

EXHIBIT 4

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AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
FOR ROYAL KUNIA COMMUNITY

THIS AMENDED AND RESTATED DECLARATION is made this 18th day of March, 1994, by HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation ("Halekua"), with an address at 2024 North King Street, Honolulu, Hawaii, and KUNIA RESIDENTIAL PARTNERS, a Hawaii limited partnership ("Kunia"), with an address at 650 Iwilei Road, Honolulu, Hawaii.

W I T N E S S E T H T H A T :

A. Halekua submitted certain fee simple property situated at Hoaeae and Waikele, Ewa, City and County of Honolulu, State of Hawaii, to the Declaration of Protective Covenants for Royal Kunia Community dated April 17, 1989, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 23083 at page 509. Said declaration was amended by instruments recorded in said Bureau in Liber 23530 at page 506, and as Document Nos. 90-013425, 92-0362688 and 92-125987. As amended, said declaration is hereinafter referred to as the "Original Declaration".

B. Kunia acquired certain of the rights and assumed the role of Halekua as the "Declarant" under the Original Declaration with respect to certain property purchased by Kunia from Halekua, pursuant to that certain Assignment of Declarant's Rights recorded in said Bureau as Document No. 92-125990. Such property purchased by Kunia is more particularly described in Exhibit "A" attached hereto.

C. The Original Declaration may be amended pursuant to Section 7.04(a)(2) of the Original Declaration by a written instrument executed by the Owners of not less than seventy five percent (75%) of the total votes of the membership of the Royal Kunia Community Association (the "Association").

D. Under Section 5.03(b) of the Original Declaration, Kunia and Halekua hold more than 75% of the total votes of the membership of the Association based on their ownership of over 260 acres of the land covered by the Original Declaration.

E. Kunia and Halekua desire to amend and restate the Original Declaration to read in its entirety as provided in this instrument.

F. Kunia and Halekua intend that the property described in Exhibit "B" attached hereto (hereinafter called "Royal Kunia") and any properties annexed to Royal Kunia in the future, be developed as a planned residential community which may include a variety of single family or attached residential units, residential rental units, condominium residential apartment units, community facilities, recreational facilities, commercial and industrial sites, parks and open areas, so as to provide a complete community that will grow and intensify in its uses, densities and activities. Property covered by the Original Declaration but not included in Exhibit "B" shall no longer be a part of Royal Kunia unless annexed to Royal Kunia in the future.

G. In order to insure the orderly and proper development and use of Royal Kunia, Kunia and Halekua desire to set forth certain mutual covenants, conditions, limitations and restrictions herein set forth, which will inure to the benefit of present and future Owners of property within Royal Kunia.

NOW THEREFORE, Kunia and Halekua hereby declare that all of Royal Kunia, and any real property annexed thereto, shall be held, sold, conveyed, encumbered, leased,

occupied and improved subject to the limitations, covenants, conditions and restrictions set forth in this Declaration, all of which are established and declared and agreed to be for the purpose of enhancing, protecting and preserving the value, desirability and attractiveness of Royal Kunia and to be for the direct, mutual and reciprocal benefit of each and every part of Royal Kunia. Said limitations, covenants, conditions and restrictions shall create mutual equitable servitudes upon each Lot or site in Royal Kunia in favor of every other Lot or site in Royal Kunia and shall create reciprocal rights and obligations in, between and among all persons and/or entities having any right, title or interest in and to Royal Kunia or any part thereof. In addition, said limitations, covenants, conditions and restrictions shall operate as covenants running with the land, binding according to the terms hereof on all persons and/or entities having or acquiring any right, title or interest in Royal Kunia or any part thereof.

ARTICLE I DEFINITIONS

Unless the context of the particular provisions otherwise specifies or requires, the terms defined in this Article I shall have for the purpose of this Declaration the meanings hereinafter specified.

"Apartment" shall mean a residential unit within a building containing two or more apartments or shall mean a residential unit within a condominium property regime defined under Chapter 514A of the Hawaii Revised Statutes, as amended.

"Architect" shall mean a person registered to practice architecture in the State of Hawaii under the authority of Chapter 464 of the Hawaii Revised Statutes, as amended, or a person not registered to practice architecture but with architectural qualification, experience and expertise acceptable to Declarants or the Association.

"Articles" shall mean the Articles of Incorporation of the Association granted or to be granted pursuant to Chapter 415B of the Hawaii Revised Statutes, as amended.

"Association" shall mean the Royal Kunia Community Association, a non-profit corporation described in Article V and its successors.

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

"Bureau" shall mean the Bureau of Conveyances of the State of Hawaii.

"By-Laws" shall mean the By-Laws of the Association which have been or shall be duly adopted by the Association, as amended.

"Collector Road" shall mean those Roads having a right of way (including any sidewalk and planting strip not owned by an Owner) at least 56 feet wide that provide access between Subdivisions and/or Collector Roads.

"Common Areas" shall mean (a) all of the property which has been conveyed in fee to the Association, pursuant to the provisions hereinafter set forth, and (b) all of the property designated as Common Area by the developer Declarant, whether or not conveyed to the Association, which property may include areas owned by others but for which maintenance by the Association may benefit Owners, and may also include easement areas and improvements therein such as Landscape Easements, storm drain easements and systems, access easements, and other easements. Common Areas shall include the Limited Common Areas, if any, but shall not include any common elements of a condominium unless the developer Declarant expressly designates such common elements as Common Area for purposes of this Declaration.

"Condominium" shall mean a condominium property regime as defined in Chapter 514A of the Hawaii Revised Statutes, as amended from time to time.

"Condominium Apartment Area" shall mean any real property designated as such pursuant to Article III, together with all Improvements constructed thereon, which is developed to provide condominium apartments for sale or lease to Owners.

"Declarant" shall have different meanings depending on the context in which such term is used. Unless otherwise specified or contrary to the context in which the term is used, the following shall apply: If a provision of this Declaration refers to "Declarants", then such provision refers to all Declarants. If a provision of this Declaration refers to "each Declarant", "either Declarant", "any Declarant" or "a Declarant", then such provision refers to any one of the Declarants. If a provision of this

Declaration does not clarify which Declarant is being referred to and does not refer to all or any of the Declarants, or if a provision refers to a "developer Declarant", then such provision refers to the Declarant who owns or who was the last of the Declarants to own the property at issue. "Declarant" and "Declarants" shall include successors and assigns of a Declarant or Declarants, provided that the rights of a Declarant can be assigned only in accordance with Section 7.02 below.

"Declaration" shall mean this Amended and Restated Declaration of Protective Covenants for Royal Kunia Community, and may also be referred to as Community Protective Covenants or Protective Covenants or Royal Kunia Declaration or Royal Kunia Protective Covenants, together with any duly adopted amendments and modifications.

"Design Committee" shall mean the committee created pursuant to Article IV.

"Design Committee Rules" shall mean those rules adopted by the Design Committee pursuant to subsection 4.01(f).

"Designated Landscaped Area" shall mean the area described in Section 3.02(d) which may be initially landscaped by contractors and/or employees hired by the developer Declarant and subsequently maintained and irrigated by contractors and/or employees hired by the Association through its Board.

"Engineer" shall mean a person registered to perform engineering services in the State of Hawaii, under the authority of Chapter 464 of the Hawaii Revised Statutes, as amended, or a person with comparable qualification, experience and expertise approved by Declarants or the Association.

"Excavation" shall mean any disturbance of the surface of the land (except temporarily for planting) which results in removal of earth or rock to a depth of more than eighteen inches.

"Family" shall mean the immediate family of an Owner or Owners (if ownership is by husband and wife) of a Lot and the parents and siblings (but not members of their separate families) of such Owner or of either one of such Owners (if ownership is by husband and wife) who actually live on such Lot as members of the immediate family.

"File" or "Filed" shall mean with respect to any Subdivision Map, the map which has been recorded or filed in the Bureau and/or in the Office of the Assistant Registrar.

"Fill" shall mean any addition of rock or earth materials to the surface of the land (except temporarily for planting) which increases the previous elevation of such surface by more than eighteen inches.

"Fiscal Year" shall mean the calendar year from January 1st to and including December 31st.

"Improvements" shall include buildings, outbuildings, Roads, driveways, parking areas, fences, screens, retaining walls, stairs, decks, hedges, windbreaks, planted trash surrounds, poles, signs and other structures of any type or kind.

"Landscape Easements" shall mean those easement areas designated by a developer Declarant for landscaping purposes.

"Limited Common Area" shall mean those portions of the Common Areas designated as Limited Common Area pursuant to Section 3.05(f).

"Lot" shall mean any lot in Royal Kunia created by legal Subdivision and designated for residential use on a Subdivision Map or on another map designated by a developer Declarant, or, with respect to any condominium, an Apartment of such condominium, or, with respect to any Apartment house, duplex, or other multiple dwelling, a complete residential unit or rental unit, and in each case, except when clearly contrary to the context in which "Lot" is used, shall include all Improvements thereon. Upon the splitting of any Lot pursuant to Section 7.01, the term "Lot" shall mean each parcel, condominium Apartment, or residential unit, into which such Lot has been split. Upon the consolidation of two or more Lots pursuant to Section 7.01, the term "Lot" shall mean the parcel consisting of the Lots so consolidated. The term "Lot" shall not include any Common Area, Non-residential Area or Unclassified Area.

"Neighborhood" shall mean an area or areas subject to this Declaration developed for residential purposes comprising one or more Product Types, whether or not governed by an additional owner's association or common covenants or deed restrictions, in which owners may have similar or common concerns, site plans or interests, such as a

similar site plan, shared Limited Common Area, shared pedestrian or vehicular access, a common theme, an entry feature, a development name, physical proximity and/or similar common areas and facilities. For example, and by way of illustration and not limitation, each Subdivision, condominium project, rental unit project, cluster development, duplex development and single-family detached housing development, or combination thereof, may constitute a separate Neighborhood. In addition, each parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood or consolidation with another Neighborhood upon development. For further example, the single family residential Lots in File Plan 1942 may constitute a Neighborhood. For further example, Lots of a certain Product Type may constitute a Neighborhood, even if located in non-contiguous areas or Subdivisions. The designation of Neighborhoods shall initially be done by the developer Declarant, subject to modification thereafter by the developer Declarant or the Board; provided, however, that the beneficiaries of Limited Common Areas may not be changed except as provided in Section 3.05 below; provided further that a Neighborhood designation shall not be changed without the prior written consent of the developer Declarant until all of the Lots within the Neighborhood affected are sold by the developer Declarant.

"Office of the Assistant Registrar" shall mean the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

"Non-residential Area" shall mean all of the real property designated as such pursuant to Article III, together with any Improvements constructed thereon, which is developed for non-residential use, but shall not include any Common Area.

"Operating Fund" shall mean the fund created pursuant to Section 6.02.

"Owner" shall mean a person, corporation, partnership or other legal entity described as an Owner in Section 5.02, but with respect to the covenants, conditions, limitations and restrictions contained in Articles III and IV, the term shall not be deemed to include the developer Declarant or any person or entity specifically exempted in writing from said conditions, limitations and restrictions by the developer Declarant.

"Private Area" shall include all property within Royal Kunia, except for Common Area, Non-residential Area and Unclassified Area.

"Product Type" shall mean a classification of residential development based on certain site plan features (e.g., (1) clusters of cottages sharing a common driveway or backyard green belt, (2) single-family detached dwellings, (3) zero-lot line detached dwellings, (4) attached duplex townhomes). The term "Product Type" may overlap with the term "Neighborhood" in some instances but such terms are not synonymous and each term shall have the meaning set forth herein.

"Record" or "Recording" or "Recordation" shall mean with respect to any document, to record or file such document in the Bureau or in the Office of the Assistant Registrar or both.

"Recreational Facility" shall mean any Improvement public or private used for or in connection with any recreational purpose or activity, including but not limited to park and playground facilities, athletic fields, trails, tennis, basketball and volleyball courts, community gathering halls and swimming and wading pools.

"Rental Unit Area" shall mean any real property designated as such pursuant to Article III, together with all Improvements constructed thereon, which is developed to provide residential rental units for lease to tenants.

"Residential Area" shall mean any real property designated as such pursuant to Article III, together with all Improvements constructed thereon, which is developed to provide residential Lots for sale or lease to Owners, but shall not include Condominium Apartment Area and Rental Unit Area.

"Road" or "Street" shall mean any public road or street or any private, paved vehicular way or vehicular access and, in any case, apron.

"Royal Kunia" shall mean all of the real property referred to in Article II and is sometimes also referred to as Royal Kunia Community or Community or Community Area.

"Royal Kunia Community Association Rules" or "Association Rules" shall mean the rules which may be adopted, amended or repealed from time to time pursuant to Section 5.06.

"Sight Line Easement" shall mean an easement area designated by a developer Declarant or governmental authority for purposes of preventing the obstruction of a line of sight from a Road.

"Special Assessment" shall mean any assessment levied pursuant to Section 6.04 or Section 5.04(g).

"Subdeveloper" shall mean any person or entity other than a Declarant, to whom a Declarant has sold an increment or increments of Royal Kunia for construction and/or sale or lease of residential or non-residential units by such Subdeveloper.

"Subdivide" shall mean the division of any Lot into two or more Lots, condominium apartments or residential units.

"Subdivision" shall mean those Lots shown on a Subdivision Map. A Subdivision may include one or more Neighborhoods and one or more Product Types or portions thereof.

"Subdivision Map" shall mean any map showing a legal Subdivision which is Recorded or Filed in the Bureau or in the Office of the Assistant Registrar or both.

"Visible from Neighboring Property" shall mean, with respect to any given object or activity, that such object or activity is or would be in any line of sight originating from any point six feet above the ground level of any adjoining property, excluding contiguous property owned by the Owner of the property involved, but including Common Areas and Streets, assuming that such adjoining property has a ground elevation equal to its actual elevation or the highest elevation of the ground of the property upon which such object or activity is located, whichever elevation is the lower.

ARTICLE II PROPERTY SUBJECT TO PROTECTIVE COVENANTS

Section 2.01 Royal Kunia. All of the property more particularly described in Exhibit "B" attached hereto and made a part hereof, together with such other property which shall from time to time be annexed thereto and made subject to this Declaration shall constitute Royal Kunia, and the same shall be held, sold, conveyed, encumbered, leased, occupied, improved and made subject to this Declaration.

Section 2.02 Annexation of Property to Royal Kunia.
A Declarant may, pursuant to the following provisions of this section, from time to time and in its sole discretion, annex to Royal Kunia all or any part of the real property (not then constituting a part of Royal Kunia) owned by it at the time of such annexation and situated at Hoaeae and Waikele, Ewa, City and County of Honolulu, State of Hawaii. The Association may also annex adjacent property upon approval by an affirmative vote of 3/4ths of the total votes present at a meeting duly called for this purpose, written notice of which shall have been sent to all members not less than 30 days in advance of the meeting, setting forth the purpose of the meeting.

(a) The annexation of such property shall become effective when and only when the last of each of the following events occurs:

(1) The annexing Declarant or Association shall have Recorded a declaration, which may consist of more than one document, and which shall, among other things (aa) describe the real property which is to be annexed to Royal Kunia; (bb) set forth or refer to such additional or other limitations, restrictions, covenants and conditions applicable to such property as provided in Section 2.03 below; and (cc) declare that such property is held and shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the provisions of this Declaration; and

(2) With respect to the real property described in such declaration, the annexing Declarant or Association shall have Filed a Subdivision Map.

(b) Upon the annexation becoming effective, the property covered by such annexation shall become and constitute a part of Royal Kunia.

Section 2.03 Amendment of Restrictions as Affecting Property Prior to Conveyance of Same by Declarant. Any provision of this Declaration to the contrary notwithstanding, a Declarant may from time to time and in its sole discretion amend, repeal, add to or limit the effect of any specified covenants, conditions, limitations and restrictions hereinafter set forth in Articles III and IV with respect to any real property in Royal Kunia owned by such Declarant. In order to make effective any such change with respect to any such property, such Declarant shall Record a declaration consisting of one or more documents which, among other things:

(a) describes the real property with respect to which the change shall be effective;

(b) sets forth or refers to the amendment, repeal, addition to or limitation of the covenants, conditions, restrictions or limitations to be effective with respect to such property; and

(c) declares that such changes shall be effective only with respect to such property, and that except as set forth in such declaration, these Protective Covenants remain in full force and effect.

Section 2.04 Additional Covenants, Conditions, Limitations and Restrictions Established by Conveyance. No provision contained in this Declaration shall be deemed to limit or impair the right of a Declarant to add additional covenants, conditions, limitations and restrictions as affecting any real property owned by such Declarant by adding such additional covenants, conditions, limitations and restrictions in any deed or document of conveyance of such property to the prospective owner thereof.

Section 2.05 Property Subject to these Protective Covenants. No property, except for that property described in said Exhibit "B" and except for property specifically added to Royal Kunia pursuant to this Article II, shall be deemed subject to the provisions of this Declaration, whether or not shown on any Subdivision Map or described or referred to in any document delivered, executed and/or Recorded by a Declarant. Nothing herein or in any amendment hereto shall be deemed to be a representation, warranty or commitment that a Declarant will commit or subject to the provisions of this Declaration any property it may now own or hereafter acquire, other than the property described in Exhibit "B" or in any such amendment.

Section 2.06 Reservation to Exclude From These Protective Covenants. Each developer Declarant reserves the right to exclude from the operation and effect of the provisions of this Declaration and delete from Royal Kunia those areas or development phases, which are isolated and separated from the rest of the Royal Kunia by its natural features, such as cliffs, ravines, gullies and streams, so that such incremental phase cannot be assimilated or be made a coherent part of the Royal Kunia including but not limited to any Condominium Apartment Area, abandoned park sites and phases along the fringe areas of Royal Kunia or

such area as may be determined to be economically not feasible for inclusion within the development. Each Declarant also reserves the right to exclude, temporarily or permanently, from the operation and effect of the provisions of this Declaration and delete from Royal Kunia any areas owned by such Declarant or described in Sections 3.06 and 3.07.

Section 2.07 Recordation of Changes to Royal Kunia. Any and all changes in the property constituting Royal Kunia pursuant to a Declarant's reserved powers under Article II may be accomplished by such Declarant Recording with the Bureau an instrument identifying the property being annexed to or deleted from Royal Kunia, as the case may be. For example, if a Road within Royal Kunia is to be dedicated to the City and County of Honolulu, such Road may be removed from the coverage of this Declaration by developer Declarant's Recordation in the Bureau of an instrument expressly deleting the Road from this Declaration.

ARTICLE III
LAND CLASSIFICATIONS AND APPLICABLE RESTRICTIONS

Section 3.01 Land Classifications. All land within Royal Kunia shall be classified by area type. Currently the following classifications exist:

- (a) Residential Area;
- (b) Rental Unit Area;
- (c) Condominium Apartment Area;
- (d) Common Area (including Limited Common Area);
- (e) Non-residential Area (other than Common Area);
- (f) Unclassified Area;

all as designated and redesignated from time to time by a developer Declarant. Portions of Common Area may be further designated as Limited Common Area. Common Area may overlap with other classifications, especially where the Common Area is not granted in fee simple to the Association.

The classification of land as aforesaid or as may be revised by a developer Declarant hereafter shall be established by the developer Declarant and shall be indicated

and/or shown on documents and/or maps on file at the Bureau, at the Office of Assistant Registrar or at the developer Declarant's place of business. It is understood that a developer Declarant may change its development plans and land classifications from time to time. (As used in this paragraph, the term "Declarant" refers to the Declarant who owns or who was the last Declarant to own the property at issue.)

Section 3.02 Residential Area: Specific Uses and Restrictions. Each Lot in a Residential Area (except those Lots owned by a Declarant) shall be for the exclusive use and benefit of the Owner thereof, subject, however, to the provisions of this Declaration and to the following:

(a) The rights of the Association or its duly authorized agents, with respect to each Lot, as provided for in Article V;

(b) That no Improvement or other work which in any way alters any Lot from its natural or improved state existing on the date such Lot was first conveyed by a developer Declarant to an Owner, shall be made or done except upon strict compliance with the provisions of Section 4.02;

(c) that unless otherwise permitted by the Association, each Lot shall be used exclusively for residential purposes and no more than one Family shall occupy such Lot, provided, however, that nothing in this paragraph (c) shall be deemed to prevent:

(1) any artist, artisan or craftsman from pursuing his calling upon a Lot, if such artist, artisan or craftsman also uses the Lot for residential purposes, is self-employed, has no employees working on the Lot and does not advertise or offer any product or work of art for sale to the public upon or from such Lot, unless otherwise disallowed by applicable ordinances, rules, regulations or laws of the City and County of Honolulu or the State of Hawaii; or

(2) the leasing or renting of any Lot from time to time by the Owner thereof to no more than one Family or no more than two (2) persons not of the same Family (excluding live-in household employees and temporary guests) for residential purposes only and not for transient accommodation purposes.

(d) That within each Lot, a designated area facing the Street(s) or along any other boundary of the Lot

(hereinafter referred to as "Designated Landscaped Area") may, at the election of the developer Declarant, be initially landscaped or otherwise improved by contractors and/or employees hired by such Declarant or by such Declarant's designee. The Designated Landscaped Area, if any, for each Lot within Royal Kunia is generally defined as that portion of the yard area of each Lot designated, if designated by the developer Declarant for the purpose of providing an aesthetically pleasing and harmonious environment within Royal Kunia. The Designated Landscaped Area, if created with respect to a Lot, shall initially be outlined and designated (as an easement for landscape purposes, a "Designated Landscaped Area" or with some other similar title) on the Subdivision Map showing the Lot or on such other plot plan as the developer Declarant may designate prior to conveyance of the Lot (to a member of the home-buying public), a copy of which designation shall be provided to the Owner of the Lot, and a copy of which will be kept by the Design Committee created pursuant to Article IV. The Designated Landscaped Area, if any, for all or any portion of the Lots may be maintained and irrigated by contractors and/or employees hired by the Association through its Board. No landscaping, planting or other improvement which in any way alters the Designated Landscaped Area from its state existing on the date such Lot was first landscaped by contractors and/or employees hired by the developer Declarant or by its designee, shall be made or done except in strict compliance with the provisions of Section 4.02. In determining membership dues and assessments, the Board may make reasonable adjustments among different Neighborhoods, Subdivisions and/or Product Types, based on Designated Landscaped Areas and the existence of differences in costs of maintenance. The area within each Lot, exclusive of any Designated Landscaped Area maintained by the Association, and any Improvements (whether or not originally constructed by a Declarant) on the Lot shall be kept and maintained by the Owner thereof in good repair, clean condition and in such manner as not to detract from the appearance of the surrounding area or create any fire, safety or health hazard in Royal Kunia or any part thereof, all at the Owner's sole cost and expense. If an Owner fails to so keep and maintain such Owner's Lot, then the Association may take any and all reasonable steps to correct the violation and may assess the Owner for 120% of all costs and expenses incurred in connection therewith.

(e) (1) That the Owner of each Lot will not do anything that adversely affects or threatens to adversely affect the structural integrity or that affects the appearance of any hedge, fence or wall facing a Collector Road or

a park which has been erected by a Declarant or Subdeveloper within any Lot. If the Owner fails to comply with the preceding sentence, the Association may correct the Owner's action and recover 120% of its costs to do so from the Owner. The Owner of each Lot will keep and maintain a two-foot clearance from any fence, wall or hedge maintained by the Association, whether or not the fence, wall or hedge is on the Owner's Lot or faces a Collector Road or park.

(2) With respect to a hedge, fence or wall which has been erected along a common boundary between two Lots, the Owners of the Lots may demolish and remove the same if they both agree. Each Owner with a hedge, fence or wall installed by any Declarant or Subdeveloper along a common boundary between two Lots shall be liable to such Owner's neighbor for half the cost of maintenance or repair of such hedge, fence or wall reasonably incurred by such neighbor and each Owner shall have an easement over the neighbor's Lot for such maintenance and repair.

(3) The Association shall have an easement over each Lot for access to and the maintenance and repair of any hedge, fence or wall near any boundary of a Lot, even where such hedge, fence or wall is not within the Lot. The immediately preceding sentence shall not release any Owner from any maintenance or repair obligation.

(f) That no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Lot and Improvements thereon, shall be placed or used upon any Lot;

(g) That no animals shall be kept and maintained on any Lot other than a reasonable number of suitable house pets kept for the Owner's personal pleasure and not for sale or other commercial purposes, and that no animal shall be kept and maintained on any Lot which is a nuisance to neighbors;

(h) That no signs whatsoever, including without limitation, commercial, political or similar signs, Visible from Neighboring Property shall be erected or maintained upon any Lot except:

(1) such signs as may be required by legal proceedings;

(2) residential identification signs of a combined total face area of two (2) square feet or less;

(3) during the time of construction of any residence or other Improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors, subcontractors and tradesmen; and

(4) not more than one "For Sale" or "For Rent" sign having a maximum face area of three (3) square feet, such sign to refer only to the premises on which it is situated.

(i) that no house-trailer, mobile home, permanent tent or similar facility or structure shall be kept, placed or maintained upon any Lot at any time; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained for a period not to exceed one year, which are used exclusively in connection with and during the construction of any work or Improvement permitted under Section 4.02;

(j) That no truck of more than one ton capacity or boat of any kind shall be kept, placed or maintained upon any Lot or upon any public or private Road so as to be Visible from Neighboring Property or adjoining Streets; provided, however, that the provisions of this paragraph shall not apply to construction equipment maintained for a period not to exceed one year, which is used exclusively in connection with and during the construction of any work or Improvement permitted under Section 4.02;

(k) That no accessory structures or buildings shall be constructed, placed or maintained upon any Lot prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained for a reasonable period, which are used exclusively in connection with and during the construction of the main structure of the residence;

(l) That no trailer, truck, automobile, boat or other vehicle shall be constructed, reconstructed or repaired upon any Lot or upon any public or private Road in such a manner that such construction, reconstruction or repair is Visible from Neighboring Properties, and that vehicles not in operating condition shall not be kept or maintained upon any Lot or upon any public or private Road so as to be Visible from Neighboring Properties or adjoining Streets; provided that nothing in this paragraph shall prevent an Owner from performing maintenance work and minor

repairs on his own trailer, truck, automobile, boat or other vehicle in his garage;

(m) That no garbage, trash or other refuse matter shall be kept on any Lot, except in closed receptacles screened from view from any Street, and that no accumulated waste plant material shall be kept on any Lot, except as part of an established compost pile maintained in such a manner so as not to be Visible from Neighboring Properties and not to create odors noticeable from neighboring properties or except suitably bundled, tied and otherwise secured to permit disposal thereof by refuse collectors;

(n) That no open storage of furniture, fixtures, appliances and other goods and chattels shall be permitted on any Lot so as to be Visible from Neighboring Property, and that no washing or drying machines, outside clothes lines or other outside clothes drying or airing facilities shall be maintained on any Lot unless the same is screened from view and is not Visible from Neighboring Property or Streets;

(o) That there is no open burning or any other exterior fires permitted on any Lot, except barbecue fires and that no Owner shall permit any condition on his Lot which creates a fire hazard;

(p) That vehicular access shall not be permitted from any Lot to a Street over a boundary that is indicated on the Subdivision Map covering such Lot to have restricted access or over any strip of Common Area lying between the boundary of a Lot and a public Street (except where such access over such Common Area is the only access from the Lot to any public Street and an easement has been obtained from the Association), and that the Owner of such Lot may not cut any curb along any Street adjacent to such boundary or Common Area;

(q) That no Owner of a Lot shall park his car or permit his family, invitees and guests to park their car on any public park or sidewalk area or any Common Area or on any portion of his Lot visible from a Street, except in a garage or carport on a paved driveway area or on a public Road;

(r) That the Owner of a Lot shall not violate or permit the violation on his Lot of any applicable law or ordinance pertaining to zoning, buildings, fires, signs or other matters relating to the use and development of his Lot;

(s) That a garage, carport or parking area shall be used for no purpose other than the parking of vehicles and boats, unless the same be enclosed by a partition, wall, door or screen, normally kept closed; provided specifically that a garage or carport which is not so enclosed shall not be used for laundry or for storage purposes;

(t) That the Residential Area shall be subject to such easements and rights of way either Declarant deems necessary or convenient for the successive incremental development of Royal Kunia;

(u) That if any exterior light which provides illumination for any Common Area is erected in a Lot, including, but not limited to, lights attached to a dwelling and originally constructed to be powered by the Lot Owner's electrical system, then the Owner of such Lot shall maintain in good repair, condition and operation the light in accordance with both the standards set by the Association and the standards set by the City & County of Honolulu for such light, if any;

(v) That if any tree is planted on a Lot by a Declarant or Subdeveloper, then the Owner of such Lot shall maintain the tree in accordance with both the standards set by the Declarant or Subdeveloper and the standards set by the City & County of Honolulu for such tree, if any.

Section 3.03 Rental Unit Area.

(a) The conditions, limitations and restrictions on the use, occupancy and improvement of property set forth in this Article III and Article IV shall not apply to the Rental Unit Area while and so long as the same is owned by a Declarant.

(b) In the event that the developer Declarant subsequently submits such Rental Unit Area to a Condominium Property Regime established under the Condominium Property Regime Act, Chapter 514A, Hawaii Revised Statutes, the provisions of Section 3.04 shall apply.

(c) In the event that a Rental Unit Area is subdivided into separate residential Lots (other than condominium apartments), the conditions, limitations and restrictions of this Article III and Article IV which are applicable to a Residential Area shall apply.

(d) In the event that the developer Declarant conveys or leases the Rental Unit Area to a new owner or lessee, the conditions, limitations and restrictions of this Article III and Article IV shall not apply to such area to the extent that such conditions, limitations and restrictions prevent the reasonable use of such area for purposes which are authorized and allowed by the developer Declarant. All conditions, limitations and restrictions not so preventing reasonable use shall apply, including without limitation, the requirements of Design Committee approval for Improvements proposed to be made.

(e) The Declarants and the Association shall together have the power to release any Rental Unit Area, temporarily or forever, from any conditions, limitations or restrictions in this Article III or Article IV if the Declarants and Board mutually agree to the release.

Section 3.04 Condominium Apartment Area.

(a) The premises designated by a developer Declarant for residential condominium apartment development will be submitted to a Condominium Property Regime established under the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, establishing thereunder a declaration for the ownership of individual condominium apartment units subject to divisions, covenants, restrictions, limitations, conditions and uses to which the premises may be put, and be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject thereto.

(b) There will be appurtenant to the designated phases of the Condominium Property Regime thereby established common elements for the use and enjoyment of the respective Condominium Property Regimes.

(c) The development, establishment, operation and maintenance of each Condominium Property Regime will be in accordance with the provisions of Chapter 514A, Hawaii Revised Statutes.

(d) The developer Declarant reserves the right and option at such Declarant's discretion to effectuate the consolidation and merger of any combination of phases submitted to Condominium Property Regimes to enhance and perfect the economics, desirability, attractiveness or administration of the merged phases.

Section 3.05 Common Area: Specific Uses and Restrictions. The exclusive use of Common Areas shall be reserved

equally to all Owners except as herein specifically provided, and every Owner shall have a right and easement for enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following limitations and restrictions:

(a) The use of the Common Areas shall be subject to the Royal Kunia Community Association Rules.

(b) The use of the Common Areas shall be subject to such easements and rights-of-way reserved therefrom at the time of conveyance thereof to the Association, to such Road and public utility easements and rights-of-way as may from time to time be taken under the power of eminent domain, to such other Road and public and private utility easements as may from time to time be granted or conveyed by the Association or by a Declarant.

(c) No Improvement, Excavation or other work which in any way alters any Common Area from its natural or existing state upon the date which such Common Area was conveyed (whether conveyed in fee, by easement or otherwise) to the Association, shall be made or done except upon strict compliance with and within the restrictions and limitations of the provisions of Section 4.03.

(d) Except to the extent otherwise permitted pursuant to the provisions of this Declaration there shall be no recreational use of the Common Areas, exclusive of Roads, except for recreational uses which do not injure or scar the Common Areas or the vegetation thereof, increase the cost of maintenance thereof, or cause unreasonable embarrassment, disturbance or annoyance to Owners in their enjoyment of the Common Areas; without limiting the generality of the foregoing:

(1) There shall be no camping in Common Areas, except as permitted by the Board by written license.

(2) There shall be no fires started or maintained on the Common Areas, except fires started and controlled by the Association incidental to the maintenance and preservation of property within Royal Kunia, and cooking and campfires in proper enclosures in picnic or other areas within Recreational Facilities developed therefor by the Association.

(3) No animals shall be permitted on Common Areas except generally recognized house or yard pets when

accompanied by and under the control of the Owners to whom they belong.

(e) The rights to use and enjoy the Common Areas shall extend to the members of the families of all Owners and to their invitees; provided, however, that in the event the Owner of a Lot is a corporation or partnership, the Common Areas shall be restricted to such Owners or persons actually residing or occupying the Lot.

(f) Certain portions of the Common Areas (including, but not limited to, pedestrian and vehicular access areas, green belts, parks, and parking areas) may be designated as Limited Common Areas and reserved for the exclusive use of Owners and occupants of a particular Neighborhood or Product Type. Costs associated with the Limited Common Areas shall be assessed against the Owners of Lots in only those Neighborhoods or Product Types to which the Limited Common Areas are assigned. Initially, the Limited Common Areas shall be designated by the developer Declarant as set forth in Section 3.01 below or on the Subdivision Maps relating to the Limited Common Areas. From time to time, Limited Common Area may be reassigned to additional Neighborhoods or Product Types or reassigned as Common Area which is not Limited Common Area upon both (i) the affirmative vote or approval of the holders of a majority of the votes within the Neighborhood or Product Type to which the Limited Common Area was originally assigned and, if applicable, the affirmative vote or approval of the holders of a majority of the votes within the additional Neighborhood or Product Type to which the Limited Common Area will be further assigned and (ii) the Board approves of the reassignment. As long as the developer Declarant owns any property subject to this Declaration, any such reassignment shall also require the consent of the developer Declarant.

(g) Each Declarant shall have nonexclusive easements for access and for electrical, gas, telephone, cable television, communications and other utility purposes, and easements for sanitary sewer, drainage and drainline, waterline, and flowage purposes over, under, across, along, upon and through the Common Areas, including but not limited to any and all easements shown on any file plan or other Subdivision Map, together with the right to designate easements for the aforesaid purposes, if necessary or desirable, subject to the reasonable consent of the Association as to location if not designated at the time of conveyance of the Common Area to the Association, and together also with rights of reasonable access thereto in connection

with the exercise of said easement rights, and to grant to the owner or owners from time to time of all or any portion of Royal Kunia, the State of Hawaii, the City and County of Honolulu, the Board of Water Supply of the City and County of Honolulu, any other appropriate governmental agency, and/or any public or private utility or other corporation, partnership, individual or entity, easements for the purpose of providing such services over, under, across, along, upon and through the Common Areas under the usual terms and conditions required by the grantee of such easement rights; provided, however, that such easement rights must be exercised in such manner as to not unreasonably interfere with the use of the Common Areas by the Owners, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements the Common Areas shall be promptly restored by and at the expense of the person owning and exercising such easement rights to substantially the condition of the Common Area immediately prior to the exercise thereof.

(h) The Board may require the payment of user fees or other charges by those who use or who are entitled to use the Recreational Facilities, in combination with or in the alternative to assessing Owners under Article VI for the expenses relating to Recreational Facilities. The Board shall allow the following to use the community recreational center, if any, within Royal Kunia, upon the payment of reasonable fees set by the Board: (i) members of the Village Park Community Association, (ii) the residents of the residential units located in the areas depicted on the map attached hereto as Exhibit "C" and more particularly described in Exhibit "D" attached hereto, and (iii) the residents of other areas in the vicinity of Royal Kunia at Hoaeae and Waikele while they are used pursuant to the mandate of the City and County of Honolulu for residential rental purposes, provided the residents of such other areas are designated by the Declarant in an instrument recorded in the Bureau of Conveyances to have such privileges and such other areas are owned by a Declarant or its successors and assigns. The Board may also allow other persons who are not Owners or Owners' families or invitees, to use the community recreational center, if any, within Royal Kunia, upon the payment of such reasonable fees.

(i) The Common Area shall not be mortgaged or conveyed without the consent of the Owners (other than Declarants) holding at least two-thirds (2/3) of the total votes (excluding the votes held by Declarants) of the membership.

(j) The Declarant or Association may regulate and provide for guest parking. Among other things, the Board may designate certain portions of the Common Areas for guest automobile parking only, and limit the number of hours that an automobile can be left in such area.

(k) Except at the Association's direction, no person shall destroy or alter any trees or landscaping in the Common Areas or parkway strips or along any Road or Street.

Section 3.06 Property Owned by Government Instrumentalities, Public Utilities, Eleemosynary, Religious, Educational, Community and Civic Organizations.

(a) The conditions, limitations and restrictions on the use, occupancy and improvement of property set forth in this Article III and Article IV shall not apply to any Lot or other area while and so long as the same is owned by or leased to the State of Hawaii, the City and County of Honolulu, or any government agency or instrumentality, public utility, eleemosynary institution, religious or educational institution, or community or civic organization (other than the Association) and is used for public, governmental, public utility, charitable, religious, educational, community or civic purpose, if and to the extent, but only to the extent that such conditions, limitations and restrictions prevent reasonable use of such Lot or area for said purposes. All conditions, limitations and restrictions not so preventing such reasonable use shall continue to apply, including without limitation, the requirements of Design Committee approval for Improvements proposed to be made. On cessation of such use, the conditions, limitations and restrictions of this Article III and Article IV shall be applicable in their entirety.

(b) The developer Declarant and the Association shall each have the power to release any Lot or other area owned by it, temporarily or forever, from any conditions, limitations or restrictions in this Article III or Article IV, if, in its discretion, such waiver shall be necessary or advisable to obtain acceptance of said Lot or area by the State of Hawaii, the City and County of Honolulu, or any governmental agency or instrumentality, public utility, eleemosynary institution, religious, or educational institution, or community or civic organization as aforesaid.

(c) The State of Hawaii, the City and County of Honolulu, any governmental agency or instrumentality or any public utility shall have no right to vote as a member of

the Association and shall not be liable for any assessments under the provisions of Article VI.

(d) Eleemosynary institutions, religious or educational institutions and community and civic organizations shall be entitled to vote as members of the Association and shall be liable for assessments under the provisions of Article VI.

Section 3.07 Non-Residential Areas. The developer Declarant may designate specific Lots or areas as Non-residential Area for non-residential use such as commercial, industrial, golf course, private roadway, sub-association or other non-residential use.

(a) The conditions, limitations and restrictions on the use, occupancy and improvement of property set forth in this Article III and Article IV shall not apply to any Lot or other area designated as Non-residential Area while and so long as the same is used for non-residential use. On conversion of such use to residential use, the conditions, limitations and restrictions of this Article III and Article IV pertaining to the class of use most relevant to the actual use shall be applicable in their entirety, subject to the exceptions provided in this Declaration.

(b) The developer Declarant and the Association shall each have the power to release any Lot or other area owned by it, temporarily or forever, from any conditions, limitations or restrictions in this Article III or Article IV, if, in its discretion, such waiver shall be necessary or advisable to effectuate the dedication, conveyance, sale or lease of said Lot or area to a prospective owner or lessee approved by the developer Declarant, for non-residential use.

(c) The Owner of any Lot or area within the Non-residential Area shall not have the right to use Common Areas or the Association's Recreational Facilities, shall not be a member and shall have no right to vote as a member of the Association (notwithstanding the provisions of Article V) and shall not be liable for any assessments under the provisions of Article VI.

Section 3.08 Parking on Sidewalks. There shall be no parking on any sidewalks in any area.

Section 3.09 Unclassified Area. Unclassified Area may be classified or reclassified from time to time by the developer Declarant, as in the case of classified areas.

Section 3.10 Upslope Banks. All areas with banks sloping upwards from a Road shall be subject to an easement from the Road-facing boundary of the area inward to the greater of five (5) feet or to the top of the bank for landscaping purposes in favor of the Association (the "Upslope Bank Easements").

ARTICLE IV
IMPROVEMENT OF PROPERTY

Section 4.01 Design Committee: Establishment, Organization; Rights; Powers and Duties.

(a) There shall be a Design Committee, the function of which shall be to oversee and exercise control over the improvement of property in Royal Kunia including landscaping plans and designs all for the purpose of maintaining the standards and plan of development in Royal Kunia;

(b) The Design Committee shall consist of not less than three (3) members, at least one of whom shall be an Engineer or an Architect as defined under Article I, Definitions, and shall be designated the "Professional Member". Except for the Professional Member, the members of the Design Committee shall also be Owners who reside in Royal Kunia. The initial members of the Design Committee were:

KENNETH NAKAMURA	2024 No. King Street, Honolulu, HI
GUY TAMASHIRO	" " " " " "
RICHARD MIYAZONO	" " " " " "

and each shall remain a member until such time as he resigns or he has been removed and his successor appointed as set forth in paragraph (c) below. The number of members to the Design Committee may be increased by majority vote of the Board at a duly convened meeting or by the Declarants. Any member appointed to the Design Committee may resign at any time by giving written notice to whomever then has the power of his appointment or removal. Unless otherwise authorized by the Association, the members of the Design Committee shall not receive compensation for services rendered; however, all members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of their duties;

(c) The right to appoint and remove members of the Design Committee shall be reserved to and vested in the Declarants and the Association as follows:

(1) for the first five (5) years following March 18, 1994, the right to appoint and remove all members shall be reserved to and be vested solely in the Declarant holding the most votes in the Association;

(2) from and after March 18, 1999, the Association shall have the right to replace one member previously appointed by a Declarant, other than the Professional Member, and thereafter to remove and appoint his successors; and the Declarant holding the most votes shall retain the right to appoint the other two (2) members, including the Professional Member;

(3) from and after March 18, 2004, the Association shall have the sole right to appoint and remove all members and may replace any member previously appointed by a Declarant;

(4) if at any time a Declarant should fail to exercise its then existing right to appoint or remove members and/or gives written notice to the Association of its intention to waive such right, the Association shall thereupon have the right to appoint and remove all such members until such Declarant exercises its right to appoint or remove.

(d) It shall be the duty of the Design Committee to consider and act upon all such proposals or plans for the improvement or landscaping of property in Royal Kunia as are submitted to it pursuant to this Declaration and to perform such other duties as may be delegated to it from time to time under this Declaration. In performing its duties, the Design Committee may, but shall not be required, to conduct a hearing or to consult personally with the persons or parties who submit proposals or plans for Design Committee approval;

(e) The Design Committee shall meet from time to time as is necessary to perform its duties hereunder. The vote or written consent of at least two-thirds (2/3) of the members of the Design Committee shall constitute authority for the Design Committee to act, unless the unanimous vote or consent of its members is otherwise required by this Declaration. The Design Committee shall keep and maintain a record of all proposals and plans submitted to it and the specific action taken with respect to each and a record of all other actions taken by the Design Committee for at least ten (10) years after such submittal or action;

(f) By vote or written consent of at least two-thirds (2/3) of its members, the Design Committee may adopt, amend and repeal rules and regulations to be known as the "Design Committee Rules". Within the limits established in this Declaration, the Design Committee may establish by Design Committee rules;

(1) specific procedures governing the manner and method by which applications, proposals, plans and specifications for the improvement of property shall be submitted, received and processed;

(2) fees to be charged upon the submission for approval of such applications, proposals, plans and specifications;

(3) interpretive guidelines and specific interpretations of all limitations and restrictions contained in this Declaration pertaining to the design and construction of Improvements, alterations, replacements and repairs, including but not limited to the materials to be used therein;

(4) interpretive guidelines and specific interpretations of all limitations and restrictions contained in this Declaration pertaining to Excavation, grading and Fill, landscaping, alteration of the natural or existing drainage of surface water, and installation of sewage, water and facilities; and

(5) to the extent practical, standards which shall be required in the construction of any residence, apartment or condominium building. A copy of the Design Committee Rules as they may be adopted, amended and repealed from time to time shall be made available at the office of the Association and the office of the developer Declarant for inspection during normal business hours by any Owner, Architect or agent of any Owner or Architect;

(g) The approval of the Design Committee of any plans and specifications for any work done or proposed or submitted in connection with any matter which requires the approval of the Design Committee, shall not constitute a waiver by the Design Committee or its right to withhold its approval of any similar plans and specifications or any other matter subsequently submitted for approval, whether or not by the same person or party;

(h) upon the request of any Owner and payment to the Association of a reasonable fee, the Design Committee shall issue to the Owner a certificate executed by at least two of its members certifying that as of a certain date:

(1) all Improvements, landscaping and/or work made or done on the Lot of the Owner comply with the provisions of this Declaration, or

(2) such Improvements, landscaping and/or work do not comply with the provisions of this Declaration. In the event such certificate indicates non-compliance with this Declaration, the certificate shall also identify the non-complying Improvements and/or work and set forth the particular reasons for non-compliance. The Design Committee shall issue such certificate within thirty (30) days after demand and payment therefor has been made, and the certificate shall be in form suitable for Recordation in the Bureau or in the Office of the Assistant Registrar. Any purchaser or lessee from the Owner or mortgagee or holder of any other encumbrance on the property covered by such certificate shall be entitled to rely on the certificate with respect to all matters contained therein, and such matters shall be deemed conclusive as between the Association, the Declarants, the Design Committee, all Owners and the holder of any such encumbrance;

(i) Neither the Design Committee nor any member thereof shall be liable to the Association, to any Owner or to any other person for any loss, damage or prejudice suffered or alleged to be suffered as a result of any Design Committee action or the issuance of any certificate pursuant to subsection (h) above, provided that the members of the Design Committee have acted in good faith upon knowledge actually possessed by them.

(j) If for any reason the Design Committee cannot be assembled to act on a particular matter or matters for a period of more than twenty (20) days, the President, or in his stead, the Vice President of the Association, may perform the functions and duties of the Design Committee for so long as the Design Committee is unable to meet. In such event, the President, or in his stead, the Vice President, of the Association, shall indicate with respect to any action taken the reasons for his acting in place of the Design Committee. In performing the functions and duties of the Design Committee pursuant to this subsection, the

President or Vice President may employ an Architect or Engineer to render technical advice and may offer to such Architect or Engineer reasonable compensation as approved by the Board of Directors of the Association;

(k) Any provision in this Declaration notwithstanding, the Declarants shall be exempt from the Design Committee Rules or any guidelines, interpretations or standards established thereto, and the rights, powers and duties of the Design Committee shall not be deemed to limit or affect in any way the rights of a Declarant to develop and make Improvements, alterations or repairs to real property owned by a Declarant or to limit or affect the rights of persons or parties specifically exempted by a Declarant in writing to develop and make Improvements, alterations or repairs to property owned by such persons or parties. Upon conveyance of Improvements made by a Declarant or other exempted persons, the Improvements shall continue to be deemed in compliance with this Declaration and the Design Committee Rules.

Section 4.02 Residential Area: Conditions, Limitations and Restrictions on Improvement. Any Improvement, alteration, repair, landscaping or other work undertaken upon any Lot in a Residential Area, which is or may be Visible from Neighboring Property or a Street, shall be subject to the conditions, limitations and restrictions set forth below:

(a) No construction or reconstruction of any Improvement, alteration, repair or refinishing of any part of any landscaping within the Designated Landscaped Area or the exterior of an existing Improvement or any other exterior work shall be commenced or continued upon any Lot unless the Owner thereof first obtains the approval of the Design Committee as follows:

(1) the Owner shall submit to the Design Committee preliminary plans for the proposed work prepared by an Architect, unless otherwise permitted by the Design Committee, which plans shall show in detail the nature and dimensions of the proposed Improvement or work;

(2) within forty-five (45) days after submission of the preliminary plans, the Design Committee shall review the plans and return them to the Owner indicating its approval or disapproval. If disapproval is indicated, the general nature of the Design Committee's objections shall also be stated. The Design Committee's

failure to make such return within said forty-five day period shall be deemed approval of the preliminary plans;

(3) After review of the preliminary plans has been completed, the Owner shall submit in duplicate to the Design Committee the final plans and specifications for the' proposed Improvement or work, which shall include where appropriate a plot plan showing easements, set-back lines and contour lines, the location of all existing and/or proposed Improvements, the proposed drainage plan, the location of all proposed utility installations, and any landscape plans, including all trees the Owner intends to plant or remove. The plans and specifications shall also indicate all exterior materials, finishes and colors to be used. Along with the plans and specifications, the Owner shall submit his proposed construction or work schedule and shall pay a reasonable fee for the Design Committee's inspection and review;

(4) Within thirty (30) days after the submission of the final plans and specifications, the Design Committee shall either approve or disapprove the same in writing. Any disapproval shall also set forth the reasons for disapproval. If the Design Committee does not act within thirty-day period, the final plans and specifications shall be deemed approved as submitted. The Design Committee may not disapprove any aspect of the final plans and specifications which was apparent in the preliminary plans and previously approved by the Design Committee;

(5) If the final plans and specifications are disapproved by the Design Committee, the Owner may correct or modify the same to account for the reasons given for disapproval by the Design Committee and resubmit the final plans and specifications within thirty (30) days after receiving the Design Committee's disapproval. Within thirty (30) days after resubmission of the corrected or modified final plans and specifications, the Design Committee shall either approve or disapprove the same in writing in the same manner set forth in paragraph (4) above. If the Design Committee does not act within said thirty-day period, the corrected or modified plans shall be deemed approved as submitted.

(b) Approval of plans and specifications by the Design Committee as aforesaid shall be effective for a period of one (1) year and may be revoked if the work pursuant to such plans and specifications has not commenced within said one-year period or does not proceed in reasonable accordance with the proposed work schedule submitted

by the Owner with the plans and specifications. The Design Committee shall give written notice to the Owner of revocation of approval, stating the reasons therefor, and revocation of approval shall be effective upon the giving of such notice. If approval is revoked for untimely commencement of the work, the Owner may not commence work pursuant to the previously approved plans and specifications without first re-obtaining Design Committee approval. In such case, the Design Committee shall treat any resubmission of plans and specifications, whether or not they are identical to the plans and specifications previously approved, as a new submission and shall not be bound by any prior decision made with respect to same. The Design Committee may also require the payment of another fee for review and inspection. If approval is revoked for the reason that work has not proceeded in a timely manner, the Owner may not proceed with any further work pursuant to the previously approved plans and specifications without first re-obtaining the approval of the Design Committee as aforesaid. If the work is abandoned at any time prior to completion, the Association may take any and all reasonable steps to have the work completed or the property restored to its preexisting conditions and may assess the Owner for all costs and expenses incurred in connection therewith;

(c) Upon the completion of any construction, reconstruction, refinishing, alteration, repair or other work for which approved plans and specifications are required pursuant to this section, the Owner shall give written notice thereof to the Design Committee. Within thirty (30) days after such notice is given, the Design Committee shall inspect the Improvements or work in order to determine whether or not there has been substantial compliance with the approved plans and specifications. If the Design Committee finds that there has not been substantial compliance with the plans and specifications, it shall notify the Owner of such non-compliance and require the Owner to remedy the same within sixty (60) days after such notice is given. If the Owner fails to remedy such non-compliance within said sixty-day period, the Association may take any and all reasonable steps to remedy the non-compliance or to restore the property to its pre-existing condition and may assess the Owner for all costs and expenses incurred in connection therewith. If the Design Committee does not notify the Owner of any non-compliance within thirty (30) days after receipt of notice of completion from the Owner, the Improvements or work shall be deemed to have been completed in accordance with the approved plans and specifications.

(d) Regardless of the cost or replacement value of same, specific conditions, limitations and restrictions shall be applicable to any Improvement, alteration or repair undertaken upon any Lot in a Residential Area as follows:

(1) no reflective finishes shall be used in exterior surfaces (other than glass and the surfaces of hardware fixtures) if such exterior surfaces are Visible from Neighboring Property;

(2) all roofs, other than flat roofs, shall be covered with asphalt shakes or of other non-flammable material of comparable or better quality and texture;

(3) no metal, vinyl or plastic roofing material or wall siding Visible from Neighboring Property shall be permitted unless the same is maintained in a non-reflective condition;

(4) no gas tanks will be permitted which are Visible from Neighboring Property;

(5) all outside telephone and electric power lines, water pipe lines and all other conduits for utilities within Royal Kunia shall be installed underground unless for technical or physical reasons above-ground installation is necessary or advisable and is approved by the Design Committee;

(6) no second-hand or used lumber or other material shall be used in any construction without the approval of the Design Committee;

(7) any wall or fence facing a Street shall be of a permanent structure of design and material approved by the Design Committee;

(8) no television or radio antennas shall be erected on the top of the roof of any dwelling unit. No structures outside of any dwelling unit so as to be Visible from Neighboring Property or a Street shall be constructed without the prior approval of the Design Committee;

(9) rain gutters shall be of a color to match the dwelling unit being served, provided that copper gutters of any shape shall be permitted but unpainted;

(10) if Visible from Neighboring Property or a Street, no accessory structures, such as playhouses,

sheds, storage bins, chicken coops, dog kennels or other animal enclosures, shall be permitted unless painted in a color or colors complementary to the main dwelling unit, and no such accessory structures visible from Neighboring Property or a Street shall be permitted to be made out of plastic, chicken wire or unpainted reflective materials;

(11) no aluminum, plastic or canvas awning shall be erected so as to be visible from a Street;

(12) no part of the exterior of any dwelling unit visible from Neighboring Property or a Street shall be unpainted or refinished except in accordance with the original color or finish or except in colors or finishes approved by the Design Committee;

(13) no chain link fences shall be erected or maintained upon any Lot, except that the developer Declarant may erect such chain link fences bordering any drainage canal, stream or other waterway, valley, gulch, park, golf course or other perimeter of Royal Kunia.

(14) no change or alteration (including, but not limited to, landscaping or planting of trees or other vegetation) of the following shall be allowed without the prior approval of the Design Committee: the Designated Landscaped Area, area designated on a Subdivision Map for any utility purpose ("Designated Utility Area") or any other easement area including, but not limited to, any Landscape Easement or access easement area.

(e) In addition to the specific conditions, limitations and restrictions set forth in subsection (d) above, any Improvement, alteration or repair undertaken upon any Lot in a Residential Area shall be in conformity with the following general conditions, limitations and restrictions:

(1) the Improvement, alteration or repair shall be compatible and in harmony with existing structures and other Improvements in the area with respect to quality and type of materials, workmanship, external design and location of the Improvement, alteration or repair on the Lot, taking into account topography and ground elevation;

(2) the Improvement, alteration or repair shall conform to the general plan of the entire development of Royal Kunia;

(3) the Improvement, alteration or repair shall not because of its design unreasonably interfere with the light, air or view of adjoining Lots.

(f) Except as is reasonably necessary for and incident to the Improvement, alteration, repair or other work undertaken upon any Lot in a Residential Area, plans for which the Owner has obtained the approval of the Design Committee:

(1) there shall be no grading, Excavation or Fill undertaken upon any such Lot;

(2) there shall be no change in the natural or existing drainage for surface water upon any such Lot; and

(3) no privately installed power, telephone or other utility lines, wires or conduits which would be Visible from Neighboring Property with respect to individual residential Lots, shall be installed upon any such Lot unless Design Committee approval is first obtained in the manner provided in subsection 4.02(a) above;

(g) Each Lot with a boundary facing a Collector Road or park shall be subject to the easements, restrictions and rights elsewhere provided (such as in Section 3.02), and will not have pedestrian or vehicular access across such boundary unless such boundary is the only means of access to the Lot.

(h) In the event of any violation of the provisions of this section, the Association may take any and all reasonable steps to restore the Lot and/or Improvements (whether constructed by a Declarant or subsequently added) upon which such violation has occurred to their condition existing prior to the violation and may assess the Owner of such Lot for 120% of all costs and expenses incurred in connection therewith. Any damage to the Designated Landscaped Area caused by the Owner of a Lot shall be repaired by contractors or employees hired by the Association through its Board and the Owner will be assessed for 120% of all costs and expenses incurred in connection therewith.

Section 4.03 Common Area: Conditions, Limitations and Restrictions on Improvement. No Improvement, Excavation or work which in any way alters any Common Area from its natural or existing state on the date when such Common Area was designated as such by a developer Declarant or was acquired by the Association, shall be made or done, except

in strict compliance with and within the restrictions and limitations of the following provisions of this section:

(a) Except to the extent otherwise provided in paragraph (d) below, no person other than the Association or its duly authorized agents, shall construct, reconstruct, refinish, alter or maintain any Excavation or Fill upon or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from or plant any tree, shrub or vegetation upon any Common Area.

(b) Except to the extent otherwise provided in paragraph (c) below, if the Association proposes, to construct, reconstruct, refinish or alter the exterior of any Improvement located or to be located upon any Common Area, or if the Association proposes to make or create any Excavation or Fill or to change the natural or existing drainage or surface water, or to remove any trees, shrubs or ground cover or plant any trees, shrubs or ground cover upon any Common Area, the Association shall submit to the Design Committee for approval the final plans and specifications for any such work in such form and containing such information as the Design Committee may from time to time require. The Design Committee shall approve the plans and specifications submitted to it pursuant to this paragraph only if the following conditions have all been satisfied:

(1) If the plans are to construct any new Improvements, including any alteration of the exterior appearance of any existing Improvement upon any Common Area, the Design Committee finds that the design of such Improvement is reasonably necessary or desirable in order to carry out the aims of the Association and is in harmony with other Improvements and the overall appearance of Royal Kunia as planned.

(2) The Design Committee finds that the proposed work shall not because of its design materially prejudice Royal Kunia or any Owner therein in the use and enjoyment of its property.

Such approval shall be in writing provided, however, that plans which have neither been approved or rejected within forty-five (45) days from the date of submission thereof to the Design Committee, shall be deemed approved. Rejection of plans by the Design Committee shall be in writing and shall set forth with particularity the reasons for such rejection. In the event of any such rejection any member of the Board shall have the right to

submit to a meeting of the Association duly called, the notice of which shall contain reference to the consideration of the matter the question of whether to abandon the proposed Improvement, Excavation or work or to have the same redesigned and resubmitted to the Design Committee for approval.

(c) The Association may, at any time and from time to time:

(1) Reconstruct, replace or refinish any Improvement or portion thereof upon a Common Area in accordance with the last plans thereof approved by the Design Committee, or if such Improvement existed upon the Common Area when such Common Area was designated as such by the developer Declarant or was conveyed to the Association, then in accordance with the original design, finish or standard of construction of such Improvement when such Common Area was so designated or conveyed to the Association.

(2) Construct, reconstruct, replace or refinish any Road Improvement upon any portion of the Common Area designated on a Subdivision Map as a Road.

(3) Replace any destroyed tree or any other vegetation on a Common Area to the extent the Association deems necessary for the conservation of water and soil, plant, trees, shrubs and ground cover.

(4) Place and maintain upon any Common Area such signs and markers as the Association may in its sole discretion deem necessary for the identification of Royal Kunia and/or Roads, for the regulation of traffic, including parking and for the regulation and use of the Common Area and for the health and welfare and safety of Owners and the public, provided that the design of any such signs or markers be first approved by the Design Committee.

(d) Any Owner may, at any time and from time to time install and maintain within a Common Area any subsurface utility system, provided the same be approved by the Design Committee and an easement therefor be obtained from the Association.

Section 4.04. Presumption of Compliance. All of the following Improvements, Excavations, Fills and other work shall for all purposes of this Declaration be conclusively presumed to be in compliance with the restrictions and provisions of this Article IV:

(a) Those existing or maintained within or upon any property within Royal Kunia at the time such property became a part of Royal Kunia;

(b) Those existing or maintained upon any property within Royal Kunia at the time such property was first conveyed by a Declarant to an Owner or the Association;

(c) Those from time to time constructed, reconstructed, refinished, altered, installed or maintained upon any property by a Declarant, or, if not in conflict with any specific restriction in this Declaration, pursuant to plans and specifications approved by the Design Committee.

ARTICLE V
ROYAL KUNIA COMMUNITY ASSOCIATION

Section 5.01 Establishment. There shall be a non-profit corporation known as the "Royal Kunia Community Association" (herein referred to as the "Association") which shall have and be empowered with the rights and be charged with the duties, obligations and responsibilities set forth in this Declaration and in its Articles of Incorporation and By-Laws.

Section 5.02 Membership.

(a) Each and every person, corporation, partnership or other legal entity being the owner of any Lot within Royal Kunia (herein referred to as an "Owner") shall be a member of the Association;

(b) For the purposes of determining membership status in the Association, the term "Owner" of a Lot within Royal Kunia shall be deemed to include:

(1) an owner of any Lot within a Residential Area;

(2) the owner of a Rental Unit Area;

(3) with regard to condominium units within Royal Kunia an "apartment owner" as that term is defined in the Condominium Property Regime Act, Chapter 514A, Hawaii Revised Statutes;

(4) an owner of any Lot within Royal Kunia which is a private eleemosynary, religious or educational institution or community or civic organization, if any; and

(5) a Declarant, so long as the Declarant is the owner of any property within Royal Kunia;

(c) No membership shall be terminated or forfeited and no member shall be expelled, except upon transfer of his interest in Royal Kunia which entitles him to membership, provided, however, that upon execution, delivery and Recordation or filing of a valid agreement of sale or a lease for a period more than 5 years, of such interest therein, the vendor's and/or lessor's membership, including voting rights incident thereto, shall be considered as having been temporarily transferred to the vendee and/or lessee, such transfer in the case of agreement of sale becoming permanent upon subsequent delivery of a deed in compliance with said agreement of sale, or revesting in the vendor in the event of termination of said agreement of sale or revesting in the lessor in the event of termination of the lease. No member may withdraw, nor shall any member transfer or otherwise dispose of his membership, except upon lawful conveyance, assignment or transfer (or agreement of sale) of his rights and duties as such Owner, and upon payment of all his indebtedness to the Association on account of unpaid assessments or otherwise, and a transfer charge of not more than \$100.00, except, however, that the Declarants shall be exempted from this transfer charge;

(d) The membership of the Association shall be divided into four (4) classes of membership as follows:

(1) Class A members shall include all Owners described in paragraphs (b)(1) and (b)(3) above but shall not include the Class B members until such Class B membership ceases and converts to Class A membership;

(2) Class B members shall be the Declarants;

(3) Class C members shall include all Owners described in paragraph (b)(2) above but shall not include the Class B members until such Class B membership ceases and converts to Class C membership;

(4) Class D members shall include all Owners described in paragraph (b)(4) above.

(e) The membership status, rights, duties, privileges and obligations of an Owner as a member of the Association shall be exclusively as set forth in this Declaration and the Articles and By-Laws of the Association.

Section 5.03 Voting Rights. Members of the Association shall be entitled to vote as follows:

(a) Each Class A member shall be entitled to one (1) vote for each Lot owned, as the term Lot is defined in this Declaration, or one (1) vote for each condominium apartment owned, as the term apartment is defined under Chapter 514A of the Hawaii Revised Statutes, provided that if more than one person or entity owns a particular Lot or apartment, any one of said persons or entities shall be entitled to exercise the one vote attributable to said Lot or apartment upon the decision of the majority of all co-owners of the Lot or apartment;

(b) Each Class B member (Declarants) shall be entitled to three (3) votes for each Lot with or constituting a completed dwelling unit (whether a single-family dwelling, condominium apartment or rental unit) owned by the Class B member in the Residential Area, Rental Unit Area, or Condominium Apartment Area, and three-quarters of one (0.75) vote for each one thousand (1,000) square feet, rounded to the nearest thousand, of land in Royal Kunia owned by the Class B member upon which dwelling units have not yet been built;

The Class B membership shall cease and be converted to Class A and/or Class C membership on December 31, 2004.

(c) Each Class C member shall be entitled to one-half of one (0.50) vote for each rental unit.

(d) The Class D member(s) shall be entitled to one-fourth of one (0.25) vote for each one thousand (1,000) square feet of land owned rounded to the nearest thousand.

Section 5.04 Duties and Obligations of the Association. The Association shall accept, undertake and perform each of the obligations, duties and responsibilities set forth in this Declaration, the Articles or By-Laws, including but not limited to the following:

(a) The Association shall assess and collect a monthly or other periodic membership fee or assessment to cover maintenance assessments as provided in Article VI.

(b) The Association shall keep and manage the membership fees and assessments collected and disburse such amounts as may be deemed necessary or appropriate by the Board.

(c) The Association shall accept, as part of Royal Kunia, all property annexed to Royal Kunia pursuant to Section 2.02 and shall accept all Owners as members of the Association.

(d) The Association shall accept title (whether by fee, lease, easement or other conveyance) to all Common Areas and other property from time to time conveyed to it by a Declarant. The Association shall also have the authority to acquire and accept title to any property, real, personal and mixed, provided nothing herein shall be construed to authorize the Association to acquire or invest in property simply for the purpose of acquiring income or otherwise making a financial profit therefrom, and the Association shall not carry on any business, trade, association and profession for profit, but nothing herein shall prevent the Association from charging reasonable fees to Owners and others for use by them of facilities and properties of this Association.

(e) The Association shall maintain or provide for the maintenance of Common Areas and other property owned by the Association, including, whether or not owned by the Association, without limitation, Limited Common Areas, Recreational Facilities, and all Improvements of whatever kind and for whatever purpose from time to time located on the Common Areas or other such property in good order and repair, provided, however, that notwithstanding the foregoing the Association shall have no obligation to maintain in good order and repair any Improvement constructed upon the Common Areas by any Owner, but may use all legal means to force such Owner to maintain or, if installed without proper authorization, to remove the same himself. The Association shall comply with all laws, government requirements and approvals pertaining to the Common Areas.

(f) To the extent not assessed to or paid by the Owners, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas.

(g) [Reserved]

(h) The Association shall from time to time make, establish, promulgate, amend and repeal the rules of the Association, as provided for in this Declaration.

(i) To the extent provided for in this Declaration, the Association by and through its Board of Directors shall exercise its rights to appoint and remove members of the Design Committee to insure that at all reasonable times there is available a duly constituted and appointed Design Committee.

(j) The Association shall take such actions, whether or not expressly authorized by this Declaration, as may reasonably be necessary to enforce this Declaration, the Association Rules and the Design Committee Rules.

(k) [Reserved]

(l) In the event there is more than one Declarant under this Declaration, the Association shall recognize the respective rights and powers of each Declarant under this Declaration and with respect to the Association.

(m) The Association shall act as the association or other community organization or liaison required by any governmental agency as a condition to a government land use approval, unless another association, community organization or liaison is established that will satisfy such condition. Without limiting the generality of the foregoing, the Association shall provide the name of a contact person and other information required by any government agency for purposes of coordinating and resolving matters relating to any Neighborhood, cluster, Subdivision or other project area without a governing organization (other than the Association) responsive to the government agency. For example, with respect to a cluster Subdivision, the Department of Land Utilization may require that there be a contact person available to the Refuse Division of the City & County of Honolulu to coordinate and resolve such matters as maintenance and installation of parking control signs, trimming of low-hanging tree branches, and parked vehicles in designated "no parking" areas and turnarounds. If such cluster Subdivision has no governing organization, then the Association shall provide such contact person.

(n) The Association shall maintain all hedges fences and walls facing a Collector Road or a park, provided that such hedge, fence or wall was erected by the developer Declarant or a Subdeveloper, provided further that the Owner shall be liable for any damages or repairs required to a hedge, fence or wall caused by the Owner's action.

Section 5.05 Powers and Authority of Association.

The Association shall have all the powers set forth in its Articles, subject, however, to the limitations upon the exercise of such powers as are expressly set forth in its Articles and By-Laws and in this Declaration, to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration and/or which may be necessary or proper for the peace, health, comfort, safety and/or general welfare of its members. Without limitation to the generality of the foregoing, the Association shall have the following powers:

(a) Without liability to the Owner or Owners for trespass, damage or otherwise, the Association may enter upon any Private Area or Common Area at any time for the purpose of performing the function, duties and obligations expressly set forth in the Articles, By-Laws or this Declaration.

(b) In exercising or fulfilling any of its functions, powers, duties or obligations under this Declaration, including without limitation, all such obligations and duties set forth in Section 5.04, or to the extent necessitated by the failure or neglect of Owners of Lots in Royal Kunia to abide by and comply with the provisions of this Declaration or any rules and regulations adopted hereunder, the Association shall have the power and authority:

(1) to establish a meeting place for the Association and contract and pay for all obligations, commitments and agreements properly within the scope of the functions, duties and obligations of the Association deemed appropriate or proper from time to time;

(2) to obtain, maintain and pay for such insurance policies or bonds, whether or not required as the Association may deem appropriate for the protection or benefit of Royal Kunia, the Association, the members of the Board, the members of the Design Committee, or the Owners, including without limitation, liability insurance, casualty insurance, war risk insurance, builders risk insurance, workmen's compensation insurance, malicious mischief insurance and performance and fidelity bonds. The authorization covering the manner of use and application of recovered funds under the policies of insurance or to negotiate loss settlement, shall be vested in the Board;

(3) to contract and pay for, or otherwise provide for utility services including without limitation,

water, sewer, garbage, electrical, telephone and gas as may be required to serve the areas that may be within its jurisdiction, responsibility or supervision from time to time;

(4) to contract and pay for, or otherwise provide for the services of architects, engineers, attorneys and certified public accountants or such other professional or non-professional services as the Association may deem necessary;

(5) to contract and pay for, or otherwise provide for fire policy and other protection services as the Association shall deem necessary covering such property placed within its jurisdiction or responsibility;

(6) to contract and pay for, or otherwise provide for such materials, supplies, furniture, equipment and labor as the Association deems necessary for the operation and management of the functions, duties and obligations of the Association;

(7) to contract and for pay, or otherwise provide for the services of landscape contractors, architects, landscapers, gardeners, laborers or such other professional or non-professional services as the Association deems necessary to maintain or provide for the maintenance of the Designated Landscaped Areas.

(c) The Association by and through its Board may from time to time employ the services of a manager to manage the affairs of the Association, and to the extent not inconsistent with the laws of the State of Hawaii and upon such conditions as are otherwise deemed advisable by the Association, the Association may delegate to the manager any of its powers under this Declaration; provided, however, that the Association may not delegate to such manager the power to execute any contract binding on the Association for a sum in excess of \$500.00 or for the performance of any work or services, which work or services are not to be completed within sixty (60) days, or the power to sell, convey, mortgage or encumber any property of the Association other than unserviceable maintenance or recreation equipment.

(d) The Association shall have the authority to pay, compromise or contest any or all taxes and assessments levied against said properties placed within its jurisdiction, responsibility or ownership or upon any personal property belonging to the Association.

(e) The Association shall have the authority to exchange or to sell and convey, or otherwise dispose of, any property placed within its jurisdiction, responsibility or ownership or any other property of the Association, provided that the retention of such property is no longer necessary, advantageous or beneficial to the Association or to the Owners.

(f) The Association shall have the authority to enforce any rights, powers, covenants, conditions and restrictions expressly given to the Association under any grant, reservation, covenant, deed, declaration, easement or other document Recorded in the Bureau or Office of Assistant Registrar, or under any other instrument purporting to provide the Association with enforcement rights, provided that the Board has determined that such enforcement is necessary or appropriate for the appearance of the community within Royal Kunia or the peace, health, comfort, safety, or general welfare of its members.

(g) The Association shall have the power and authority from time to time to grant and convey to any third parties for reasonable compensation and on such other terms as the Board may approve such easements, rights-of-way, parcels or strips of land in, on, over or under any Common Area, for the purpose of:

(1) Constructing, directing, operating and maintaining thereon, therein and thereunder, Roads, Streets, walks, driveways, parkways and park areas;

(2) Installing, operating and maintaining poles, wires, conduits, transformers, switching terminals and other equipment for the transmission of electricity for lighting, heating, power, telephone, television and other purposes, and necessary facilities in connection therewith; and

(3) Constructing, operating and maintaining public and private sewers, storm water drains, land drains and water systems, sprinkler systems, water, heating and gas lines or pipes and necessary facilities in connection with the foregoing.

(h) The Association may maintain areas in addition to the Common Areas if the Board determines it is desirable to do so. For example, the Association may elect to maintain landscaping within or along public Roads and Streets.

(i) The Association shall have all the powers necessary or appropriate to exercise its powers and rights referred to in this Declaration, including, without limitation, the power to make and enter into contracts and to acquire and dispose of property.

(j) The Association shall have the authority to levy Special Assessments upon Owners for special projects, services, events, or programs sponsored or managed by the Association.

(k) The Association, by and through its Board of Directors may maintain, manage, insure and irrigate or provide for the maintenance, management, insuring and irrigation of the Designated Landscaped Areas, and easements in favor of the Association (including, but not limited to, Landscape Easements and Upslope Bank Easements) within Royal Kunia. Upon election by the Owners in a Neighborhood, the Board may (but shall not be required to) permit the Owners in a Neighborhood to maintain their Designated Landscaped Areas, Landscape Easements and Upslope Bank Easements or any other easement areas, but such permission shall not prevent the Association from resuming such maintenance if the Owners in the Neighborhood fail to do so in a manner at least equal in quality as would be performed by the Association, and the Association may recover the full cost thereof together with an administrative fee of 20% from the electing Owners.

Section 5.06 Royal Kunia Community Association Rules.

(a) The Association may from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations known as the Royal Kunia Community Association Rules (hereafter referred to as the "Association Rules") which shall govern and regulate the activities in Royal Kunia, including but not limited to:

- (1) The use of Common Areas, including without limitation the Recreational Facilities;
- (2) The use of Roads;
- (3) The collection and disposal of refuse;
- (4) The burning of open fires;

(5) The maintenance of animals within Royal Kunia; and

(6) The maintenance and use of the Designated Landscaped Areas.

(b) With respect to subparagraph (a)(1) above, the Association Rules may without limitation and to the extent deemed necessary by the Association in order to preserve the benefits of Royal Kunia for all Owners, their families, invitees, licensees, lessees, and guests, restrict or govern the use of Common Areas by any Owner or by the family, invitees, licensees, or lessees of such Owner.

(c) With respect to subparagraph (a)(2) above, the Association Rules may without limitation provide for:

(1) Parking restrictions and limitations;

(2) Maximum speeds for vehicular traffic on Roads other than public Roads;

(3) The time or times when commercial vehicles may be permitted to use Roads other than public Roads; and

(4) The type or types of vehicles other than conventionally equipped passenger automobiles which may be permitted to use the Roads other than public Roads;

(d) A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, which has been certified by the Secretary or an Assistant Secretary of the Association, shall be filed in and available at all times at the office of the Association, and duplicate copies thereof shall be delivered to each Owner upon his acquisition of a Lot. A copy of each new rule or of any amendment of an existing rule and notice or repeal of any rule shall likewise be given to each Owner when the same becomes effective. Upon the promulgation and filing thereof in said office, the Association Rules shall have the same force and effect as if they were set forth and were a part of this Declaration. Failure to deliver to any Owner a copy of any rule, Amendment of a rule, or notice of repeal of a rule shall not render such rule, Amendment or repeal invalid.

Section 5.07 Liability of Members of the Board. No members of the Board shall be personally liable to any Owner, guest, lessee or to any other persons, including the

Declarants, for any error or omission of the Association, its representatives and employees, the Design Committee or the manager, provided that such Board member has acted in good faith upon actual knowledge possessed by him.

Section 5.08 Board Acts for Association. Whenever a provision of this Declaration requires or allows the Association's consent, permission, approval, decision or other action, the act of the Board shall constitute the act of the Association, unless otherwise expressly required by the provision.

ARTICLE VI FUNDS AND ASSESSMENTS

Section 6.01 Responsibility. Each Owner of any Lot by acceptance of an agreement of sale, deed, lease or other conveyance document therefor, whether or not it shall be so expressed in any such agreement, deed, lease or other conveyance document, shall be deemed to covenant and agree to pay each assessment provided for under this Article or elsewhere in this Declaration. No Owner may waive or otherwise exempt himself from liability for assessments, including, by way of illustration and not limitation, by not using Common Areas or abandonment of a Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed, including, by way of illustration and not limitation (1) by reason of any alleged failure of the Association or Board to take some action or perform some function it is required to take, (2) for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or (3) from any action taken to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority.

Section 6.02 Operating Fund. There shall be an Operating Fund in which the Association shall deposit all monies paid to it as:

- (1) membership fees to cover maintenance assessments;
- (2) Special Assessments;
- (3) assessments for capital contributions;

- (4) use or membership fees paid by users of or persons eligible to use Recreational Facilities;
- (5) any other rents, charges or fees collected by the Association; and
- (6) income and profits attributable to the Operating Fund and receipts from any other source.

Said fund shall comprise the working capital and reserves of the Association out of which the Association shall make all disbursements and discharge all liabilities in the performance of its duties and obligations and in the exercise of its rights and powers.

Section 6.03 Maintenance Assessment.

(a) Owners who are members shall pay a monthly or other periodic membership fee to cover the maintenance assessment provided for under this Section 6.03.

(b) Within thirty (30) days prior to the commencement of each calendar year, the Board shall estimate the expenses to be incurred by the Association during such calendar year (including a reasonable provision for reserves, capital contributions not covered under Section 6.05, contingencies, reconstruction and replacements, and for alterations, modifications and Improvements to Common Areas and existing Recreational Facilities, but excluding the cost of constructing substantial new Recreational Facilities that should be covered under Section 6.05), and in paying all fees and expenses of the Design Committee, and shall subtract from such estimate the estimated balance of the Operating Fund exclusive of any accrued reserves for purposes herein set forth) and receipts from use fees and other anticipated receipts. The Board may adjust the estimate from time to time to reflect changes in anticipated or actual expenses. Without limiting the generality of the foregoing, in the event that a community recreation center is built, the Board shall have the authority to increase the maintenance assessment to provide for the maintenance and administration of such community recreation center.

(c) The sum or net estimate determined pursuant to paragraph (b) (the "aggregate maintenance assessment") shall be divided and assessed by the Board as a maintenance assessment fee payable by the Owners, excluding those exempt pursuant to other provisions of this Declaration, in a

reasonable manner among the Owners consistent with the following:

(i) The aggregate maintenance assessment may be divided into one or two components. The first component (or only component if only one component exists) consists of expenses that will be divided among all of the Owners subject to assessment directly in proportion to the number of votes held by such Owners. The second component, if any, consists of expenses that will be allocated by the Board in a reasonable manner to specific Neighborhoods, Product Types or Subdivisions to be divided among the Owners of such specific Neighborhoods, Product Types or Subdivisions, so that the Board may make adjustments in its reasonable discretion based on anticipated objectively verifiable differences in expenses of maintaining the Designated Landscaped Areas, Common Areas or Limited Common Areas pertaining to or primarily benefitting such Neighborhoods, Product Types or Subdivisions. Without limiting the generality of the preceding sentence, the second component shall account for the allocation of expenses relating to Limited Common Areas to the Owners of Product Types or Neighborhoods to which the Limited Common Areas are assigned. As used in this Declaration, the term "maintaining" is used in a broad sense to include, without limitation, irrigating, managing, securing, preserving, operating, repairing, correcting, owning, insuring, updating, reviving and protecting.

(ii) For example, since the Association maintains no Designated Landscaped Areas within a condominium project, then the Board shall have the discretion to allocate the expenses of maintaining Designated Landscaped Areas only to Owners other than Owners of Apartments within condominium projects.

(iii) For further example, if Designated Landscaped Areas in one Neighborhood cost more to maintain than Designated Landscaped Areas in another Neighborhood, then the Board shall have the discretion to allocate under the Second Component the expenses of maintaining Designated Landscaped Areas in a greater proportion to the first Neighborhood, than to the second Neighborhood.

(iv) For further example, assume that there are landscaped islands within common driveways used by the Owners of Lots within a Neighborhood surrounding the driveways. Assume further that the driveways and islands

(whether owned by the surrounding Owners or the Association) have been designated as Common Area and that the Association is maintaining the driveways and landscaped islands. Assume that other Owners in other Neighborhoods cannot conveniently use or enjoy the driveways or landscaped islands. If the driveways and islands have been further designated as a Limited Common Area assigned to the surrounding Neighborhood, then the expenses relating to such driveways and islands shall be allocated to the Owners of the Neighborhood. If the driveway and island have not been designated as Limited Common Area, the Board shall have the discretion to allocate the expenses relating to such driveways and islands to the Owners of the surrounding Neighborhood.

(v) With regard to allocating the second component, if any, of the aggregate maintenance assessment, in no event shall the Board be liable for exercising its judgment in good faith in determining cost adjustments or differences, including, but not limited to, adjustments based on differences in the relative sizes of Designated Landscaped Areas, other maintained areas, or Lots. The primary purpose of giving the Board the authority to make adjustments is to allow the Board reasonable discretion to achieve greater equity among Owners, rather than to mandate that all conceivable differences between Neighborhoods, Product Types or Subdivisions be exactly accounted for.

Section 6.04 Special Assessments.

(a) Owner Special Assessment. The Board may levy a Special Assessment against any Owner whose acts, neglect, misuse, or failure or refusal to act or otherwise comply with this Declaration, the Association Rules or the Design Committee Rules, causes the Association to incur any expense. Such assessment shall be in the amount so expended and shall be due and payable when levied. Such expenses shall include, without limitation, engineers', architects', attorneys' and accountants' fees, and reconstruction, repair and maintenance expenses where reasonably incurred by the Association.

(b) Unbudgeted Special Assessments. In addition to the maintenance assessments authorized hereinabove, the Board may also levy Special Assessments from time to time to cover unbudgeted expenses. Such Special Assessments within any calendar year shall not exceed an amount equal to two months of budgeted maintenance assessments. Such Special Assessments are for reasonably unanticipated expenses which may or may not be required by law and are not

part of the planned, maintenance and repair reserves. For example, if utility charges payable by the Association increase substantially because of an unanticipated energy shortage, a Special Assessment may be levied. Such Special Assessments shall be payable within thirty (30) days of the date of written notice of the assessment and shall be allocated in the manner provided in Section 6.03.

Section 6.05 Assessments For Capital Contributions. If the Association decides to purchase additional property as Common Area beyond that originally contributed, or to make substantial new capital additions or Improvements to the Common Area or Recreational Facilities, or to make other capital expenditures for the benefit of Owners, the funds required for the specific capital addition shall be contributed to the capital of the Association by all members of the Association subject to assessment and allocated in the manner provided in Section 6.03; provided, however, that such capital expenditures shall require the affirmative vote of a majority of the votes cast at a duly called meeting of the Association at which a quorum (as set forth in the By-Laws) is present, and, as long as such membership exists, the consent of the Class "B" member; provided, further, that any assessments for capital Improvements shall be specifically earmarked and segregated for the designated purpose.

Section 6.06 Exemptions. Anything herein to the contrary notwithstanding, it is understood that the following parties and their Lots shall be exempt in whole or in part from assessments under this Article VI as follows: (a) the Association shall be wholly exempt; (b) those persons or entities specified in subsections 3.06(c) and 3.07(c) shall be wholly exempt; and (c) Owners of Lots as to which the obligation to pay assessments has not yet commenced pursuant to Section 6.08.

Section 6.07 Default in Payment of Assessments.

(a) If an Owner fails to pay an assessment provided for under this Declaration or any installment thereof when due, the Owner shall be deemed in default, and the amount of the assessment not paid, together with the amount of any subsequent default, plus interest thereon at twelve percent (12%) per annum, together with all costs of collection, including reasonable attorneys' fees, shall be a lien upon the Lot or Lots owned by the Owner upon Recordation by the Association of notice of such lien. Such lien shall be subject and subordinate to the lien of any first mortgage

upon the Lot or Lots of such Owner, and the sale or transfer of any Lot in foreclosure of any such mortgage, whether by judicial proceedings or pursuant to a power of sale contained in such mortgage, or the transfer or conveyance to the mortgagee in lieu of foreclosure, shall extinguish the lien as to the payments of assessments which became due prior to such sale, transfer or conveyance, provided, however, that no such sale, transfer or conveyance shall relieve such Lot or the purchaser or transferee thereof with regard to assessments thereafter becoming due, nor shall such sale, transfer or conveyance release the person who was an Owner prior to the sale, transfer or conveyance from any personal liability for assessments due prior to the sale, transfer or conveyance. The Association shall Record such notice of lien within one hundred eighty (180) days following the occurrence of such default and shall commence proceedings to enforce such lien within six (6) months following such Recordation. Such lien may be foreclosed by suit by the Association in the manner of foreclosure of a mortgage on real property, and the Association shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage or convey the same. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosure or waiving the lien securing the same. In any such action, the Association shall be entitled to recover all costs and expenses, including court costs and reasonable attorneys' fees. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation.

(b) In addition to the remedies set forth in Section 6.07(a) above, if the Owner fails to pay any assessment within ten (10) days of the due date, a reasonable late fee as determined by the Board shall be assessed against the Owner. The initial late fee shall be \$20.00.

(c) Payments shall be applied in the following order: First, to the payment of any late fees. Second, to the payment of any expenses of collection and enforcement and any other amounts payable other than interest or assessment principal. Third, to the payment of interest. Fourth, to the payment of assessment principal.

(d) Upon request, the Association shall issue a certificate stating the amount of indebtedness secured by a lien upon any Lot or Lots. Such certificate shall be binding conclusively upon the Association and the Owners in favor of all persons who rely thereon in good faith as to the amount of such indebtedness existing on the date of the certificate. Any Owner may request that such a certificate

be issued and may obtain a copy thereof for a reasonable fee charged by the Association.

Section 6.08 Commencement of Assessments. The obligation to pay the assessments provided in this Declaration shall commence as to each Lot on the first day of the calendar month following the later of the date that such Lot was first conveyed or leased by a developer Declarant to a person other than a developer Declarant or Subdeveloper or the date that such Lot was first conveyed or leased by a Subdeveloper to a person other than a developer Declarant or Subdeveloper. Provided, however, until 1400 residential units within Royal Kunia are owned by persons or entities other than Declarants, each Declarant shall nevertheless provide in proportion to the number of Lots created by each Declarant such funds or "in kind" contribution of services or materials, or a combination of these, as reasonably required to execute and fulfill the purposes and duties of the Association in the event the amount of assessments collected from all other Owners shall not be sufficient to cover actual expenditures required to operate the Association.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 7.01. Subdivision and Consolidation.

(a) No Lot within Royal Kunia may be subdivided by any Owner until an application, including a map of the proposed subdivision, has been submitted to the Design Committee, together with a reasonable fee established by the Design Committee, and the Design Committee has approved the same. The Design Committee shall review the application to determine whether or not it conforms to the basic intent and purposes of this Declaration and to determine whether or not any Owner or Owners of Lots within Royal Kunia will be prejudiced as a result of the proposed subdivision. The Design Committee shall approve or disapprove the application within forty-five (45) days after submission of same, and in the event of disapproval, the Design Committee shall give a written explanation of the reasons for disapproval to the Owner. Failure to disapprove within said period of forty-five (45) days shall be deemed approval of the application. If a proposed subdivision is approved, the Design Committee shall furnish to the Owner upon his request a certificate executed by one of the members of the Design Committee stating that the map submitted with the application for subdivision has been approved.

(b) No two or more Lots within Royal Kunia shall be consolidated into one Lot by the Owner or Owners thereof without the approval of the Design Committee in the manner set forth in subsection (a) above.

(c) Nothing contained in this Section 7.01 shall apply to the subdivision of any Lot owned by a Declarant or by a Subdeveloper or the consolidation of two or more Lots into one or more Lots by a Declarant or by a Subdeveloper.

Section 7.02 Assignment of Powers. Any and all of the rights and powers vested in a Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released in whole or in part by such Declarant to the Association or any person or entity who acquires any of the undeveloped land in Royal Kunia. The Association shall accept any such rights and powers effective upon the Recording by a Declarant of a notice of such delegation, transfer, assignment, conveyance or release. No assignment of the rights and powers of a Declarant shall be implied from any conveyance or other document executed by a Declarant, but shall only be made effective by a document whereby an assignment of a Declarant's rights and powers is expressly made, except that the rights and powers of a Declarant shall pass automatically to any legal successor of the Declarant by merger or consolidation or otherwise by operation of law.

Section 7.03 Notice, Documents, Delivery.

(a) Delivery of any notice or other document as permitted or required by this Declaration may be accomplished either by delivery in person or by mail. If delivery is made by mail, delivery upon the Association shall be deemed accomplished twenty-four (24) hours after a copy of the notice or other document has been deposited in the United States mail, postage prepaid, addressed to the Royal Kunia Community Association at the address designated from time to time by written notice to the Owners, and delivery upon the Design Committee shall be deemed accomplished twenty-four (24) hours after a copy of the notice or other document has been deposited in the United States mail as aforesaid addressed to the Design Committee in care of the President of the Royal Kunia Community Association at the latter's then designated address or in care of said President's designee at such designee's address. The post office address of an Owner shall be the street address on Oahu of such Owner, and delivery by mail to an Owner shall be deemed accomplished twenty-four (24) hours after a copy of the notice or other document has been deposited in the

United States mail, postage prepaid, addressed to the Owner at such address.

(b) Delivery to any member of the Board of Directors of the Association shall be deemed adequate delivery to the Association, and delivery to any member of the Design Committee shall be deemed adequate delivery to the Design Committee.

(c) Where there is more than one Owner of a Lot, the delivery personally or by mail to any one of the Owners shall constitute effective delivery to all Owners of such Lot.

(d) The address of any Declarant may be changed by notice in writing delivered to the Association, and the address of the Association may be changed by notice in writing delivered to all Owners.

Section 7.04 Amendment or Repeal; Duration.

(a) In addition to the rights reserved to any Declarant elsewhere in this Declaration, this Declaration or any part hereof may be amended or repealed in the following manner:

(1) by affirmative vote of Owners having not less than seventy-five percent (75%) of the total votes of the membership, the Owners approve the proposed amendment or amendments or the repeal of any portion or portions of this Declaration at a meeting duly called, the notice of which meeting shall have stated as a purpose the consideration of such amendment or repeal and the substance of the proposed amendments or indicating the provisions to be repealed, as the case may be;

And a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or amendments or repeal of such provisions of this Declaration so approved, and certifying that said amendment or amendments or repeal have been approved by vote of the Owners pursuant to this paragraph shall be Recorded; or

(2) a written instrument also setting forth in full said amendment or amendments or repeal to this Declaration, executed by the Owners having not less than seventy-five percent (75%) of the total votes of the membership shall be Recorded.

(b) All of the limitations, restrictions, covenants and conditions of this Declaration shall continue and remain in full force and effect with respect to all property included within Royal Kunia, to the Owners and to the Association, for a term of 30 years, and thereafter with automatic extension for successive 10 year periods, unless amended or repealed as provided in subsection (a) above. Notwithstanding the foregoing, if any provision of this Declaration shall be subject to the rule against perpetuities, then such provision shall not be effective for more than 21 years after the death of the last survivor of Robert F. Kennedy (brother of former President of the United States John F. Kennedy) and all his descendants living on the date of this instrument.

Section 7.05 Enforcement Non-Waiver.

(a) Except as otherwise expressly provided herein, the Association and any Declarant (whether acting as a "Declarant" or as an "Owner") shall each have the right to enforce any and all of the limitations, restrictions, covenants, conditions, obligations, liens and charges now or hereafter imposed by or pursuant to this Declaration; and the cost of enforcement, including court costs and attorneys' fees, shall be paid by any Owner or other person or entity who violated any such limitation, restriction, covenant or condition or failed to pay or satisfy when due any such lien or charge. No entry upon the Lot of any Owner or other action to enforce any such limitation, restriction, covenant, condition, obligation, lien or charge may be made or taken without first giving less than thirty (30) days written notice and demand to the Owner concerned to cure or rectify the default or breach involved. Provided, however, in the event, upon the sole determination of the Association, any default or breach is deemed to be a common nuisance and/or an emergency situation, entry upon the Lot may be made after a twenty-four (24) hour written notice to abate the nuisance and/or emergency, or rectify the default or breach involved.

(b) Nothing contained in this Declaration shall be deemed to restrain or abridge the right of any Owner to seek abatement of any nuisance created or caused by any other Owner or to seek enforcement of the provisions hereof against any other Owner or the Association by proper legal proceedings brought in a court of competent jurisdiction.

(c) Every act or omission which results in the violation of any restriction, condition or covenant or any other provisions contained in this Declaration, in whole or

in part, is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action by the Association, by a Declarant or by an Owner or Owners; provided, however, that only the Association or a Declarant or their duly authorized agents may enforce any limitation, restriction, covenant, condition or obligation herein set forth by its or their own action without authority of a court having jurisdiction.

(d) The remedies provided for in this Declaration are cumulative and non-exclusive.

(e) The failure in any case to enforce any limitation, restriction, covenant, condition, obligation, lien or charge now or hereafter imposed by or pursuant to this Declaration shall not constitute a waiver of any right to enforce the same in another case against or with respect to the same Owner or Lot or any other Owner or Lot.

Section 7.06 Rights of Lenders.

(a) Priority of Mortgage Lien. No breach of the Declaration, nor the enforcement of any of its lien provisions, shall impair the lien of any mortgage made in good faith and for value encumbering any Lot, but the Declaration shall be binding upon any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot, except as otherwise provided in this Article.

(b) Relationship with Assessment Liens.

(1) The liens on a Lot provided in this Declaration for the payment of assessments shall be subordinate to the lien of any first mortgage recorded as to that Lot.

(2) If any Lot subject to a monetary lien created by any provision of the Declaration shall be subject to the lien of a mortgage: (a) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (b) the foreclosure of the lien of said mortgage, the acceptance of a deed in lieu of foreclosure of the mortgage, or sale under a power of sale included in such mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not terminate the personal obligation of the previous Owner, and the new Owner shall

take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that accrue subsequent to the Events of Foreclosure.

(3) Nothing in this Section shall be construed to release any Owner from his obligation to pay for any assessment levied pursuant to this Declaration.

(c) Curing Defaults. A mortgagee, or the immediate transferee of such mortgage, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is non-curable or of a type which is not practical or feasible to cure, nor to make any Association assessment payment which became due prior to such mortgagee or immediate transferee obtaining title. The determination as to whether a breach is non-curable or not feasible to cure shall be made in good faith by the Board.

(d) Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Association concerning the status of any loan encumbering a Lot.

(e) Payment of Premiums or Taxes by Mortgagees. Mortgagees may at their option, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against the Owners, in which case the rights of first mortgagees shall be governed by the provisions of their mortgages. Mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for Common Areas and mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any Mortgagee which requests the same to be executed by the Association.

(f) Rights of Institutional Mortgagees. Any institutional mortgagee, or its mortgage servicing contractor, shall, upon written request to the Association, and upon the payment of a reasonable cost determined by the Association, be entitled to:

(1) Inspect the books and records of the Association during normal business hours; and

(2) Receive the annual financial statement of the Association ninety (90) days following the end of the Association's Fiscal Year; and

(3) Receive written notice of all annual and special meetings of the Owners, and may be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of the Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an institutional mortgagee the right to call a meeting of the Owners for any purpose or to vote at any such meeting; and

(4) Receive written notification from the Association of any default in the performance of the obligations imposed by the Declaration on the Owner whose Lot is encumbered by such institutional mortgagee's mortgage, which default has not been cured within sixty (60) days of a request therefor by the Association; provided, however, the Association shall only be obligated to provide such notice to institutional mortgagees whose written request therefor to the Association specifies the Lot or Lots to which such request relates.

(g) Voting Rights of Institutional Mortgagees. In the event of a default by the Owner of any Lot in any payment due under the terms of any institutional mortgage or the promissory note secured thereby, the institutional mortgagee or his representative shall have the right, upon giving written notice to such defaulting Owner and the Association and Recording in the Bureau of a notice of default, to exercise the voting rights of such defaulting Owner attributable to such Lot at any regular or special meeting of the Owners held during such time as such default may continue. Any such Owner's voting rights shall be restored to him at such time as such default is acknowledged cured in writing by the institutional mortgagee, or determined cured by a court of competent jurisdiction.

(h) Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

Section 7.07 Construction, Compliance with Law, Severability, Singular and Plural, Titles.

(a) All of the limitations, restrictions, covenants and conditions contained in this Declaration shall be liberally construed to promote and effectuate the fundamental concepts and purposes of Royal Kunia and this Declaration as set forth in the introductory paragraphs of this Declaration.

(b) No provision of this Declaration shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over such person or over Royal Kunia or any part thereof. Anything in this Declaration to the contrary notwithstanding, if all uses to which a Lot may be put under the provisions hereof are illegal under the applicable zoning ordinances or statutes, said Lot shall remain subject to all other provisions of this Declaration which lawfully apply to the Lot.

(c) Notwithstanding the provisions of subsection (a) above, the limitations, restrictions, covenants and conditions contained herein shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof, or of any such limitation, restriction, covenant or condition shall not affect the validity or enforceability of any other provision.

(d) The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter as the context requires. Exhibits referred to in this Declaration are incorporated by reference and made a part hereof.

(e) All titles used in this Declaration, including those of articles and sections, are intended solely for convenience or reference, and the same shall not, nor shall any of them, affect that which is set forth in such articles and sections, nor any of the terms or provisions of this Declaration.

(f) In the event of any conflict between any of the provisions of this Declaration and any of the provisions of the Articles and By-Laws of the Royal Kunia Community Association, the provisions of this Declaration shall control.

Section 7.08 FHA/VA Approval. As long as there is a Class "B" membership or the Association is controlled by a Declarant or Declarants, the following actions shall require the prior approval of the Federal Housing Administration or the Veterans Administration, notwithstanding any provisions of the Articles or By-laws of the Association: annexation of additional property, dedication or mortgaging of Common Area, amendment of this Declaration, amendment of the Articles, amendment of the By-laws, mergers and consolidations of the Association, and dissolution of the Association.

Section 7.09 Declarant; Hold Harmless. Owners and the Association shall hold Declarants and their affiliates, successors and assigns, harmless from any and all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the operation of any Recreational Facility, including but not limited to any golf courses, and adjacent commercial facilities with regard to noise, lighting, traffic, odors and other nuisances which may emanate from or be engendered by such facilities and operations.

Section 7.10 Easement for Golf Balls. Every Lot, the Common Area and any other area in Royal Kunia are burdened with an easement permitting golf balls unintentionally to come upon the Lots, Common Area and any other area in the Royal Kunia from any golf course and for golfers at reasonable times and in a reasonable manner to enter the exterior portions of a Lot or other area to retrieve errant golf balls. However, if any Lot is fenced or walled, the golfer must obtain the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. However, under no circumstances shall the Association or the Declarants be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement. The protections afforded to the Association and Declarants under the immediately preceding sentence shall not apply to the Association or a Declarant whose gross negligence or wilful misconduct caused the damage or injury.

Section 7.11 Golf Course-Related Activities. Each Owner understands and agrees that Royal Kunia and his Lot may be adjacent to or near one or more golf courses and related facilities and that related activities, including, without limitation, tournaments and other special events, may be held on or within such golf course. Each Owner acknowledges that the location of Royal Kunia and his Lot adjacent to or near such golf course or related facilities

may result in nuisances or hazards to persons and property on the Lot as a result of related activities. Each Owner covenants for itself, its heirs, successors, and assigns that it shall assume all risks associated with such location, including, but not limited to, the risk of property damage or personal injury arising from actions incidental to such golf course-related activities and shall indemnify and hold harmless the Association, the Declarants, and any of their affiliates, successors and assigns from any liability, claims, or expenses, including attorneys' fees, arising from such property damage or personal injury. The protections afforded to the Association and Declarants under the immediately preceding sentence shall not apply to the Association or a Declarant whose gross negligence or wilful misconduct caused the damage or injury.

Section 7.12 Easement for Agriculture Operations.
Each Owner and occupant acknowledges that Royal Kunia is located near or adjacent to properties (hereinafter referred to as "Agricultural Properties") which are used to the production of sugar cane, other agricultural uses and the development of alternative energy projects. Owners and the Association shall hold harmless Declarants from any and all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the transmission, discharge, or emission of surface water runoff, noise, smoke, soot, dust, noxious vapors, odors and other substances which are created by and result from (1) all activities incidental to the operation of sugar cane field including, but not limited to, burning sugar cane and bagasse and milling, trucking, and hauling sugar cane; (2) the operation of any other agricultural projects; and (3) the development and operation of alternative energy projects. Each Owner and occupant further acknowledges that neither the Association nor the Declarants or any other affiliates, successors or assigns shall be held liable for any nuisance, personal injury, illness or any other loss or damage which is caused by the presence and operation of the Agricultural Properties adjacent to or near Royal Kunia.

IN WITNESS WHEREOF, the Declarants have executed this Declaration as of the day and year first above written.

HALEKUA DEVELOPMENT CORPORATION,
a Hawaii corporation

By *Kiuhik. Uputa*
Its

KUNIA RESIDENTIAL PARTNERS, a
Hawaii limited partnership

By Its General Partner:

Castle & Cooke Kunia, Inc.

By *Wallace Ouyahua*
Its SR. VICE PRESIDENT

By *Roland Kim*
Its VICE PRESIDENT

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

On this 25th day of January,
1994, before me personally appeared _____, to me
known, being by me duly sworn, did say that he is the _____
_____ of HALEKUA DEVELOPMENT CORPORATION, a
Hawaii corporation; and that said instrument was signed in
behalf of said corporation by authority of its Board of Di-
rectors, and said officer acknowledged said instrument to
be the free act and deed of said corporation.

James P. Hiji
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 8/27/96

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 25th day of January, 1994,
before me appeared Wallace Miyahira and
Roland Kim, to me personally
known, who, being by me duly sworn, did say that they are
the Senior Vice President and Vice President, re-
spectively, of CASTLE & COOKE KUNIA, INC., a Hawaii corpo-
ration; that said corporation is the general partner of
KUNIA RESIDENTIAL PARTNERS, a Hawaii limited partnership
named in the foregoing instrument; that said instrument was
executed by said corporation as the duly authorized general
partner of and in behalf of said partnership; that said in-
strument was signed in behalf of said corporation by au-
thority of its Board of Directors and in the name of and in
behalf of said partnership; and said officers acknowledged
said instrument to be the free act and deed of said corpo-
ration and as said general partner of said partnership.

W. Miyahira
Notary Public, State of Hawaii
My Commission expires: 5/15/94