1:	2	Lot 16:	1
Lot 2:	1	Lot 17:	1
Lot 3:	1	Lot 18:	1
Lot 4:	1	Lot 19:	1
Lot 5:	1	Lot 20:	1
Lot 6:	1	Lot 21:	1
Lot 7:	1	Lot 22:	1
Lot 8:	1	Lot 23:	1
Lot 9:	1	Lot 24:	1
Lot 10:	1	Lot 25:	1
Lot 11:	2	Lot 26:	1
Lot 12:	3	Lot 27:	2
Lot 13:	2	Lot 28:	1
Lot 14:	1	Lot 29:	1
Lot 15:	1		

The term "Housesite" shall not include any Guest House, as that term is defined by Chapter 8, Kauai County Code, as may be amended from time to time.

h. "Lot" shall have the same meaning as the term "Lot" is defined in the Declaration".

i. "Member" shall have the same meaning as the term "Owner" is defined in the Declaration.

j. "Person" shall mean any person, individual or entity (including, without limitation, any trustee, mortgagee, personal representative, corporation (profit or nonprofit), partnership, joint venture or trust).

k. "Subdivision" shall mean the Kealia Makai Subdivision project located on the Island and County of Kauai, State of Hawaii.

l. All other words in these By-Laws with an initial capital letter shall, unless otherwise provided herein, have the same meaning given them in the Declaration.

Article II Membership: Meetings, Quorum, Voting, Proxies

2.1 Membership

The Association shall have two classes of membership consisting of Class "A" and Class "B", as more fully set forth in the Declaration. The provisions of the Declaration pertaining to membership are incorporated by this reference.

2.2 Place of Meetings

Meetings of the Association shall be held at the principal office of the Association. From time to time the Board may designate other suitable and convenient locations for Association meetings.

2.3 Annual Meetings

The first meeting of the Association, whether a regular or special meeting, shall be held within one year after the date the Association was incorporated. Subsequent regular annual meetings shall be scheduled by the Board so as to occur during the third quarter of the Association's fiscal year.

2.4 Special Meetings

The President of the Association may call special meetings. The President shall also have the duty to call a special meeting if directed to do so by a resolution of the Board or by a petition signed by Members representing at least 10% of the total Class "A" votes of the Association.

2.5 Notice of Meetings

Written notice of the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting. The notice shall be delivered not less than 10, nor more than 50, days before the date of the meeting. The notice shall be prepared and delivered at the direction of the President, the Secretary, the officers, or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose, or purposes, for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice shall be deemed to be delivered when it is deposited in the United States mail addressed to the

Member at the Member's address as it appears in the Association's records, with postage prepaid.

2.6 Waiver or Notice

Waiver of notice of a meeting of the Members shall be deemed the equivalent of notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Meetings

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five, nor more than 30, days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

Members present at a duly called or held meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of Members during the meeting leaving less than a quorum present. Under these circumstances any action taken must be approved by the number of Members necessary to constitute at least a majority of the quorum required for that meeting.

2.8 Voting

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9 Proxies

At all meetings of the Members, each Member may vote in person (if a corporation, partnership or trust, through any officer, director, partner or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Hawaii law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing specifying the Lot and Housesite for which it is given, signed by the Member or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Proxies shall be valid only for the specific meeting for which given and lawful adjournments of such meeting.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Housesite for which it was given, (b) receipt by the Secretary of written revocation of the proxy or the death or judicially declared incompetence of a Member who is a natural person.

2.10 Majority

As used in these By-Laws, the term "majority" shall mean those votes, Owners, Member or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11 Quorum

Except as otherwise provided by these By-Laws or in the Declaration, the presence, in person or by proxy, of Members representing a majority of the total Class "A" votes in the Association shall constitute a quorum at all Association meetings.

2.12 Conduct of Meetings

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13 Action Without a Meeting

Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if unanimous written consent specifically authorizing the proposed action is signed by all Members entitled to vote thereon were present. Such consents shall be signed, dated and delivered to the Association within 60 days after receipt of the earliest signed and dated consent by the Association. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote, fairly summarizing the material aspects of the authorized action.

Article III Board of Directors: Selection, Meetings, Powers

A. Composition and Selection

3.1 Governing Body: Composition

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" member, directors shall be Members. If a Member is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member. A Member that is not a natural person may not have more than one such representative on the Board at a time. This restriction shall not apply to any directors appointed by the Class "B" Member.

3.2 Number of Directors

The Board shall consist of three to five directors, as provided in Sections 3.3 and 3.5. The initial Board shall consist of the three directors identified in the Articles of Incorporation.

3.3 Directors During Class "B" Control Period

Until the expiration or termination of the Class "B" Control Period, as provided in the Declaration, a majority of the Directors shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member.

3.4 Nomination and Election Procedures

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall set the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by Class "A" votes. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner. Nominations also may be permitted from the floor.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members. The Board shall appoint the Members of the Nominating Committee not less than 30 days prior to each annual meeting to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each annual meeting.

The Nominating Committee shall have the discretion to make as many nominations for election to the Board as it deems appropriate. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

(b) Election Procedures. Each Owner may cast the vote assigned to such Owner's Housesite for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions filled receiving the

greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office

Not later than the expiration of the Class "B" membership, or such earlier time as may be determined by the Class "B" Member, the Board shall expand to seven directors. The President shall call for an election by which the Members shall be entitled to elect six of the seven directors. The three directors with the greatest number of votes shall serve a term of two years, and the three other directors shall serve a term of one year.

So long as the Declarant owns any of the real property described in Exhibit " " of the Declaration for sale in the ordinary course of business, the Declarant may appoint one of the seven directors. Thereafter, the director appointed by the Declarant shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two years.

Upon the expiration of the term of office of each director elected by the Members, the Members shall elect a successor to serve a term of two years. The directors elected by the Members shall hold office until their respective successors have been elected.

Except as these By-Laws may otherwise specifically provide, election of directors shall take place at the Association's annual meeting.

3.6 Removal of Directors and Vacancies

Any director elected by the Members may be removed, with or without cause, by Members holding at least 67% of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three consecutive unexcused absences from Board meetings, or who is

more than 30 days delinquent (or is (the representative of a Member who is so delinquent) in the payment of any assessment, or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members shall elect a successor for the remainder of the term.

This section shall not apply to directors appointed by the Class "B" Member nor to any director serving as Declarant's representative. The Class "B" Member or Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or Declarant.

B. Meetings

3.7 Organizational Meetings

The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.8 Regular Meetings

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least one such meeting shall be held during each fiscal year.

3.9 Special Meetings

Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or any two directors.

3.10 Notice; Waiver of Notice

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice

shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly with the director or with a person at the director's office or whom who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiberoptics or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the time set for the meeting. Notices given by personal delivery, telephone or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Transaction of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Telephonic Participation in Meetings

Members of the Board, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.12 Quorum of Board

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the

withdrawal of directors, provided that any action taken must be approved by the numbers necessary to constitute at least a majority of the quorum required for that meeting. If any Board meeting cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five, nor more than 30, days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13 Conduct of Meetings

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14 Open Meetings; Executive Sessions

(a) Except in any emergency, notice of Board meetings shall be posted at least 48 hours in advance of the meeting at a conspicuous place within the Property which the Board establishes for the posting of notices relating to the Association. Notice of any meeting at which assessments are to be established shall state that fact as well as the nature of the assessment. Subject to the provisions of Section 3.15, all Board meetings shall be open to all Members. Members other than directors may participate in any discussion unless a majority of the directors present vote against such participation. In such case, the Member desiring to participate in the discussion must wait until recognized by the President before speaking and the President may limit the time any such individual may speak.

(b) Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc. after announcing the general nature of the business to be conducted in executive session.

3.15 Action Without a Formal Meeting

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth

the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties

3.16 Powers

The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, and as provided by law. The Board may do or cause to be done on behalf of the Association, all acts and things except those which the Declaration or Hawaii law require to be done and exercised exclusively by the Voting Members or the membership generally.

3.17 Duties

Duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the common expenses and any other budgets required under the Declaration;

(b) levying and collecting assessments from the Owners;

(c) imposing late fees in such amounts as are deemed appropriate from time to time by the Board on accounts which are more than fifteen (15) days past due;

(d) providing for the operation, care, upkeep and maintenance of common areas and easement areas in favor of the Association;

(e) designating, hiring and dismissing personnel necessary to carry out the Association's rights and responsibilities and, where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;

(f) contracting with Kealia Agricultural Water Services, Inc., for the provision of irrigation water to the Lots in the Subdivision, providing for the record-keeping of water usage by

each such Lot, and levying assessments to the Owners for the costs of providing such water;

(g) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;

(i) making and amending use restrictions and rules in accordance with the Declaration;

(j) opening bank accounts on behalf of the Association and designating signatories required;

(k) making, or contracting for the making, of repairs, additions, alteration or improvements to the common areas and easements in favor of the Association in accordance with the Declaration and these By-Laws;

(l) enforcing by legal means the provisions of the Declaration and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenants, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

(m) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(n) paying the cost of all services rendered to the Association;

(o) keeping books with detailed accounts of the Association's receipts and expenditures;

(p) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers and guarantors of any mortgage on any Lot, current copies of the Declaration and all

other books, records and financial statements of the Association as provided in Section 6.4;

(q) permitting utility suppliers to use portions of the common areas reasonably necessary to the ongoing development or operation of the properties in the Subdivision;

(r) entering into agreements with service and utility providers for services provided to Lots and common areas or easements in favor of the Association, including, without limitation, cable television, fiber optics and telecommunications equipment; and

(s) indemnifying a director, officer or committee member or former director, officer or committee member of the Association to the fullest extent permitted by Hawaii law, the Articles of Incorporation or the Declaration.

3.18 Compensation

Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.19 Right of Class "B" Member to Disapprove Actions

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board or any committee which, in the sole judgment of the Class "B" Member, would tend to impair the rights of Declarant under the Declaration or these By-Laws, or interfere with development or construction of any portion of the Kealia Makai Subdivision or diminish the level of services being provided by the Association.

(a) Notice. The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to Board meetings in Sections 3.8, 3.9, 3.10 and 3.11 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting; and

(b) Opportunity to be Heard. The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor at any prospective action, policy or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of (a) and (b) above have been met.

The Class "B" Member, its representatives or agents shall make its concerns, thoughts and suggestions known to the Board an/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counter-action on behalf of any committee, the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20 Management

The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. Any contract or management agreement entered

into by the Association must be fair and reasonable; provided, prior to the Board terminating a management agreement, the termination shall be approved by a majority of the Board and Members representing 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21 Accounts and Reports

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash accounting or modified cash accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; any thing of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;
- (f) commencing the year after assessments are first imposed, financial reports shall be prepared by the Association at least annually containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installation thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(g) commencing the year after assessments are first imposed, an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year; (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed or compiled basis, as the Board determines, by an independent public accountant.

3.22 Borrowing

The Association shall have the power to borrow money for any legal purposes.

3.23 Right to Contract

The Association shall have the right to contract with any person or entity for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational or other agreements with other owners or residents associations outside of the Kealia Makai Subdivision. Any common management agreement shall require the consent of a majority of the Board.

3.24 Enforcement

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Declaration or the Design Criteria and Standards for Kealia Makai Subdivision ("Design Criteria"). To the extent specifically required by the Declaration, the Board shall comply with the following procedures prior to imposition of sanctions:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed, (iii) a period of not less than 14 days within which the alleged violator may present a written request for a hearing to the Board, and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 14 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 14-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Owner or occupant responsible for the violation.

(b) Hearing. If a hearing is requested within the allotted 14-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who delivered such notice or caused the same to be delivered. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the hearing. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration or the Design Criteria by self-help (specifically including, but not limited to, towing vehicles which violate parking provision or requirements) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the

maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees and costs actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

3.25 Board Standards

While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a director from personal liability so long as the party claiming liability does not prove that the director failed to: (a) serve in a manner the director believes to be in the best interests of the Association and the Members; (b) serve in good faith; or (c) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.

In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Declaration and the Design Criteria.

Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Declaration or Design Criteria or the minimum standards which Declarant and the Board may establish. Such standard shall, in all cases, meet or exceed the standards set by Declarant and the Board during the Class "B" membership. Operational standards may evolve as the needs and demands of Kealia Makai change.

Article IV Officers

4.1 Officers

Officers of the Association shall be the President, Vice President, Secretary and Treasurer. The President and Secretary shall be elected from among Board members; other officers may, but need not be, Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Members, to serve until their successors are elected.

4.3 Removal and Vacancies

The Board may remove any officer whenever, in its judgment, the best interests of the Association will be served. The Board may fill any vacancy, in any office, arising because of death, resignation, removal or otherwise, for the unexpired portion of the term.

4.4 Powers and Duties

The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primarily responsibility for preparation of the budget as proposed for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5 Resignation

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.18.

Article V Committees

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. Committees are authorized to recommend policies or recommend procedures to the Board as a collective body on behalf of the Association. Individual committee members are not authorized to carry out such policies or take action on behalf of the Association. For example, individual members are not empowered to randomly tour the Property, supervise management or Association personnel, or issue policies. Such action is inconsistent with effective community governance.

Article VI Miscellaneous

6.1 Fiscal Year

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2 Parliamentary Rules

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Hawaii law or the Articles of Incorporation, the Declaration or these By-Laws.

6.3 Conflicts

If there are conflicts among the provisions of Hawaii law, the Articles of Incorporation, the Declaration and these By-Laws, the provisions of Hawaii law, the Declaration, the Articles of Incorporation and the By-Laws, in that order, shall prevail.

6.4 Books and Records

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first mortgage on a Lot, any Member or the duly appointed representative of either of the foregoing at any reasonable time and for a purpose reasonable related to his or her interest in a Lot: the Declaration, the governing documents

of the Association, the membership register, books of account and the minutes of meetings of the Members, the Board and committees. The Board shall provide for such inspection to take place at the Association's office or at such other place within Kealia Makai as the Board shall designate.

(b) Rules for Inspection. The Board shall establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such inspection may be made;
- (iii) payment of the cost of reproducing documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the Association's expense.

6.5 Notices

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by the United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member;

(b) if to the Association, the Board or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6 Amendment

(a) By Class "B" Member. Prior to termination of the Class "B" Control Period, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; provided, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has not material adverse effect upon any right of any Member.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change or conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke or modify any right or privilege of Declarant of the Class "B" Member without the

written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

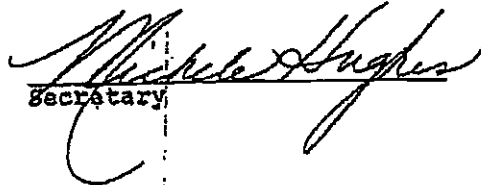
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Kealia Makai Owners Association, a Hawaii nonprofit corporation;

The foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 16th day of July, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this 16th day of July, 2000.


Secretary