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STATE OF HAWAII

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TITLE OF DOCUMENT:

FIRST RESTATEMENT OF DECLARATION OF CONDOMINIUM PROPERTY REGIME OF
POINCIANA MANOR

PARTIES TO DOCUMENT:

ASSOCIATION OF APARTMENT OWNERS OF POINCIANA MANOR

PROPERTY DESCRIPTION:

- * POINCIANA MANOR CONDOMINIUM PROJECT
- * CONDOMINIUM MAP NO. 358
- * TMK NO. 4-2-001-048 (1)

FIRST RESTATEMENT OF DECLARATION OF CONDOMINIUM
PROPERTY REGIME OF POINCIANA MANOR

WHEREAS, by Declaration of Horizontal Property Regime (now known as the Declaration of Condominium Property Regime) dated May 20, 1974, recorded at the Bureau of Conveyances of the State of Hawaii (hereinafter referred to as the "Bureau of Conveyances") in Liber 9956, at Page 70 (Condominium Map No. 358), James C. Castle, James Gordon McIntosh and Hawaiian Trust Company, Limited, Trustees of the trust estates established pursuant to the Last Will and Testament, including Codicils First through Fifth, of Harold K. L. Castle, deceased, and Iolani School, a Hawaii eleemosynary corporation, as fee owners, and Lewers & Cooke, Inc., a Hawaii corporation, as lessee, did submit the property described in said Declaration to the provisions of the Horizontal Property Act, Chapter 514, Hawaii Revised Statutes, as amended, (now known as the "Condominium Property Act, Chapter 514A, Hawaii Revised Statutes");

WHEREAS, said Declaration of Horizontal Property Regime, as amended (hereinafter referred to as the "Declaration"), provided for the organization of the Association of Apartment Owners of Poinciana Manor (hereinafter referred to as the "Association") and established By-Laws therefor, which said By-Laws were attached to the Declaration and incorporated therein by reference;

WHEREAS, Section 514A-82.2(a), Hawaii Revised Statutes, provides that associations of apartment owners may at any time restate the declarations of condominium property regimes ("declarations") of the associations to set forth all amendments thereof by resolution adopted by the Board of Directors;

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

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

WHEREAS, the Board of Directors of the Association by adoption of a resolution, voted to record a restated version of the Association's Declaration which would set forth the provisions of the Declaration, as amended and which would conform to Chapter 514A, Hawaii Revised Statutes, Chapter 515, Hawaii Revised Statutes, and the Federal Fair Housing Act, as amended.

NOW, THEREFORE, the Declaration is hereby restated as set forth in the First Restated Declaration set forth in Exhibit "1" attached hereto. Each Declaration provision that has been restated has been identified in the endnotes attached thereto. Said provisions have been restated solely for the purposes of information and convenience. To the extent that there is any conflict between the provisions of the First Restated Declaration and the statute or statutes being implemented, the provisions of the First Restated Declaration shall be subordinate to said statute or statutes. The First Restated version of the Declaration correctly sets forth, without change, the corresponding provisions of the Declaration, as amended. The First Restated version of the Declaration shall supersede the original Declaration and all prior amendments thereto; provided, however, that in the event of any conflict, the First Restated version of the Declaration shall be subordinate to the original Declaration and all prior amendments thereto.

DATED: Honolulu, Hawaii, this 2ND day of December, 1996.

ASSOCIATION OF APARTMENT OWNERS
OF POINCIANA MANOR

By Lawrence Williams
Print Name: LAWRENCE WILLIAMS
Its: PRES

By Herbert E. Sawin
Print Name: Herbert E. Sawin
Its: V.P.

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS:

On this 2nd day of December, 1996, before me personally appeared Herbert E. Sawin, to me personally known, who being by me duly sworn, did say that he is the Vice President of the Board of Directors of the Association of Apartment Owners of Poinciana Manor, that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that he executed the same as the free act and deed of said Association. Said Association has no seal.


Notary Public, State of Hawaii

My commission expires: June 12, 1999

C.S.

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS:

On this 2nd day of December, 1996, before me personally appeared Lawrence Williams, to me personally known, who being by me duly sworn, did say that he is the President of the Board of Directors of the Association of Apartment Owners of Poinciana Manor, that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that he executed the same as the free act and deed of said Association. Said Association has no seal.


Notary Public, State of Hawaii

My commission expires: June 12, 1999

C.S.

NOT FOR REPRODUCTION IN ESTATE TRANSACTIONS

EXHIBIT "1"

NOT FOR REAL ESTATE TRANSACTIONS

FIRST RESTATED DECLARATION OF
CONDOMINIUM PROPERTY REGIME
OF
POINCIANA MANOR

WHEREAS, JAMES C. CASTLE, JAMES GORDON MCINTOSH and HAWAIIAN TRUST COMPANY, LIMITED, Trustees of the trust estates established pursuant to the Last Will and Testament, including Codicils First through Fifth, of Harold K. L. Castle, deceased, hereinafter collectively called "the Trustees", and IOLANI SCHOOL, a Hawaii eleemosynary corporation, own in fee simple the real property described on Exhibit "A" attached hereto and hereby made a part hereof, the Trustees and Iolani School being hereinafter sometimes collectively called the "Declarant";

AND WHEREAS, LEWERS & COOKE, INC., a Hawaii corporation, whose principal place of business and post office address is 550 Paiea Street, and P.O. Box 9607, Honolulu, Hawaii, respectively, herein called "Lessee", is the holder of a Master Tract Lease covering said real property recorded in the Bureau of Conveyances of the State of Hawaii in Liber 9372 at Page 41, and pursuant to the terms of said lease, Lessee has undertaken to improve said land by the construction thereon of certain improvements hereinafter described in accordance with plans incorporated herein by reference and recorded in said Bureau as Condominium Map No. 358;

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "Poinciana Manor", the Declarant and Lessee, subject to the reservations and encumbrances set forth on Exhibit A, hereby submit said property to the Horizontal Property

Regime established by the Horizontal Property Act, Chapter 514, Hawaii Revised Statutes (now known as a condominium property regime established by the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes), as amended, and in furtherance thereof make the following declarations as to divisions, limitations, restrictions, covenants and conditions, and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and for the benefit of the parties hereto, their respective successors and assigns, and all subsequent owners and lessees of all or any part of the project and their respective successors, heirs, executors, administrators and assigns:

A. DIVISION OF PROPERTY: The project is hereby divided as follows:

1. Apartments. A freehold estate is hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 180 apartment units of the project contained in one building. There is one four story building, the first story of which is a covered parking structure containing 360 parking stalls constructed principally of concrete, and the remaining three (3) stories are apartment units constructed principally of wood. The building contains three (3) elevators which service all apartment units above the second floor by means of a corridor system. These spaces, together with adjacent

balconies, herein called "apartments", are shown on said Condominium Map and described as follows:

(a) Each apartment is numbered and located as shown on said Condominium Map. There will be 63 apartments located on the second floor numbered 201 to 263 inclusive. There will be 63 apartments located on the third floor numbered 301 to 363 inclusive. There will be 54 apartments located on the fourth floor numbered 405 to 453 inclusive, 455 to 458 inclusive, and 463. The last two digits in an apartment number indicate the position of the apartment on the floor. The first digit in an apartment number indicates the floor on which the apartment is located;

(b) Each apartment contains the number of rooms and approximate gross covered floor area according to its respective plan, as shown on said Condominium Map, each such plan being designated A, A-2, B, B-2, D, D-1, F, F-1, F-2, and G, as follows:

Plan A. Four (4) apartments (202, 203, 260, 261) are one story units containing 5 rooms, including two bedrooms and one bath and floor area of approximately 825 square feet. The apartments include a balcony with an additional square footage of 182 square feet as shown on said Condominium Map.

Plan A-2. Two (2) apartments (201, 259) are one story units containing 5 rooms, including two bedrooms and one bath and floor area of approximately 825 square

feet. The apartments include a balcony with an additional square footage of 300 square feet as shown on said Condominium Map.

Plan B. Four (4) apartments (302, 303, 360 and 361) are two story units containing 7-1/2 rooms including three bedrooms and 2-1/2 baths and floor area of approximately 1,467 square feet. The apartments include balconies with an additional square footage of 257 square feet as shown on said Condominium Map.

Plan B-2. Two (2) apartments (301 and 359) are two story units containing 7-1/2 rooms including three bedrooms and 2-1/2 baths and floor area of approximately 1,447 square feet. The apartments include balconies with an additional 289 square feet.

Plan D. Seven (7) apartments (204, 225, 241, 254, 262, 325, 341) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,124 square feet. The apartments include balconies with an additional square footage of from 126 to 1,010 square feet as shown on said Condominium Map.

Plan D-1. Five (5) apartments (304, 354, 362, 425, 441) are one story units containing 7 rooms including three bedrooms and two baths and floor area of approximately 1,166 square feet. The apartments include balconies with an additional 134 square feet.

Plan E: Fifty-seven (57) apartments (205, 206, 207, 211, 216, 219, 223, 224, 226, 229, 231, 239, 240, 242, 252, 253, 255, 258, 263, 305, 306, 307, 311, 316, 319, 323, 324, 326, 329, 331, 339, 340, 342, 352, 353, 355, 358, 363, 405, 406, 407, 411, 416, 419, 423, 424, 426, 429, 431, 439, 440, 442, 452, 453, 455, 458, and 463) are one story units containing 6 rooms including two bedrooms and two baths and floor area of approximately 944 square feet. The apartments include balcony with an additional square footage of from 82 to 266 square feet as shown on said Condominium Map.

Plan F-1. Twenty-five (25) apartments (212, 213, 257, 309, 312, 313, 314, 321, 322, 327, 337, 346, 356, 357, 409, 412, 413, 414, 421, 422, 427, 437, 446, 456, 457) are one story units containing 6 rooms including two bedrooms and two baths and floor area of approximately 944 square feet. The apartments include balconies with an additional square footage of from 114 to 455 square feet as shown on said Condominium Map.

Plan F-2. Eight (8) apartments (209, 214, 221, 222, 227, 237, 246, 256) are one story units containing 6 rooms, including two bedrooms and two baths and a floor area of approximately 944 square feet. The apartments include balcony with an additional square footage of from 266 to 464 square feet as shown on said Condominium Map.

Plan G. Sixty-six (66) apartments (208, 210, 215, 217, 218, 220, 228, 230, 232, 233, 234, 235, 236, 238, 243, 244, 245, 247, 248, 249, 250, 251, 308, 310, 315, 317, 318, 320, 328, 330, 332, 333, 334, 335, 336, 338, 343, 344, 345, 347, 348, 349, 350, 351, 408, 410, 415, 417, 418, 420, 428, 430, 432, 433, 434, 435, 436, 438, 443, 444, 445, 447, 448, 449, 450, 451) are one story units containing 6 rooms including two bedrooms and 2 baths and floor area of approximately 959 square feet. The apartments include balcony with an additional square footage of from 82 to 266 square feet as shown on said Condominium Map.

Each Plan A, A-2, B-2, F-1, and F-2 apartment has a storage area within its balcony.

(c) Each apartment has immediate access to the corridors, elevators, stairways, walkways and driveways connecting its building to the street entrances of the project.

(d) The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to

Doors are common elements

include the adjacent balcony as shown on said Condominium Map, all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

2. Common Elements. The common elements include, but are not limited to:

(a) Said land in fee simple.

(b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter walls and interior load-bearing walls and roofs of the residential building.

(c) All yards, grounds and landscaping, the swimming pool and other recreational facilities, bulk storage areas, all refuse facilities, if any, whether within or appurtenant to the project.

(d) The hallways and corridors, stairs, stairways, (except such of the foregoing as may be within an apartment) driveways, parking areas, roads, loading zones, walkways, which are rationally of common use by owners of more than one apartment.

(e) The three elevators, elevator shafts and well and appurtenant installations and apparatus.

(f) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities over, under and across the project which serve more than one apartment for services such as power, light, water, gas,

sewer, telephone and radio and television signal distribution.

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

3. Limited Common Elements. Certain parts of the common elements herein called the "limited common elements", are hereby designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements which consist of two covered parking spaces designated on said Condominium Map by the same number as the apartment to which they are appurtenant.

B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided interest in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting as is set forth opposite its respective plan.

<u>Plan of Unit</u>	<u>Percentage of Undivided Interest in Common Elements Appurtenant</u>	<u>No. of Units</u>	<u>Total Percentage of Ownership Per Unit Plan</u>
A	.4696465980	4	1.8785863922
A-2	.4696465980	2	.9392931961
B	.8351170416	4	3.3404681664
B-2	.8237316695	2	1.6474633391
D	.6398579105	7	4.4790053738
D-1	.6637671919	5	3.3188359595
F	.5373895619	57	30.6312050279
F-1	.5373895619	25	13.4347390470
F-2	.5373895619	8	4.2991164951
G	.5459285909	66	36.0312870029

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, the apartments and common elements shall have and be subject to the following easements:

1. Each apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for and support of such apartment; in the other common elements for use according to the respective purposes, subject always to the exclusive or limited use of the limited common elements as herein provided; and in all other apartments of its building for support.

2. If any part of the common elements encroaches upon any apartment or limited common element, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event the building comprising the project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

3. The Association of Apartment Owners of the project shall have the right, to be exercised by its Board of Directors (herein called "the Board") or Managing Agent, to enter any apartments and limited common elements from time to time during reasonable hours as may be necessary for the operation of the project or for making emergency repairs therein required to prevent

damage to any apartments or common elements or for the installation, repair or replacement of any common elements.

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

E. USE. The apartments shall be occupied and used for residential purposes only and for no other purpose. No business, trade, or commercial activity shall be carried on or conducted in or from any apartment or the common elements. The apartments shall not be rented for transient or hotel purposes, which are defined as (a) rental for any period less than 30 days, or (b) any rental in which the occupants of the apartment are provided customary hotel services such as room service for food and beverage, maid service, laundry and linen or bellboy service. The owners of the respective apartments shall have the right to lease such apartments subject to the provisions of this Declaration, including, but not limited to, this Paragraph E, the By-Laws, the House Rules, and the apartment

leases (with respect to leasehold apartments).

F. ADMINISTRATION OF PROJECT. Administration of the project shall be vested in its Association of Apartment Owners, herein called the "Association", consisting of all apartment owners of the project in accordance with the By-Laws of the Association attached hereto as Exhibit B and made a part hereof. Operation of the project and maintenance, repair, replacement and restoration of common elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Condominium Property Act, this Declaration and the By-Laws, and specifically but without limitation the Association shall:

1. Make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon adjoining or in connection with or for the use of the project or any part thereof.

2. Keep all common elements of the project in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the project or the use thereof.

3. Well and substantially repair, maintain, amend and keep all common elements of the project, including without limitation the building, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and maintain and keep said land and all

adjacent land between any street boundary of the project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary, and repair and make good all defects in the common elements of the project herein required to be repaired by the Association.

4. Before commencing or permitting construction of any improvement on the project which costs in excess of \$20,000.00, obtain or require the contractor or person or entity making such improvement to obtain and deposit with the Declarant (and the Lessee during the continuance in effect of its lease) a bond naming as obligee the Declarant, the Lessee, during the continuance in effect of its lease, and collectively all other apartment owners as their interests may appear with a corporate surety and in form acceptable to the Declarant guaranteeing completion of such construction without cost to the Declarant and the Lessee in accordance with the contract therefor free and clear of all mechanic's and materialmen's liens and shall be in a penal sum not less than 100% of the cost of such construction.

5. Observe any setback lines affecting the project as may be shown on said Condominium Map, and not erect, place or maintain any building or structure whatsoever except approved fences or walls between any street boundary of the project and the setback line along such boundary.

6. Not erect or place on the project any building or structure including fences and walls, nor make additions or structural alterations to or exterior changes of any common element of the project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications therefor including a detailed plot plan, prepared by a licensed architect if so required by the Declarant (or the Lessee during the continuance in effect of its lease) first approved in writing by the Declarant (and the Lessee during the continuance in effect of its lease), and also approved by a majority of apartment owners (or such larger percentage as required by law or this Declaration) and complete any such improvements diligently after the commencement thereof.

Notwithstanding the foregoing or any other provision herein, the Board shall be authorized, without being required to satisfy any approval requirements set forth herein or in the By-Laws, to install on the common elements one or more identification signs visible to vehicular traffic on Aoloa Street and/or Aoloa Place. Said sign(s), if installed, shall include the name of the project and may include such other information as the Board determines appropriate.

7. Not make or suffer any strip or waste or unlawful, improper or offensive use of the project.

8. Not erect, place or maintain any television or other antennas on said project visible from any point outside of said project.

G. MANAGING AGENT. Operation of the project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed in accordance with the By-Laws. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in the Condominium Property Act.

H. COMMON EXPENSES. All charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration of the project, including without limitation the operation thereof, any maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto, any labor, services, materials, supplies and equipment therefor, any liability whatsoever for loss or damage arising out of or in connection with the common elements or any accident, fire or nuisance thereon, and any premiums for hazard and liability insurance herein required with respect to the project shall constitute common expenses of the project for which all apartment owners shall be severally liable in proportion to their respective common interests. Rent and real property taxes and assessments provided for by the Declaration of Covenants, Conditions and Restrictions affecting the premises and special assessments referred to in Section 514A-6, Hawaii Revised Statutes, shall not be common expenses of the Association and no payments thereof shall be payments of such common expenses. The Board shall from time to time assess the common expenses against all the apartments in their respective proportionate shares, and the unpaid amount of such assessments against any apartment shall constitute

a lien against the apartment owner's interest in such apartment which may be foreclosed by the Association acting by and through its Board or Managing Agent as provided by the Condominium Property Act.

I. COMPLIANCE WITH DECLARATION AND BY-LAWS.

All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws of the Association and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association, or in a proper case, by any aggrieved apartment owners.

J. INSURANCE.

The Board on behalf of the Association at its common expense shall at all times keep the building insured against loss or damage by fire with special form coverage in an insurance company authorized to do business in Hawaii in an amount as near as practicable to the full replacement cost thereof without deduction for depreciation (but with such deductible or deductibles as the Board determines appropriate), in the name of the Board as Trustee for all apartment owners and mortgagees according to the loss or damages to their respective apartments and appurtenant common interest, and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall

designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with the Declarant and with the Lessee during the continuance in effect of its lease true copies of such insurance policies or current certificates thereof, without prejudice to the right of each apartment owner to insure his apartment for his own benefit. In every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the building in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall:

1. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by or for any apartment owner;

2. Contain no provision relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition of any other act or neglect by the Board, or any apartment owner or any other persons under either of them;

3. Provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least 30 days prior written notice thereof to the Board, Trustee, the Lessee during the continuance in effect of its lease, and every other person in interest who shall have requested such notice of the insurer;

4. Contain a waiver by the insurer of any right of subrogation to any right of the Board, Trustees, Lessee, or apartment owners against any of them or any other persons under them;

5. Contain a standard mortgagee clause which shall:

(a) Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment or apartment lease of the project, in their respective order and preference, whether or not named therein;

(b) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Trustees, Lessee, or apartment owners or any persons under any of the them;

(c) Waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause; and,

(d) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said Bank or Trust Company designated by the Board.

Notwithstanding anything contained herein to the contrary, the Board shall be permitted to secure the insurance required herein and by Chapter 514A, Hawaii Revised Statutes, with a deductible or deductibles in such amount or amounts as determined appropriate by the Board of Directors. In the event that the full amount or kind of insurance required or permitted by this Paragraph J is not reasonably obtainable from an authorized insurer, the Board may procure surplus lines insurance from an unauthorized insurer (as defined in Chapter 431, Article 8, Part I, Hawaii Revised Statutes, as amended from time to time) with A.M. Best Ratings of "A-" and "X" or greater (or equivalent) in accordance with Chapter 431, Article 8, Part III, Hawaii Revised Statutes, as amended from time to time.

The Board, on behalf of the Association, at its common expense, shall also effect and maintain at all times comprehensive general liability insurance covering all apartment owners with respect to the project and naming the Declarant and the Lessee, during the continuance in effect of its Lease, as additional assureds in an insurance company authorized to do business in Hawaii with such minimum limits as Declarant shall reasonably specify from time to time by notice of the Board, which

limits shall be, in all events, not less than \$500,000 for injury to one person and not less than \$1,000,000 for injury to more than one person in any one accident or occurrence, and not less than \$500,000 for property damage. True copies of such insurance or current certificates thereof shall at all times be on deposit with the Declarant and the Lessee during the continuance in effect of its lease. Such insurance shall be without prejudice to the right of any apartment owners to maintain additional liability insurance for their respective apartments.

K. CONDEMNATION. In case at any time or times the project or any part thereof shall be taken or condemned by any authority having the power of eminent domain all compensation and damages for or on account of any land shall be payable to and be the sole property of the Declarant, and all compensation and damages for or on account of any improvements on the project shall be payable to such Bank or Trust Company authorized to do business in Hawaii as the Board shall designate as Trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remaining land according to plans therefor first approved as herein provided unless such restoration or replacement is impractical in the circumstances. Unless such restoration or replacement is undertaken within a reasonable time after such condemnation the Association at its common expense shall remove all remains of such

improvements so taken or condemned and restore the site thereof to good orderly condition and even grade.

L. UNINSURED CASUALTY. In case at any time or times any improvements of the project shall be substantially damaged or destroyed by any casualty not herein required to be insured against, whether to rebuild, repair, or restore such improvements shall be determined by affirmative vote of seventy-five per cent (75%) of the apartment owners. Any such approved restoration of the common elements shall be completed diligently by the Association at its common expense, and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed according to the original plan and elevation thereof or such other plan first approved as provided herein. Unless such restoration is undertaken within a reasonable time after such casualty the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

M. ALTERATION OF PROJECT.

1. Restoration or replacement on or appurtenant to the project or the building, or any other structure thereof, or construction or structural alteration or addition to any such structure, different in any material respect from said Condominium Map of the project, shall be undertaken by the Association or any apartment owner only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote or written

consent of owners of apartments to which are appurtenant at least 75% of the common interest, and in accordance with complete plans and specifications therefor first approved in writing by the Declarant, the Lessee during the continuance in effect of its lease, and the Board, and promptly upon completion of such restoration, replacement, construction, structural alteration, or addition to any structure, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the project as so altered, certified as built by a registered architect or professional engineer.

2. Nonmaterial additions to or alterations of an apartment shall require the written consent thereto and written approval of the apartment owner's plans therefor by only the Board of Directors of the Association, all other apartment owners thereby directly affected (as determined by said Board) and the Declarant and Lessee during the continuance in effect of its lease, and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the project as so altered. The reference to "nonmaterial" alterations and additions herein shall mean alterations and additions that do not jeopardize the soundness or safety of the project, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any non-consenting owner of the use or enjoyment of any part of the project, or directly affect any non-consenting owner.

N. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment of all apartment owners in equal monthly installments of their respective proportionate shares of such reasonable annual amount as the Board may estimate as adequate to cover each apartment owner's obligations to provide for utilities, insurance, maintenance and repair of the common elements and other expenses of administration of the project, which shall be deemed conclusively to be a common expense of the project. The Board may include reserves for contingencies in such assessment, and such assessment may from time to time be increased or reduced in the discretion of the Board. The proportionate interest of each apartment owner in said Fund cannot be withdrawn or separately assigned, but shall be deemed to be transferred with such apartment even though not expressly mentioned or described in the conveyance thereof. In case the Horizontal Property Regime hereby created (now known as a "Condominium Property Regime") shall be terminated or waived, said Fund remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners in their respective proportionate shares except for the owners of any apartments then reconstituted as a new Condominium Property Regime. The Board shall comply with the requirements of Section 514A-83.6, Hawaii Revised Statutes, in establishing and maintaining replacement reserves. To the extent that there is any conflict between this Paragraph M and Section 514A-83.6, Hawaii Revised

Statutes, Section 514A-83.6, Hawaii Revised Statutes, shall control.

O. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Condominium Property Act, this Declaration may be amended by the affirmative vote or written consent of owners of apartments to which are appurtenant at least seventy-five percent (75%) of the common interest effective only upon the recording of an instrument setting forth such amendment duly verified and acknowledged by such owners or by any two officers of the Association.

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

Q. FAIR HOUSING. None of the provisions herein or in the By-Laws or House Rules of the Association are intended to be in contravention of the Federal Fair Housing Act or Chapter 515, Hawaii Revised Statutes. The Board will not enforce any provision hereof in any manner that would be in violation of the Federal Fair Housing Act or Chapter 515, Hawaii Revised Statutes. The Board will at all times comply with the provisions of the Federal Fair Housing Act and Chapter 515, Hawaii Revised Statutes, when acting upon requests by handicapped persons to make reasonable modifications to their apartments and/or the common elements of the

project if the proposed modifications are necessary to enable said handicapped persons to have full use and enjoyment of the project. The Board will also comply with the provisions of the Federal Fair Housing Act and Chapter 515, Hawaii Revised Statutes, when acting upon requests by handicapped persons for exemptions from any of the provisions of this Declaration, the By-Laws, or the House Rules which would interfere with said handicapped persons' equal opportunity to use and/or enjoy their apartments and/or the common elements of the project.

NOT FOR REAL ESTATE TRANSACTIONS

EXHIBIT "A"

ALL that certain parcel of land situated at Kailua, Koolaupoko, Oahu, City and County of Honolulu, State of Hawaii, being Lot 4, containing an area of 220,764 square feet, as delineated on the Map entitled Kailua Gardens Unit I and filed in the Bureau of Conveyances of the State of Hawaii as File Plan 1283.

TOGETHER WITH a non-exclusive easement for roadway purposes and a non-exclusive easement for underground utilities in common with others entitled thereto over, across, along, through and under the property described in Exhibit A-1 attached hereto and made a part hereof by this reference, which easements shall automatically terminate insofar as they affect any portion of said property which is acquired by governmental authority for public roadway purposes at the time of such acquisition by governmental authority.

SUBJECT, HOWEVER, to the following:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. To easements over and across all or any portion of the property described in Exhibit A-1 for roadway and utility purposes heretofore granted or leased by Lessor to others.
3. All of the restrictions, covenants, conditions and provisions of that certain Declaration of Covenants, Conditions and Restrictions made by Lessor dated July 6, 1973, recorded in said Bureau of Conveyances in Book 9371 Page 352.

EXCEPTING AND RESERVING unto the Lessor, its successors, tenants, lessees and assigns, easements and rights of way appurtenant to other property held by Lessor for passage on foot and with vehicles and for lines, facilities and appurtenances for electricity, telephone, television and radio antennae, water, sewer, drainage and any other services and utilities over, across, along, through and under the property described in Exhibit A-1, and further reserving unto the Lessor the right to grant to any public utility or governmental authority rights of way over, across, along, through and under the property described in Exhibit A-1 under the usual terms and conditions required by the grantee for such easement rights for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage and similar public services and utilities, and the right to enter for such purposes and to repair such facilities and to trim any trees in the way of such lines.

EXCEPTING AND RESERVING, HOWEVER, unto the Lessor, its successors, lessees and assigns, easements over, across, along, through and under Easement No. 1, as shown on said File Plan 1283 for drainage purposes, together with the right to grant easements for any such rights over said easement area to the State of Hawaii, the City and County of Honolulu, the Board of Water Supply of the City and

County of Honolulu or any other appropriate governmental agency or to any public utility or any other corporation under the usual terms and conditions required by the grantee for such easement rights.

NOT FOR REAL ESTATE TRANSACTIONS

EXHIBIT "A-1"

Parcel 1

ALL that certain parcel of land situated at Kailua, Koolaupoko, Oahu, City and County of Honolulu, State of Hawaii, being Lot 7, containing 66,192 square feet, as delineated on the Map entitled Kailua Gardens Unit I and filed in the Bureau of Conveyances of the State of Hawaii as File Plan 1283.

Parcel 2

All of that certain parcel of land (being a portion of Royal Patent 7983, Land Commission Award 4452, Apana 12 to H. Kalama including Lot 13, Kailua Apartment Lots, File Plan 594), and more particularly described as follows:

Beginning at the Northwest corner of this easement, being also the Northwest corner of Lot 13, and the Northwest corner of Lot 8, Kailua Apartment Lots, File Plan 594, on the Southerly side of Kailua Road, and running by azimuths measured clockwise from true South:

1. 288° 06' 120.00 feet along the Southerly side of Kailua Road; Thence along Lot 9, Kailua Apartment Lots, File Plan 594, on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being;
2. 63° 06' 42.43 feet;
3. 18° 06' 230.00 feet along remainder of L.C. Aw. 4452, Apana 12 to H. Kalama (partly along Lot 9, Kailua Apartment Lots, File Plan 594 and remainder of Parcel D) to the boundary of Parcel B;
4. 108° 06' 60.00 feet along remainder of L.C. Aw. 4452, Apana 12 to H. Kalama, along Parcel B;
5. 198° 06' 230.00 feet along remainder of L.C. Aw. 4452, Apana 12 to H. Kalama (along remainder of parcel D and partly along Lot 8, Kailua Apartment Lots, File Plan 594);

Thence along Lot 8, Kailua Apartment Lots, File Plan 594, on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:

6. 153° 06' 42.43

feet to the point of beginning and containing an area of 15,986 square feet.

SUBJECT, HOWEVER, TO:

1. As to Parcel 2, a 20-foot road setback line along Kailua Road as shown on File Plan No. 594.

NOT FOR REAL ESTATE TRANSACTIONS

FIRST RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF POINCIANA MANOR

ENDNOTES

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

1. The name of the project has been changed from Poinciana Garden to Poinciana Manor pursuant to that certain amendment instrument recorded at the Bureau of Conveyances of the State of Hawaii in Liber 10363, at page 132:
2. The following provisions have been restated to conform with the provisions of that certain amendment instrument recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 96-067640:

Title

Paragraph D
Paragraph E
Paragraph F
Paragraph F.3
Paragraph F.4
Paragraph F.6
Paragraph G
Paragraph H
Paragraph J
Paragraph M
Paragraph N
Paragraph O

3. A new Paragraph Q has been added to conform with the provisions of the Federal Fair Housing Act and Chapter 515, Hawaii Revised Statutes.
4. A reference to the Condominium Property Act, condominium property regime, and Chapter 514A, Hawaii Revised Statutes, was included in the introduction as updating the outdated reference to the Horizontal Property Act, the horizontal property regime, and Chapter 514, Hawaii Revised Statutes.
5. Paragraph N has been restated to conform with Section 514A-83.6, Hawaii Revised Statutes.

All provisions of the Declaration which have been restated to implement the provisions of the Federal Fair Housing Act, Chapter 515, Hawaii Revised Statutes, and/or Chapter 514A, Hawaii Revised Statutes, have been restated solely for the purpose of information

and convenience. In the event of any conflict, the restated provisions shall be subordinate to the provisions of the Federal Fair Housing Act, Chapter 515, Hawaii Revised Statutes, and Chapter 514A, Hawaii Revised Statutes.

NOT FOR REAL ESTATE TRANSACTIONS