

SANDS OF KAHANA
Amendment of Master Lease
TMK: 2-4-3-010-002

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RECORDATION REQUESTED BY:)
TITLE GUARANTY ESCROW SERVICES, INC.)
AFTER RECORDATION, RETURN TO:)
TITLE GUARANTY ESCROW SERVICES, INC.)

73- 37706

STATE OF HAWAII
BUREAU OF CONVEYANCES
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1973 MAY 23 PM 3:48

[Signature]
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TG # 99840

RETURN BY: Mail () Pickup (X))

THIS AMENDMENT OF LEASE, made and entered into this
9 day of May, 1973, by and between HYADES
B. KIESEL, wife of Herbert H. Kiesel, of Honolulu, City and County of
Honolulu, State of Hawaii, hereinafter called the "Lessor", and MYRON A.
RESNICK, husband of Suzann L. Resnick, whose residence address is
No. 16, Alaeloa, Lahaina, Hawaii 96761, and whose post office address
is P. O. Box 8, Lahaina, Hawaii 96761, hereinafter called the "Lessee";

WHEREAS, Lessor and Lessee heretofore and by Indenture of
Lease dated June 16, 1971 and recorded in the Bureau of Conveyances of
the State of Hawaii in Liber 7836 at Page 275, had entered
into a lease in respect to the property therein more particularly described;
and

WHEREAS, for valuable consideration, receipt whereof is hereby
acknowledged by the Lessor, and in consideration of their mutual agree-
ments herein, the parties have agreed to amend said Indenture of Lease;

NOW, THEREFORE, confirming their prior agreements, the
Lessor and the Lessee agree that said Indenture of Lease dated June 16,
1971 be and the same is hereby amended as follows:

1. By deleting in its entirety without substitution the provisions of paragraph B of Article III.
2. By deleting in its entirety the provisions of Article X and substituting in lieu thereof the following:

"Assignment, Sublease and Mortgage

A) Assignment. Lessee may not without the further written consent of Lessor prior to the substantial completion of construction as herein required assign this lease; provided, that, following substantial completion of said construction, Lessee may assign this lease without approval or consent of Lessor; and, if assigned, the assignee shall have the same rights and obligations hereunder as the original Lessee; provided, however, that no such assignment shall be effective to transfer any interest unless Lessor shall have received either a true executed copy of such assignment or written notice thereof, and also in any case other than upon foreclosure of mortgage or assignment in lieu of foreclosure, payment of a reasonable service charge not to exceed \$25.00 and the written undertaking of the assignee to perform all obligations of Lessee hereunder, which undertakings may be incorporated in such assignment. No such assignment shall release the assignor from further liability hereunder unless Lessor shall consent in writing to such assignment, and Lessor shall not require payment of any money except said service charge for such consent nor withhold such consent unreasonably or because

of the assignee's national origin, race, color or creed; provided, however, that any person acquiring the leasehold estate in consideration of the extinguishment of a debt secured by mortgage of this lease or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed on Lessee by this lease only during the period such person has possession or ownership of the leasehold estate."

"B) Sublease. Lessee may sublease this lease, in whole or in part, without approval or consent of Lessor; provided, that notwithstanding such subletting Lessee shall at all times remain liable to the Lessor under the terms hereof. Lessor agrees to recognize the rights of any such sublessee to the extent that such sublessee shall have acquired any rights or benefits of the Lessee hereunder by virtue of the terms of the sublease, and the rights of any sublessee to further assign or sublet his sublease shall be governed by the terms of such sublease not inconsistent with the terms hereof.

"C) Protection of Subleases. In case at any time this lease shall be terminated for any reason whatsoever (except condemnation in accordance with the provisions hereof) prior to the expiration of the term hereby demised, then every sublease which is not then in default shall survive and continue in full force and effect as a direct lease from the Lessor to the holder of such sublease, the Lessor being thereupon substituted in all respects for the Lessee in such sublease, and every such holder shall upon receiving notice of such termination promptly attorn to the Lessor in place of the Lessee under such sublease; provided, however, that (a) the holder of such sublease shall faithfully observe and perform all the terms, covenants and conditions thereof

including, without limitation, the payment directly to the Lessor when due of all rents payable under such sublease for all periods from such notice of termination of this lease for the remaining term of such sublease or, if the rent herein reserved shall have been paid to the Lessor up to a date subsequent to the receipt of such notice, from such later date; (b) the term of such sublease shall not extend beyond the term hereby demised; (c) in case of any conflict between the provisions of this lease and such sublease, the provisions of this lease shall control; (d) all holders of subsisting subleases, if there shall be more than one sublease outstanding from time to time, shall at all times during the remaining term thereof maintain one responsible corporate agent on their behalf to collect and pay over to the Lessor when due all rents, taxes and other charges thereunder payable to the Lessor; (e) the sublease of the whole of the demised premises shall require the payment of rent not be less than reserved hereunder and the subleases, if in respect to only a portion of the demised premises, when aggregated with all other subleases and the portion of this lease not subleased, shall provide for a fair apportionment of rent which in the aggregate shall not be less than reserved hereunder.

"D) Mortgages. Lessee may from time to time without further consent of Lessor assign this lease by way of mortgage to an institutional lender; provided, that Lessee, upon execution of any such mortgage, shall forthwith deliver true copies thereof

to Lessor. The mortgagee or its assigns may enforce such mortgage and acquire title to the leasehold estate in any lawful way, and pending foreclosure of such mortgage may take possession of and rent the demised premises, and upon foreclosure of such mortgage may without further consent of Lessor sell and assign the leasehold estate or sublet the demised premises in whole or in part. Any person acquiring the leasehold estate assigned by such mortgage in consideration of the extinguishment of the indebtedness thereby secured or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed by Lessor by this lease only during the period such person has ownership of said leasehold estate or possession of the demised premises subject thereto. Nothing contained in any such mortgage shall release or be deemed to relieve Lessee from the full and faithful observance and performance of any covenants and conditions of this lease contained or on Lessee's part to be observed or performed or from any liability for the non-observance or non-performance thereof, nor be deemed to constitute a waiver of any rights of Lessor hereunder, and the terms, covenants and conditions of this lease shall control in case of any conflict between this lease and any such mortgage. The rights of any sublessee to mortgage his sublease estate shall be governed by the terms of such sublease not inconsistent with the terms hereof.

"E. Protection of Mortgagee. During the continuance in effect of any authorized mortgage of this lease, Lessor will not

terminate this lease because of any default on the part of Lessee to observe or perform any of the covenants or conditions herein contained if the mortgagee or its assigns, within one hundred twenty (120) days after Lessor has mailed to the mortgagee or its assigns at the last known address thereof a written notice of intention to terminate this lease for such cause, shall cure such default, if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to perform and shall thereafter perform all the covenants of this lease capable of performance by the mortgagee or its assigns until such time as this lease shall be sold upon foreclosure of such mortgage, and any default consisting of Lessee's failure promptly to discharge any lien, charge or encumbrance against said premises junior in priority to such mortgage shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within said 120-day period and thereafter prosecuted in diligent and timely manner."

3. By adding a new Article XXI to read as follows:

"Horizontal Property Regime. Lessee may develop the demised premises as a horizontal property regime, and Lessor, upon request of Lessee, shall join in and submit the fee of the demised premises to said horizontal property regime in form and concept as provided by provisions of Chapter 514 of the Hawaii Revised Statutes, as amended, as provided by the Declaration of Horizontal Property Regime, By-Laws and other documents caused

to be prepared by Lessee at its own cost and expense, which documents shall be subject to the approval of the Lessor and which approval shall not be unreasonably withheld or delayed. In the event Lessee elects to so develop the demised land, Lessor agrees, upon Lessee's request, to issue individual ground leases of undivided interests in the land or, to recognize individual condominium apartment subleases, provided, that said individual leases or subleases shall specifically contain provisions (i) that the term of all such leases shall have identical termination dates, not to extend beyond the term of this lease; (ii) that the Association of Apartment Owners, acting by or through its officers, shall be the sole agent for the holders of individual leases for the renegotiation of rent or for the negotiation of any other terms or provisions of said lease; (iii) that the rent due under this lease shall be reasonably apportioned among holders of said individual ground leases; and (iv) that said Association shall at all times maintain a responsible corporate managing agent, experienced in the management of condominium projects and approved by the Lessor, for the management and operation of said project, for the collection and payment when due on behalf of the holders of said individual leases of all rent, taxes and other charges thereunder."

4. By adding a new paragraph Q to Article XX to read as follows:

"Whenever under the terms hereof, the Lessor's consent shall be required, the same shall not be unreasonably

withheld or delayed nor shall any consideration be sought as a condition thereof. Such consent shall be deemed to be granted unless the Lessor within ten (10) days following delivery of the written request therefor shall give notification of the withholding of such consent and the reasons therefor with sufficient particularity to fully apprise the Lessee."

In all other respects, and except as herein specifically amended, the parties ratify and confirm said Indenture of Lease dated June 16, 1971.

IN WITNESS WHEREOF, the parties have hereunto caused this instrument to be executed this 9 day of May, 1973.

Hyades B. Kiesel
HYADES B. KIESEL

Lessor

Myron A. Resnick
MYRON A. RESNICK

Lessee

STATE OF Hawaii)
COUNTY OF Mauai)

SS.

On this 9 day of May, 1973, before me personally appeared HYADES B. KIESEL, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

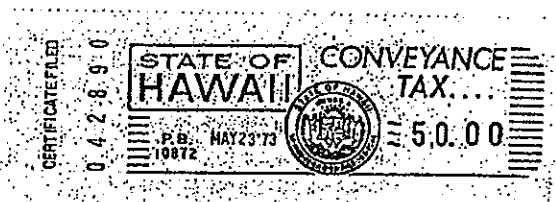
Myron A. Resnick
Notary Public in and for said State and County. 2nd Judicial Circuit

My Commission expires: 6/1/75

STATE OF Hawaii)
COUNTY OF Mau) ; SS.

On this 9 day of May, 1973, before me personally appeared MYRON A. RESNICK, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Myron A. Resnick
Notary Public in and for said State
and County. 2nd Judicial Circuit
My Commission expires: 6/7/75



Kiesel/Resnick
Amend./Lease
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