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R-752 STATE OF HAWAII
BUREAU OF CONVEYANCES
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/s/ NICKI ANN THOMPSON
REGISTRAR

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SHIRAMIZU LOO & NAKAMURA
4357 Rice Street, Suite 201
Lihue, HI 96766

Total Pages 15

Tax Map Key No. (4)4-3-011-001 CPR Nos. 107 and 108

AMENDMENT TO
DECLARATION AND TO
CONDOMINIUM MAP OF THE
CONDOMINIUM PROPERTY REGIME

"KULANA" (Condominium File Plan No. 3902)

THIS Instrument is made this 14th day of
May, 2010, by MARTIN J. KAHN, Trustee of the Martin
J. Kahn Revocable Trust executed February 29, 1984, as amended,
with full powers to sell, mortgage, lease or otherwise deal
with the land, as to an undivided 50% interest, and CAROLE ANN
KAHN, Trustee of the Carole Ann Kahn Revocable Trust executed
February 29, 1984, as amended, with full powers to sell,
mortgage, lease or otherwise deal with the land, as to an
undivided 50% interest, ("Remnant Lot 7 Owner"), whose address
is 4569 Kukui Street, Kapaa, Hawaii 96746;

W I T N E S S E T H :

WHEREAS, a condominium project named "KULANA" (herein called "Project"), was created by the recording of Declaration of Condominium Property Regime (herein called "Declaration") with the Bureau of Conveyances of the State of Hawaii as Document No. 2004-252101; and

WHEREAS, the Declaration was further amended and restated by instrument entitled "Amended and Restated Declaration of Condominium Property Regime", which was recorded January 27, 2005 with the Bureau as Document No. 2005-015753 (herein "Restated Declaration"); and

WHEREAS, the Restated Declaration, as amended, encumbered the property described in Exhibit "A" attached thereto and incorporated herein by this reference (called therein and herein, the "Property" or "CPR Project Property") and such is further shown on Condominium File Plan No. 3902 (herein the "Condominium Map"); and

WHEREAS, the Restated Declaration was further amended by instrument dated July 15, 2005, recorded as Document No. 2005-143463, which withdrew land referred to as Remnant Lot 3 in the Declaration from the CPR Project Property; and

WHEREAS, the Restated Declaration was further amended by instruments dated June 8, 2006, recorded as Document No. 2006-160828, and dated October 17, 2009, recorded as Document No. 2009-161757; and

WHEREAS, that portion of the Property which is more particularly described in Exhibit A attached hereto (which may be referred to herein either as "Remnant Lot 7" or as "Lot 30") is owned by Remnant Lot 7 Owner; and

WHEREAS, the CPR Project Property other than Remnant Lots 3 and 7 may be referred to hereinafter as the "Property Remaining Subject to the CPR"; and

WHEREAS, the Project consists of 103 condominium units (herein "units"), of which 101 units are located on the Property Remaining Subject to the CPR, and the remaining two (2) units are located on Remnant Lot 7; and

WHEREAS, Remnant Lot 7 Owner wishes to amend the Project Documents so as to accomplish, among other things: (i) removal of Remnant Lot 7 (and the units located thereon) from the Project, so that Remnant Lot 7 and the units located thereon shall no longer be burdened by nor receive the benefits of the Restated Declaration, Bylaws or the Condominium Map, all as amended (herein "Project Documents"), except as hereafter provided; and (ii) to make other changes to the Project Documents which would result from the foregoing removal of Remnant Lot 7.

NOW, THEREFORE,

I. Removal of Remnant Lot 7 from the Project.

(a) Notice is hereby given that pursuant to Paragraph 20.5 of the Restated Declaration that Remnant 7 (including for purposes hereof, the condominium units designated as Units 30A and 30B, being the condominium units located on Remnant Lot 7) is hereby removed and withdrawn from the Project. Hereafter, except as hereinafter set forth, neither Remnant Lot 7 nor such condominium units shall be burdened by nor receive the benefits of the Declaration, Bylaws or the Condominium Map (herein "Project Documents").

(b) After removal of Remnant Lot 7, the land remaining subject to the Project condominium property regime shall be that defined above as the "Property Remaining Subject to the CPR Regime."

(c) In connection with the foregoing, the common interest appurtenant to each unit as set forth in Section 7 of the Restated Declaration shall be changed from 1/103th to 1/101st.

(d) Notwithstanding the removal of Remnant Lot 7 from the Project, if the Units located on Remnant Lot 7 shall elect to utilize the roadways and other common elements of the Project, such owners shall continue to pay an assessment equal to that payable by other remaining Unit Owners in the Project.

II. Removal of Remnant Lot 7 from the Condominium Project as Permitted by Chapter 514B, H.R.S. Remnant Lot 7 (including for purposes hereof, the condominium units designated as Units 30A and 30B, being the condominium units located on Remnant Lot 7) is hereby removed from the provisions of the Restated Declaration of Condominium Property Regime, Bylaws and Covenants, Conditions and Restrictions, all as such may have been amended, as permitted by the provisions of Section 514B-47, H.R.S. Nothing contained herein affects, limits or removes any rights, including

easements of record in favor of Remnant Lot 7 Owner which were granted with the purchase of Remnant Lot 7 and were recorded at the closing of such purchase.

III. Amendment to Project Documents. Unless the context would indicate to the contrary, the Project Documents are amended as follows: (a) to delete all references to Remnant Lot 7; (b) to delete all references to any of condominium units 30A and 30B and (c) wherever there is contained a reference to "103 condominium units", such shall be amended to refer to "101 condominium units."

By way of illustration and not limitation, the Declaration is hereby amended as follows:

1. The definition of "Lot" contained in the section entitled "Introductory Definitions and Interpretation" "shall mean any portion of the Property which is treated under the CZO as a separate zoning lot, such Lots being presently described as Lots 1 through 23 and Remnant Lot 4 in Exhibit "A" attached to the Declaration."

2. The definition of "Property" or "Land" contained in the section entitled "Introductory Definitions and Interpretation" "shall mean those parcels of land which are more particularly described as Lots 1 through 23 and Remnant Lot 4 in Exhibit "A" attached to the Declaration, which lots are also shown on the Subdivision Map for the KULANA Subdivision dated March 14, 2004 which was approved by the Planning Commission of the County of Kauai in Subdivision Application No. S-99-49 on August 24, 2004."

3. The definition of "Remnant Lots" contained in the section entitled "Introductory Definitions and Interpretation" "shall mean those lots described in Exhibit "A" to this Declaration as Remnant Lot 4."

4. Section 1.3 of the Substantive Provisions shall be amended to read: "1.3 Tax Map Key Nos.: TMK (4)4-3-003:005 (por) (Kulana Subdivision); and TMK(4)4-3-003:021 (Remnant 4)"

5. The first two subparagraphs of Section 2 of the Substantive Provisions shall be amended to read:

"2. DESCRIPTION OF PROJECT.

The Project consists of the Land together with appurtenant rights thereto and 101 shade structures described below and other improvements or replacements therefor made in accordance with this Declaration.

The Land consists of Lots 1 through 20 within the KULANA Subdivision, one Remnant Lot and three Roadway Lots. The Roadway Lots will be used for roadway purposes and may be dedicated to the County."

6. Section 3.1 of the Substantive Provisions shall be amended to read:

"3.1 Buildings. Each of the 101 sheds constitutes an initial condominium unit. Each shed is constructed of four metal posts with shade cloth on the top. The net area of each shed is approximately 16 square feet. "

7. Section 3.3 of the Substantive Provisions shall be amended to read:

"3.3. Description of Units: One (1) freehold estate is hereby designated in each of the 101 Condominium Units contained in the Project. The boundary for each of the Units is set forth in Section 4 below. A Unit Owner has the right to replace or to make other changes to his Unit in accordance with this Declaration."

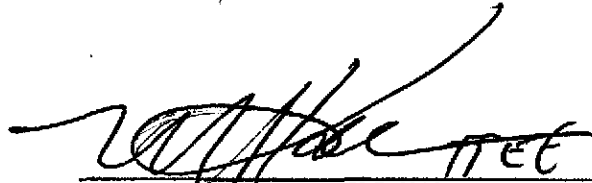
8. Section 7(a) of the Substantive Provisions shall be amended to read:

"7. FRACTIONAL UNDIVIDED INTEREST IN THE COMMON ELEMENTS.

(a) Subject to (b) below, the fractional undivided interest in the Common Elements appurtenant to each of the Units shall be 1/101st."

9. Except as amended herein, the Declaration and other Project Documents remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed these presents on this 14 day of May, 2010.



MARTIN J. KAHN,
Trustee aforesaid



CAROLE ANN KAHN,
Trustee aforesaid

TRE

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

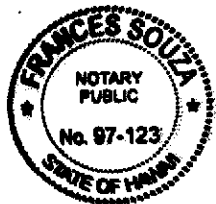
On this 14th day of May, 2010, before me personally appeared MARTIN J. KAHN, Trustee of the Martin J. Kahn Revocable Trust executed February 29, 1984, to me known to be the person described in and who executed the same as his free act and deed as Trustee.



Francis Souza
Print name Francis Souza
NOTARY PUBLIC, STATE OF HAWAII
My commission expires: 4-2-2013

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 14th day of May, 2010, before me personally appeared CAROLE ANN KAHN, Trustee of the Carole Ann Kahn Revocable Trust executed February 29, 1984, to me known to be the person described in and who executed the same as her free act and deed as Trustee.



Francis Souza
Print name Francis Souza
NOTARY PUBLIC, STATE OF HAWAII
My commission expires: 4-2-2013

Notary Acknowledgment

STATE OF Hawaii)
COUNTY OF Kauai) SS:

On this 14th day of May 2010, before me personally appeared Martin J. Kahn and Carole Ann Kahn, to me personally known or proved to me on the basis of satisfactory evidence of his/her/their signature(s) and identity to be the aforesaid person(s), 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 capacities shown, having been duly authorized to executed such instrument in such capacities.



Frances Souza

Signature of Notary
Print Notary Name: Frances Souza
Notary Public, in and for said State
My commission expires: 4.2.2013

[Below Notary Certification to be completed by Hawaii Notary Only]

STATE OF HAWAII NOTARY CERTIFICATION

Document Identification or Description: Amendment to Declaration and to Condominium Map of the Condominium Property Reg. No. _____

Date of Document: 5/14/2010 or Undated at time of notarization

Jurisdiction: HU Circuit (in which notarial act is performed)

Number of Pages: 15

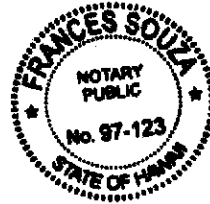
Date of Certification: 5-14-2010

Frances Souza

Notary Public Signature

Print Name: Frances Souza

Notary Public, State of Hawaii



(Stamp or Seal)

EXHIBIT "A"

PARCEL 1

All the premises comprising a portion of "KULANA", a Condominium Property Regime (herein called the Project"), consisting of those certain parcels of land situate at Kapaa, Island and County of Kauai, State of Hawaii as described in the Amended and Restated Declaration of Condominium Property Regime hereinafter referred to (which description is incorporated herein by reference), and the improvements and appurtenances thereof, all as described in and established by Amended and Restated Declaration of Condominium Property Regime dated — (acknowledged January 20, 2005), recorded as Document No. 2005-015753, (herein called the "Declaration"), of which the original Declaration is dated November 24, 2004, recorded as Document No. 2004-252101, described as follows:

FIRST:

Apartment No. 30A, (hereinafter called the "Apartment"), as shown on the plans of the Project filed in said Office as shown on Condominium Map No. 3902 and any amendments thereto.

Together with easements appurtenant to said Unit established by and described in the Declaration, including the following:

- (A) An exclusive easement to use the Parking Stall, if any, as shown in the Declaration, as amended.
- (B) Nonexclusive easement in the common elements designed for such purposes for ingress to, egress from, utility services for and support of said Apartment, in other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as provided in the Declaration, and in all other apartments and common elements of the building in which said Unit is located or any adjacent buildings for support.

SECOND:

An undivided (1/103th) fractional interest in all common elements of the project, as established for said Unit by the Declaration, as tenant in common with all other owners from time to time of undivided interest in and to said common elements.

PARCEL 2

All the premises comprising a portion of "KULANA", a Condominium Property Regime (herein called the Project"), consisting of those certain parcels of land situate at

Kapaa, Island and County of Kauai, State of Hawaii as described in the Amended and Restated Declaration of Condominium Property Regime hereinafter referred to (which description is incorporated herein by reference), and the improvements and appurtenances thereof, all as described in and established by Amended and Restated Declaration of Condominium Property Regime dated --- (acknowledged January 20, 2005), recorded as Document No. 2005-015753, (herein called the "Declaration"), of which the original Declaration is dated November 24, 2004, recorded as Document No. 2004-252101, described as follows:

FIRST:

Apartment No. 30B, (hereinafter called the "Apartment"), as shown on the plans of the Project filed in said Office as shown on Condominium Map No. 3902 and any amendments thereto.

Together with easements appurtenant to said Unit established by and described in the Declaration, including the following:

- (A) An exclusive easement to use the Parking Stall, if any, as shown in the Declaration, as amended.
- (B) Nonexclusive easement in the common elements designed for such purposes for ingress to, egress from, utility services for and support of said Apartment, in other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as provided in the Declaration, and in all other apartments and common elements of the building in which said Unit is located or any adjacent buildings for support.

SECOND:

An undivided (1/103th) fractional interest in all common elements of the project, as established for said Unit by the Declaration, as tenant in common with all other owners from time to time of undivided interest in and to said common elements.

Both Parcels 1 and 2 having been acquired by Kulana Apartment Deed dated May 22, 2006 and recorded as Document No. 2006-097230.

SUBJECT, HOWEVER, as to Parcels 1 & 2, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. The terms and provisions contained in the following:
INSTRUMENT : LAND COURT GRANT NO. 5266

DATED : April 14, 1910

The foregoing includes, but is not limited to, matters relating to water rights.

3. Exception and reservation of roads and trails as set forth in Land Patent Grant No. 5266 to Rufus P. Spalding, dated April 14, 1910.
4. Free flowage of ditch and stream as shown on Tax Map.
5. Ditches shown on survey map prepared by Pedro Y. Guzman, Licensed Professional Land Surveyor of R.M. Towill Corporation, dated March 18, 1998.
6. Kainahoa Stream as shown on subdivision map prepared by Roger M. Caires, Land Surveyor with Caires Land Surveying dated August 24, 2004.
7. The terms and provisions contained in the following:

INSTRUMENT : DEED

DATED : May 21, 1999

RECORDED : Document No. 99-082059

8. **GRANT** in favor of **THE LIHUE PLANTATION COMPANY, LIMITED**, a Hawaii corporation, dated May 21, 1999, recorded as Document No. 99-082060; re: granting perpetual and irrevocable easement rights affecting portions of the Property, and appurtenant to the Seller's land, for use, operation, maintenance, repair, improvement and/or replacement of such portions of the Irrigation Ditch System as are located within the perimeter boundaries of the Property.

9. GRANT in favor of WILLIAM R. HANCOCK, a married man, dated August 1, 2002, recorded as Document No. 2002-148166; re: granting a nonexclusive easement in, through, under and across Easement K-AU-2 for access and utility purposes. (Consent given by JEANNETTE P. MEIER, unmarried, by instrument dated August 2, 2002, recorded as Document No. 2002-148170).

10. The terms and provisions contained in the following:

INSTRUMENT : LAND USE AGREEMENT

DATED : March 14, 2003
RECORDED : Document No. 2003-229571
PARTIES : KAPAA 382, LLC ("Kapaa 382"); KAPAA 160, LLC ("Kapaa 160"); THE HANCOCK COMPANY, INC. PROFIT SHARING PLAN AND TRUST, WILLIAM R. HANCOCK, Trustee, and JUNE VAN DAHM and KRIS VAN DAHM, husband and wife (collectively called the "Lot 28 Owners"; ROBERT VALENTI ("Valenti"); and KAREN B. COLE ("Cole")

11. GRANT in favor of KAUAI ISLAND UTILITY COOPERATIVE and VERIZON HAWAII INC. dated on March 3, 2004, recorded as Document No. 2004-087882; re: granting a right and easement for utility purposes, a shown on the map attached thereto as Exhibit "A".

No joinder by DANIEL J. DIAMOND; WILLIAM R. HANCOCK, Trustee of the Hancock and Company, Inc. Profit Sharing Plan and Trust; and JUNE VAN DAHM and KRIS VAN DAHM.

12. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT TO INCORPORATE AGRICULTURAL RESTRICTIONS INTO INSTRUMENTS OF CONVEYANCE

DATED : October 16, 2003
RECORDED : Document No. 2004-180702
PARTIES : KAPAA 382, LLC, a Hawaii limited liability company, and the COUNTY OF KAUAI

13. The terms and provisions contained in the following:

**INSTRUMENT : AGREEMENT TO RELEASE RIGHTS TO
THREE-PHASE POWER INSTALLATION**

DATED : August 31, 2004
RECORDED : Document No. 2004-189923
**PARTIES : KAPAA 382, LLC, a Hawaii limited liability
company, and KAUAI ISLAND UTILITY
COOPERATIVE, a consumer cooperative**

14. The terms and provisions contained in the following:

**INSTRUMENT : DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
THE KULANA SUBDIVISION**

DATED : August 27, 2004
RECORDED : Document No. 2004-191224

*Said Declaration was amended by instrument dated April 29,
2005, recorded as Document No. 2005-090236.*

15. The terms and provisions contained in the following:

**INSTRUMENT : DECLARATION OF GRANT AND
RESERVATION OF EASEMENTS FOR KULANA
SUBDIVISION**

DATED : February 13, 2004
RECORDED : Document No. 2004-214158

16. The terms and provisions contained in the following:

**INSTRUMENT : OLOHENA ROAD DEFFERED DEDICATION
AGREEMENT**

DATED : October 14, 2004
RECORDED : Document No. 2004-236777
PARTIES : KAPAA 382, LLC, a Hawaii limited liability

company, and COUNTY OF KAUAI

17. The terms and provisions contained in the following:

**INSTRUMENT : DECLARATION OF CONDOMINIUM
PROPERTY REGIME FOR
"KULANA" CONDOMINIUM PROJECT**

**DATED : November 24, 2004
RECORDED : Document No. 2004-252101
MAP : 3902 and any amendments thereto**

Amended and Restated Declaration of Condominium Property Regime dated — (acknowledged January 20, 2005), recorded as Document No. 2005-015753.

Consent and Joinder dated November 30, 2004, recorded as Document No. 2004-257780, dated December 1, 2004, recorded as Document No. 2004-257781, dated December 2, 2004, recorded as Document No. 2004-257782, dated December 2, 2004, recorded as Document No. 2004-255458, dated December 1, 2004, recorded as Document No. 2004-257779, and dated October 17, 2009, recorded as Document No. 2009-161757.

Said Declaration was amended by instruments dated July 15, 2005, recorded as Document No. 2005-143463, dated June 8, 2006, recorded as Document No. 2006-160828, and dated October 17, 2009, recorded as Document No. 2009-161757.

18. The terms and provisions contained in the following:

**INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF
APARTMENT OWNERS**

**DATED : November 24, 2004
RECORDED : Document No. 2004-252102**

Said By-Laws was amended by instrument dated October 17, 2009, recorded as Document No. 2009-161757.

Consent and Joinder dated November 30, 2004, recorded as Document No. 2004-257780, dated December 1, 2004, recorded as Document No. 2004-257781, dated December 2,

2004, recorded as Document No. 2004-257782, dated December 2, 2004, recorded as Document No. 2004-255458, dated December 1, 2004, recorded as Document No. 2004-257779, and dated October 17, 2009, recorded as Document No. 2009-161757.

19. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
20. Any unrecorded leases and matters arising from or affecting the same.
21. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described in Schedule C herein.
22. The terms and provisions contained in Apartment Deed dated May 22, 2006, recorded as Document No. 2006-097230.