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RECORDATION REQUESTED BY:
TITLE GUARANTY OF HAWAII, INC.
for ASHFORD & WRISTON
Phone No. 524-4787

50- 89028

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AFTER RECORDATION, RETURN TO:
TITLE GUARANTY OF HAWAII, INC.
for ASHFORD & WRISTON
Phone No. 524-4787 GL

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RETURN BY: MAIL () PICKUP ()

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LIBERTY
FIRST AMENDMENT TO DECLARATION OF HORIZONTAL PROPERTY REGIME OF KANALOA AT KEAUKOU-FAIRWAY VILLAS
REGISTRAR

WHEREAS, the Declaration of Horizontal Property Regime of Kanaloa at Keauhou-Fairway Villas was recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14262, at Page 242; and

WHEREAS, the floor plans of the project filed simultaneously with said Declaration were designated as Condominium Map No. 667 in said Bureau; and

WHEREAS, Paragraph R of said Declaration provided that NORTH PARK INDUSTRIAL, herein called the "Owner", reserved the right to amend said Declaration without the consent or joinder of any other person, in order to record pursuant to Charter 514A, Hawaii Revised Statutes, as amended, a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers, dimensions and elevations of the apartments as built; and

WHEREAS, Owner desires to make this amendment in order to file the as-built certification required by law as to said project;

NOW, THEREFORE, Owner does hereby amend said Declaration and attach hereto and make a part hereof as Exhibit "A" the Verified Statement of a registered architect certifying, pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, that the set of floor plans heretofore filed in said Bureau as Condominium Map No. 667, fully and accurately depicts the layout, location, apartment numbers, dimensions and elevation of the apartments of Kanaloa at Keauhou-Fairway Villas as built.

IN WITNESS WHEREOF, Owner has executed these presents on

AUGUST 15, 1980.

NORTH PARK INDUSTRIAL
By Its General Partners:

BRATTON DEVELOPMENT CORPORATION

By John E. Bratton
Its President

VENTURA WESTLAKE DEVELOPMENT
CORP.

By Fred Mollenhauer
Its President

STATE OF CALIFORNIA)
) SS
COUNTY OF VENTURA)

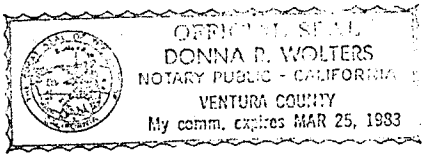
On this 15th day of AUGUST, 1980, before me appeared JOHN C. BRATTON

_____ , to me personally known, who, being by me duly sworn, did say that he is the PRESIDENT

of BRATTON DEVELOPMENT CORPORATION, a California corporation, _____ and that the seal affixed

to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said JOHN C. BRATTON

_____ acknowledged said instrument to be the free act and deed of said corporation.



Donna D. Wolters
Notary Public in and for the above named State and County

My Commission expires: March 25, 1983

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STATE OF CALIFORNIA)
) SS
COUNTY OF VENTURA)

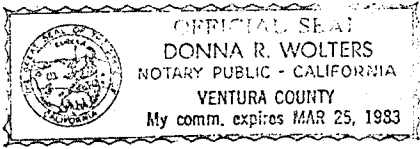
On this 15th day of AUGUST, 1980, before
me appeared FRED MOLDENHAUER

_____, to me personally known, who,
being by me duly sworn, did say that he is the
PRESIDENT

of VENTURA WESTLAKE DEVELOPMENT CORP., a California corporation,

_____ and that the seal affixed
to the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed
in behalf of said corporation by authority of its Board of
Directors and the said FRED MOLDENHAUER

_____ acknowledged said
instrument to be the free act and deed of said corporation.



Donna R. Wolters

Notary Public in and for the
above named State and County

My Commission expires: March 25, 1983

EXHIBIT "A"


VERIFIED STATEMENT OF REGISTERED ARCHITECT

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

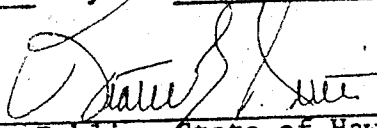
S. RUSSELL ODA, being first duly sworn on oath states as follows:

That he is Registered Professional Architect No. 1644 in the State of Hawaii;

That the set of floor plans and elevations of the buildings of Kanaloa at Keauhou-Fairway Villas, filed in the Bureau of Conveyances of the State of Hawaii as Condominium Map No. 667, fully and accurately depicts the layout, location, apartment numbers, dimensions and elevations of the apartments of Kanaloa at Keauhou-Fairway Villas, as built.


S. Russell Oda

Subscribed and sworn to before me this 11th day of August, 1980.


Notary Public, State of Hawaii

My Commission expires: 3.16.83



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RECORDATION REQUESTED BY:

ASHFORD & WILSON

CM-667

79-144929

79-144930

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

LIBER 14262 PG 242

79 DEC 3 A 8: 01

AFTER RECORDATION, RETURN TO:

ASHFORD & WILSON

6TH FLOOR

255 QUEEN ST

ATTN: DIANE KISHIMOTO

RETURN BY: MAIL () PICKUP ()

[Handwritten signature]
RECORDED

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
KANALOA AT KEAUHOU-FAIRWAY VILLAS
(CONDOMINIUM MAP NO. 667)

WHEREAS, NORTH PARK INDUSTRIAL, a California partnership registered to do business in Hawaii (hereinafter referred to as "Owner"), owns in fee simple certain land situate at Keauhou, North Kona, Island, County and State of Hawaii, more particularly described in Exhibit "A" attached hereto and made a part hereof;

WHEREAS, Owner will improve said land by constructing thereon certain improvements hereinafter described in accordance with the plans recorded simultaneously herewith in the Bureau of Conveyances of the State of Hawaii and designated as the Condominium Map described above, hereinafter referred to as the "Condominium Map";

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements to be known as KANALOA AT KEAUHOU-FAIRWAY VILLAS, the Owner hereby submits said property to the horizontal property regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, and in furtherance thereof hereby makes the following declarations as to divisions, covenants, restrictions, limitations, conditions and uses to which the above described land

and improvements thereon may be put, and hereby declares and agrees that said real 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 of all or any part of the project and their respective successors, heirs, personal representatives and assigns.

A. The Project. The Horizontal Property Regime hereby established shall be known as "KANALOA AT KEAUHOU-FAIRWAY VILLAS" (herein called the "Project").

B. Land Description. The land submitted to the Horizontal Property Regime is submitted in fee simple and is described in Exhibit "A" attached hereto and made a part hereof.

C. Description of the Buildings. There are fourteen separate residential buildings in the Project of either two or three stories constructed principally of wood, metal and glass. There are no basements. The fourteen residential buildings contain a total of 62 apartments. The parking areas provide 94 parking stalls. In addition to the fourteen residential buildings, the Project includes a two-story community building which contains an office, restrooms, a residential unit for the resident manager, a lounge with indoor recreational areas and a lanai.

D. Division of the Property. The project is divided into the following separate freehold estates:

1. Apartments. Sixty-two (62) estates are hereby

designated as apartments in the spaces within the perimeter walls, floors and ceilings of each of the apartments contained in the fourteen (14) separate residential buildings located in the Project as shown on the Condominium Map. The residential buildings are designated as Buildings 1 through 14, inclusive, on the Condominium Map.

In this project there are four building types, described as Building Type A, Building Type B, Building Type C and Building Type D. Building Types A, B, C and D are referred to on the Condominium Map as "Units" A, B, C and D.

Each of Building Types A, B and C are two-story buildings. Each contains four apartments, two two-bedroom apartments on the first floor and two two-bedroom apartments on the second floor. The two apartments on the first floor are both of the same floor plan, which is designated as Apartment Type 1, except that each of the apartments is the reverse of the other. The two apartments on the second floor are both of the same floor plan, which is designated as Apartment Type 2, except that each of the apartments is the reverse of the other.

Building Type D is a three-story building, with a mezzanine over the third story, which contains four one-bedroom apartments and two two-bedroom apartments. There are two apartments on each of the first and second floors and two two-story apartments on the third floor and the mezzanine. The two apartments on the first floor are of the same floor plan, which is designated as Apartment Type 3, except that each of the apartments is the reverse of the other. The two apartments on the second floor are of the same floor plan, which is designated as Apartment Type 4, except that each of the apartments is the reverse of the other. The two apartments on the third

floor and the mezzanine are of the same floor plan, which is designated as Apartment Type 5, except that each of the apartments is the reverse of the other.

The Apartment Types are described in Exhibit "B" attached hereto and made a part hereof.

Each apartment has immediate access to the walkways of the Project which connect the apartment to the parking areas, driveways and the adjacent public street.

Except as specifically otherwise provided in this Declaration, an apartment shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the floors and ceilings which surround 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 herein provided. Each apartment shall be deemed to include all of 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, all lanais, all windows and glass walls at the perimeter of the apartment and all fixtures and appliances originally installed therein for its exclusive use. Said fixtures and appliances consist of: refrigerator/freezer, range with self-cleaning oven, microwave oven, garbage disposal, trash compactor, dishwasher, water heater, washer/dryer, wetbar with refrigerator, drapes and carpets.

2. Common elements. The remaining portions of the Project are hereby designated as and herein called the "common elements", including specifically but not limited to:

- (a) The land described herein.

(b) The yards and grounds, fences, walkways, driveways, parking areas and pavement.

(c) The recreational facilities, including the swimming pools and tennis courts.

(d) Central facilities and appurtenant installations for utility and other common services such as power, light, gas and water.

(e) The residential unit for the resident manager in the community building.

(f) All portions of the residential buildings not expressly included in an apartment.

(g) All other buildings, apparatus and installations existing for common use, including the community building.

(h) All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use.

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

(a) Each apartment shall have appurtenant thereto an exclusive right to use the parking stall or stalls assigned to such apartment as set forth in Exhibit "B" attached hereto and made a part hereof. Each apartment shall always have at least one

parking stall appurtenant to it but otherwise any parking stall may be conveyed and made appurtenant to another apartment by a written instrument expressly identifying the apartment to which the parking stall is appurtenant as well as the apartment to which the parking stall will become appurtenant, which written instrument shall be denominated as an amendment to this Declaration, shall be executed by the owner of each apartment affected with the consent of the mortgagee of each apartment affected. The conveyance and Amendment of Declaration shall be effective upon filing of the same in the Bureau of Conveyances of the State of Hawaii. A copy of said instrument, together with the recording data, shall be given to the Association by the affected apartment owners within 15 days of the filing thereof.

F. Common Interest. Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the Project (herein called the "common interest") as set forth in Exhibit "B" attached hereto and made a part hereof and the same proportionate share in the common profits and expenses of the Project and for all other purposes, including voting.

G. 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 nonexclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for such apartment; in the other common elements for use according to their 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 if any apartment encroaches upon any common element, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. If any portion of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements or apartments due to such 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 or Managing Agent, to enter any apartment or limited common element from time to time during reasonable hours as may be necessary for the operation of the Project or at any time 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.

H. Alteration and Transfer of Interests. Except as otherwise provided herein, the common interest, limited common elements, 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 and their respective mortgagees as expressed in an amendment to this Declaration duly recorded, 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 Horizontal Property Act.

I. Use. The apartments shall be occupied and used as dwellings by the respective owners thereof, their tenants, families, domestic servants and guests. No apartment owner shall enter into or permit, by deed, agreement of sale, lease, license or any other means, the use of his apartment for time-sharing purposes, which shall mean and include, but not be limited to, any plan of ownership wherein particular persons, as owners or otherwise, are permitted to use the apartment and its appurtenances for a particular recurring limited period of time.

Except for the above expressed restrictions, the owners of the apartments shall have the absolute right to lease their respective apartments subject to all provisions of this Declaration and the Bylaws attached hereto as Exhibit "E" and made a part hereof.

J. 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 Bylaws. Operation

of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of said Horizontal Property Act, this Declaration and the Bylaws, and specifically but without limitation the Association shall:

1. Make, build, maintain and repair all fences, sewers, cesspools, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or 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 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, of which notice shall be given by any owner or his agent, within 30 days after the giving of such notice.

4. Before commencing or permitting construction of

any improvement on the Project, obtain and deposit with the Board of Directors a bond or certificate thereof naming as obligees the Association, mortgagees of record and collectively all apartment owners as their interests may appear, in a penal sum equal to the cost of such construction and with a corporate surety authorized to do business in Hawaii, guaranteeing completion of such construction free and clear of all mechanics' and materialmen's liens.

5. Observe any setback lines affecting the Project 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 elements of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications including detailed plot plan, prepared by a licensed architect if so required by the Board, first approved in writing by the Board and also approved by a majority of apartment owners (or such larger percentage as required by law or this Declaration) including all owners of apartments thereby directly affected (as determined by the Board) and their respective mortgagees, and complete any such improvements diligently after the commencement thereof.

7. Not make or suffer any strip or waste except as permitted by this Declaration, nor make or suffer any unlawful,

improper or offensive use of the Project.

K. Managing Agent. Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent, who shall be appointed by the Association in accordance with the Bylaws. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Horizontal Property Act. The initial Managing Agent shall be Kanaloa Realty and Property Managers, Inc., a Hawaii corporation, whose principal place of business is at Kailua Bay Inn, Alii Drive, Kailua-Kona, Hawaii.

L. Common Expenses. All charges, costs and expenses whatsoever incurred 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 and all apartment owners shall be severally liable for such common expenses in the same proportion as their percentage share in the common interests. Taxes authorized by law, including but not limited to special assessments, as referred to in Section 514A-6, Hawaii Revised Statutes, as amended, shall not be common expenses of the horizontal property regime hereby created. The Board of Directors of the Association (herein called the

"Board") shall from time to time assess the common expenses against all the apartments according to their respective obligations therefor and the unpaid amount of such assessments against any apartment shall constitute a lien against such apartment which may be foreclosed by the Board or Managing Agent as provided by said Horizontal Property Act, provided that 30 days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the apartment owner and all other persons having any interest in such apartment as shown in the Association's record of ownership. Upon approval by the Association, any surplus of assessments and other receipts collected over actual expenditures in any one fiscal year shall be used for expenditures for the succeeding fiscal year or designated for capital improvements or returned to the apartment owners. All limited common elements costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements shall be charged to the owner of the apartment to which the limited common element is appurtenant in an equitable manner established, except as otherwise expressly set forth herein or in the Bylaws, by the Board.

M. Compliance with Declaration and Bylaws. All apartment owners, their tenants, families, employees 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 Bylaws of the Association and all agreements, decisions and determinations of the Association duly and 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 owner.

N. Insured Casualty. If any part of the improvements of the Project shall be damaged by an insured casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

1. In the event of partial destruction of the improvements, which shall be deemed to mean destruction which renders less than one-half of the apartments untenable, the improvements shall be reconstructed or repaired unless at a meeting of the Association of Apartment Owners, which shall be called prior to commencement of such reconstruction or repair, eighty percent (80%) or more of the apartment owners vote against such reconstruction or repair, and this Declaration is terminated pursuant to the provisions of Section 514A-21(a)(1), Hawaii Revised Statutes, as amended.

2. In the event of total destruction of the improvements, which shall be deemed to mean destruction which renders one-half or more of the apartments untenable, the improvements shall be reconstructed or repaired unless at a meeting of the Association of Apartment Owners, which shall be called within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss has not been finally adjusted, then within 30 days thereafter, eighty percent (80%) or more of the apartment owners vote against such reconstruction or repair. In the event the property shall not

be reconstructed or repaired pursuant to such vote, the provisions of Section 514A-21(a)(2), Hawaii Revised Statutes, as amended, shall apply.

O. Uninsured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless eighty percent (80%) of the apartment owners vote to the contrary. Any such restoration of the common elements shall be completed diligently by the Association and the affected apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans 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 shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

P. Alteration of Project. Restoration or replacement of the Project or any portion thereof or construction of any additional building or structural alteration or exterior addition to any building, 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 pursuant to the provisions hereof, accompanied by the written consent of the holders of all liens affecting any of the apartments involved, and in accordance with complete plans and specifications therefor

first approved in writing by the Board, and promptly upon completion of such restoration, replacement or construction the Association shall duly file and 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. Additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of such apartment shall be permitted with the approval of the Board of Directors of the Association of Apartment Owners, provided that no work shall be done which would jeopardize the soundness or safety of the Project, reduce the value thereof, violate the uniform external appearance of the apartment, change the number of rooms in the apartment or impair any easement, without in every such case the prior consent of all other apartment owners directly affected thereby (as determined by the Board).

Q. Maintenance Reserve Fund. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all the apartment owners in equal monthly installments of their respective shares of such reasonable annual amount as the Board may estimate as adequate to cover each apartment owner's obligations to the Association. 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 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 shall be terminated, said Fund remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners as their interests may appear, except for the interests of owners of any apartments then reconstituted as a new horizontal property regime.

R. Amendment of Declaration. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by vote of seventy-five percent (75%) of the apartment owners effective only upon the recording of an instrument setting forth such amendment and vote, duly executed by such owners or by the proper officers of the Association. In the case of an amendment to the Bylaws, this Declaration may be amended to set forth such amendment pursuant to such percentage vote as is required by the Bylaws to render the amendment thereof effective. The Owner reserves the right to amend this Declaration at any time or times, without the consent or joinder of any other person, in order to record pursuant to Chapter 514A, Hawaii Revised Statutes, as amended, a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers, dimensions and elevations of the apartments as built.

S. 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 other specified percentage of the

apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

T. Merger of Additional Increments.

1. Any provision of this Declaration to the contrary notwithstanding, the Owner shall have the right at its option to amend the Project, by way of merger, as hereinafter provided, at any time up to, but not later than January 1, 1982, by the construction and addition to the Project of up to one hundred (100) additional apartments, together with such supporting and servicing common elements which the Owner determines in its sole discretion are beneficial to the Project, on up to an additional approximate 9.666 acres of adjoining land, which land is described in Exhibits "C" and "D" attached hereto and made a part hereof. Such additions may be added in two increments as follows:

(a) Increment II. Approximately forty-six (46) apartments on approximately 4.066 acres of land described in said Exhibit "C".

(b) Increment III. Approximately fifty (50) apartments, on approximately 5.600 acres of land described in said Exhibit "D".

2. The Project described herein is the first increment of a proposed three (3) increment project, as described in this paragraph T, which may be developed in two or more increments, all at the option of the Owner. The purpose of the merger provisions of this paragraph T is to provide for a merger of all increments just as if the increments involved had been developed as one single project. A merger may occur with

respect to the second increment or any subsequent increments, or any one of them, at the same or different times and merger with respect to one of said increments shall not affect the right of the Owner to merge another increment or increments at a later date subject to all of the provisions of this Declaration.

3. Merger shall take effect with respect to a particular additional increment upon the happening of all of the following conditions with respect thereto:

(a) Recordation in the Bureau of Conveyances of the State of Hawaii by the Owner of a Declaration of Horizontal Property Regime and Bylaws covering the additional increment in a form substantially identical hereto (except for the descriptions of apartments and the common elements and the percentage of common interest therein and except for such matters as may be required to conform to any amendments of Chapter 514A, Hawaii Revised Statutes, enacted subsequent to the recordation hereof) and a Condominium Map depicting the plot and floor plans of the additional increment, both complying with the requirements of Chapter 514A, Hawaii Revised Statutes, as amended; and

(b) Recordation in the Bureau of Conveyances of the State of Hawaii by the Owner of a "Certificate of Merger", which certificate shall contain:

(i) A certification by a Hawaii registered architect or professional engineer that the final plans theretofore filed for the increments being merged, or being filed simultaneously with such certificate, fully and accurately depict the layout, location, apartment numbers, dimensions and elevations of the apartments of the increments being merged, as built;

(ii) A certification by Owner that the increment has been substantially completed, that a notice of completion has been filed and that the period for filing of mechanics' and materialmen's liens has expired; and

(iii) The common interest of each apartment of the project after completion of the subject merger.

4. The percentage of common interest of each apartment upon merger with an additional increment shall be calculated by dividing such apartment's floor area by the floor area of all apartments in the project after merger. The "floor area" of an apartment includes the total square feet of the apartment and its lanai, if any. The Owner may add or subtract up to .0009% to one apartment owned by the Owner, at its discretion, for the sole purpose of ensuring that the total common interests for all apartments equals 100%.

5. From and after the date of the recordation of said Certificate of Merger with respect to a particular additional increment, the following consequences shall ensue:

(a) Use of Common Elements. The apartments in each of the merged increments shall have the right to use the common elements in each increment to the same extent and subject to the same limitations as are imposed upon an apartment in each increment just as though the merged increments had been developed as one project.

(b) Board of Directors. The Board of the project immediately prior to the merger of a particular additional increment shall govern the merged project after completion of the merger; at a special meeting called for the purpose after the merger, the apartment owners may remove said existing Board and elect a new Board to govern the merged project until the next annual meeting. Procedures for calling and holding such meetings shall be those as set forth in the Bylaws.

(c) Interpretation. For purposes hereof, the merged increments shall be treated as part of a single project developed as a whole from the beginning, and there shall be only one Association of Apartment Owners and one Board, and the Declaration of Horizontal Property Regime and Bylaws applicable to each merged increment shall be construed as one document applicable to the entire project constituting the merged increments except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the

date of each merger all of the property so merged shall be treated as though it had been developed, divided into apartments, held, occupied and used by the owners thereof as a single undivided project.

6. Such additional apartments and common elements of each additional increment shall be located on said additional land, or part thereof, of their respective increment as determined by the Owner in its sole discretion, with reference, however, to the advice of a registered architect or professional engineer. Until the initial conveyance by Owner of such apartments, Owner shall for all purposes be deemed the "apartment owner" as to such additional apartments.

7. In connection with, and only to the extent necessary for the creation of such additional apartments and common elements, as aforesaid, the Owner shall have the right up to January 1, 1982 or upon merger of all three increments, whichever shall first occur, to remove, amend or add common elements; to remove, amend or add parking spaces; to enter upon the project premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing said additional apartments and common elements according to plans and specifications or amended plans and specifications approved by the officer of the County of Hawaii having jurisdiction over the issuance of building permits; to connect the additional apartments and common elements to utilities of the Project, to file amendments to the Declaration for purposes of certifying condominium maps filed as reflecting the improvements shown therein to be "as built"; and to sell or designate owners of the additional apartments. Such rights

shall include the following:

(a) An easement over, under and across the common elements of the Project for the purposes of all work connected with or incidental to the development, construction and sale of apartments in any undeveloped portions of the additional increments;

(b) The right appurtenant to the undeveloped increments, in the nature of an easement over and upon the project and the developed increments to create and cause dust, noise, vibration and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of apartment in said undeveloped increments;

(c) The right to enter the Community Building, swimming pool, tennis courts and other common areas of the Project for the purpose of showing prospective purchasers of apartments in the Project or in undeveloped increments the facilities of the Project;

(d) The right to place signs upon the Project and on undeveloped increments in conjunction with sales of apartments;

(e) The right of the Owner to use any apartment owned or rented by the Owner for sales or display purposes until all apartments in all increments are sold.

Owner shall use its best efforts to keep its exercise of the rights reserved to it in this paragraph T from unreasonably interfering with the rights of the other apartment owners in the Project.

8. In the event of each merger as aforesaid, each owner of a then added apartment shall be required to advance to the Association, as constituted after merger, upon filing of the respective Certificate of Merger, an amount equal to the average existing apartment's share of funds on deposit immediately prior to such merger with the Association hereby created for operation of the merged project, including the Maintenance Reserve Fund, but excluding funds which will be expended during the next 30 days.

9. The Owner shall have the right to execute, acknowledge and deliver any and all instruments necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this paragraph T, all as the true and lawful attorney-in-fact of the respective owners from time to time of the apartments of the Project as herein originally constituted or as merged as aforesaid.

10. No apartment owner in the Project shall enter into or offer to enter into any arrangement with any other apartment owner in the Project whereby any rental pool of apartments or any other sharing of rental income of apartments is established. This restriction shall terminate on the earlier of:

(a) January 1, 1982; or

(b) The date on which all apartments in all increments have been developed and sold by the Owner. The Owner may at any time waive this restriction by written notice to all apartment owners in the Project.

11. After completion of the merger of the prior increment or increments with the additional increment as provided in this paragraph T, the Owner shall have the irrevocable right to amend the Declaration and Bylaws for each increment in their entirety so that there shall be one amended Declaration and Bylaws for all increments for the purpose of showing the merged project with a consolidated description of the land, buildings, apartments, common elements, limited common elements and common interests, and of incorporating into such amended Declaration and Bylaws any statutory requirements enacted subsequent to the recordation of this Declaration and the Bylaws attached hereto, without otherwise changing the form or content of such Declarations and Bylaws. The apartment owners hereby give the Owner their irrevocable power of attorney coupled with an interest to amend the Declaration for such purpose. Upon the filing of such amended Declaration in said Bureau of Conveyances, the Owner shall provide a copy of such amended Declaration to the Managing Agent for the project and each apartment owner at his or her last known address by certified mail. If more than one person owns an apartment, mailing of the amended Declaration to one of the owners shall be sufficient. After the last increment is merged in the Project, the amended Declaration shall omit this paragraph T.

12. If any one or more of the provisions of this paragraph T shall be declared to be contrary to law, then such provision or provisions shall be null and void and shall be deemed separable from the remaining provisions of this paragraph T and shall in no way affect the enforceability of any other provision hereof.

IN WITNESS WHEREOF, the undersigned has executed these presents this 15th day of November, 1979.

NORTH PARK INDUSTRIAL
By Its General Partners:

BRATTON DEVELOPMENT CORPORATION

By John C. Bratton
Its President

By Jean Bratton
Its Assistant Secretary

VENTURA WESTLAKE DEVELOPMENT
CORP.

By Fred M. Melnikow
Its President

By Joseph Goldschlager
Its Secretary