

**By-Laws of the Homeowners Association**  
**Amendments (if any)**

BYLAWS  
OF  
PLANTATION ESTATES LOT OWNERS' ASSOCIATION

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I IDENTIFICATION . . . . .	1
SECTION 1.1 <u>Name</u> . . . . .	1
SECTION 1.2 <u>Principal Office</u> . . . . .	1
ARTICLE II MEMBERS OF THE CORPORATION . . . . .	1
SECTION 2.1 <u>Membership Qualification</u> . . . . .	1
SECTION 2.2 <u>Proof of Status</u> . . . . .	2
SECTION 2.3 <u>Certificate of Membership</u> . . . . .	2
SECTION 2.4 <u>Record Address</u> . . . . .	3
ARTICLE III VOTING RIGHTS . . . . .	3
SECTION 3.1 <u>Voting Rights</u> . . . . .	3
SECTION 3.2 <u>Cumulative Voting To Elect Directors</u> . . . . .	4
SECTION 3.3 <u>Proxies</u> . . . . .	4
ARTICLE IV MEETINGS OF MEMBERS . . . . .	5
SECTION 4.1 <u>Annual Meeting</u> . . . . .	5
SECTION 4.2 <u>Regular Meetings</u> . . . . .	6
SECTION 4.3 <u>Special Meetings</u> . . . . .	6
SECTION 4.4 <u>Notice of Meetings</u> . . . . .	7
SECTION 4.5 <u>Adjourned Meetings</u> . . . . .	8
SECTION 4.6 <u>Quorum</u> . . . . .	8
SECTION 4.7 <u>Majority Vote of Members</u> . . . . .	9
SECTION 4.8 <u>Location of Meetings</u> . . . . .	9

SECTION 4.9	<u>Conduct of Meetings and Order of Business</u>	9
ARTICLE V	BOARD OF DIRECTORS	10
SECTION 5.1	<u>Number</u>	10
SECTION 5.2	<u>Removal of Directors</u>	11
SECTION 5.3	<u>Vacancies</u>	12
SECTION 5.4	<u>Compensation</u>	12
SECTION 5.5	<u>Powers and Duties</u>	13
ARTICLE VI	MEETINGS OF DIRECTORS	17
SECTION 6.1	<u>Meetings</u>	17
SECTION 6.2	<u>Notice of Meetings</u>	18
SECTION 6.3	<u>Waiver of Notice</u>	19
SECTION 6.4	<u>Quorum</u>	19
SECTION 6.5	<u>Conference Call Meeting</u>	19
SECTION 6.6	<u>Action Without Meeting</u>	20
ARTICLE VII	OFFICERS AND AGENTS	20
SECTION 7.1	<u>Designation</u>	20
SECTION 7.2	<u>Election of Officers</u>	21
SECTION 7.3	<u>Removal of Officers</u>	21
SECTION 7.4	<u>Duties</u>	21
	(a) <u>President</u>	21
	(b) <u>Vice President</u>	22
	(c) <u>Secretary</u>	22
	(d) <u>Treasurer</u>	23
	(e) <u>Auditor</u>	23
SECTION 7.5	<u>Resignation of Officers</u>	24

SECTION 7.6	<u>Compensation of Officers</u>	24
ARTICLE VIII	COMMON EXPENSES	24
SECTION 8.1	<u>Common Expenses</u>	24
SECTION 8.2	<u>General Operating Reserve</u>	26
SECTION 8.3	<u>Capital Improvement Reserve Funds</u>	26
SECTION 8.4	<u>Assessments</u>	26
SECTION 8.5	<u>Default in Payment of Assessments</u>	27
SECTION 8.6	<u>Collection from Tenant</u>	29
ARTICLE IX	RULES AND REGULATIONS	30
SECTION 9.1	<u>Authorization</u>	30
SECTION 9.2	<u>Adoption</u>	31
SECTION 9.3	<u>Enforcement Procedures</u>	32
ARTICLE X	RIGHT OF ENTRY	33
SECTION 10.1	<u>Abatement and Enjoinment of Violations</u>	33
SECTION 10.2	<u>Inspection and Corrections</u>	33
ARTICLE XI	ENFORCEMENT COSTS/NON-WAIVER	34
SECTION 11.1	<u>Attorney's Fees and Expenses of Enforcement</u>	34
SECTION 11.2	<u>Non-Waiver</u>	35
ARTICLE XII	INSURANCE AND RESTORATION	35
SECTION 12.1	<u>Fire and Extended Coverage Insurance</u>	35
SECTION 12.2	<u>Comprehensive Liability Insurance</u>	36
SECTION 12.3	<u>Damage and Destruction</u>	36
ARTICLE XIII	BOOKS AND RECORDS	39
SECTION 13.1	<u>Owner's Right to Inspect</u>	39

SECTION 13.2	<u>Director's Right to Inspect</u>	39
SECTION 13.3	<u>Balance Sheets and Financial Statements</u>	39
ARTICLE XIV	EXECUTION OF DOCUMENTS/CHECKS	41
SECTION 14.1	<u>Execution of Contracts</u>	41
SECTION 14.2	<u>Checks and Drafts</u>	41
ARTICLE XV	GENERAL PROVISIONS	42
SECTION 15.1	<u>Notices</u>	42
SECTION 15.2	<u>Captions</u>	42
SECTION 15.3	<u>Gender</u>	42
SECTION 15.4	<u>Waiver</u>	43
SECTION 15.5	<u>Interpretation</u>	43
SECTION 15.6	<u>Severability</u>	43
SECTION 15.7	<u>Fiscal Year</u>	43
ARTICLE XVI	AMENDMENTS	43

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**BYLAWS  
OF  
PLANTATION ESTATES LOT OWNERS' ASSOCIATION**

**ARTICLE I**

**IDENTIFICATION**

SECTION 1.1 Name. The name of this corporation is PLANTATION ESTATES LOT OWNERS' ASSOCIATION, which shall sometimes be referred to herein as the "corporation."

SECTION 1.2 Principal Office. The principal office of the corporation shall be in the County of Maui, State of Hawaii, at such specific location therein as may be, from time to time, designated by the Board of Directors.

**ARTICLE II**

**MEMBERS OF THE CORPORATION**

SECTION 2.1 Membership Qualification. Each "Owner" as defined in the Articles of Incorporation of the corporation shall automatically be a member of the corporation. No person other than an Owner may be a member of the corporation. The purchaser of a Subdivision Lot (as defined in the Articles of Incorporation) pursuant to an Agreement of Sale recorded in the Bureau of Conveyances of the State of Hawaii shall be deemed to be a member unless the membership or voting rights are retained by the seller in the Agreement of Sale. A Personal Representative may exercise membership and voting rights for any Subdivision Lot owned or controlled by him in such capacity.

SECTION 2.2 Proof of Status. No person or entity shall exercise the rights of membership in the corporation until satisfactory proof has been furnished to the Secretary of the corporation that he or it is an Owner of a Subdivision Lot. Such proof may consist of a copy of a duly executed and acknowledged deed or Agreement of Sale, recorded in the Bureau of Conveyances of the State of Hawaii and filed with the corporation, or a title insurance policy, or a certificate of title from a licensed abstractor, showing said person or entity to be the Owner of a Subdivision Lot as defined in the Articles of Incorporation. Proof of Personal Representative status may consist of a filed or certified copy of Letters Testamentary, Letters of Administration, or other appropriate Court Order. Any such deed, Agreement of Sale, policy, certificate, or Court document shall be deemed conclusive in the absence of a conflicting claim based upon a later deed, Agreement of Sale, policy, certificate, or Court document.

SECTION 2.3 Certificate of Membership. The Board of Directors of the corporation may provide for the issuance of certificates evidencing membership in the corporation which shall be in such form as may be determined by the Board. All such certificates evidencing membership shall be consecutively numbered and the name and address of each member and the date of issuance of the certificate shall be entered on the records



of the corporation maintained by its Secretary. If any certificate shall become lost, mutilated or destroyed, a new certificate may be issued therefor upon such terms and conditions as the Board may direct.

SECTION 2.4 Record Address. Upon the acquisition of any Subdivision Lot by recorded deed or Agreement of Sale, each new member shall promptly furnish to the Secretary of the corporation an address to which the corporation may mail or deliver any and all notices, demands or documents required or permitted to be mailed or delivered by these Bylaws, by law or otherwise. Failure to furnish such an address shall constitute a waiver by such member of the right to receive any such notice, demand or document.

### ARTICLE III

#### VOTING RIGHTS

SECTION 3.1 Voting Rights. Each member shall be entitled to one (1) vote per Subdivision Lot, except for Class B Members which have three (3) votes per Subdivision Lot as set forth in Article VII of the Articles of Incorporation. If more than one member owns a Subdivision Lot, any of the Co-Owner/members may exercise the vote allocated to the Subdivision Lot on behalf of the other Co-Owner/members unless the corporation is notified (in writing by an absentee Co-Owner/member or in person by any Co-Owner/member) that the Co-Owner/members of the Subdivision Lot disagree as to how the

vote should be cast. In such event, each Co-Owner/member shall be entitled to a share of the vote in proportion to his share of ownership in the Subdivision Lot. If two or more Subdivision Lots are consolidated, the voting interest of the consolidated Subdivision Lot shall equal the total voting interest of the individual Subdivision Lots prior to their consolidation.

SECTION 3.2 Cumulative Voting To Elect Directors.

If not less than forty-eight (48) hours prior to the time fixed for any meeting of the corporation for the election of Directors, members entitled to not less than fifteen percent (15%) of the voting interests shall deliver to any officer of the corporation a request in writing that the election of the Directors be by cumulative voting, then each member shall cumulate his votes, and may cast for any one or more nominees to the Board a vote equivalent to the votes which such member is entitled to multiplied by the number of Directors to be elected. Each member shall be entitled to cumulate his votes and give all thereof to one nominee or to distribute his votes in such manner as he shall determine among any or all of the nominees, and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of Directors to be elected, shall be deemed elected.

SECTION 3.3 Proxies. The authority given by any member to another person to represent him at meetings of the

corporation shall be in writing; shall state the date the proxy is executed and the date the proxy expires; may designate any person as proxy; may be limited as the member desires and indicates; shall be signed by such member; and filed with the Secretary. If the proxy fails to state an expiration date, it shall be valid only for eleven (11) months. A proxy may be revoked by a writing filed with the Secretary or by the death or judicially declared incompetence of such member, or by the attendance of such member at the meeting. A proxy that fails to designate the execution date shall be invalid.

In the case of a Subdivision Lot owned by more than one member, the proxy signed by any Co-Owner/member may be used to exercise the vote allocated to said Subdivision Lot on behalf of the other Co-Owner/members unless the corporation is notified (in writing by an absentee Co-Owner/member or in person by any Co-Owner/member) that the Co-Owner/members of the Subdivision Lot disagree as to how the vote should be cast. In such event, the proxy shall be limited to the share of the vote owned by the Co-Owner/member or members signing the proxy.

#### ARTICLE IV

##### MEETINGS OF MEMBERS

SECTION 4.1 Annual Meeting. The first annual meeting of the members of the corporation shall be held not later than one hundred eighty (180) days after recordation of the first Subdivision Lot conveyance, provided that at least

fifty percent (50%) of the Subdivision Lots have been sold and recorded. If fifty percent (50%) of the Subdivision Lots is not sold and recorded within one (1) year of the recordation of the first Subdivision Lot conveyance, an annual meeting may be called by any member. At such meeting the members may elect a new Board of Directors. Thereafter, the annual meeting shall be held each year on a date selected by the Board, but within three (3) calendar months after the end of each fiscal year, or calendar year if no fiscal year is elected. The members may require, by majority vote of the annual meeting, yearly audit of the corporation's books by a certified public accountant. The members may transact such other business at such meetings as may properly come before them.

SECTION 4.2 Regular Meetings. In addition to the annual meetings, the Board by resolution, or a majority of the voting interests of the members of the corporation by petition, may establish regular meetings at semiannual, quarterly, or other regular intervals.

SECTION 4.3 Special Meetings. Special meetings of the members may be held at any time upon the call of the President or of any two (2) Directors, or upon the written request of not less than twenty-five percent (25%) of the voting interests of the members presented to the Secretary.

SECTION 4.4 Notice of Meetings. Except where and to the extent otherwise required by law or the Articles of Incorporation, notice of each meeting of the members of the corporation, specifying the date, time and place of the meeting and the purposes for which the meeting is called, and specifying whether it is an annual, regular, or special meeting, shall be given by or under the direction of the Secretary to each member of the corporation not less than ten (10) days nor more than ninety (90) days before the date fixed for such meeting, by advising him in writing of the meeting at his residence address or his usual place of business as it appears on the books of the corporation, or by mailing written notice of the meeting, first-class mail, postage prepaid, addressed to him at his said residence address or usual place of business. The notice may include a standard proxy form which shall be valid for the meeting set forth in the notice, may designate any person as proxy, and may be limited as the member desires or indicates. In case of the death, absence, incapacity or refusal of the Secretary, such notice may be given by a person designated either by the Secretary or by the person or persons calling the meeting or by the Board of Directors. If notice is given pursuant to the provisions of these Bylaws, nonreceipt of actual notice of any meeting by any member of the corporation shall in no way invalidate the

meeting or any proceedings taken or any business done at the meeting. Any member of the corporation may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting had been given to him. The presence of any member of the corporation at a meeting shall be the equivalent of a waiver by him of notice of the meeting.

SECTION 4.5 Adjourned Meetings. Any meeting of the members, annual, regular, or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the voting interest present in person or by proxy, but in the absence of a quorum, no other business may be transacted at any such meeting. When any such meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by announcement at the meeting at which such adjournment is taken.

SECTION 4.6 Quorum. The presence at any meeting in person or by proxy of the holders of fifty percent (50%) of the total voting interest of all members shall constitute a quorum for the transaction of business. The members present at a duly called or held meeting at which a quorum is present may

continue to do business until adjournment, notwithstanding the withdrawal of any members which leaves less than a quorum.

If any meeting cannot be held for lack of a quorum, the same may be adjourned, as hereinabove provided, for a period of not less than two (2) days nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirements shall again be the presence in person or by proxy of not less than fifty percent (50%) of the total voting interest of all members.

SECTION 4.7 Majority Vote of Members. When a quorum is present at any meeting, the vote of members having a majority of the voting interest of the members present in person or by proxy, shall be valid and binding upon the corporation except as otherwise provided by law, the Articles of Incorporation or these Bylaws.

SECTION 4.8 Location of Meetings. All meetings of the corporation shall be held at such place within the Kapalua Resort area or such other suitable place as close thereto as may be practical as may be designated by the Board of Directors; provided, however, that unless unusual conditions exist, such meetings shall not be held outside the Island of Maui.

SECTION 4.9 Conduct of Meetings and Order of Business. All meetings of the corporation shall be conducted

in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings. The order of business at all meetings of the members shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting and approval;
- (d) Reports of Officers;
- (e) Report of Board;
- (f) Reports of committees;
- (g) Election of inspectors of election (when so required);
- (h) Election of members of the Board (when so required);
- (i) Unfinished business; and
- (j) New business.

#### ARTICLE V

##### BOARD OF DIRECTORS

SECTION 5.1 ~~Number~~. There shall be a Board of Directors of the corporation of not less than three (3) nor more than five (5) members, and until the members of the corporation shall otherwise determine, the Board of Directors shall consist of three (3) members. Subject to the foregoing limitations, the number of Directors shall be fixed each year



and the Directors shall be elected each year by the members of the corporation at their annual meeting to hold office until their successors shall have been elected, provided that the number of Directors may be decreased or increased subject to the foregoing limitations, and if increased, the additional Directors may be elected by the members at any annual or special meeting called for such purpose, to hold office until their successors shall have been elected. At least one Director must be a resident of the State of Hawaii. Except for the initial Board of Directors, and except in the case where no member of the corporation is a resident of Hawaii, the Directors must be members of the corporation.

SECTION 5.2 Removal of Directors. At any annual, regular, or special meeting of the members of the corporation, any Director may be removed from office, with or without cause, by vote of the holders of a majority of the total voting interest of all members; provided, however, that any Director may not be removed from office prior to the expiration of his term if the votes cast against his removal would be sufficient to elect such Director if voted cumulatively at an election for the entire Board of Directors at which the same total number of votes were cast. Any Director whose removal has been proposed by the members shall be given an opportunity to be heard.

SECTION 5.3 Vacancies. Except for a vacancy created by removal of a Director, vacancies on the Board may be filled by a majority of the remaining Directors though less than a quorum, or by the sole remaining Director, and each Director so elected shall hold office until his successor is elected by the members upon expiration of the term of the Director who was his predecessor. Upon tender of a resignation by a Director, the Board shall have the power to elect his successor to take office at such time as the resignation becomes effective. The members of the corporation may elect a Director at any time to fill any vacancy not filled by the Directors.

Death, incapacity, or resignation of any Director, or his ceasing to be a member of the corporation shall cause his office to become vacant.

A vacancy in the Board of Directors created by the removal of a Director shall be filled by a majority of the members at a duly called special meeting, and any Director so elected shall hold office until his successor is elected by the members upon expiration of the term of the Director who was his predecessor.

SECTION 5.4 Compensation. No Director shall receive compensation for any services he may render to the corporation. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5.5 Powers and Duties. The Common Elements, property, business and affairs of the corporation shall be managed and controlled by the Board of Directors, which shall have and may exercise all of the powers of the corporation, including, without limitation, all of the powers of the corporation as set forth in the Declaration of Covenants, Conditions and Restrictions For Plantation Estates dated April 3, 1990, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-049432 (hereinafter called "CCRs"), except such as are expressly reserved to or may from time to time be conferred upon the members by law, by the Articles of Incorporation, by the CCRs, or by these Bylaws.

Notwithstanding the foregoing, the powers and duties of the Board shall include, but shall not be limited to, the following:

(a) Enforcement of the provisions of the CCRs, these Bylaws and any Rules and Regulations adopted by the corporation;

(b) Payment of all taxes and assessments which are or could become a lien on the corporation, the Common Elements or any property of the corporation. Where one or more members are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and

costs incurred by the corporation to remove or discharge such lien or liens;

(c) Delegation of its powers to committees, agents, officers, representatives and employees;

(d) Contracting for materials and/or services for the Common Elements or other property of the corporation, and to carry out the duties and obligations of the corporation with respect thereto;

(e) Obtaining and maintaining fire, casualty, liability and other insurance coverage for and on behalf of the corporation;

(f) Right of entry in or upon any Subdivision Lot at any time and from time to time and without liability to any member for trespass, damage or otherwise where necessary in connection with construction, maintenance or repair for the benefit of the Common Elements, if for any reason any member fails or refuses to maintain and repair his Subdivision Lot within a reasonable time after written notice of the necessity of said maintenance or repair to said member, provided that the Board shall levy a special assessment against such member and the Subdivision Lot for the cost of said maintenance or repair;

(g) Determination of the common expenses required for the affairs of the corporation, including, without

limitation, the operation and maintenance of the Common Elements and any property of the corporation;

(h) Collection of the common expenses and assessments from the members;

(i) Employment and dismissal of the Managing Agent or other personnel necessary for the maintenance, operation, repair and improvement of the Common Elements or other property of the corporation;

(j) Adoption and amendment of Rules and Regulations pertaining to the operation and use of the Common Elements and other property of the corporation, and/or for the common benefit and betterment of the Subdivision;

(k) Opening of bank accounts on behalf of the corporation and designating the signatories required therefor;

(l) Making of repairs, additions, improvements or alterations to the Common Elements or other property of the corporation in accordance with the CCRs, Articles of Incorporation, and these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

(m) Payment of all common expenses which the Board is required to pay for pursuant to the CCRs, the Articles of Incorporation, these Bylaws, or by law, or which the Board deems necessary or proper to preserve, protect, or benefit the

Plantation Estates Subdivision, the Common Elements, or other property of the corporation; provided that if any such payment is required because of the particular actions or negligence of any member, the cost thereof shall be specially assessed to such member;

(n) Keeping, or causing the Managing Agent to keep, an accurate and current list of members of the corporation and their current addresses, which list shall be maintained at a place designated by the Board of Directors; and

(o) Employing a responsible person, firm or entity, as Managing Agent to manage and control the Plantation Estates Subdivision, the Common Elements, and other property of the corporation, subject at all times to direction by the Board, with such administrative powers and duties as shall be delegated, including such powers and duties as may be necessary or proper in connection with (i) management and operations, (ii) maintenance, repair, replacement and restoration of the Common Elements and any additions or alteration thereto; (iii) purchase, maintenance and replacement of any equipment, (iv) servicing of all utilities to the Subdivision Lots, (v) employment, supervision and dismissal of such personnel as it deems necessary for the maintenance and operations, (vi) contracting with others for the furnishing of such services as it deems proper, (vii) preparation of a proposed budget and

chedule of assessments, (viii) collection of assessments and payment of bills to third parties, (ix) purchase of insurance, and (x) custody and control of all funds and maintenance of books and records and preparation of financial reports. The Board may in its discretion limit, restrict, or withdraw any of the powers granted to the Managing Agent or grant additional powers to the Managing Agent.

#### ARTICLE VI

##### MEETINGS OF DIRECTORS

SECTION 6.1 Meetings. An annual meeting of the Board of Directors shall be held each year immediately after the annual meeting of the members of the corporation and at the place of such annual meeting, without call or formal notice. Regular meetings of the Board of Directors, other than annual meetings, shall be held on such day or days and at such time or times, and at such place or places within the Kapalua Resort area or as close thereto as reasonably possible, as shall be determined from time to time by the Board of Directors; provided, however, that regular meetings of the Board of Directors, including the annual meetings of the Board of Directors, shall be held at least once every six (6) months. Special meetings of the Board of Directors may be called by the President of the corporation or by any two members of the Board of Directors, and any such meeting shall be held on such day,

at such time and at such place within the Kapalua Resort area or as close thereto as reasonably possible as shall be specified by the person or persons calling the meeting.

All meetings of the Board (whether annual, regular or special) shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.

SECTION 6.2 Notice of Meetings. Notice of each regular meeting of the Board of Directors specifying the date, time and place of the meeting shall be given to each Director personally, or by mail, telephone, or telegraph at least five (5) business days, if practical, prior to the date of the meeting. Notice of each special meeting of the Board of Directors specifying the date, time and place of the meeting and the nature of any special business to be considered shall be given to each Director personally, or by telephone or telegraph or by leaving written notice of the meeting at his residence or usual place of business not less than three (3) business days prior to the date of the special meeting. If notice is mailed, such notice shall be mailed not less than five (5) business days prior to the date of the special meeting. Nonreceipt of notice of any meeting, which was so given or mailed, by any Director shall not invalidate the meeting or any proceedings taken or any business done at the meeting.



SECTION 6.3 Waiver of Notice. Any Director may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice by him of notice of the meeting. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 6.4 Quorum. At all meetings of the Board, the presence of a majority of the Directors shall constitute a quorum for the transaction of business, and the vote of a majority of such quorum shall constitute the decision of the Board. A quorum, once established, shall not be broken by the absence of withdrawal of one or more Directors before the meeting is adjourned. If less than a quorum is present, the President or a majority of the Directors present may adjourn the meeting from time to time without further notice. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

SECTION 6.5 Conference Call Meeting. Any Director may participate in a meeting of such Board or any committee of the Board by means of conference telephone or similar communications equipment by means of which all persons

participating in the meeting can hear each other, and participating in such a meeting shall constitute presence in person at such meeting.

SECTION 6.6 ACTION WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the Board or a committee of the Board, may be taken without a meeting, if all Directors or all members of the committee, as the case may be, sign a written consent or consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consent or consents shall be filed with the minutes of Directors' meetings or committee meetings, as the case may be, and shall have the same effect as a unanimous vote.

## ARTICLE VII

### OFFICERS AND AGENTS

SECTION 7.1 Designation. The officers of the corporation shall be a President, a Vice President, a Secretary and a Treasurer who shall hold office until their successors are appointed and qualified. The corporation may have such other officers as may be deemed necessary. Such officers shall hold their offices for such terms and have such authority and duties as may be determined by the Board of Directors. So far as is permitted by law, any two or more offices may be held by the same person, provided there shall be at all times not less

than two persons as officers. In addition to the duties and powers herein set forth, each officer shall have such duties and powers as are commonly incident to his office and such duties and powers as the Board of Directors shall from time to time designate. In all cases where the duties of any officer are not specifically prescribed by the Bylaws or by the Board of Directors, such officer shall obey the orders and instructions of the President.

SECTION 7.2 Election of Officers. The officers of the corporation shall be elected annually by the Board of Directors at the annual meeting of each newly elected Board and shall hold office at the pleasure of the Board.

SECTION 7.3 Removal of Officers. Upon the affirmative vote of a majority of the Directors, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board, called for such purpose.

SECTION 7.4 Duties.

(a) President. The President shall be the chief executive officer of the corporation. He shall preside at all meetings of the corporation and the Board, unless otherwise directed by the Board. He shall have all of the general powers and duties which are incident to the office of a president of a stock corporation organized under Hawaii law,

including but not limited to the power to appoint committees from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the corporation.

(b) Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint a Director to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be assigned to him by the Board or the President.

(c) Secretary. The Secretary shall have charge of the membership ledger, all documents pertaining to the title to all real property owned or held by the corporation, and all rules, regulations and other documents required to be filed with the corporation or in the office of the corporation, an original or duplicate of each of which shall at all times during the usual hours of business be open to the examination of every member at the principal office or place of business of the corporation on the Island of Maui. The Secretary shall record all proceedings of the meetings of the members and directors in a book which shall be the property of the corporation, with the original or duplicate copy to be kept for

that purpose at the office of the corporation and perform such other duties as shall be assigned to him. In the absence of the Secretary from any such meeting, a temporary Secretary shall be chosen who shall record the proceedings of such meeting in the aforesaid book.

(d) Treasurer. Subject to the direction and under the supervision of the Board of Directors, the Treasurer shall have the care and custody of the funds of the corporation, shall have power to endorse for deposit or collection all notes, checks, drafts and other obligations for the payment of money to the corporation or its order, and shall keep or cause to be kept full and accurate financial books and accounts of the corporation and to render statements of the same in such form and as often as required by the Board of Directors.

In general, he shall perform all of the duties incident to the office of Treasurer of a stock corporation organized under the laws of the State of Hawaii. Some or all of the duties of the Treasurer may be delegated to the Managing Agent.

(e) Auditor. The corporation may annually elect a certified public accountant or accounting firm as auditor, who shall not be an officer nor a member, to audit the

books and financial records of the corporation as required by law or as directed additionally by the Board.

SECTION 7.5 Resignation of Officers. The Board of Directors may at any meeting, by vote of a majority of the directors present at such meeting, accept the resignation of any officer of the corporation. Any vacancy occurring in the office of President, Vice President, Secretary, Treasurer, or any other office shall be filled by the Board of Directors, and the officer so chosen shall hold office for the unexpired term of the office where the vacancy occurred and until a successor shall be duly elected and qualified.

SECTION 7.6 Compensation of Officers. No officer shall receive any compensation from the corporation for acting as such.

#### ARTICLE VIII

##### COMMON EXPENSES

SECTION 8.1 Common Expenses. Each member shall be liable for and pay a proportionate share of the common expenses of the corporation. Each Subdivision Lot shall be assessed an equal share. Common expenses shall include all charges, costs and expenses whatsoever incurred by the corporation for and in connection with the administration and operation of the Plantation Estates Subdivision, the Common Elements, and the corporation, including without limitation, all charges for

taxes (except real property taxes and other such taxes which are or may hereafter be assessed separately to each Subdivision Lot); assessments; insurance, including fire and other casualty and liability insurance; any liability whatsoever for loss or damage arising out of or in connection with the Common Elements or any fire, accident or nuisance thereon; cost of repair, restoration, reinstatement, rebuilding or replacement of the Common Elements or other property of the corporation; yard, janitorial, and other similar services; wages, accounting and legal fees, management fees, start-up fees and other necessary expenses of upkeep, maintenance, management and operation, actually incurred on or for the Common Elements and other property of the corporation; and the cost of all utility services, including water, electricity, gas, garbage disposal, telephone, and any other similar services, unless separately metered or otherwise separately attributable to a Subdivision Lot or group of Subdivision Lots, in which case the amounts charged or attributable to a Subdivision Lot or group of Subdivision Lots, as determined by the Board with the advice of a certified public accountant, shall be payable by the Owner or Owners such Subdivision Lot or Lots, as the case may be. The common expenses may also include such amounts as the Board may deem proper to make up any deficit in the common expenses for any prior year. If there should be any excess assessments on

hand at the end of any year, they shall be used to pay common expenses in the following year.

SECTION 8.2 General Operating Reserve. From time to time, as specifically directed by the members at any annual or special meeting, the Board may establish and maintain a General Operating Reserve by monthly assessments against and payment by all members. This General Operating Reserve may be used for such purposes as may be established by the members.

SECTION 8.3 Capital Improvement Reserve Funds. From time to time, as specifically directed by the members, at any annual or special meeting, the Board may establish and maintain one or more Capital Improvement Reserve Funds by the monthly assessments against and payment by all members. Each such Fund may be used for such purposes as may be established by the members.

SECTION 8.4 Assessments. The Board shall from time to time determine the monthly assessments to be charged to each member on the basis of an equal assessment for each Subdivision Lot, unless otherwise determined by the Board for good cause (e.g. in the case of separate meters as set forth in Section 7.1 above).

The assessments shall be based upon the estimated costs and expenses to pay for the common expenses of the corporation and/or to establish a General Operating Reserve



Fund and/or a Capital Improvement Reserve Fund, and/or any other fund or expense approved or adopted by the Board in accordance with the Articles, these Bylaws, the CCRA, or by law. In determining the assessments, the Board may rely upon the advice of a certified public accountant and any estimates or projections deemed reasonable and proper.

Assessment notices shall be provided to each member at least fifteen (15) days before the due date of any new assessment or any assessment that has been increased or decreased. No monthly notices will be sent unless requested by the Board.

SECTION 8.5 Default in Payment of Assessments. Each assessment shall be separate, distinct and personal debts and obligations of the member against whom the same are assessed. If the member shall fail to pay his assessment when due, then he shall pay an additional assessment of ten dollars (\$10.00) for each such failure and all delinquent assessments shall bear interest at the rate of one percent (1%) per month from the assessment due date. In the event of a default or defaults in payment of any such assessment or assessments, in addition to any other remedies herein or by law provided hereof, the Board may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by

a majority of the Board at a regular or special meeting thereof and any such suit may be instituted by the corporation or by the Managing Agent if the latter is so authorized in writing. Each such action shall be brought in the name of the corporation. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees and costs incurred by the corporation.

(b) At any time within ninety (90) days after the occurrence of any such default, the Board may give a notice to the defaulting member stating the date(s) of the delinquency, the amount of the delinquency, and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the Subdivision Lot of such delinquent member. Such claim of lien shall state (1) the name of the delinquent member or reputed member, (2) a description of the Subdivision Lot against which the claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the corporation pursuant to the terms of these Bylaws, and (5) that a lien is claimed against said described Subdivision Lot in an amount equal to the amount of the delinquency. Any such claim of lien shall be signed and acknowledged by any two or more officers or Directors. Upon recordation of a duly executed original or

copy of such claim of lien in the Bureau of Conveyances of the State of Hawaii, the corporation shall have all remedies provided by law. Each default shall constitute a separate basis for a claim of lien or a lien. If the foreclosure is under power of sale, the corporation or any party designated by it in writing shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two officers or Directors or by the person conducting the sale.

In the event any claim of lien has been recorded, and thereafter the corporation receives payment in full of the amount claimed, then upon demand of the member or his successor, and payment of a reasonable preparation and recording fee any two officers or Directors shall prepare, execute and record a release of such lien. The Release shall state the date of the original claim of lien, the amount claimed, the date, the Liber and Page of the recorded lien document, and that the particular lien is released and discharged.

SECTION 8.6 Collection from Tenant. If a member shall at any time rent or lease his Subdivision Lot and shall default for a period of thirty (30) days or more in the payment of the member's assessments, the Board may, so long as such

default shall continue, demand and receive from any renter, tenant, or lessee (hereinafter referred to as "lessee") of the member occupying the Subdivision Lot, the rent due or becoming due from such lessee to the member up to an amount sufficient to pay all sums due from the member, including interest, if any, and any such payment of such rent to the corporation by the lessee shall be sufficient discharge of such lessee, as between such lessee and the member to the extent of the amount so paid. Any such demand or acceptance of rent from any lessee shall not be deemed to be a consent to or approval of any lease by the member or a release or discharge of any of the obligations of the member hereunder or an acknowledgment of surrender of any rights or duties hereunder. If the Board makes demand upon the lessee as aforesaid, the lessee shall not have the right to question the right of the Board to make such demand, but shall be obligated to make the said payments to the corporation as demanded by the Board with the effect as aforesaid.

#### ARTICLE IX

##### RULES AND REGULATIONS

SECTION 9.1 Authorization. Each member recognizes the right and authority of the Board from time to time to establish and amend such uniform rules and regulations (herein called "Rules and Regulations") as the Board may deem necessary

for the management and control of the Subdivision Lots and the Common Elements, and agrees to obey all such Rules and Regulations as the same now are or may from time to time be amended, and see that the same are faithfully observed by the invitees, guests, employees and tenants of each member. The Rules and Regulations shall uniformly apply to and be binding upon all occupants of the Subdivision Lots.

SECTION 9.2 Adoption. The following provisions shall govern the adoption of the Rules and Regulations authorized herein, which shall include the establishment of a system of fines and penalties:

(a) The Board in its discretion shall recommend to the members such Rules and Regulations as are consistent with and in furtherance of existing law, these Bylaws and the CCRs. Upon the vote or written consent of a majority of the voting interests of the members, such Rules and Regulations shall take effect.

(b) The Board in its discretion shall recommend to the members a list of specific fines and penalties for any violation of the Rules and Regulations, these Bylaws, and the CCRs. Upon the vote or written consent of a majority of the voting interests of the members, such fines and penalties shall be imposed and shall be enforceable by the Board as a special assessment. Such remedy shall not be deemed to be

exclusive, and the Board shall have such other remedies as are provided by law, these Bylaws, the CCRs and the Rules and Regulations.

SECTION 9.3 Enforcement Procedures. The Rules and Regulations shall provide that no fine or penalty shall be levied without the following procedural safeguards:

(i) A written statement of the alleged violations shall be provided to any member against whom such charges are made, and such written statement shall provide a date on which the charges shall be heard which shall be not less than thirty (30) nor more than sixty (60) days from the date the member receives the statement.

(ii) The Board shall appoint a panel of three (3) capable persons (one of whom shall be designated as chairman) who may or may not be members, and who shall hear the charges and evaluate the evidence of the alleged violation;

(iii) At such hearing, the member so charged shall have the right to present oral and written evidence and to confront and cross-examine adverse witnesses;

(iv) The panel shall deliver to the member so charged within seven (7) days after the hearing a written decision which specifies the fines or penalties levied, if any, and the reasons therefor;

(v) In the event a member shall correct an alleged violation prior to the hearing date, the Board shall discontinue the proceedings.

#### ARTICLE X

##### RIGHT OF ENTRY

###### SECTION 10.1 Abatement and Enjoinment of Violations.

The violation of the Rules and Regulations, any Bylaw, or the CCRs, shall give the Board the right, in addition to any other rights set forth in these Bylaws:

(a) to enter the Subdivision Lot in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting member, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting member.

SECTION 10.2 Inspection and Corrections. Each member shall grant a right of entry to his Subdivision Lot to the Managing Agent and/or any other person authorized by the Board, for the purpose of making inspections or for the purpose

of correcting any condition originating in his Subdivision Lot and threatening another Subdivision Lot or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in his Subdivision Lot, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the member. In case of an emergency, such right of entry shall be deemed granted, to be effective immediately, whether the member is present at the time or not.

#### ARTICLE XI

##### ENFORCEMENT COSTS/NON-WAIVER

SECTION 11.1 Attorney's Fees and Expenses of Enforcement. All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the corporation for:

- (a) Collecting any delinquent assessments against any member or his Subdivision Lot;
- (b) Foreclosing any lien thereon;
- (c) Enforcing any provision of the CCRs, Bylaws, and Rules and Regulations adopted by the Board; shall be promptly paid on demand by the Board to the corporation by the defaulting member(s) or the member(s) owning any Subdivision Lot in default or violation.



SECTION 11.2 Non-Waiver. The failure of the corporation to insist in any one or more instances upon strict performance or compliance with any of the covenants by any member or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by any member, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, unless expressly made and approved by resolution or action of the Board of Directors.

#### ARTICLE XII

#### INSURANCE AND RESTORATION

##### SECTION 12.1 Fire and Extended Coverage Insurance.

The corporation shall purchase at all times maintain insurance which covers the Common Elements and any other property of the corporation against loss or damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The insurance coverage shall be written on the property in the name of the corporation. Premiums shall be common expenses.

SECTION 12.2 Comprehensive Liability Insurance. The corporation shall procure and maintain from a reputable company or companies a policy or policies (herein called the "Policy") of public liability insurance to insure the corporation, the Board, each member, and the Managing Agent and other employees of the corporation against claims for personal injury, death and property damage arising out of the condition of the Common Elements, other property of the corporation, any activities thereon or thereabouts, or contractors of construction work, under a Comprehensive General Liability form to include but not to be limited to (1) Water Damage Legal Liability and (2) Fire Damage Legal Liability.

SECTION 12.3 Damage and Destruction. If the Common Elements or other property of the corporation are damaged by fire or other casualty which is insured against:

(a) The Board shall thereupon contract to repair or rebuild the damaged portions in accordance with plans and specifications therefor, which will restore the same to the design immediately prior to destruction, or if reconstruction in accordance with said design is not permissible under the laws then in force, in accordance with such modified plan as shall be approved by the Board. The insurance proceeds shall be used to pay for such work. If the insurance proceeds are insufficient to pay all the costs of repairing and/or

rebuilding such Common Elements, the Board shall be authorized to pay such costs in excess of the insurance proceeds from the General Operating Reserve (if established), and, if the General Operating Reserve is insufficient for this purpose, the Board may levy a special assessment on the members.

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

(i) An architect or engineer (who may be an employee of the corporation) shall be in charge of the work.

(ii) Each request for payment shall be made on seven (7) days' prior notice to the Board or its agent and shall be accompanied by a certificate to be made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is just and proper (giving a brief description of such services and materials), and that when added to all sums previously paid, the sum requested does not exceed the value of the work done to the date of such certificate.

(iii) Each request shall be accompanied by waivers of liens satisfactory to the Board, covering that part of the work for which payment or reimbursement is being

requested, it being understood that the Board may require a search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Board, that there has not been filed with respect to the premises any mechanics' or materialmen's lien.

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

(v) Such other conditions not inconsistent with the foregoing as the Board may reasonably request.

(c) To the extent that any loss, damage or destruction is covered by insurance procured by the Board, the Board shall have no claim or cause of action for such loss, damage or destruction against any member. To the extent that any loss, damage or destruction to the property of any member is covered by insurance procured by such member, such member shall have no claim or cause of action for such loss, damage or destruction against the corporation, the Board, the Managing Agent, or any other member. All policies of insurance referred to herein shall contain appropriate waivers of subrogation.

ARTICLE XIII

BOOKS AND RECORDS

SECTION 13.1 Owner's Right to Inspect. The books and records of the corporation, including the membership register, books of account, minutes of meetings of the corporation, the Board and of committees formed by the Board shall be made available for inspection and copying by any member at any reasonable time and for a purpose reasonably related to his interest as a member. The Board may establish reasonable rules with respect to (i) notice to be given to the custodian of the books and records of the corporation by the members desiring to make such inspection, (ii) the hours and days of the week when such an inspection may be made, and (iii) payment of the cost of reproducing copies of such documents requested by any member.

SECTION 13.2 Director's Right to Inspect. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the corporation and any physical property owned or controlled by the corporation. This right of inspection by a Director includes the right to make extracts and copies of documents.

SECTION 13.3 Balance Sheets and Financial Statements. Financial statements for the corporation shall be regularly prepared and distributed to all members as follows:

(a) A pro forma operating statement (budget) for each fiscal year (which may include a reserve for the repair and replacement of Common Elements) shall be distributed not less than sixty (60) days before the beginning of each fiscal year of the corporation. The budget shall include (but not limited to) all of the following:

(i) Estimated revenues and expenses on a cash basis.

(ii) Total cash reserves available for replacement or major repair of Common Elements and for contingencies.

(iii) Itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to, major components of the Common Elements and any other property for which the corporation is responsible.

(b) A report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year;

(i) A balance sheet as of the end of the fiscal year.

(ii) An operating (income) statement for the fiscal year.

(iii) A statement of changes in financial position for the fiscal year.

#### ARTICLE XIV

##### EXECUTION OF DOCUMENTS/CHECKS

SECTION 14.1 Execution of Contracts. The Board of Directors, except as may be otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument or document in the name of and on behalf of the corporation and such authority may be general or confined to specific instances. Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts, promissory notes and other evidences of indebtedness, deeds of trust, mortgages and other corporate instruments or documents requiring the corporate seal shall be executed, signed or endorsed by the President or Vice President, and by the Secretary or Treasurer.

SECTION 14.2 Checks and Drafts. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the corporation shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors. In the

absence of such resolution, any two officers shall be authorized to sign or endorse same.

ARTICLE XV

GENERAL PROVISIONS

SECTION 15.1 Notices. All notices hereunder shall be sent by first class mail, postage prepaid, to the corporation, c/o the Managing Agent, or if there is no Managing Agent to the office of the corporation or to such other address as the Board may hereafter designate from time to time, by notice in writing to all members. All notices to any member shall be sent by first class mail, postage prepaid, to his address in the Subdivision, or to such other address as may have been provided in writing to the corporation from time to time. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

SECTION 15.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws, or the intent of any provisions thereof.

SECTION 15.3 Gender. The use of any gender in these Bylaws shall be deemed to include either or both of the other genders and the use of the singular shall be deemed to include the plural whenever the context so requires.



SECTION 15.4 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

SECTION 15.5 Interpretation. The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a desirable community where the members carry out and pay for the operation and maintenance of the Subdivision and its Common Elements.

SECTION 15.6 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or enforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

SECTION 15.7 Fiscal Year. The fiscal year of the corporation shall be such as may from time to time be established by the Board of Directors.

#### ARTICLE XVI

#### AMENDMENTS

These Bylaws may be altered, amended, added to or repealed at any meeting duly called and held if notice of the proposed amendments shall have been given in the call for such

meeting, by action of not less than seventy-five percent (75%)  
in voting interest of the corporation.

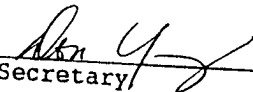
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CERTIFICATE OF SECRETARY

I certify that:

1. I am the Secretary of the PLANTATION ESTATES LOT OWNERS' ASSOCIATION.
2. The attached Bylaws are the Bylaws of the PLANTATION ESTATES LOT OWNERS' ASSOCIATION adopted at the First Meeting of the Board of Directors on January 31, 19 91.

DATED: January 31, 19 91.

  
Secretary