

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
Bureau of Conveyances

The original of this document was
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DOCUMENT NO. 3612231
DATE JUN 07 2007 TIME 8:02
ACT _____

Return by: Mail [] Pickup [X] To:
NEELEY & ANDERSON LLP
A Limited Liability Law Partnership
Joyce Y. Neeley (3134-0)
733 Bishop Street, Suite 2301
Honolulu, Hawai'i 96813 (808) 536-8177

**AMENDMENT TO THE DECLARATION OF HORIZONTAL PROPERTY REGIME
OF THE
ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL
(Condominium Map No. 364)**

WHEREAS, Kaanapali Royal ("the Project") was created by Declaration of Horizontal Property Regime filed on April 12, 1979 in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Document No. 932343 and restated by instruments recorded as aforesaid on January 12, 1999 as Document No. 2513169 and on September 10, 1999 as Document No. 2573934 and noted on the Transfer Certificate of Title Numbers attached hereto; and

WHEREAS, said Declaration, as amended and restated (hereinafter referred to as the "Declaration"), provided for the organization of the ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL (hereinafter referred to as the "Association") and established By-Laws therefor, which said By-Laws were attached to the Declaration and incorporated therein by reference and were restated by instruments recorded as aforesaid on January 12, 1999 as Document No. 2513170 and on September 10, 1999 as Document No. 2573935 and noted on the Transfer Certificate of Title Numbers attached hereto; and

WHEREAS, §514B-23, Hawai'i Revised Statutes, provides that: "(a) the declaration, bylaws, condominium map, or other constituent documents of any condominium created before July 1, 2006 may be amended to achieve any result permitted by this chapter, regardless of what applicable law provided before July 1, 2006," and "(b) an amendment to the declaration, bylaws, condominium map or other constituent documents authorized by this section may be adopted by the vote or written consent of a majority of the owners;" and

WHEREAS, a majority of the owners at the January 13, 2007 annual meeting of the Association voted to amend the Declaration to incorporate provisions of Chapter 514B, Hawai'i Revised Statutes, as hereinafter set forth;

NOW, THEREFORE, the Declaration of Kaanapali Royal is hereby amended as follows:

1. Paragraph 14 of the Declaration is amended to read as follows:

14. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in the Act, this Declaration may be amended by the approval of the owners of 67% of the interests in the common elements effective only upon the recording of an instrument setting forth such amendment, duly executed by such owners or by the proper officers of the Association.

In all other respects the Declaration, as amended, is hereby confirmed and shall be binding upon and inure to the benefit of owners and their respective successors and permitted assigns.

The undersigned officers of the Association hereby certify that the foregoing Declaration amendment was duly adopted by the vote of a majority of the owners at the January 13, 2007 annual meeting of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 21st day of May, 2007.

ASSOCIATION OF APARTMENT OWNERS
OF KAA NAPALI ROYAL

By: 

TYPE NAME: Robert Pure

TYPE TITLE: President

By: Harold A. Hyman

TYPE NAME: 

TYPE TITLE: Vice President

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 21st day of May, 2007, before me personally appeared Robert Pure, to me personally known, who being by me duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.



April Lum

(Signature)

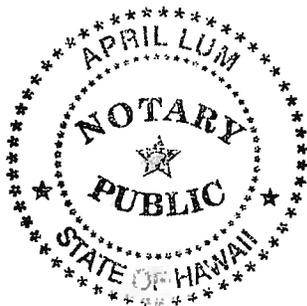
April Lum

(Printed or Typed Name)

Notary Public, State of Hawaii
My commission expires: September 9, 2009

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 21st day of May, 2007, before me personally appeared Harold A. Hyman, to me personally known, who being by me duly sworn, did say that he is the Vice President of the ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association and that the Association has no seal.



April Lum

(Signature)

April Lum

(Printed or Typed Name)

Notary Public, State of Hawaii
My commission expires: September 9, 2009

TRANSFER CERTIFICATE OF TITLE NOS.

ASSOCIATION OF APARTMENT OWNERS
OF KAAPALI ROYAL

Condominium Map No. 364

105 Apts.

<u>APT. #</u>	<u>CTC #</u>	<u>APT. #</u>	<u>CTC #</u>	<u>APT. #</u>	<u>CTC #</u>
A-101	766,145	F-101	686,673	L-101	614,363
A-102	667,070	F-102	355,078	L-102	666,853
A-201	724,253	F-201	715,206	L-201	488,284
A-202	595,292	F-202	609,203	L-202	740,309
A-301	840,810	F-301	710,231	L-301	342,565
A-302	329,118	F-302	387,183	L-302	670,354
A-303	431,089	F-303	617,786	L-303	594,468
B-101	502,408	G-101	362,159	M-101	329,145
B-102	499,125	G-102	645,879	M-102	329,130
B-201	706,675	G-201	801,149	M-201	765,838
B-202	385,747	G-202	329,143	M-202	616,445
B-301	396,430	G-301	698,761	M-301	557,391
B-302	641,673	G-302	660,428	M-302	329,140
B-303	720,882	G-303	638,088	M-303	804,093
C-101	832,434	H-101	615,837	N-101	732,048
C-102	662,098	H-102	750,790	N-102	535,075
C-201	329,133	H-201	785,419	N-201	351,787
C-202	544,290	H-202	330,782	N-202	528,307
C-301	329,125	H-301	708,737	N-301	346,755
C-302	779,797	H-302	657,439	N-302	794,773
C-303	608,683	H-303	655,007	N-303	504,230
D-101	329,106	J-101	658,936	P-101	772,175
D-102	764,968	J-102	691,369	P-102	596,757
D-201	658,923	J-201	781,644	P-201	329,139
D-202	725,737	J-202	387,167	P-202	780,749
D-301	748,499	J-301	662,741	P-301	539,527
D-302	739,475	J-302	635,463	P-302	784,560
D-303	431,146	J-303	708,366	P-303	762,269
E-101	748,493	K-101	676,523	Q-101	645,002
E-102	836,814	K-102	614,901	Q-102	661,342
E-201	695,261	K-201	738,385	Q-201	558,559
E-202	436,549	K-202	329,148	Q-202	629,886
E-301	691,077	K-301	613,633	Q-301	727,180
E-302	490,103	K-302	563,828	Q-302	661,995
E-303	385,739	K-303	588,581	Q-303	587,696

OFFICE OF THE ASSISTANT REGISTRAR
ASSISTANT REGISTRAR
STATE OF HAWAII
REGISTRATION DIVISION

The following instrument was recorded on
this date.

Doc. No. 2855860

DATE 1/1 TIME 08:01

TOT _____

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: Mail [] Pickup [X] To:
NEELEY & ANDERSON LLP
A Limited Liability Law Partnership
Joyce Y. Neeley (3134-0)
733 Bishop Street, Suite 2301
Honolulu, Hawai'i 96813 (808) 536-8177

**AMENDMENT TO THE DECLARATION OF HORIZONTAL PROPERTY REGIME
OF THE
ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL
(Condominium Map No. 364)**

WHEREAS, KaaNapali Royal ("the Project") was created by Declaration of Horizontal Property Regime filed on April 12, 1979 in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Document No. 932343 and restated by instruments recorded as aforesaid on January 12, 1999 as Document No. 2513169 and on September 10, 1999 as Document No. 2573934 and noted on the Transfer Certificate of Title Numbers attached hereto; and

WHEREAS, said Declaration, as amended and restated (hereinafter referred to as the "Declaration"), provided for the organization of the ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ROYAL (hereinafter referred to as the "Association") and established By-Laws therefor, which said By-Laws were attached to the Declaration and incorporated therein by reference and were restated by instruments recorded as aforesaid on January 12, 1999 as Document No. 2513170 and on September 10, 1999 as Document No. 2573935 and noted on the Transfer Certificate of Title Numbers attached hereto; and

WHEREAS, Section 514A-11, Hawai'i Revised Statutes, provides that the Declaration may be amended by the vote or written consent of owners holding more than seventy-five percent (75%) of the common interest; and

WHEREAS, by written consent owners holding more than seventy-five percent (75%) of the of the common interest have consented to amend the Declaration as hereinafter set forth;

NOW, THEREFORE, the Declaration of Kaanapali Royal is hereby amended by adding a new Paragraph 21 to the Declaration to read as follows:

21. FEE CONVERSION.

a. Definition of Terms Used in This Paragraph.

"Assist and/or Advise" - The term "Assist and/or Advise" means that the Board may take whatever action it deems appropriate or necessary, including without limitation, the authority to retain experts including attorneys, appraisers, accountants, architects, engineers, and to obtain studies and reports.

"Leased Fee Interest" - The term "Leased Fee Interest" means the interest of the fee owner, lessor, sublessor (if any), and all other legal and equitable owners of the land and/or improvements, other than the apartment lessee's or sublessee's (if any) interest.

"Lessee" - The term "Lessee" means any Member of the Association who has not purchased the Leased Fee Interest appurtenant to the Member's apartment.

"Lessor" - The term "Lessor" means any or all of the fee simple owners and/or other persons having legal or equitable ownership interests in the leased fee interest appurtenant to the various apartments in the project and/or in the various apartment and/or ground leases including, but not limited to, any sublessor(s).

"Member" - The term "Member" means any person and/or entity who is a Member of the Association pursuant to the Declaration and/or By-Laws.

b. Authority Pursuant to Chapter 514C, Hawai'i Revised Statutes. Notwithstanding any other provision contained in the Declaration or the By-Laws to the contrary and in addition to any other powers set forth herein or elsewhere therein, the Board of Directors shall have all of the powers set forth in Chapter 514C, Hawai'i Revised Statutes, including but not limited to the authority:

(1) To purchase or otherwise acquire, own, improve, use, and deal in and with the Leased Fee Interest or any or all undivided interests therein pursuant to a right of first refusal as described in Chapter 514C, Part I or pursuant to a voluntary sale as described in Chapter 514C, Part II;

(2) To incur liabilities, borrow money, and secure any of its obligations by mortgage or pledge all or any portion of its property, assessments, and funds to effectuate acquisition of the Leased Fee Interest;

(3) To assess, as a common expense, the expenses incurred in acquiring the Leased Fee Interest, or to service any debt associated therewith;

(4) To sell the Leased Fee Interest appurtenant to an Apartment to the Apartment Lessee or any subsequent purchaser of such Apartment.

c. General Authority. Without limiting the generality of the foregoing, the Board shall be empowered to take all such actions as it deems necessary or appropriate in connection with the purchase of the Leased Fee Interest, including but not limited to:

(1) Retaining attorneys, appraisers, accountants, architects, engineers, and such other persons as the Board deems necessary;

(2) Signing any documents and doing any and all other acts or things incidental to the consummation of any such transaction(s).

(3) Selling the Leased Fee Interest appurtenant to an Apartment which is not purchased by the Apartment Lessee or a subsequent purchaser of such Apartment to such persons or entities as the Board determines in its discretion.

d. Administration of Interests Acquired by Association. In the event that the Association acquires all or any portion of the interests of the Lessor, the Board shall be empowered to take all such action as it deems necessary or appropriate to administer the interest(s) so acquired, including but not limited to incorporating the Association and/or creating and conveying such interest(s) into a land trust or wholly-owned corporation, setting, arbitrating, and collecting lease rents, and selling and/or conveying all or any portion of such interest(s) upon such terms and conditions, including but not limited to price, as the Board deems appropriate under the circumstances, by such deeds, assignments of beneficial interest, or other instruments as the Board deems appropriate.

e. Termination of Rights of Lessor. Upon the acquisition of all of the interests of the Lessor by the Association or its Members as aforesaid, all approval and other requirements pertaining to the Lessor as contained in the Declaration or the By-Laws, if any, shall thereupon become null and void and of no effect.

f. Conditions for Purchase. The Board may condition any purchase in accordance with this Paragraph upon such terms as the Board deems appropriate under the circumstances in its sole and absolute discretion.

g. Authority to Assist and/or Advise in Sale Directly To Members. If the Lessor offers to sell its interests directly to Members in accordance with Chapter 514C, Hawai`i Revised Statutes, the Board shall have the power to waive the right of first refusal as set forth in said Chapter 514C, to negotiate with the Lessor with respect to such offer and to take all other actions incidental to the consummation of such sale as it shall, in its sole judgment, deem necessary to assist and/or advise the Members with respect to any proposals from the Lessor. This authority shall also be deemed to be the written authorization to represent the Members as described in said Chapter 514C.

h. Authority to Assist and/or Advise in Mandatory Conversion. If Members apply and qualify to participate under any ordinance or statute directly or indirectly providing for the mandatory sale of the Leased Fee Interest to some or all of the Members, the Board shall have the power, but not the obligation, to represent such Members with respect to such conversion and to take all other actions incidental to the consummation of such conversion as it shall, in its sole judgment, deem necessary to assist and/or advise the Members, including, without limitation, the authority to pay such Members' application fees and to retain appraiser(s), lawyer(s) and/or other professionals to represent such Members. All costs and expenses incurred by the Board in connection with any of the actions authorized herein shall constitute a common expense of the Association; provided, however, that the Board can condition its exercise of such power upon such requirements as the Board may decide including, but not limited to, such Members executing a written authorization in such form as the Board shall prescribe agreeing to such representation.

i. Limitation of Liability. No officer, director or employee of the Association shall be liable for any damage, injury, or loss to the Association, any Member, or any other person caused by or resulting from the exercise of the authority and powers granted by this Paragraph, unless such damage, injury, or loss was caused by the gross negligence or willful misconduct of such officer, director or employee in the discharge of such person's duty to the Association.

j. Indemnification.

(1) Every director, officer and employee of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including reasonable attorneys' fees) actually and necessarily incurred by or imposed upon such person in connection with or resulting from any claim, action, suit, procedure, investigation, or inquiry of nature

whatsoever arising out of or related to the exercise of the authority and powers granted by this Paragraph in which such person may be involved as a party or otherwise by reason of being or having been a director, officer, or agent of the Association, except in relation to matters as to which such person shall be finally adjudged to be liable for willful misconduct or gross negligence in the discharge of such person's duties to the Association.

(2) Expenses incurred in defending any proceeding may be paid by the Association in advance of the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the indemnitee to repay such amount unless it shall ultimately be determined that the indemnitee is entitled to be indemnified by the Association as authorized in this subparagraph.

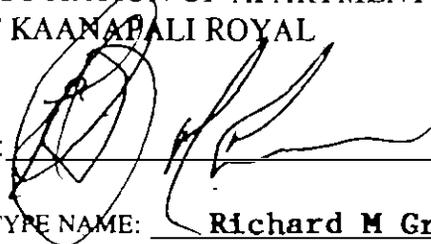
(3) The foregoing right of indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law, and shall inure to the benefit of the legal representative of such person.

In all other respects the Declaration, as amended, is hereby confirmed and shall be binding upon and inure to the benefit of owners and their respective successors and permitted assigns.

The undersigned officers of the Association hereby certify that the foregoing amendment was duly adopted by the written consent of owners holding more than seventy-five percent (75%) of the common interest.

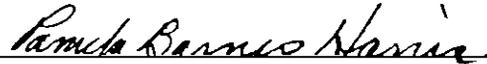
IN WITNESS WHEREOF, the undersigned have executed this instrument this 19 day of October, 2002.

ASSOCIATION OF APARTMENT OWNERS
OF KAAHAPALI ROYAL

By:  _____

TYPE NAME: Richard M Greene

TYPE TITLE: President

By:  _____

TYPE NAME: Pamela Barnes Harris

TYPE TITLE: Secretary

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On this 19 day of OCTOBER, 2002, before me personally appeared RICHARD M. GREENE, to me personally known, who being by me duly sworn, did say that HE is the PRESIDENT of the ASSOCIATION OF APARTMENT OWNERS OF KANAPALI ROYAL and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

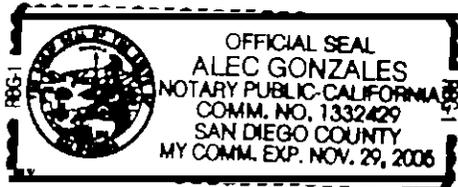


Alec Gonzales
(Signature)
Alec Gonzales
(Printed or Typed Name)

Notary Public, State of California
My commission expires: 11.29.05

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On this 19 day of OCTOBER, 2002, before me personally appeared PAMELA B. HARRIS, to me personally known, who being by me duly sworn, did say that SHE is the SECRETARY of the ASSOCIATION OF APARTMENT OWNERS OF KANAPALI ROYAL and that said instrument signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association and that the Association has no seal.



Alec Gonzales
(Signature)
Alec Gonzales
(Printed or Typed Name)

Notary Public, State of California
My commission expires: 11.29.05

TRANSFER CERTIFICATE OF TITLE NOS.

ASSOCIATION OF APARTMENT OWNERS
OF KAAPALI ROYAL

Condominium Map No. 364

105 Apts. (89 TCT's)

APT. #	CTC #	APT. #	CTC #	APT. #	CTC #
A-101	504,973	F-101	573,640	L-101	614,363
A-102	385,624	F-102	355,078	L-102	551,575
A-201	465,506	F-201	329,109	L-201	488,284
A-202	595,292	F-202	609,203	L-202	579,053
A-301	329,096	F-301	329,096	L-301	342,565
A-302	329,118	F-302	387,183	L-302	581,962
A-303	329,096	F-303	617,786	L-303	594,468
B-101	502,408	G-101	362,159	M-101	329,145
B-102	499,125	G-102	613,197	M-102	329,130
B-201	329,096	G-201	329,131	M-201	380,264
B-202	385,747	G-202	329,143	M-202	616,445
B-301	396,430	G-301	396,500	M-301	557,391
B-302	530,180	G-302	430,114	M-302	329,140
B-303	562,240	G-303	329,096	M-303	461,972
C-101	518,449	H-101	615,837	N-101	537,018
C-102	344,342	H-102	329,096	N-102	535,075
C-201	329,133	H-201	606,905	N-201	351,787
C-202	544,290	H-202	330,782	N-202	528,307
C-301	329,125	H-301	335,729	N-301	346,755
C-302	561,989	H-302	617,769	N-302	437,372
C-303	608,683	H-303	329,102	N-303	504,230
D-101	329,106	J-101	329,096	P-101	343,219
D-102	544,110	J-102	606,470	P-102	596,757
D-201	615,570	J-201	329,096	P-201	329,139
D-202	539,391	J-202	387,167	P-202	617,438
D-301	329,096	J-301	470,902	P-301	539,527
D-302	557,747	J-302	329,096	P-302	477,139
D-303	431,146	J-303	574,845	P-303	329,096
E-101	522,433	K-101	354,808	Q-101	329,096
E-102	440,269	K-102	329,096	Q-102	378,921
E-201	623,878	K-201	520,988	Q-201	558,599
E-202	436,549	K-202	329,148	Q-202	558,808
E-301	359,899	K-301	613,633	Q-301	619,000
E-302	490,103	K-302	563,828	Q-302	329,096
E-303	385,739	K-303	588,581	Q-303	587,696

OFFICE OF THE
ASSISTANT JUDICIAL CLERK
LAND COURT SYSTEM

This document was
filed on

FILE NO. 2513169

JAN 12 1999

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: Mail [] Pickup [] To:

NEELEY & ANDERSON
Attorneys at Law, A Law Partnership
Joyce Y. Neeley (3134-0)
733 Bishop Street, Suite 2301
Honolulu, Hawaii 96813 (808) 536-8177

**RESTATEMENT OF DECLARATION OF HORIZONTAL PROPERTY REGIME
OF KAA NAPALI ROYAL
(Condominium Map NO. 364)**

WHEREAS, Section 514A-82.2(a), Hawaii Revised Statutes, provides that associations of apartment owners may at any time restate the declaration of horizontal property regime ("declaration") of the condominium project to set forth all amendments thereof by resolution adopted by the board of directors;

WHEREAS, Section 514A-82.2(b), Hawaii Revised Statutes, provides that associations of apartment owners may at any time restate the declaration to amend the declaration as may be required in order to conform with the provisions of Chapter 514A, Hawaii Revised Statutes, or any other statute, ordinance, rule, or regulation enacted by any governmental authority, by resolution adopted by the board of directors, and the restated declaration shall be as fully effective for all purposes as if adopted by the vote or written consent of the apartment owners. Section 514A-82.2(b), Hawaii Revised Statutes, further provides that the declaration as restated pursuant to that Section shall: 1) identify each portion so restated; 2) contain a statement that those portions have been restated solely for the purposes of information and convenience; 3) identify the statute, ordinance, rule, or regulation implemented by the amendment; and 4) state that in the event of any conflict, the restated declaration shall be subordinate to the cited statute, ordinance, rule, or regulation;

WHEREAS, Section 514A-82.2(c), Hawaii Revised Statutes, provides that upon the adoption of a resolution pursuant to Section 514A-82.2(a) or (b), Hawaii Revised Statutes, the restated declaration shall set forth all of the operative provisions of the declaration, as amended, together with a statement that the restated declaration correctly sets forth, without change, the corresponding provisions of the declaration, as amended, and that the restated declaration supersedes the original declaration and all prior amendments thereto;

WHEREAS, the Board of Directors of the Association of Apartment Owners of Kaanapali Royal by adoption of a resolution on November 11, 1997, voted to record a restated version of the Declaration of Horizontal Property Regime of Kaanapali Royal which would set forth the provisions of the Declaration filed with the Assistant Registrar of the Land Court of the State of Hawaii on April 12, 1979 as Document No. 932343 and amended by instruments filed with the Assistant Registrar of the Land Court of the State of Hawaii, on June 18, 1986 as Document No. 1378941, on February 9, 1989 as Document No. 1612711, on September 1, 1994 as Document No. 2177129, and on September 1, 1994 as Document No. 2177130 and noted on the Certificates of Title as listed on Exhibit C attached hereto, and which would conform to Chapter 514A, Hawaii Revised Statutes and the Fair Housing Act, as amended.

NOW, THEREFORE, the Declaration of Horizontal Property Regime of Kaanapali Royal ("Declaration") is hereby restated as set forth below. Each Declaration provision that has been restated has been identified in the endnotes attached hereto. Said provisions have been restated solely for the purposes of information and convenience. To the extent that there is any conflict between the restated provisions of the Declaration and the statute or statutes being implemented, the provisions of the restated Declaration shall be subordinate to said statute or statutes. The restated version of the Declaration correctly sets forth, without change, the corresponding provisions of the Declaration, as amended. (Exhibit "B" to the Declaration, the By-Laws, has been separately restated and is not included in this Restatement.) This restated version of the Declaration shall supersede the original Declaration and all prior amendments thereto; provided, however, that in the event of any conflict, the restated version of the Declaration shall be subordinate to the original Declaration and all prior amendments thereto.

DECLARATION OF HORIZONTAL PROPERTY REGIME

OF

KAANAPALI ROYAL

WHEREAS, KAAANAPALI ROYAL ASSOCIATES, a Hawaii partnership, whose principal place of business and post office address is Suite 200, 923 Nuuanu Avenue, Honolulu, Hawaii (hereinafter called the "Developer"), is the legal owner of that certain parcel of real property (the "Land") hereinafter more particularly described; and

WHEREAS, Developer intends to develop the Land as a condominium project as described herein, in accordance with plans and specifications therefor filed in the Office of the Assistant Registrar of the Land Court of Hawaii as Condominium Map No. 364 (hereinafter called the "Condominium Map"), which Condominium Map is hereby incorporated herein by reference.

NOW, THEREFORE, Developer hereby submits the Land and the improvements to be constructed thereon, to the Horizontal Property Regime established by Chapter 514A, Hawaii Revised Statutes, as amended (hereinafter called the "Act"), and in furtherance thereof, makes the following declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declares that the Land and said condominium project are held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to the declarations, restrictions and conditions set forth herein and in the By-Laws (hereinafter called the "By-Laws"), filed herewith and made a part hereof, as the same may from time to time be amended in accordance with law, which declarations, restrictions and conditions shall constitute covenants running with the land and shall be binding on and for the benefit of the Developer, its successors and assigns, and all subsequent owners and lessees of all or any part of the Land and said condominium project, and their respective heirs, executors, administrators, successors and assigns.

1. NAME OF PROJECT. The Horizontal Property Regime established hereby shall be known as "KAANAPALI ROYAL" (hereinafter called the "Project").

2. DESCRIPTION OF LAND. The Land submitted to the Horizontal Property Regime is described in Exhibit A attached hereto and made a part hereof for all purposes.

3. DESCRIPTION OF BUILDINGS. There will be fifteen (15) attached residential buildings in the Project, containing a total of one hundred five (105) apartment units (hereinafter called "Apartments"). Said residential buildings are designated herein and on said Condominium Map as Buildings A through H, inclusive, J through N, inclusive, P and Q. Each of said residential buildings will have three stories and a mezzanine level and will contain two (2) Apartments on the ground floor, two (2) Apartments on the second floor and (3) two-level Apartments on the third and mezzanine levels.

In addition, there will be a reception building (including an apartment for use by the Managing Agent or other employee of the Association), a recreational center, a maintenance building, a tennis shelter adjacent to the tennis courts, and two (2) mechanical buildings as shown on the Condominium Map.

Each of the buildings will be principally of concrete, concrete block and wood construction, with tile and/or metal roofs, and said buildings shall also incorporate glass, steel, plastic laminate, aluminum and allied building materials.

In addition to or as part of said buildings, the Project will also contain a swimming pool, a spa, a sauna, two tennis courts, and a parking area with one hundred thirty-three (133) unassigned parking spaces.

4. DIVISION OF PROPERTY. The Project is hereby divided into the following freehold estates:

a. Apartments. Freehold estates are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the one hundred five (105) Apartments of the Project (exclusive of the apartment in the reception building which is set aside as a common element for use by the Managing Agent or other employee of the Association).

Apartment numbers have been determined and assigned to each Apartment as follows: the first capital letter of each apartment number denotes the Building in which the Apartment is located; the first numeral thereof denotes the floor on which the Apartment is located; the second numeral thereof is in each case the number "0"; and the third numeral denotes the location of the Apartment on the floor (with the numbering being from left to right as one looks from the parking area side of the Building).

Except for the end wall plans, which vary from Apartment to Apartment as hereinafter described, (i) all Apartments whose apartment numbers include the numerals 102 or 202 have a floor plan which is designated as "Ground & Second Floor Plans" on Sheet HPR-6 of the Condominium Map, (ii) all Apartments whose apartment numbers include the numerals 101 or 201 have a floor plan which is the reverse of said Ground & Second Floor Plans, (iii) all Apartments whose apartment numbers include the numerals 303 have a floor plan designated on Sheet HPR-6 of the Condominium Map as plans for the "Third Level" and "Mezzanine Level", (iv) all Apartments whose apartment numbers include the numerals 301 have a floor plan which is the reverse of the plans designated on the Condominium Map as plans for said "Third Level" and "Mezzanine Level", (v) Apartments A302, D302, E302, F302, G302, H302, K302, M302, P302 and Q302 have floor plans designated on Sheet HPR-6 of the Condominium Map as plans for the "Third Level" and "Mezzanine Level", and (vi) Apartments B302, C302, J302, L302, and N302 have floor plans which are the reverse of the plans designated on the Condominium Map as plans for said "Third Level" and "Mezzanine Level". The various Apartments have been given different end wall plans depending on the location of the Apartments in the Project. Some Apartments have end wall plans which are as shown on the

basic floor plans for the Apartment in the Condominium Map. Other Apartments in the Project have incorporated one or more modified end wall plans, which end wall plans are shown and designated on Sheet HPR-5 of the Condominium Map as Condition "a", Condition "b" (Condition "b" varies slightly depending on whether the Apartment is a Ground Floor or Second Floor Apartment or whether it is a Third Floor Apartment, as shown on Sheet HPR-5 of the Condominium Map) and Condition "c" (Condition "c" varies slightly depending on whether the Apartment is a Ground Floor or Second Floor Apartment or whether it is a Third Floor Apartment, as shown on Sheet HPR-5 of the Condominium Map).

For example, the Apartment designated as apartment number B102 with end wall plan type "b" is located on the first floor of Building B and has a floor plan similar to said Ground & Second Floor Plans, except that the end wall plan has been modified to incorporate the Ground and Second Floor Condition "b". Similarly, the Apartment designated as apartment number Q303 with end wall plan "ab" is located on the third floor of Building Q and has a floor plan similar to said plans for the Third Level and Mezzanine Level as shown on the Condominium Map, except that the end wall plan has been modified to incorporate Condition "a" and the Third Floor Condition "b". Also, the Apartment designated as apartment number J201 with no specified end wall plan is located on the second floor of Building J and has a floor plan which is the reverse of said Ground & Second Floor Plans, without any modification in the end wall plans.

The apartment number, end wall plan, approximate gross living area in square feet, approximate gross lanai area in square feet, number of rooms, and undivided percentage interest in the common elements ("common interest") of said Apartments are as follows:

<u>Apt No.</u>	<u>End Wall Plan</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Common Interest(%)</u>
A101	ab	1534	495	10	.9524
A102	b	1534	495	10	.9524
A201	ab	1534	495	10	.9524
A202	b	1534	495	10	.9524
A301	ab	1467	380	8	.9524
A302		1467	380	8	.9524
A303	b	1467	380	8	.9524
B101	a	1534	495	10	.9524
B102	b	1534	495	10	.9524
B201	a	1534	495	10	.9524
B202	b	1534	495	10	.9524
B301	a	1467	380	8	.9524
B302		1467	380	8	.9524
B303	b	1467	380	8	.9524

<u>Apt No.</u>	<u>End Wall Plan</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Common Interest(%)</u>
C101	a	1534	495	10	.9524
C102	a	1534	495	10	.9524
C201	a	1534	495	10	.9524
C202	a	1534	495	10	.9524
C301	a	1467	380	8	.9524
C302		1467	380	8	.9524
C303	a	1467	380	8	.9524
D101	b	1534	495	10	.9524
D102	a	1534	495	10	.9524
D201	b	1534	495	10	.9524
D202	a	1534	495	10	.9524
D301	b	1467	380	8	.9524
D302		1467	380	8	.9524
D303	a	1467	380	8	.9524
E101	b	1534	495	10	.9524
E102	ab	1534	495	10	.9524
E201	b	1534	495	10	.9524
E202	ab	1534	495	10	.9524
E301	b	1467	380	8	.9524
E302		1467	380	8	.9524
E303	ab	1467	380	8	.9524
F101	ab	1534	495	10	.9524
F102	a	1534	495	10	.9524
F201	ab	1534	495	10	.9524
F202	a	1534	495	10	.9524
F301	ab	1467	380	8	.9524
F302		1467	380	8	.9524
F303	a	1467	380	8	.9524
G101	b	1534	495	10	.9524
G102		1534	495	10	.9524
G201	b	1534	495	10	.9524
G202		1534	495	10	.9524
G301	b	1467	380	8	.9524
G302		1467	380	8	.9524
G303	b	1467	380	8	.9524

<u>Apt No.</u>	<u>End Wall Plan</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Common Interest(%)</u>
H101		1534	495	10	.9524
H102		1534	495	10	.9524
H201		1534	495	10	.9524
H202		1534	495	10	.9524
H301		1467	380	8	.9524
H302		1467	380	8	.9524
H303		1467	380	8	.9524
J101		1534	495	10	.9524
J102	b	1534	495	10	.9524
J201		1534	495	10	.9524
J202	b	1534	495	10	.9524
J301		1467	380	8	.9524
J302		1467	380	8	.9524
J303	b	1467	380	8	.9524
K101	a	1534	495	10	.9524
K102	b	1534	495	10	.9524
K201	a	1534	495	10	.9524
K202	b	1534	495	10	.9524
K301	a	1467	380	8	.9524
K302		1467	380	8	.9524
K303	b	1467	380	8	.9524
L101	a	1534	495	10	.9524
L102	b	1534	495	10	.9524
L201	a	1534	495	10	.9524
L202	b	1534	495	10	.9524
L301	a	1467	380	8	.9524
L302		1467	380	8	.9524
L303	b	1467	380	8	.9524
M101	a	1534	495	10	.9524
M102	a	1534	495	10	.9524
M201	a	1534	495	10	.9524
M202	a	1534	495	10	.9524
M301	a	1467	380	8	.9524
M302		1467	380	8	.9524
M303	a	1467	380	8	.9524
N101	b	1534	495	10	.9524
N102	a	1534	495	10	.9524
N201	b	1534	495	10	.9524
N202	a	1534	495	10	.9524

<u>Apt No.</u>	<u>End Wall Plan</u>	<u>Approx. Living Area in Sq. Ft.</u>	<u>Approx. Lanai Area in Sq. Ft.</u>	<u>No. of Rooms</u>	<u>Common Interest(%)</u>
N301	b	1467	380	8	.9524
N302		1467	380	8	.9524
N303	a	1467	380	8	.9524
P101	ac	1534	495	10	.9524
P102	a	1534	495	10	.9524
P201	ac	1534	495	10	.9524
P202	a	1534	495	10	.9524
P301	ac	1467	380	8	.9524
P302		1467	380	8	.9524
P303	a	1467	380	8	.9524
Q101	b	1534	495	10	.9524
Q102	ab	1534	495	10	.9524
Q201	b	1534	495	10	.9524
Q202	ab	1534	495	10	.9524
Q301	b	1467	380	8	.9524
Q302		1467	380	8	.9524
Q303	ab	1467	380	8	.9524

Notwithstanding the designation of the limits of Apartments in paragraph 4a(1) hereinbelow, all living areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls and no reduction has been made to account for interior walls, ducts, vent shafts, stairways, and the like located within the perimeter walls. All lanai areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls.

(1) Limits of Apartments. The respective Apartments, each being an "Apartment" within the meaning of that term as used in the Act, consist of (a) all of the areas of spaces enclosed by walls and ceilings or roofs within the apartment boundaries as delineated by perimeter boundaries upon the Condominium Map, and (b) the lanai areas (including the ledge areas) as shown on the Condominium Map, but shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the foundations, columns, girders, beams, supports, common entries, roofs, floors and ceilings surrounding each Apartment, or any pipes, wires, conduits or other utility or service lines running through such Apartment which are utilized for or serve more than one Apartment, the same being deemed common elements as hereinafter provided. Each Apartment shall include all of the walls and partitions which are not load-bearing within its perimeter walls, any doors, windows (including window ledges), shutters or panels within its perimeter, the inner decorated or finished surfaces of all walls, floors and ceilings, and any fixtures and appliances originally

installed therein, including carpet, drapes, refrigerator, dishwasher, drop-in range, range hood, disposal, trash compactor, air conditioning air handler, water heater, and washer-dryer.

(2) Types of Apartments.

(a) Each of the thirty (30) Apartments whose apartment number include the numerals 101 or 102 is located on the ground floor and will contain three (3) lanai areas (designated on the Condominium Map as Entry Lanai, Lanai #1 and Lanai #2, respectively) and ten (10) rooms consisting of two bedrooms, two bathrooms, a living room, a kitchen, a dining room, a dressing room, a laundry room and a storage room. Each of the thirty (30) Apartments whose apartment number includes the numerals 201 or 202 is located on the second floor and will contain three (3) lanai areas (designated on the Condominium Map as Entry Lanai, Lanai #1 and Lanai #2, respectively) and ten (10) rooms consisting of two bedrooms, two bathrooms, a living room, a kitchen, a dining room, a dressing room, a laundry room and a storage room.

(b) Each of the forty-five (45) Apartments whose apartment number includes the numerals 301, 302 or 303 is a two-level unit located on the third and fourth (mezzanine) levels and will contain eight (8) rooms consisting specifically of one bedroom, one bathroom, a living room, a kitchen, a dining room and a storage room on the third level and one bedroom and one bathroom on the fourth (mezzanine) level. Each Apartment shall also contain three lanai areas (Lanai #1 and Lanai #2 on the third level and Lanai #3 on the fourth level).

(3) Access. Each Apartment has immediate access to its entries and to the corridors, walkways and stairways, if any, appurtenant to such Apartment and connecting its Building to the parking areas, roads and recreational and other common areas of the Project.

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

(1) The Land in fee simple;

(2) All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls, roofs, stairways, walkways, corridors, ramps, fences, railings, entrances and exits of the buildings in the Project;

(3) All yards, grounds, walkways, landscaping, refuse facilities, gardens, the tennis courts and tennis shelter, the recreational center, including the swimming pool and its filtration equipment, the spa, the sauna and the restrooms, and all other recreational facilities and appurtenances;

(4) All driveways, ramps (if any), parking stalls and parking areas;

(5) All ducts, sewer lines, sewage treatment equipment and facilities, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, air conditioning, sewer, refuse, telephone, and radio and television signal distribution;

(6) The reception building (including the apartment therein set aside for use by the Managing Agent or other employee of the Association) and appurtenances;

(7) The maintenance building and appurtenances;

(8) The mechanical buildings and their respective appurtenances; and

(9) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

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

(1) The entries to each third and fourth (mezzanine) level Apartment shall be appurtenant to and for the exclusive use of the Apartments which they serve; and

(2) The stairways and landings serving each building of the Project shall be for the exclusive use of the Apartments in such building served thereby.

5. EASEMENTS. In addition to any easements herein designated in the limited common elements and the easements described in Exhibit A, the Apartments and common elements shall also have and be subject to the following easements:

a. Each Apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to and egress from, utility services for and support, maintenance and repair of such Apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements are provided herein; and in all other Apartments and limited common elements of its building for support.

b. If any part of the common elements now or hereafter encroaches upon any Apartment or limited common element, or if any Apartment now or hereafter encroaches upon any other Apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the

event any building of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements or of any Apartment due to construction shall be permitted and valid easements for such encroachments and maintenance thereof shall exist.

c. Each Apartment owner shall have an easement in common with the owners of all other Apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other Apartments and serving his Apartment. Each Apartment shall be subject to an easement in favor of the owners of all other Apartments for access to any common elements located in such Apartment.

d. The Association of Apartment Owners of the Project shall have the right, to be exercised by its Board of Directors or the Managing Agent, to enter each Apartment and the limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein necessary to prevent damage to any Apartments or common elements or for the installation, repair or replacement of any common elements.

e. Subject to the prior written consent of the Developer as to any such easement, the Association of Apartment Owners of the Project, through its Board of Directors, is authorized to give, convey, transfer, cancel, relocate and otherwise deal with utility and other easements on or affecting the Project, provided that the easement rights appurtenant to the Apartments are not unreasonably interfered with.

6. COMMON INTEREST. Each Apartment shall have appurtenant thereto an undivided percentage interest (herein called the "common interest") in all common elements of the Project, as set forth in paragraph 4 above, and the same proportionate share in all common profits and expenses of the Project and for all other purposes including voting.

7. ALTERATION AND TRANSFER OF INTEREST. The common interest and easements appurtenant to each Apartment shall have a permanent character, shall not be altered without the consent of all owners of Apartments affected thereby as expressed in an amendment to this Declaration duly recorded shall not be separated from the Apartment to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such Apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Act.

8. PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE. The Apartments shall be occupied and used only as permanent or temporary residences or lodgings. The owners of the respective Apartments shall have the absolute right to rent or lease the same subject to the limitations, restrictions, covenants and conditions of this Declaration. The owner of an Apartment shall not use his Apartment for any purpose which will injure the reputation of the Project or suffer anything to be done or kept in his Apartment or elsewhere in the Project

which will (a) jeopardize the soundness of any building in the Project, (b) interfere with or unreasonably disturb the rights of other owners and occupants, (c) obstruct any balcony, stairway or corridor of any building, (d) increase the rate of fire and extended coverage insurance on any building or the contents thereof, or (e) reduce the value of the buildings.

An apartment owner shall not, without the prior written consent of the Board of Directors of the Association of Apartment Owners, make any structural alterations in or additions to the Apartment, make any interior alterations in or additions to the Apartment visible from the exterior of the Apartment, or make any alterations in or additions to the exterior of the Apartment or to any other portion or portions of the common elements unless otherwise provided in the By-Laws.

9. BY-LAWS. The By-Laws of the Association of Apartment Owners of the Project, attached hereto as Exhibit B, is hereby made a part of this Declaration.

10. ADMINISTRATION OF PROJECT. Administration of the Project shall be vested in its Association of Apartment Owners, herein called the "Association", comprised of all Apartment owners of the Project in accordance with the By-Laws of the Association. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Act, this Declaration and the By-Laws.

11. MANAGING AGENT AND PERSON TO RECEIVE SERVICE OF PROCESS. Operation of the Project shall be conducted for the Association by a responsible Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The Managing Agent is hereby authorized to receive service of process in all cases provided in said Act. The initial Managing Agent shall be Management Consultants of Hawaii, Inc., whose business address is 2481 Kaanapali Parkway, Lahaina, Maui, Hawaii, and whose post office address is P.O. Box 5186, Lahaina, Maui, Hawaii 96761.

12. COMPLIANCE WITH DECLARATIONS AND BY-LAWS. All Apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time. In addition, all Apartment owners, their tenants, families, servants and guests, and any other persons who in any manner use the Project, shall be subject to and comply strictly with the provisions of that certain Declaration of Restrictions dated December 23, 1977, filed in the Office of the Assistant Registrar of the Land Court of Hawaii as Document No. 853030 and noted on Certificates of Title Nos. 113347, 117131, 117423, 84106, 131205, and 206374, and also recorded in the Bureau of Conveyances of Hawaii in Liber 12641 at Page 179, as amended by instrument dated October 31[sic] 1978, filed and noted as aforesaid as Document No. 906095 and recorded in Liber 13244 at Page 299, and as further modified by Deed dated December 1, 1978, filed as Document No. 911189

(herein called the "Master Declaration"), which Master Declaration provides, among other things, the following:

(a) Each and every proposed improvement, construction or other alteration of the Project, or any part thereof, shall require the prior written approval of Amfac, Inc., a Hawaii corporation, its successors or assigns (hereinafter referred to as "Amfac"), all in accordance with the provisions and restrictions contained in said Master Declaration.

(b) Paved access roads and water and sewage lines and related facilities have been provided and are maintained by Amfac to the boundary of the Land, but Amfac may terminate its maintenance for any of such utilities for which any governmental, quasi-governmental or private utility company or authority or agency shall either (i) take over possession, title or operation of utility lines and facilities operated by Amfac or (ii) supply utility lines and facilities accessible from or on the Land as alternatives to Amfac's utility lines and facilities. If such take over or supply shall occur, each Apartment owner shall be required to pay the prorated share attributable to his Apartment of any hook-up or initial service charges or fees assessed by such company, authority or agency with respect to such take over or supply, such prorated share to be determined by multiplying the common interest appurtenant to such Apartment by a sum which is the product of the total charges and fees so assessed for the Kaanapali Beach Resort Area (as defined in said Master Declaration) times a fraction, the numerator of which is the number of completed or uncompleted but Amfac-approved Apartments in the Project at the time of assessment of such charges or fees and the denominator of which is the total number of completed or uncompleted but Amfac-approved Resort Rental Units, other Condominium Units and other residences in the Kaanapali Beach Resort Area (as each of said terms is defined in said Master Declaration) at the time of such assessment and which are subject to such take over or supply.

(c) Each Apartment owner is required to reimburse Amfac monthly for all expenses and costs to Amfac in providing sewage service and water for the Apartment owner's use.

(d) During the Term of the Master Declaration (as defined therein), each Apartment owner is obligated to pay a pro rata share of the net cost of constructing, operating, maintaining and administering improvements and facilities constructed or operated, as of the commencement of said Term or at any time during said Term, by Amfac in said Kaanapali Beach Resort Area; provided, however, that to the extent the Apartments are not treated as Resort Rental Units (as defined in the Master Declaration), the Apartment owners shall not be so obligated with respect only to the net costs of constructing, operating, maintaining and administering motorized transportation systems such as a jitney service and recreation facilities such as the golf course (which net costs referred to in this proviso are hereafter referred to as "Resort Facilities Costs"). Without limitation, such improvements and facilities shall include roadways, sewers, transportation systems, parking areas, walkways, utility lines and facilities, recreation facilities and landscaping. The Apartment owners are also required to grant to Amfac, without cost to Amfac, any easements in the Project required for the construction,

operation and maintenance of such improvements and facilities in locations to be designated by Amfac. The net cost of constructing, operating, maintaining and administering the improvements or facilities in said Kaanapali Beach Resort Area is defined to mean all costs properly attributable to such construction, operation, maintenance and administration, including without limitation, land acquisition costs, capital debt service charges and replacement reserve accruals for improvements and facilities existing at the commencement of said Term or constructed at any time during said Term, less Amfac's receipts from the operation of such improvements or facilities. The pro rata share to be paid by each Apartment owner shall be a proportionate share of such net costs for each particular improvement or facility based upon the proportion of the total benefit or use of such facility or improvement which the Apartment owner receives as determined according to generally accepted accounting principles and agreed to by Amfac and a majority of all Operators (as said term Operators is defined in said Master Declaration) from time to time. Amfac has reserved the option to bill the Association of Apartment Owners of the Project for the pro rata shares required to be paid by the Apartment owners, and if Amfac exercises its option to bill the Association, the Association shall be liable to pay such billings. Notwithstanding the terms of the Master Declaration, Amfac has agreed in its Deed of the Land to the Developer that if Apartments in the Project are operated as "Resort Rental Units", the maximum annual charge to be levied on each Apartment for Resort Facilities Costs shall be Fifty Dollars (\$50.00) per annum from January 1, 1979 to December 31, 1983; for each five-year period thereafter during the Term of the Master Declaration the maximum annual assessment for Resort Facilities Costs per unit on the Land shall be increased to an amount equal to one hundred ten percent (110%) of the maximum annual assessment for Resort Facilities Costs during the preceding five-year period; and further, the requirement for survey for obsolescence and modernization as provided in paragraph 9(f) of the Master Declaration shall not be applicable to the Project even if the Apartments are operated as Resort Rental Units in such a manner that their operation could be construed as a "hotel" operation.

(e) The Land, all landscaping, all structural and non-structural portions of all buildings and other improvements existing thereon at any time during said Term, are required to be kept in good order, condition, maintenance and repair, including without limitation repainting the exterior of the buildings in the Project once every five (5) years or at such earlier interval as required to maintain the appearance thereof.

(f) Water use and conservation restrictions are imposed on all Apartments in the Project. Each Apartment owner is required to institute water conservation measures so as to keep the total consumption of water in the Project below 850 gallons per Apartment per day or such lesser rates as Amfac may establish during periods of drought or water shortage. If in any month during said Term, water is consumed at a rate in excess of the rate specified for such month as provided in the immediately preceding sentence, the normal monthly water charge payable by each Apartment owner for such month shall be substantially increased, as set forth in the Master Declaration.

(g) The Association is required to become a member of the Kaanapali Beach Operators' Association, and, as such member, the Association is required to comply with the

articles and by-laws of the Kaanapali Beach Operators' Association and to pay a pro rata portion of the annual budget thereof in monthly installments as provided in the articles and by-laws of the Kaanapali Beach Operators' Association.

(h) Each Apartment owner is precluded from holding or attempting to hold Amfac or Pioneer Mill Company, Limited, its successors or assigns responsible for the creation of smoke or soot or other nuisances, arising out of or in connection with sugar operations within the areas adjacent to the Kaanapali Beach Resort (as said term is defined in the Master Declaration), and each Apartment owner is required to indemnify and hold Amfac harmless from any liability or expenses, including attorneys' fees, resulting from claims by the Apartment owner or any guests or other persons using the Project arising from such nuisances.

(i) Each Apartment owner covenants that he shall assume all risks associated with the location of the Project adjacent to a golf course operated by Amfac, including but not limited to the risk of property damage or personal injury arising from stray golf balls or actions incidental to resort-related activities (including without limitation tournaments, luaus and concerts), and shall indemnify and hold harmless Amfac from any liability, claims or expenses, including attorneys' fees, arising from such property damage or personal injury. Each Apartment owner is also required to covenant that Amfac shall have the right, in the nature of an easement, to subject the Project to nuisances incidental to the maintenance, operation or use of the golf course, and to the carrying out of such resort-related activities.

(j) Each Apartment owner is required to indemnify and hold Amfac harmless from and against any and all claims and demands for loss or damage, including claims for property damage, personal injury or wrongful death, arising out of or in connection with the use or occupancy of the Project by the Apartment owner or any other person claiming by, through or under the Apartment owner, or any accidental fire on the Project, or any nuisance made or suffered thereon, or any failure of the Apartment owner to maintain the Project in a safe condition, and such Apartment owner is required to reimburse Amfac for all costs and expenses, including attorneys' fees, paid or incurred by Amfac in connection with the defense of any such claims, including but not limited to all costs of Amfac's defense to any such claim or in any such action, as well as all costs for research regarding settlement or other preventative measures which Amfac may take prior to the filing of such action or to attempt to prevent the filing of such action.

In the event of any discrepancy between a provision of the Master Declaration and this Declaration or the By-Laws, the provisions of the Master Declaration shall control. Any failure to comply with any of the provisions contained in this Declaration or in the Master Declaration shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved *[sic]* Apartment owner.

The acceptance of a deed or conveyance or the entering into occupancy of any Apartment in the Project shall constitute an agreement that the provisions of the Master

Declaration, this Declaration and the accompanying By-Laws, as each may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Apartment as though such provisions were recited and stipulated at length in each and every deed or conveyance thereof.

13. PERCENTAGE OF VOTES REQUIRED FOR REBUILDING. Where an election is permissible under the terms of the By-Laws and condominium conveyance documents, the Project shall be rebuilt, repaired or restored in the event of damage or destruction to all or part of the buildings and common elements, unless the owners of at least 75% of the interests in the common elements execute an instrument expressing their decision not to rebuilt, repair or restore.

14. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in the Act, this Declaration may be amended by a vote or written consent of the owners of 75% of the interests in the common elements effective only upon the recording of an instrument setting forth such amendment, duly executed by such owners or by the proper officers of the Association; provided, however, that at any time prior to the issuance of the Final Public Report, the Developer may amend this Declaration, the By-Laws and the Condominium Map in any manner. Notwithstanding the foregoing and notwithstanding the sale and conveyance of any of the Apartments, the Developer may amend this Declaration (including the By-Laws and, when applicable, the Condominium Map) to file the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act, (a) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, Apartment numbers, and dimensions of the Apartments as built, or (b) so long as any plans filed therewith involve only immaterial changes to the layout, location, Apartment numbers, or dimensions of the Apartments as built. In case of a modification or amendment to the By-Laws, this Declaration may be amended to set forth such modification or amendment pursuant to such percentage vote as is required by the By-Laws to render the modification or amendment thereof effective.

15. DEFINITIONS. The terms "majority" or "majority of Apartment owners" herein means the owners of Apartments to which are appurtenant more than fifty percent (50%) of the common interest, and any specified percentage of the Apartment owners means the owners of Apartments to which are appurtenant such percentage of the common interests.

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

17. WAIVER. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

18. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

19. MAINTENANCE RESERVE FUND. As required by Chapter 514A, Hawaii Revised Statutes, the Association shall assess the Apartment Owners to fund the estimated replacement reserves and shall compute the estimated replacement reserves by a formula which is based on the estimated life and the estimated capital expenditure or major maintenance expense of each part of the property for which the Association is responsible. The estimated replacement reserves shall include:

- (1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and
- (2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.²

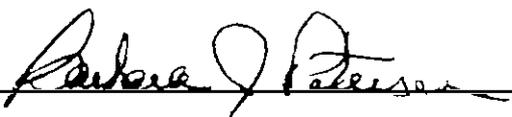
IN WITNESS WHEREOF, the parties hereto have executed these presents
this 13th day of October, 1998.

ASSOCIATION OF APARTMENT OWNERS OF
KAANAPALI ROYAL

By: 

Type Name: Joel M. Karlin

Type Title: President

By: 

Type Name: Barbara J. Petersen

Type Title: Secretary

STATE OF Colorado)
)
COUNTY OF Jefferson) SS:

On this 13th day of October, 1998, before me personally appeared Joel M. Karlin, to me personally known, who being by me duly sworn, did say that he is the President of the Board of Directors of the Association of Apartment Owners of Kaanapali Royal and that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

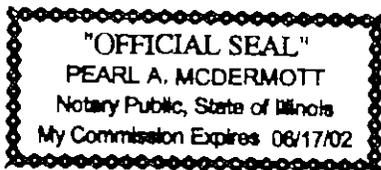
Jan Middleton
Notary Public
State of Colorado
My Commission Expires 12-26-98

Jan Middleton
Notary Public, State of Colorado

My commission expires: December 26, 1998

STATE OF Lake Illinois)
)
COUNTY OF Lake) SS:

On this 2 day of October, 1998, before me personally appeared BARBARA J. PETERSEN, to me personally known, who being by me duly sworn, did say that 20 is the _____ of the Board of Directors of the Association of Apartment Owners of Kaanapali Royal and that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.



Pearl A. McDerrott
Notary Public, State of Ill.

My commission expires: 6-17-02

RESTATEMENT OF DECLARATION OF HORIZONTAL PROPERTY REGIME
OF KAA NAPALI ROYAL

ENDNOTES

The following Declaration provisions have been restated for the reasons set forth below:

1. Paragraph 14 of the Declaration has been restated to conform with Section 514A-11, Hawaii Revised Statutes.
2. A new Paragraph 19 has been added to the Declaration to conform with Section 514A-83.6, Hawaii Revised Statutes.

EXHIBIT A

All of that certain parcel of land situate at Hana-kaoo and Honokowai, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, described as Lot 70, area 7.125 acres, as shown on Map 31, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1744.

TOGETHER WITH a perpetual but nonexclusive easement for roadway purposes for access to Honoapiilani Highway over Roadway Lots 11, 12, 13 and 14, as shown on Map 2, and Lot 23, as shown on Map 3, and Easement 73 shown on Map 31; provided that such easement shall terminate with respect to any roadway lot which may become public highways, as set forth by Land Court Orders Nos. 26883, 27504 and 51831, filed March 21, 1967, September 11, 1967 and November 29, 1978, respectively.

Being the premises described in Transfer Certificate of Title No. 206374 issued to Kaanapali Royal Associates, a Hawaii general partnership.

SUBJECT, HOWEVER, to the following:

1. The reservation of all mineral or metallic mines of every description to the Hawaiian Government; said reservation, however, being subject to that certain covenant that neither the State of Hawaii nor persons authorized by it will enter, occupy or use the said land for the exercise of the reserved mineral and mining rights for a period of 75 years from January 1, 1960, as contained in that certain instrument dated January 29, 1960 and recorded in the Bureau of Conveyances in Liber 3822 at Pages 37-40.

2. Easement "3" for utility purposes over and across the southerly portion of Lot 70, as shown on Maps 2 and 31, as set forth by Land Court Order No. 18960, filed April 27, 1961.

3. As to said Easement "3", covenants, conditions and restrictions as set forth in Deed dated December 1, 1978, filed as Document No. 911189, to-wit:

"Grantor hereby consents to Grantee's construction and placement of a building over and across a sewer line easement, being Easement "3", more fully described in encumbrance paragraph 2 of Exhibit "A"; provided that such consent to the placement of such building over Easement "3" is specifically conditioned upon Grantee's covenant and agreement, which is hereby made with Grantor, as to all of the following:

(1) Prior to the construction of such building, Grantee shall place a concrete sheath around the portion of the sewer line over which the building is to be constructed; and

(2) Grantee has represented to Grantor that such concrete sheath will protect the sewer line such that the risk of rupture of the sewer line will be negligible, provided that if the portion of the sewer line covered by the building shall malfunction or rupture for any reason, the Grantee shall, at its sole cost and expense, repair such rupture or malfunction; provided, further, that if the repair of such rupture or malfunction is practically impossible or economically infeasible, then the Grantee, at absolutely no cost to the Grantor and with a minimum of disruption to the Grantor's use of the sewer line, shall have the right to relocate the portion of the sewer line covered by the building; provided that all plans of such relocation and construction shall be subject to Grantor's approval; and

(3) Grantee's construction, operation, use, maintenance and repairs of said building or any action or omission with respect to said building or the granted premises shall not interfere with Grantor's operation or use of the sewer line; and

(4) Grantee shall, at its own expense, obtain general liability insurance for an amount and with an insurer of Grantee's choice naming Grantor as the co-insured thereunder, which shall insure Grantor against any claims made by any person for damages arising out of the existence or rupture, for any reason, of the portion of the sewer line located under the building, and the Grantor shall also require in its documentation for the condominium development project (the "Project") to be constructed on the granted premises that the association of apartment owners formed with respect to such Project shall be required to maintain similar insurance for an amount and with an insurer of the association's choice naming Grantor as co-insured thereunder with the same coverage as required by this paragraph (4); and

(5) Grantee shall indemnify and hold harmless Grantor from any injury or damage suffered by Grantor, including reasonable attorney's fees incurred by Grantor, arising out of (i) breach of any covenant set forth above, or (ii) any act or omission of Grantee with respect to or

in connection with the portion of sewer line covered by the building, or (iii) any actual rupture of the portion of the sewer line under such building, which indemnity obligation shall include any deductible portion of the insurance coverage referred to in paragraph (4) above, or any damage incurred in excess of such coverage.

The foregoing covenants shall run with the land and shall inure to the benefit and bind the successors and assigns of Grantor and Grantee respectively."

4. Restriction of access rights over and across the easterly boundary of Lot 70, as shown on Maps 2 and 31, of Application No. 1744.

5. Reservation contained in Deeds dated October 11, 1967, filed as Land Court Document No. 428919, and dated November 20, 1978, filed as Document No. 908843, made by Pioneer Mill Company, Limited, a Hawaii corporation, to Amfac, Inc., a Hawaii corporation, to-wit:

"Reserving and excepting to the Grantor, its successors and assigns forever, as appurtenant to the lands of the Grantor located in the District of Lahaina now owned and used or hereafter acquired and used by the Grantor in its sugar plantation operations, the perpetual right and easement over and upon the granted premises to discharge, emit, diffuse and inflict noise, smoke, soot, dust, lights, noxious vapors, odors and other minor nuisances of every description created by and resulting from the operations of the Grantor in burning sugar cane and bagasse, milling, generating power, trucking, hauling and all other activities incidental to the operation of a sugar plantation."

6. Easement 74 (15 feet wide) for utility purposes over and across the easterly portion of Lot 70, as shown on Map 31, as set forth by Land Court Order No. 51831, filed November 29, 1978.

7. Roadway setback line (20 feet wide) over and across the easterly portion of Lot 70, as shown on Map 31 of Land Court Application No. 1744.

8. The restrictive covenants and conditions set forth in that certain Declaration dated December 23, 1977, filed as Document No. 853030 and also recorded in Liber 12641 at Page 179, as amended by instrument dated October 31, 1978 filed as Document No. 906095 and also recorded in Liber 13244 at Page 299.

9. Covenants, conditions and restrictions as set forth in that certain deed from Amfac, Inc., a Hawaii corporation, to Kaanapali Royal Associates, a Hawaii general partnership, dated December 1, 1978, filed as Document No. 911189, to-wit:

"Grantee further covenants and agrees with Grantor that Grantee and Grantee's successors and assigns will abide by all of the obligations, covenants and restrictions set forth in the Declaration of Restrictions filed with the Land Court of the State of Hawaii as Land Court Document No. 853030, as amended by Land Court Document No. 906095, provided that:

(1) If apartment units in the Project to be constructed on the granted premises are operated as "Resort Rental Units" (as defined in the Declaration of Restrictions), the maximum annual charge to be levied on each such "apartment" (as defined in Section 514A-3(1) of the Hawaii Revised Statutes) on the granted premises for Resort Facilities Costs (as defined in paragraph 9(a)(5) of the Declaration of Restrictions) shall be Fifty Dollars (\$50.00) per annum from January 1, 1979 to December 31, 1983; for each five-year period thereafter during the term of the Declaration of Restrictions the maximum annual assessment for Resort Facilities Costs per apartment on the granted premises shall be increased to an amount equal to one hundred ten percent (110%) of the maximum annual assessment for Resort Facilities Costs during the preceding five-year period;

(2) If the apartments to be constructed on the granted premises are operated as Resort Rental Units in such a manner that their operation could be construed as a "hotel" operation, the provisions of paragraph 9(f) of the Declaration of Restrictions shall nonetheless not apply to the granted premises;

(3) Paragraph 9(g)(3)(vi) of the Declaration of Restrictions shall be deemed to be modified so far as it is applicable to the granted premises so that the number "650" in the seventh line of paragraph 9(g)(3)(vi) shall be deemed to be "850" and so that all additional numerical references to "GCD" in the balance of paragraph 9(g)(3)(vi) shall be increased by 200."

10. Mortgage and Security Agreement and Financing Statement dated December 1, 1978, by and between Kaanapali Royal Associates, a Hawaii general partnership, as Mortgagor, and Amfac Financial Corp., a Hawaii corporation, as Mortgagee, filed as Document No. 911190.

EXHIBIT C

TRANSFER CERTIFICATE OF TITLE NOS.

ASSOCIATION OF APARTMENT OWNERS
OF KAAPALI ROYAL

Condominium Map No. 364

105 Apts.

APT. #	CTC #	APT. #	CTC #	APT. #	CTC #
A-101	504,973	F-101	329,107	L-101	418,695
A-102	385,624	F-102	355,078	L-102	329,111
A-201	465,506	F-201	329,109	L-201	488,284
A-202	343,581	F-202	329,115	L-202	335,306
A-301	329,096	F-301	329,096	L-301	342,565
A-302	329,118	F-302	387,183	L-302	468,766
A-303	329,096	F-303	426,653	L-303	378,859
B-101	502,408	G-101	362,159	M-101	329,145
B-102	499,125	G-102	390,930	M-102	329,130
B-201	329,096	G-201	329,131	M-201	380,264
B-202	385,747	G-202	329,143	M-202	329,099
B-301	396,430	G-301	396,500	M-301	329,149
B-302	329,146	G-302	430,114	M-302	329,140
B-303	484,059	G-303	329,096	M-303	461,972
C-101	518,449	H-101	329,096	N-101	409,345
C-102	344,342	H-102	329,096	N-102	329,117
C-201	329,133	H-201	489,668	N-201	351,787
C-202	329,105	H-202	330,782	N-202	446,493
C-301	329,125	H-301	335,729	N-301	346,755
C-302	335,004	H-302	443,664	N-302	437,372
C-303	469,193	H-303	329,102	N-303	504,230
D-101	329,106	J-101	329,096	P-101	343,219
D-102	329,142	J-102	329,103	P-102	331,218
D-201	436,548	J-201	329,096	P-201	329,139
D-202	436,547	J-202	387,167	P-202	338,442
D-301	329,096	J-301	470,902	P-301	452,932
D-302	329,116	J-302	329,096	P-302	477,139
D-303	431,146	J-303	499,610	P-303	329,096
E-101	366,695	K-101	354,808	Q-101	329,096
E-102	440,269	K-102	329,096	Q-102	378,921
E-201	329,144	K-201	520,988	Q-201	495,805
E-202	436,549	K-202	329,148	Q-202	329,122
E-301	359,899	K-301	329,096	Q-301	329,120
E-302	490,103	K-302	329,112	Q-302	329,096
E-303	385,739	K-303	490,143	Q-303	493,837