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STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

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/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT

AFTER RECORDATION, RETURN BY MAIL (XX)
CONSOLIDATED RESORTS, INC.
ATTEN: C. LAWSON
2310 PASEO DEL PRADO, SUITE #A202
LAS VEGAS, NV 89102
ESCROW NO.

PICK-UP ()

ACCOMMODATION RECORDING
NO TITLE LIABILITY



TITLE OF DOCUMENT:

First Amendment to the By Laws and
Declaration of Covenants, Conditions, and Restrictions
for Vacation Plan Ownership in the
SANDS OF KAHANA VACATION CLUB

Tax Map Key: (2) 4/3/010/002 HPR:

SANDS OF KAHANA

AFTER RECORDATION, RETURN BY MAIL (XX) PICK-UP ()

CARLETON E. HARDIN, JR.

SANDS OF KAHANA VACATION CLUB

99-185 Moanalua Rd., Suite 109

(DO NOT WRITE IN THIS SPACE)

Aiea, Hawaii 96701

Telephone No. 486-3370

**First Amendment to the By Laws and
Declaration of Covenants, Conditions, and Restrictions
for Vacation Plan Ownership in the
Sands of Kahana Vacation Club**

This Amendment to the By Laws and Declaration of Covenants, Conditions, and Restrictions for Vacation Plan Ownership in the Sands of Kahana Vacation Club is made this 8 day of May, 1996, by Consolidated Maui, Inc., a Hawaii corporation, whose address is 2255 Kuhio Ave., Suite 1550, Honolulu, Hawaii 96815 (herein referred to as Declarant)

WHEREAS, on June 9, 1994 Declarant established the Declaration of C.C. and R's for Vacation Plan Ownership in the Sands of Kahana Vacation Club WHEREAS said document was recorded on June 9, 1994 as Document 94-097359

WHEREAS paragraph 10.1 permits Declarant to amend said declaration for a period of five years

WHEREAS Declarant wishes to amend said Declaration to provide as follows:

3.3 is amended as follows.

3.3 Use Rights of Holiday Owners who are Designated Owners A Vacation Plan Owner shall become a Designated Owner, and once having achieved such status shall remain a Designated Owner, upon being designated as such by written notice from the Club to the Vacation Plan Owner, a copy of which shall be filed with the Secretary of the Club on the same date as it is sent to the Vacation Plan Owner. Such notice shall also set forth the applicable Owner's Use Year relating to such Designated Owner. The date on which a copy of such notice is filed with the Secretary of the Club is the date on which a

Vacation Plan Owner shall become a Designated Owner. The Club shall designate as Designated Owners Vacation Plan Owners of the same Unit Type in the order of their respective Owner's Contract Dates, provided, however, that a Vacation Plan Owner shall become a Designated Owner no later than the date of his or her Vacation Plan(s)

Subject to all other terms and conditions contained elsewhere in this Declaration and in the Club Rules, a Holiday Owner who is a Designated Owner shall have the right during each Owner's Use Year to use and occupy a Unit which is of the same Unit Type as his or her Owner's Unit Type for the Holiday Season within such Owner's Use Year. A Holiday Owner shall make reservations in the same manner as a Regular Vacation Plan Owner. Assigned Units shall be assigned in an equitable manner giving effect to the past reservation history of Designated Owners with the objective of providing, over a period of time, each Designated Owner with the equal opportunity to have assigned to him or her Units on the Upper floors of the Project or Units, which for other reasons, are considered the most desirable. All past due Assessments must be paid and brought current before a Holiday Owner makes a reservation for the use of the applicable Vacation Plan. In addition, with respect to a reservation relating to a Use Week starting in a year other than such Designated Owner's current Owner's Use Year, before the reservation can be confirmed by the Club the additional amount required as determined from time to time pursuant to the Club Rules must have been received by the Club."

5.2 is amended as follows

"5.2 Specific Powers and Duties of the Club The management of the Vacation Plan program, the maintenance and repair of the Project, the acquisition (by purchase or lease), maintenance, repair, and replacement of the Common Furnishings and the administration of the affairs of Vacation Plan Owners, the occupancy of the Vacation Plan Units, and payment, as agent, of expenses and costs enumerated in this Declaration shall be under the direction and control of the Club. The Club shall have the duty to maintain and repair the Vacation Plan Units, to acquire (by lease or purchase), maintain, repair, and replace Common Furnishings as needed, to administer the Vacation Plan operation provided herein and to levy, collect, and enforce the Assessments enumerated in this Declaration. The Club shall compile and maintain a roster of the names and addresses of each of the Vacation Plan Owners (the "Roster"). The Club shall have the power to do all things that are required to be done by it pursuant to this Declaration. Without limitation of the foregoing powers and duties, the Club is expressly authorized in its discretion and on behalf of the Vacation Plan Owners to do any or all of the following

(a) Repair and Maintenance To repair, maintain, repaint, furnish, or refurbish the Vacation Plan Units or any part thereof; to establish reserves for anticipated costs, including the costs of acquisition and replacement of Common Furnishings, to acquire and pay for materials, supplies, furniture, furnishings, labor, or services which the Club deems necessary or proper for the maintenance and operation of the Vacation Plan Units and the Common Furnishings

(b) Service Period The Club shall have the exclusive possession of each Vacation plan Unit during the service period therefor. The service period is the time between use period (i.e. the time between check-out time in the morning and check in time later that day). When an owner has reserved two or more consecutive use periods, the owner shall be entitled to remain in the unit during the service period between his Use Periods.

(c) Taxes, Lease Payments, and Assessments As agent and not as principal, to collect and pay all lease payments and taxes and assessments (including but not limited to assessments levied by the Master Association), and other costs affecting or relating to the Vacation Plan Units or Common Furnishings, and to discharge, contest, or protest liens or charges affecting the Vacation Plan Units.

(d) Utilities To obtain and pay the costs of electrical, telephone, gas, and other utility services for the Vacation Plan Units.

(e) Club Rules To adopt, publish, change, and enforce, from time to time, rules and regulations relating to the possession, use, and enjoyment of the Vacation Plan Units.

(f) Legal and Accounting To obtain and pay the cost of legal and accounting services necessary or proper in the maintenance and operation of the Vacation Plan Units and the enforcement of this Declaration, the By-laws, and the Club Rules.

(g) Insurance To the extent not maintained by the Master Association, to obtain and pay the cost of (i) insurance covering the Vacation Plan Units, the Common Furnishings, and any other contents against loss or damage by fire and other hazards customarily covered by fire insurance policies written with extended coverage, (ii) public liability insurance, insuring against liability for personal injury or property damage resulting from an occurrence in, on, or about the Project, and (iii) any other insurance, including, but not limited to, Workmen's Compensation insurance, deemed necessary or desirable by the Club. The policies of insurance shall cover such risks, be written by such insurers, and be ins such amounts as the Club shall deem proper under the circumstances. The Club shall cause the Managing Agent and any employee of either the Managing Agent or the Club who has charge of Vacation Plan Owners' funds to be bonded.

(h) Levy and Collection of Assessments To levy, collect, and enforce Assessments against the Vacation Plan Owner in the manner provided in Parts 6 and 7 of this Declaration in order to pay the expenses of the Club and Vacation Plan operation and the fee of the Managing Agent, and to do all things necessary to enforce each Vacation Plan Owner's obligations under this Declaration.

(i) Financial Statements and Audit To cause an external audit by Certified Public Accountants to be conducted for fiscal year financial statements (other than the Budget, as that term is hereinafter defined) for all fiscal years subsequent to the fiscal year in which the Developer has turned over in excess of 50% of the units.

herby annexed to the Club, and to cause the following statement to be regularly prepared and copies thereof distributed to each Vacation Plan Owner:

(1) A proforma operating statement (the "Budget") of Basic Expenses (as that term is defined in Paragraph 6.1(a) of this Declaration) for the Club, Vacation Plan operation and the Vacation Plan Units, as a group, for each Club Fiscal Year, which shall be distributed to Vacation Plan Owners not less than sixty (60) days before the beginning of each Club Fiscal Year, except the first Club Fiscal Year.

(2) A balance sheet as of the last day of each Club Fiscal Year and other operating statements for such Club Fiscal Year, which shall be distributed within one hundred twenty (120) days after the end of each such Club Fiscal Year.

(3) Such additional financial statements as may be required by law or by the Board from time to time.

(j) Master Association Voting. To exercise the vote that each Vacation Plan Unit is entitled to exercise in the Master Association unless a Majority of Owners/Unit elect on any particular occasion to themselves exercise the same. In connection with the exercise of such vote, the Club shall use its best efforts to timely obtain the agenda for each annual and special meetings of the Master Association and such other information as may be available on the matters to be voted upon at any such meeting, and the Club shall disseminate such agenda and information by mail to each Vacation Plan Owner together with a form of ballot prepared by the Club for return by each Vacation Plan Owner to the Club, which form shall request that each Vacation Plan Owner indicate to the Club the manner in which such Vacation Plan Owner desires the vote of the particular Vacation Plan Unit to be exercised with respect to each matter upon which a vote is to be taken. The Club shall exercise the vote for each Vacation Plan Unit in that manner which is approved by Vacation Plan Owners constituting a Majority of Voting Owners/Unit, provided, however, if Vacation Plan Owners responding split evenly on any such matter, the Club shall be entitled to exercise the vote for such Vacation Plan Unit in the manner it sees fit. The Club shall be entitled to exercise the vote for each Vacation Plan Unit as it sees fit as to all matters which come before a meeting of the Master Association if, because of circumstances beyond the control of the Club, the Club shall not have had the time to reasonably implement the foregoing procedure. Each Vacation Plan Owner shall be deemed to have authorized the Club to act for him or her at any such meeting of the Master Association and, for this purpose, shall deliver to the Club a proxy authorizing the Club or its designee to act for such Vacation Plan Owner at any such meeting whenever requested to do so.

(k) Bank Accounts. All funds collected from Vacation Plan Owners pursuant to Part 6 of this Declaration and all other amounts collected by the Club in connection with its duties provided herein shall be deposited in a separate bank

account or accounts (the "General Account") with a bank or banks located in the State of Hawaii

(l) **Statement of Status** Upon the request of any Vacation Plan Owner, Mortgagee, prospective mortgagee, or prospective transferee of a Vacation Plan, to issue a written statement setting forth any assessment amounts, the use entitlement for the remainder of the Owner's Use Year, and the reservation status regarding such Vacation Plan

(m) **Cleaning and Maid Service** To provide for cleaning and maid service and maintenance and repairs upon the departure of each Vacation Plan Owner or other occupant of the Vacation Plan unit and during Service Periods so that the Units are maintained in good order and repair. In addition to cleaning and maid service that is normally provided to each Vacation a Plan Unit, to provide such cleaning and maid services as shall reasonably be requested by a Vacation Plan owner. The Club shall charge for such special cleaning and maid service and such charges shall be paid by the Vacation Plan Owner when he or she checks out of the Vacation Plan Unit.

(n) **Right of Entry** The Club shall have the right and authority, during Service Periods and at any other reasonable time when a Vacation Plan Unit is not occupied, to enter upon and within any Vacation Plan Unit at any time, whether or not during a Service Period and whether or not in the presence of a Vacation Plan Owner, for the purpose of (i) making emergency repairs therein, (ii) abating any nuisance or any dangerous, unauthorized, prohibited, or unlawful activity being conducted or maintained in such Unit, (iii) protecting property rights and welfare of the other Vacation Plan Owners and other owners of apartments in the project, or (iv) for any other purpose reasonably related to the performance by the Club of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use, and/or enjoyment of the Vacation Plan Owner or occupant of such Vacation Plan Unit and shall be preceded by reasonable notice to the Vacation Plan Owner or occupant thereof whenever the circumstances permit.

(o) **Other Necessary Acts** To do all other things or acts deemed by the Club to be necessary, desirable, or appropriate for the operation and maintenance of the Club and Vacation Plan operation

(p) **Delegation** To delegate the authority and responsibilities of the Club under this Declaration to one (1) or more agents, including, but without limitation, the Managing Agent "

6.8 is amended as follows

"6.8 **General Fund** Upon acquisition of a Vacation Plan, each Vacation Plan Owner shall be required to pay an amount equal to TWO HUNDRED AND FIFTY DOLLARS (\$250.00), which amount shall be retained by the Club in the General Account

and used to pay any which may arise in connection with the operation of the Club and Vacation Plan operation and for which the Basic Assessments and any Special Assessments prove to be inadequate."

WHEREAS, Declarant wishes to amend the By Laws of the Sands of Kahana Vacation Club, appended as Exhibit A to the Declaration of C C and R's for Vacation Plan Ownership in the Sands of Kahana Vacation Club and recorded as Document 94-097350

WHEREAS, Declarant wishes to amend said By Laws to provide as follows

5.10 is amended as follows

"5.10 Proxies and Pledges. The authority given by any Member to another person to represent him at meetings of the Club is called a "proxy". To be effective, the proxy must be in writing, signed by that Member and filed with the Secretary at least 72 hours prior to the meeting. Proxies, other than those proxies coupled with a financial interest, shall be valid only for the specified meeting and shall be automatically canceled at the conclusion of the meeting for which the proxy was given. Any proxy distributed to Members by the Club must:

- (a) state the name of the person picked as the proxy representative and
- (b) provide an opportunity for the Member to select a choice between approval and disapproval of each matter of business proposed to be acted upon by the Club, and
- (c) provide that the vote of the Member will be cast according to the choice selected."

6.1 is amended as follows.

"6.1 Number, Qualifications, Term of Office. The affairs of the Club will be managed by a Board of Directors (referred to in these By-laws as the "Board," and with a member of the Board being referred to in these By-laws as a "Director") composed of three (3) persons until the organization meeting of the Club and five (5) persons thereafter. At least one Director must be a resident of the State of Hawaii. The first Board of the Club will be any persons appointed by the Developer, and they will serve as Directors until their replacements are elected at the organization meeting and qualified. At the organization meeting, the Members (including the Developer) will elect five (5) Directors. Three (3) of them will hold office for two (2) years and until their replacements are elected and qualified. The other two (2) will hold office for one (1) year and until their replacements are elected and qualified. At each annual meeting of the Members after the organization meeting, the Members will elect a new Director to fill each vacancy. The new Directors will serve a term of two (2) years or until the later election and qualification of their replacements. The number of Directors may be increased or decreased from time to time by an amendment to these By-laws, but in no event may the number of Directors be set at less than three (3). At the first election of the Board by the Members and for so long as the Developer holds a majority of the voting power of the Club, at least one of the

Directors will be elected solely by the votes of the Members other than the Developer, and the election of Directors will be handled according to the following special election procedures

- (a) The notice of the meeting at which the Directors are to be elected must state that one of the Directors will be elected by Members' other than the Developer and must ask for nominations. Any Member entitled to vote at the meeting under the provisions of these By-laws is eligible as a candidate for the position of Director
- (b) Members other than the Developer will then elect that Director by secret ballot before the regular election of remaining Directors by all Members. The rest of the Directors will then be elected according to the regular election procedures set forth in these By-laws."


6.8 amended as follows:

" 6.8 Meetings by Telephone. A meeting may be held by telephone conference call or similar communications equipment, so long as all Directors participating in the meeting can hear one another at the same time. All Directors participating will be deemed to be present in person at that meeting. Telephone meetings shall be considered Regular or Special Meetings of the Board and notice of said Telephone meeting shall be in accordance with Section 6.6 and Section 6.7 of these By-laws."

IN WITNESS WHEREOF, Declarant has executed this amendment as of the date first set forth above

CONSOLIDATED MAUI, INC.

By

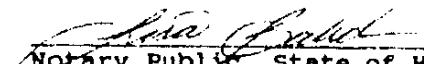

Michael Kaplan

Its President

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 8 day of MAY, 1996, before
me personally appeared MICHAEL KAPLAN

to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.


Notary Public, State of HAWAII
My commission expires: 12/4/98

