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TITLE OF DOCUMENT:

SECOND AMENDMENT OF THE BYLAWS OF THE
MAUNA LANI RESORT ASSOCIATION

PARTIES TO DOCUMENT:

ASSOCIATION: MAUNA LANI RESORT ASSOCIATION, a Hawaii nonprofit corporation, whose mailing address is 68-150 Ho'ohana Street, Kohala Coast, Hawaii 96743-9704

Waikoloa, District of South Kohala, County of Hawaii, State of Hawaii

MLRA/2nd amend bylaws/0731.08

**SECOND AMENDMENT OF THE BYLAWS
OF THE MAUNA LANI RESORT ASSOCIATION**

WHEREAS, by Declaration of Covenants and Restrictions of the Mauna Lani Resort Association ("Association") made on June 3, 1982 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("Land Court") as Document No. 1120889 and noted on Transfer Certificate of Title No. 154,928 and also recorded in the Bureau of Conveyances of the State of Hawaii ("Bureau") in Liber 16425, at Page 203 ("Declaration"), Mauna Lani Resort, Inc., a Hawaii corporation, as "Declarant", submitted certain real property described in said Declaration, and the developments and improvements to be created and constructed therein and thereon, to certain restrictions, covenants, conditions, provisions and easements as set forth in said Declaration; and

WHEREAS, on or about March 24, 1983, pursuant to the Declaration, the Association approved the "Bylaws of the Mauna Lani Resort Association," ("Bylaws"); an Affidavit of Ian Pullan re the Bylaws of the Mauna Lani Resort Association was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-166085; and

WHEREAS, pursuant to Section 9.1 of the Bylaws and Section 421J-12(a), Hawaii Revised Statutes, as amended, the Bylaws may be amended by the vote or written consent of two-thirds (2/3) of all of the total voting rights of the Association and an affirmative vote of a majority of the Board of Directors of the Association; and

WHEREAS, an affirmative vote of two-thirds (2/3) of all of the total voting rights of the Association and an affirmative vote of a majority of the Board of Directors of the Association have approved the amendment of the Bylaws as hereinafter set forth;

NOW, THEREFORE, the undersigned Officers of the Association hereby certify that the Bylaws of the Mauna Lani Resort Association have been amended pursuant to and in compliance with Section 9.1 of the Bylaws and Section 421J-12(a), Hawaii Revised Statutes, as amended, as follows:

1. **Section 3.2** of the Bylaws of the Mauna Lani Resort Association shall be amended in its entirety to read as follows:

3.2 **Election.** Election of directors shall be by cumulative voting (applicable only if more than one (1) director is elected at an annual or special meeting by the same Class of Owners) by secret written ballot at each annual meeting and any special meeting called for that purpose. The Owners through their respective representatives may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these

Bylaws. The candidate receiving the largest number of votes shall be elected. If cumulative voting is applicable, each Owner of a Class of Owners shall have the right to give one candidate to be elected by that particular Class of Owners a number of votes equal to the number of directors to be elected by that Class of Owners multiplied by the number of votes to which he is entitled, or distribute his votes on the same principle among as many candidates to be elected by that Class of Owners as he thinks fit. As used herein, "Class of Owners" means that category of Owners that will be electing a director. All of the Owners shall constitute one Class of Owners. The Residential Owners shall constitute another Class of Owners. The Commercial Owners shall constitute yet another Class of Owners. Accordingly, for example and without limiting the generality of the foregoing, if one (1) director ("Director A") is to be elected by all of the Owners and two (2) directors ("Directors B and C") are to be elected by the Commercial Owners, the Commercial Owners shall elect Directors B and C by cumulative voting but may not cumulate votes to elect Director A.

Election of Directors shall be conducted as follows:

1. From January 1, 1987 to December 31, 1996:
 - a. One (1) Board position to be elected by Residential Owners of the Association.
 - b. Three (3) Board positions to be selected by Declarant.
 - c. One (1) Board position to be elected by Commercial Owners of the Association, as defined in Article I, Section 1(i).
2. From January 1, 1997 to one day prior to the date of approval of this Second Amendment to Bylaws [i.e., July 23, 2008]:
 - a. Two (2) Board positions to be elected by Residential Owners of the Association.
 - b. Three (3) Board positions to be selected by Declarant; provided that one (1) of said Board positions may be substituted with a representative of the Commercial Owners without need for further approval or amendment to the Bylaws or Declaration; and provided, further, that Declarant may, at any time, change said Board position by replacing the Commercial Owner's representative with Declarant's own selected representative.

3. From and after the date of approval of this Second Amendment to Bylaws [i.e., July 23, 2008]: One (1) Board position to be elected by all of the Owners, two (2) Board positions to be elected by the Commercial Owners of the Association, and two (2) Board positions to be elected by the Residential Owners of the Association, as follows:

- a. Immediately following the date of approval of this Second Amendment to Bylaws [i.e., July 23, 2008] and as part of the approval of the Second Amendment to Bylaws of the Mauna Lani Resort Association, the three (3) directors selected by Declarant pursuant to Section 3.2.2.b shall be replaced, at a special meeting of the Owners, by election of the following: One (1) Board position to be elected by all of the Owners of the Association and two (2) Board positions to be elected by the Commercial Owners of the Association, with the candidate elected by all of the Owners of the Association being elected for a term to expire at the first annual meeting after December 31, 2010, the candidate elected by the Commercial Owners of the Association and receiving the larger number of votes of the two candidates elected by the Commercial Owners being elected for a term to expire at the first annual meeting after December 31, 2009, and the other candidate elected by the Commercial Owners being elected for a term to expire at the first annual meeting after December 31, 2008. Until election of the three (3) directors as provided in this Section 3.2.3.a, the three (3) directors selected by Declarant shall continue to serve on the Board of Directors. The two (2) directors previously elected pursuant to Section 3.2.2.a above shall remain in office and complete the remainder of their current respective terms. i.e., one director shall have a term to expire at the first annual meeting after December 31, 2008, and the second director shall have a term to expire at the first annual meeting after December 31, 2009.
- b. At the first annual meeting after December 31, 2008, two (2) Board positions, one (1) Board position to be elected by the Residential Owners of the Association and one (1) Board position to be elected by the Commercial Owners of the Association.
- c. At the first annual meeting after December 31, 2009, two (2) Board positions, one (1) Board position to be elected by the Residential Owners of the Association and one (1) Board

position to be elected by the Commercial Owners of the Association.

- d. At the first annual meeting after December 31, 2010, one (1) Board position to be elected by all of the Owners of the Association.
- e. At each annual meeting after December 31, 2011, directors shall be elected by the Owners of the Association upon the expiration of their term of office; provided, however, that at all times, two (2) of the Board positions shall have been elected by the Residential Owners and two (2) of the Board positions shall have been elected by the Commercial Owners.

Subject to removal as herein provided, and except as provided in Section 3.2.3.a above, directors shall hold office for a term of three (3) years and until their respective successors have been elected, and provided that upon the expiration of the term of any director, the successor to such director shall be elected by the Class of Owners who elected the director whose term has expired.

2. Section 3.3 of the Bylaws of the Mauna Lani Resort Association shall be amended in its entirety to read as follows:

3.3 Removal, Death or Resignation of Director. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of the Owners and a successor may then and there be elected to fill the vacancy thus created for the remaining unexpired term of the removed director thereof pursuant to Section 3.2 hereinabove. The director who has been elected to office solely by the votes of a Class of Owners of the Association may be removed from office prior to the expiration of his term of office only by the vote of a majority of that particular Class of Owners. Any director whose removal has been proposed by the Owners shall be given an opportunity to be heard at such meeting. In the event of death or resignation of a director, his successor shall be selected by the remaining member of the Board elected by the same Class of Owners and shall serve until the next annual meeting, at which time a successor director shall be elected by that particular Class of Owners for the remaining unexpired term of the director which caused the vacancy to occur; provided, that if there is no remaining member of the Board elected by that particular Class of Owners, the successor director shall be elected by that particular Class of Owners at a special meeting of the Association for the remaining unexpired term of the director which caused the vacancy to occur. In addition to the methods for calling a special meeting as set forth in Section 2.3.b., the holders of twenty percent

(20%) of the voting interest of a Class of Owners may call a special meeting for the purpose of filling a vacancy in the Board of Directors.

3. Section 9.1 of the Bylaws of the Mauna Lani Resort Association shall be amended in its entirety to read as follows:

9.1 Necessary Vote. These Bylaws may be amended by (a) approval of Declarant, and (b) either (i) an affirmative vote of two-thirds (2/3) of all of the total voting rights of the Association, at a regular or special meeting of the Owners, or (ii) action by written consent of the Owners pursuant to Chapter 414D of the Hawaii Revised Statutes, as amended, and (c) an affirmative vote of a majority of the Board; provided, however, that Declarant's approval shall not be required for (i) any amendment that does not affect Declarant's rights under these Bylaws, or (ii) any amendment whatsoever after December 31, 2008, or the transfer of all of the Common Property from Declarant to the Association, whichever shall first occur. Declarant may at any time relinquish its right to approve amendments to these Bylaws by providing written notice to the Board of Declarant's intent to relinquish said right.

In all other respects and for every purpose, the terms and conditions of the By-Laws, as heretofore and hereinabove amended, shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned officers have signed this instrument on this 2nd day of OCTOBER, 2008.

MAUNA LANI RESORT ASSOCIATION
a Hawaii nonprofit corporation

By

Its

President

By

Ian Pullan

Its: Secretary

STATE OF HAWAII

COUNTY OF HAWAII

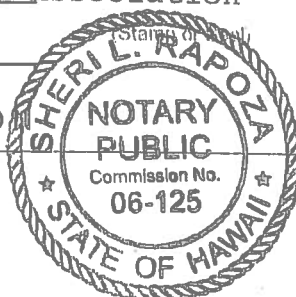
)
) ss.
)

On this 2nd day of October, 2008, before me personally appeared Ira Leitel, to me personally known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and, if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Sheri L. Rapoza

Print Name: Sheri L. Rapoza
Notary Public, State of Hawaii

My commission expires: March 5, 2010

Doc. Date: <u>July 23, 2008</u>	#Pages: <u>8</u>
Name: <u>Sheri L. Rapoza</u>	<u>Third</u> Circuit
Doc. Description: <u>2nd Amendment of the Bylaws of the Mauna Lani Resort Association</u>	
<i>Sheri L. Rapoza</i> Notary Signature	
NOTARY CERTIFICATION	
	

STATE OF HAWAII

)

) ss.

COUNTY OF HAWAII

)

On this 2nd day of October, 2008, before me personally appeared Ian Pullan, to me personally known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and, if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Sheri L. Rapoza

Print Name: Sheri L. Rapoza

Notary Public, State of Hawaii

My commission expires: March 5, 2010

Doc. Date: July 23, 2008 #Pages: 8
Name: Sheri L. Rapoza Third Circuit

Doc. Description: 2nd Amendment of the Bylaws
of the Mauna Lani Resort Association

Sheri L. Rapoza

Notary Signature

NOTARY CERTIFICATION

