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STATE OF HAWAII

BUREAU OF CONVEYANCES

DOCUMENT NO. _ Doc A - 81040634

DATE - TIME _ March 10, 2022 11:12 AM

Return by Mail () Pickup (X) To:

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GENTRY HOMES, LTD.
733 Bishop Street, Suite 1400
Honolulu, Hawaii 96813

FirstAm:

Total No. of Pages: 46

Document Title: DECLARATION OF CONDOMINIUM PROPERTY REGIME OF
NORTHPARK BY GENTRY IV

Developer: GENTRY HOMES, LTD., a Hawaii corporation

Property Description: Lots 16 to 18, inclusive, as shown on DPP File No. 2020/SUB-38, and further described in Surveyor's Affidavit recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. A-75860469, and Lot 19, as shown on DPP File No. 2018/SUB-153, and further described in Surveyor's Affidavit recorded in the Bureau as Document No. A-73281122

This property is a portion of former Land Court lots (having been described on Land Court Transfer Certificate of Title Nos. 667,068 and 493,722) deregistered from the Land Court system by instrument recorded in the Bureau on October 11, 2019 as Document No. A-72230928, and by instrument recorded in the Bureau on November 29, 2019 as Document No. A-72720473.

TMK No.: (1) 9-1-010-120 (portion)

**DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
NORTHPARK BY GENTRY IV**

INTRODUCTION:

1. GENTRY HOMES, LTD., a Hawaii corporation (the "**Developer**"), owns the Land (as defined below) in fee simple.
2. By this Declaration (as defined below), the Developer intends to establish a condominium property regime that consists of the Land and the improvements to be constructed on the Land.
3. The Developer intends to convey or cause the conveyance of separate fee simple units created by this Declaration, each together with an appurtenant and undivided interest in the common elements of the condominium property regime created by this Declaration, by way of individual unit deeds.

NOW, THEREFORE, the Developer hereby makes the following declaration:

DECLARATION:

1. **DEFINITIONS.** Defined terms appear throughout this Declaration with the initial letter of each such term capitalized. Unless the context clearly dictates otherwise, the following terms used in this Declaration are defined as follows:
 - (a) "**Act**" means the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, as amended, and, as applicable, the rules of the Real Estate Commission of the State of Hawaii promulgated pursuant thereto, as amended.
 - (b) "**Association**" means the Association of Unit Owners of NorthPark by Gentry IV, consisting of all Owners acting as a group in accordance with the provisions of this Declaration, the Bylaws and the Act; provided that in the event the Project is merged with another condominium project or other condominium projects in accordance with the Declaration of Intent to Develop and Merge, all references to the Association shall mean and refer to the merged association of unit owners of the entire project, as reconstituted by any such merger or mergers.
 - (c) "**Board of Directors**" or "**Board**" means the board of directors of the Association.
 - (d) "**Bylaws**" means the Bylaws of the Association of Unit Owners of NorthPark by Gentry IV concurrently Recorded with this Declaration in the Bureau of Conveyances of the State of Hawaii (the "**Bureau**"), as may be amended from time to time.
 - (e) "**Car Wash Station**" means one of the car wash stations described in Section 17D of this Declaration. "**Car Wash Stations**" means both of the car wash stations described in Section 17D of this Declaration.
 - (f) "**Common Element Fence**" means and refers to any fence or wall or wall/fence combination located entirely within the Project (sometimes identified on the

Condominium Map as "Vinyl Fence on Retaining Wall") that is not a Privacy Fence or the Ewa by Gentry Perimeter Fence. The Common Element Fence will be built around or along a portion of the perimeter of the Project or around or along a portion of the Project's common areas, such as a Car Wash Station, one or more landscape lots or visitor parking stalls. Although the Common Element Fence will be built within a portion of certain Unit's limited common element Private Yard Area, it will be maintained by the Association. Owners and residents may not do anything that would disturb or damage the Common Element Fence or the footing of the Common Element Fence.

(g) **"Condominium Map"** means the plans showing, among other things, the layout, location, Unit numbers, configuration and elevations of the buildings in the Project, filed in the Bureau as Condominium Map No. 6336, as amended from time to time.

(h) **"Declaration"** means this Declaration of Condominium Property Regime of NorthPark by Gentry IV, as may be amended from time to time.

(i) **"Declaration of Intent to Develop and Merge"** means that certain Declaration of Intent to Develop and Merge; Special Power of Attorney; and Declaration of Reservation of Rights and Easements, dated March 4, 2020, and Recorded as Document Nos. A-73690656A and A-73690656B, as it may be amended from time to time.

(j) **"Developer"** means Gentry Homes, Ltd., a Hawaii corporation, the principal place of business and post office address of which is 733 Bishop Street, Suite 1400, Honolulu, Hawaii 96813, the owner in fee simple of the Land, its successors and assigns. All references to "Developer" in this document shall include the successors and assigns. A Person shall be deemed a successor or an assign of the Developer for purposes of this Declaration only if specifically so designated in a duly Recorded written instrument as a successor or an assign of the Developer under this Declaration, and shall be deemed a successor or assign of the Developer only as to the particular rights or interests of the Developer under this Declaration that are specifically designated in the Recorded written instrument.

(k) **"Developer's Reserved Rights"** means those rights reserved unto the Developer as stated in this Declaration, including, but not limited to, those rights specified in Sections 17 to 17D, inclusive.

(l) **"Development Period"** means the period of time during which the Developer has the right to exercise its rights under Sections 17 to 17D of this Declaration. This period started on March 5, 2020, which is the date that the Declaration of Intent to Develop and Merge was Recorded, and shall end upon the earlier of (i) the date when the Developer Records the deed conveying the last unsold Unit in the Joint Development Area to an unrelated third party, or (ii) the date when the Developer Records a document terminating all of its rights under Sections 17 to 17D of this Declaration.

(m) **"Ewa by Gentry Perimeter Fence"** means and refers to the fence or wall or combination of wall and fence, if any, built near, but outside of, the perimeter boundary of the Project. If it exists, the Ewa by Gentry Perimeter Fence would not be part of the Project and would be built within other lots that are located outside of the Project. If it exists, the Ewa by Gentry Perimeter Fence would be owned, maintained and repaired by the Community Association (as defined in Section 20 below).

(n) **"House Rules"** means the House Rules of the Association of Unit Owners of NorthPark by Gentry IV, as may be amended from time to time.

(o) **"Increment"** means a group of Units comprising a condominium "project", as that word is defined in Section 514B-3 of the Act, which Units are constructed on one or more legally subdivided lots, and includes the common elements that serve such Units, including, without limitation, roadways and utility facilities. An Increment may include one or more Phases of Units.

(p) **"Joint Development Agreement"** means that certain Agreement for Issuance of Conditional Use Permit Under Section 21-5.380 of the Land Use Ordinance (LUO), dated March 2, 2020, and Recorded as Document No. A-73670918.

(q) **"Joint Development Area"** means all of the real property subject to the Joint Development Agreement. Among other real property, the Joint Development Area includes Lots 12 through 15, inclusive, which is the real property described in Exhibit "A" to this Declaration.

(r) **"Land"** means the real property described in Exhibit "A" attached to and made a part of this Declaration by this reference, and any appurtenances to such real property. If the Developer adds any real property pursuant to Section 17B of this Declaration, then "Land" shall include the additional real property. If the Developer withdraws any real property pursuant to Section 17B of this Declaration, then "Land" shall not include the withdrawn real property.

(s) **"Lot" or "Lots"**, when used in this Declaration, followed by one or more of the numbers 1 through 19, inclusive, refers to those lots described in Exhibit "A" to the Declaration of Intent to Develop and Merge, in Exhibit "A" to this Declaration, in Exhibit "A" to the Joint Development Agreement, and/or in either of the Surveyor's Affidavits recorded in the Bureau on January 24, 2020 as Document No. A-73281122, or on October 8, 2020 as Document No. A-75860469, as applicable.

(t) **"Mail Center"** means the mail facility described in Section 17D of this Declaration.

(u) **"Majority" or "Majority of Unit Owners"** means the Owners of Units to which are appurtenant more than half (or more than fifty percent (50%)) of the total common interests in the Project. References to a specified fraction or percentage of the Unit Owners means the Owners of Units to which are appurtenant that fraction or percentage of the total common interests in the Project.

(v) **"Managing Agent"** means the managing agent appointed by the Association to operate the Project, as described in Section 12 of this Declaration.

(w) **"Master Declaration"** means that certain Ewa by Gentry Community Area Declaration of Covenants, Conditions and Restrictions, dated July 21, 1988, Recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1568352, as amended.

(x) **"Mortgage"** means any Recorded or otherwise perfected security instrument in real property, which is not a fraudulent conveyance under Hawaii law, and which is given in good faith and for valuable consideration as security for the performance of an obligation, but shall not include any instrument creating or evidencing solely a security interest arising under the Hawaii Uniform Commercial Code (Hawaii Revised Statutes Chapter 490, as amended).

(y) **"Mortgagee"** means the holder of a note or other interest secured by a Mortgage.

(z) **"Person"** means an individual, corporation, partnership, limited liability entity, association or other legal entity.

(aa) **"Phase"** means a group of Units that is constructed at approximately the same time on a legally subdivided lot, and includes the common elements located in the immediate vicinity of such Units that serve such Units, including, without limitation, roadways and utility facilities. A Phase (i) may comprise all or just some of the Units in a condominium "project", as that word is defined in Section 514B-3 of the Act, and (ii) may or may not constitute an Increment.

(bb) **"Privacy Fence"** means and refers to a fence or a retaining wall and fence combination (sometimes identified on the Condominium Map as "Vinyl Fence on Retaining Wall") that (i) is constructed on the boundary of a Unit's limited common element Private Yard Area and (ii) is not also a Common Element Fence. Privacy Fences are limited common elements appurtenant to the Unit or Units served by the Private Yard Area or Private Yard Areas where the Privacy Fence is located.

(cc) **"Private Yard Area"** means and refers to the limited common element land area appurtenant to a Unit, as shown by diagonal hatching on the Condominium Map. Private Yard Areas do not comprise legally subdivided lots.

(dd) **"Project"** means the condominium project established by this Declaration and the Condominium Map and consisting of the Land, the buildings, landscaping, improvements and structures on the Land (including the Units, common elements, and limited common elements) and all easements, rights and appurtenances burdening or benefitting the Land.

(ee) **"Project Documents"** means, collectively, this Declaration, the Bylaws, the Condominium Map, the House Rules and the Declaration of Intent to Develop and Merge.

(ff) **"Record", "Recorded", "Recording", "Recordable" or "Recordation"** means an instrument of record, or the act of recording or causing to be recorded an instrument, with the Bureau and/or the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

(gg) **"Storm Water Operation and Maintenance Plan"** means the Operation and Maintenance Plan for Permanent Storm Water BMPs (Date of Preparation: 04/08/2019), approved by the City and County of Honolulu.

(hh) "Unit Owners" or "Owners" means "unit owner" as defined in Section 514B-3 of the Act, which includes the Person owning, or the Persons owning jointly or in common, a Unit in the NorthPark by Gentry IV condominium project, and the Unit's appurtenant common interest; provided that to such extent and for such purposes as provided by Recorded lease, including the exercise of voting rights, a lessee of a Unit shall be deemed to be the Unit Owner.

(ii) "Units" means the fee simple units created by this Declaration, each together with an appurtenant and undivided interest in the common elements of the Project.

2. **SUBMISSION TO CONDOMINIUM PROPERTY REGIME.** The Developer, as the declarant under this Declaration, hereby submits all of its rights, title and interest in and to the Land and all improvements now existing or to be constructed on the Land to a condominium property regime established under the Act. The Developer declares that the Land is held and shall be held, owned, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, restrictions, covenants, and conditions set forth in this Declaration and in the Bylaws. This Declaration and the Bylaws shall constitute equitable servitudes, liens, and covenants running with the Land and shall be binding on and inure to the benefit of the Developer, its successors and assigns, and all subsequent owners, lessors, lessees and Mortgagees of all or any part of the Land and their respective heirs, devisees, personal representatives, successors, successors in trust and assigns. All of the provisions of this Declaration are intended to create mutual servitudes upon each Unit within the Project and to create reciprocal rights among the respective Unit Owners.

3. **NAME.** The condominium property regime established by this Declaration shall be known as "NorthPark by Gentry IV".

4. **DESCRIPTION OF PROJECT.** The Developer plans to develop the Project as follows:

(a) NorthPark by Gentry IV, Phase 16, consisting of ten (10) two-story buildings, with each building being its own residential Unit, designated as **Units 600 thru 607, inclusive, 609, and 611**, located on Lot 16, as shown on DPP File No. 2020/SUB-38, as further described in Exhibit "A".

(b) NorthPark by Gentry IV, Phase 17, consisting of ten (10) two-story buildings, with each building being its own residential Unit, designated as **Units 518 thru 527, inclusive**, located on Lot 17, as shown on DPP File No. 2020/SUB-38, as further described in Exhibit "A".

(c) NorthPark by Gentry IV, Phase 18, consisting of nine (9) two-story buildings, with each building being its own residential Unit, designated as **Units 501, 503, 505, 507, 509, 511, 513, 515, and 517**, located on Lot 18, as shown on DPP File No. 2020/SUB-38, as further described in Exhibit "A".

(d) NorthPark by Gentry IV, Phase 19, consisting of seven (7) two-story buildings, with each building being its own residential Unit, designated as **Units 101, 103, 105, 107, 109, 111, and 113**, located on Lot 19, as shown on DPP File No. 2018/SUB-153, as further described in Exhibit "A".

None of the Units has a basement. The Units are comprised of wood frames constructed on concrete slab-on-grade foundations with wood frame interior walls with gypsum board. Exterior walls are sheathed with gypsum board on interior surfaces and sided on exterior surfaces with pre-primed manufactured cementitious siding. Roofs are constructed of engineered wood trusses, plywood sheathing and composition shingles.

5. DESCRIPTION OF UNITS. Fee simple Units are hereby established within the underside of the concrete slabs, the outside of the roofs and the outer surfaces of the perimeter walls of each of the thirty-six (36) residential Units in the Project. The Units are described in more detail in Exhibit "B" (attached hereto and made a part of this Declaration by this reference) and in the Condominium Map.

5.1 Unit Numbers and Locations. The Units are numbered and located as shown on the Condominium Map.

5.2 Layout and Area of Individual Units. As shown on the Condominium Map, there are four (4) Unit types (Plans 1, 2, 3 and 4). The location, Unit numbers, approximate net living area and descriptions of the rooms for each of the Units are shown on the Condominium Map or are listed or described in the attached Exhibit "B".

5.3 Access to Common Elements. Each Unit has direct access to the common element grounds and roadways of the Project and to access easements appurtenant to the Project, which common element grounds, roadways and access easements lead to Keaunui Drive, which leads to a public road.

5.4 Limits of Units. Each Unit includes the following:

(a) the perimeter walls, foundations, columns, girders, beams, floors, slabs, footings, supports, stairways, roofs, skylights (if any), ceilings of the building comprising the Unit;

(b) the walls and partitions within the building comprising the Unit and all of the space within the walls of such building;

(c) the windows, window frames, louvers, shutters (if any), doors and door frames along the perimeter of and within the building comprising the Unit;

(d) the garage, entry and lanai (if any), as each is shown on the Condominium Map;

(e) all mechanical and electrical equipment originally installed and utilized for or serving only that one Unit;

(f) any pipes, wires, vents, shafts, ducts, cables, conduits or other utility or service lines or enclosed spaces for wiring, pipes or air exhaust running through or otherwise located within the Unit, which are utilized for or only serve the Unit; and

(g) all of the originally installed fixtures and appliances.

Units do not include any pipes, wires, ducts, conduits or other utility or service lines running through a Unit that are utilized by or serve more than one Unit, all of which are common elements as described below. A Unit also does not include the limited common element Private Yard Area that is appurtenant to each Unit, as described below.

6. COMMON ELEMENTS. One fee simple interest is hereby designated in the "common elements", comprised of all portions of the Project other than the Units and which include, specifically, but are not limited to:

6.1 the Land in fee simple;

6.2 all yards, grounds, planting areas, gates, fences (including the Common Element Fences located on portions of the Private Yard Areas for Units 101, 113, 501, 517, 600, 602, 604, 606, and the Privacy Fences, but not including the Ewa by Gentry Perimeter Fence), retaining walls (if any), trash collection areas and walkways;

6.3 all access lanes, roads, curbs, sidewalks and street lights;

6.4 visitor parking stall nos. 18 to 22, inclusive, 49 to 79, inclusive, and 85 to 95, inclusive, as shown on the Condominium Map and subject to the Project's House Rules;

6.5 installations for services, such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under or across the Project, which serve more than one Unit for services such as power, light, gas, hot water, cold water, sewage, drainage, telephone, radio and television signal distribution, if any;

6.6 any apparatus and installations existing for common use, such as tanks, pumps, irrigation lines, motors, fans, compressors, ducts, vents and other such installations and apparatus;

6.7 all the benefits inuring to the Land or to the Project from the easements shown on the Condominium Map, listed in Exhibit "A" to this Declaration or otherwise appurtenant to the Land; and

6.8 all other parts of the Project necessary or convenient to the Project's existence, maintenance and safety or normally in common use and that are not included in the definition of a Unit.

In the event that the Project has more visitor parking stalls than is required by applicable laws, ordinances, rules and regulations now or hereafter made by any governmental authority, the Developer shall have the reserved right to Record an amendment to this Declaration to redesignate a particular common element visitor parking stall as a limited common element appurtenant to a particular Unit. The Developer shall also have the reserved right to redesignate or restrict the use of common element parking stalls to ensure the proper operation of the Project.

7. LIMITED COMMON ELEMENTS. Certain common elements, called "limited common elements," are designated, set aside and reserved for the exclusive use of certain Units, and such Units shall have exclusive easements for the use of such limited common elements. The limited common elements are as follows:

7.1 Subject to the right (described below) of the Owner of a Benefitted Unit (as defined in Section 9.1B) to have limited access to the Private Yard Area appurtenant to an Adjacent Unit (as defined in Section 9.1B), each Unit shall have for its exclusive use and enjoyment the front yard area and the Private Yard Area that adjoins the Unit, as shown on the Condominium Map.

7.2 Subject to the right of the Owner of a Benefitted Unit to have limited access to the Private Yard Area appurtenant to an Adjacent Unit, each Unit shall have for its exclusive use and enjoyment the gate leading to the Private Yard Area that adjoins the Unit, as shown on the Condominium Map.

7.3 Where applicable, each Unit shall have for its exclusive use and enjoyment the gravel strip that runs along the outside edge of certain portions of the Unit (the "Gravel Strip").

7.4 Each Unit shall have for its exclusive use and enjoyment the driveway that adjoins the garage, as shown on the Condominium Map.

7.5 Each Unit shall have for its exclusive use and enjoyment the walkway that adjoins the entry to the Unit, as shown on the Condominium Map.

7.6 Each Unit shall have for its exclusive use and enjoyment the outdoor unit of the air conditioner system, if any, located outside of the Unit, as shown on the Condominium Map.

7.7 Each Unit shall have for its exclusive use and enjoyment the Privacy Fence adjacent to the Unit; provided, however, that, where there are two (2) Units whose Private Yard Areas are separated by a Privacy Fence (or by a portion of a Privacy Fence), the Privacy Fence (or the portion of the Privacy Fence separating their Private Yard Areas) shall be a limited common element appurtenant to both Units.

7.8 All other common elements of the Project that serve less than all of the Units in the Project shall be limited common elements appurtenant to the Units that are served by such common elements.

8. **COMMON INTEREST.** Each Unit shall have an appurtenant percentage of undivided interest in all of the common elements of the Project (the "percent of common interest"), which is the Unit Owner's proportionate share in the ownership of the common elements. The percent of common interest appurtenant to each Unit is shown on the attached Exhibit "B". Except as otherwise provided in this Declaration, the percent of common interest shall also reflect the Owner's proportionate share in all of the common profits and common expenses of the Project and shall be used to calculate the Owner's voting rights in Project-related matters. Notwithstanding the foregoing, it is the Developer's intent that all Units have the same percent of common interest. In the event it is necessary to allocate varying common interests to the Units so that the total of all common interests equals exactly one hundred percent (100%), the common profits and common expenses of the Project and the voting rights of the various Units shall, nevertheless, be equally allocated among and/or shared by the Units on a pro rata basis (in other words, each Unit will pay the same amount of common expenses as all of the other Units, and each Unit will have the same allocation of votes as all of the other Units). Further, notwithstanding the foregoing, until a Unit has been conveyed by the Developer, the Developer shall be responsible for all costs associated with that Unit (and its appurtenant limited common elements).

8.1 Alteration and Transfer of Interest. Except as otherwise provided in this Declaration or the Act, the common interest appurtenant to each Unit, shall be permanent in character and shall not be altered without the consent of all of the affected Unit Owners, as expressed in a duly Recorded amendment to this Declaration. The common interest shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such common interest is not expressly or correctly mentioned or described in the conveyance or in any other instrument. Ownership of the common elements shall remain undivided and no right shall exist to partition or divide any part thereof, except as otherwise expressed in the Act.

9. EASEMENTS AND DISCLOSURES. The Project, the Units and the common elements, including the limited common elements, shall be subject to and/or shall have the benefit of the easements and reservations described below in this Section 9, and the disclosures set forth in this Section 9 apply to the Project and the Units.

9.1 Easements for Access, Utilities and Support. Each Unit shall have appurtenant thereto non-exclusive easements in the common elements for ingress to, egress from, utility services for and support, maintenance and repair of such Unit (and its appurtenant limited common elements), and shall also have an easement in the other common elements (subject, however, to the exclusive or limited use of the limited common elements) in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Unit Owners. In connection therewith, each Unit Owner shall have an easement in common with the Owners of all of the other Units to connect, use, maintain, and repair all pipes, wires, ducts, cables, conduits, and public utility lines and other common elements located in another Unit and serving such Owner's Unit. Each Unit (and its appurtenant limited common elements) shall be subject to an easement for necessary and reasonable access (for maintenance and repair purposes) to any common elements located in the Unit (or within such limited common elements) in favor of the Owners of all other Units served by such common elements.

9.1A Easement for Mailbox Use. Each Unit shall have an exclusive easement and right to use the mailbox in the Mail Center bearing the same numerical designation as the Unit.

9.1B Easement to Maintain Exterior of Benefitted Unit. Where the Private Yard Area of a Unit (the "**Benefitted Unit**") directly borders the Private Yard Area of a neighboring Unit (the "**Adjacent Unit**"), the Benefitted Unit shall have a right of access into the Adjacent Unit's front yard area and Private Yard Area, including entry through the gate that secures the Adjacent Unit's Private Yard Area, in order to access the exterior sides of the Benefitted Unit and the limited common element Gravel Strip appurtenant to the Benefitted Unit. Each Benefitted Unit shall have appurtenant thereto, and each Adjacent Unit (and its Private Yard Area) shall be burdened by, an easement in favor of the Benefitted Unit, subject to the following conditions: (a) the purpose of the easement is to allow access to the exterior sides of, and to the Gravel Strips appurtenant to, the Benefitted Unit so that such exterior sides and Gravel Strips can be inspected, maintained and repaired; (b) as more particularly described at the end of this Section 9.1B, the access rights (which include access through the gate) must be exercised at reasonable times and only upon obtaining the prior verbal or written consent of the Owner or occupant of the Adjacent Unit, which consent shall not be unreasonably withheld, conditioned or delayed; (c) during the inspection, maintenance and repair of the exterior sides and Gravel Strips

of the Benefitted Unit, the party performing the inspection, maintenance and repair shall have the right to encroach into the front yard area and the Private Yard Area of the Adjacent Unit as may be reasonably necessary to perform such inspection, maintenance and repair (e.g., for the placement of scaffolding for painting); (d) after such entry, inspection, maintenance or repair, the Owner of the Benefitted Unit shall be responsible for putting the front yard area and the Private Yard Area of the Adjacent Unit into the same condition it was in immediately prior to the entry, inspection, maintenance or repair; (e) neither the Owner nor any occupant of the Adjacent Unit shall be liable for any property damage or personal injury that occurs during or as a result of such entry, inspection, maintenance or repair, unless such damage or injury is caused by the reckless or intentional act of the Owner or occupant of the Adjacent Unit (or someone acting under their authority); and (f) the Owner of the Benefitted Unit shall indemnify, defend and hold harmless the Owner and any occupant of the Adjacent Unit from any costs incurred by, or claims brought against, such Owner or occupant as a result of any such entry, inspection, maintenance or repair unless such damage or injury is caused by the reckless or intentional act of the Owner or occupant of the Adjacent Unit (or someone acting under their authority). Exercise of the access rights described in subsection (b) above shall be as follows: The Owner of the Benefitted Unit shall make a verbal or written request to the Owner or occupant of the Adjacent Unit to grant the Owner of the Benefitted Unit with access to the exterior sides of, or to the Gravel Strips appurtenant to, the Benefitted Unit. If access is not granted pursuant to a verbal request, then the Benefitted Owner must send a written request for such access. If the Owner or occupant of the Adjacent Unit does not respond to a written request for access from the Owner of the Benefitted Unit within seven (7) days after delivery of such a request from the Owner of the Benefitted Unit, then the Owner of the Benefitted Unit shall send another written notice to the Owner or occupant of the Adjacent Unit, which notice shall state the day, time and length that the Owner of the Benefitted Unit will need entry into the front yard area and the Private Yard Area of the Adjacent Unit. No earlier than two (2) days after having delivered the written notice to the Owner or occupant of the Adjacent Unit of the day, time and length of entry, the Owner of the Benefitted Unit (and such Owner's agents and contractors) shall have the right to enter the front yard area, through the gate and into the Private Yard Area of the Adjacent Unit, during daylight hours.

9.2 Easement for Encroachment. In the case of encroachments of common elements upon any Unit or limited common elements, or in the case of encroachments of limited common elements or any Unit upon the common elements or any other Unit or limited common element, a valid easement for such encroachment and the maintenance thereof exists for as long as such encroachment continues; provided, however, that in no event shall an easement for encroachment exist if such encroachment occurred due to the willful and knowing conduct of a Unit Owner or occupant or the Association.

9.3 Developer's, Board's, Association's Easement for Access. The Developer (during the Development Period), the Board and the Association shall each have the irrevocable right, to be exercised by the Developer (during the Development Period), the Board, the Managing Agent or their respective designees, to have access to and enter each Unit and any limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for the installation, repair, maintenance, or replacement of any common elements or for inspection or testing of a Unit and/or the common elements (including the limited common elements) when the Association is the claimant under Hawaii Revised Statutes, Chapter 672E (Contractor Repair Act), or at any time for making emergency repairs that may be necessary to prevent damage to any Unit or to any of the common elements. Access

to each Unit for normal maintenance must be at reasonable times and upon prior consent of the Unit Owner.

9.4 Developer's Easement for Sales and Marketing Activities. The Developer reserves, for itself, its agents, employees, contractors, licensees, successors and assigns, the right and an easement, without the consent or joinder of any Person with an interest in the Project, including any other Unit Owner and/or Mortgagee, to conduct extensive sales, leasing, rental, marketing and other commercial activities on and at the Project relating to the marketing and sale of any unit in the Joint Development Area, including, without limitation, the right to use any Units (and appurtenant limited common elements) owned by the Developer (and any other Unit (and appurtenant limited common elements), with the express permission of the Owner of such Unit) and the common elements (excluding limited common elements exclusively appurtenant to Units not owned by the Developer) for model units, sales, leasing, rental, marketing and other commercial activities, temporary occupancy and management offices, parking and the posting and maintenance of banners, signs, and other advertisements and sales displays relating to such sales, leasing, rental, marketing and other commercial activities. Any temporary sales center located within the Project shall be and is hereby reserved, at no cost or charge, for the exclusive use of the Developer and its agents as an office for sales and other uses. Such uses and activities shall be permitted until the end of the Development Period. Notwithstanding the foregoing, if the Developer's mortgage lender or any successor to or assignee of the Developer's mortgage lender acquires any portion of the Joint Development Area in the course of any foreclosure or other legal proceedings or in the exercise of its mortgage remedies or by an assignment in lieu of foreclosure, then such mortgage lender, its successors and assigns, shall have the right to conduct such extensive sales and marketing activities on the Joint Development Area until all of the Units to be developed in the Joint Development Area have been sold to third-party purchasers and deeds conveying title to those Units have been Recorded. The Developer shall restore any damage to the common elements that may have been caused through the exercise of the rights reserved above to their condition immediately prior to such exercise.

In connection with the Developer's easement for sales activities, the Developer shall be entitled to receive the following documentation until the end of the Development Period:

- (a) a copy of an approved revised operating budget of the Project and a brief explanation of the changes and the reasons behind them, so that the Developer can submit the revised budget to the Real Estate Commission of the State of Hawaii in compliance with the provisions of the Act;
- (b) a copy of any change in existing policies of the Board of Directors or implementation of any new policies of the Board of Directors, so that the Developer can disclose this information to prospective buyers; and
- (c) a copy of any executed and/or certified copies, if applicable, of any revised or amended Project Documents (e.g., this Declaration, the Bylaws, the House Rules, and the Condominium Map), so that the Developer can submit the same to the Real Estate Commission of the State of Hawaii and to prospective buyers.

All of the above notices and documentation specified in subsections (a) through (c) shall be delivered to the Developer within five (5) business days after the adoption or

approval of such documentation by the Association or the Board, and shall be under cover of a written statement signed on behalf of the Board of Directors that the enclosures are the official documents of the Association.

9.5 Developer's Easements for Access. The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement for ingress and egress over and across all portions of the Project for the construction of improvements on other portions of the Joint Development Area and to correct any defects and other punchlist items in the common elements or any Unit and to exercise any of the Developer's Reserved Rights. This easement shall terminate upon the later of (a) the end of the Development Period or (b) one year after the closing of the sale of the last unsold Unit in the Joint Development Area.

9.6 Developer's Rights Regarding Easements. The Developer does hereby reserve, and shall have, the unilateral right, for itself and its successors and assigns, to and until the later of (a) the end of the Development Period or (b) December 31, 2040, to designate, delete, relocate, realign, use, convey, transfer, cancel, accept, reserve, hold, grant and otherwise deal with any easements and/or rights of way over, under, across, through and on the common elements for any reasonable purpose, which may include, but shall not be limited to, those purposes that are necessary for the operation, care, upkeep, maintenance, or repair of any Unit, the common elements, any land owned by the Developer (or an affiliate of the Developer) in the vicinity of the Project, or any easements for utilities or for any public or private purpose, provided that such easements and/or rights of way shall not be located on or within any existing structure on the Land and shall not be exercised as to unreasonably disturb, impair or interfere with the normal use and enjoyment of the Land by the Unit Owners.

Each Person acquiring an interest in the Project consents to such designation, deletion, relocation, realignment, use, conveyance, transfer, cancellation, acceptance, reservation, holding or grant of easements and/or rights of way as provided in this Section 9.6 and to the Recording of amendments to this Declaration and of such other documents as the Developer deems appropriate to effect or note such action. Each Person acquiring an interest in the Project further agrees to execute such documents and do such other things as may be necessary or convenient to effect the same, and appoints the Developer and the Developer's assigns as such Person's attorney-in-fact with full power of substitution to execute such documents and to do such things on such Person's behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such Person; provided that after the expiration of the Developer's reservation, the Association, through the Board of Directors, and with the prior written consent of the holders of any then-existing easements affected thereby, is authorized to grant, convey, transfer, cancel, relocate and otherwise deal with any and all such public services and utilities easements now or hereafter located on or affecting the Land or the Project without requiring any consideration therefor. To the extent that the joinder of any Unit Owner, lien holder or other Person who may have any interest in the Land, the Project or any Unit may be required in order to validate any act or thing done pursuant to the foregoing reservation, such joinder shall be accomplished by power of attorney from each of the Unit Owners, lien holders or other such Persons, and the acquiring or acceptance of ownership in a Unit or of a lien on a Unit or of any other interest in the Project or Land shall be a grant of such power, which grant, being coupled with an interest, is irrevocable.

9.6A Trash Container Easements. Owners and occupants of Units 515 and 517 shall each have the right and an easement to place their respective trash containers on that portion of the landscaping common element next to Unit 601 within Phase 16 of the Project, as well as easements for access to such locations. Unit 109 shall have the right and an easement to place its trash container within visitor parking stall V-22, as well as an easement for access to such location, and Units 111 and 113 shall each have the right and an easement to place their respective trash containers on that portion of the landscaping common element next to visitor parking stall V-22, near Unit 114, which is a unit in the Joint Development Area, as well as easements for access to such locations. All placement locations are shown on the Condominium Map.

9.7 Developer's Easement for Noise, Dust and Other Nuisances. The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over, under and upon all portions of the Project to create and cause noise, dust, soot, smoke, odors, surface water runoff, vibrations, traffic congestion and other nuisances, annoyances or hazards in connection with or incidental to (a) the exercise of any of the Developer's easements and other rights described in this Section 9, (b) the development of any portion of the Joint Development Area, and (c) the exercise of the Developer's Reserved Rights as described in this Declaration. By execution of a Unit deed, agreement of sale, lease, rental agreement, or Mortgage for the Unit, each Person executing such document waives any and all rights, claims or actions that such Person might have or might accrue in the future against the Developer, its agents, employees, contractors, licensees, successors and assigns as a result of any damage to such Person's real or personal property, or any inconvenience, annoyance or nuisance caused by the Developer's easements and other rights described in this Section 9.

9.8 Association's Easement Rights on Common Elements. The Association has the right, exercisable by the Board, to receive, hold, designate, delete, relocate, realign, use, convey, transfer, accept, reserve, grant and otherwise deal with easements and rights of way over, under and on the common elements and any part thereof, provided that such easements and/or rights of way shall not be located on or within any existing structure on the Land and shall not unreasonably disturb, impair or interfere with the normal use and enjoyment of the Project by any Unit Owner. During the Development Period, however, the Association must have the written consent of the Developer before it may exercise the right described in this Section.

9.9 Developer's Rights Regarding Utilities, Access, Etc. The Developer shall have a nonexclusive easement for roadway access and utilities purposes over, under, across, along, and upon the roadways that are included in the common elements of the Project, together with the right to designate, delete, grant, convey, transfer, assign, cancel, accept, relocate, realign, reserve and otherwise deal with any easements and rights of way at any time (perpetual or otherwise) for utilities (including, without limitation, water, gas, electric power and communication utilities, electromagnetic and optical transmission facilities), sanitary and storm sewers, drainage, cable television transmission facilities, refuse disposal, landscape development and maintenance, driveways, parking areas, access roadways and other purposes, over, across, under and through any Units still owned by the Developer and the common elements of the Project, whether or not for purposes of developing or servicing other lands owned by the Developer (or an affiliate of the Developer) in the vicinity of the Project, including, without limiting the generality of the foregoing, a right of entry to construct, reconstruct, operate,

maintain, repair, and relocate such lines, facilities, and appurtenances and to grant, assign, and/or transfer any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, owners associations or other entities and the right to grant, dedicate, designate, use, and enjoy easements and/or rights of way for access purposes appurtenant to any portion of the Land and any portion of other lands owned by the Developer (or an affiliate of the Developer) in the vicinity of the Project. These reserved rights shall be exercised in a manner that will not materially impair or interfere with the use of any Unit that is not owned by the Developer. The Developer also reserves the right to assign or transfer the rights and obligations of any such easements and rights of way to the Association, which rights and obligations shall be accepted and assumed by the Association, and, upon such assumption, the Developer shall be relieved of such obligations. Each Owner, by purchasing a Unit, consents to any such designation, deletion, granting, conveyance, transfer, assignment, cancellation, acceptance, relocation, realignment, and reservation of easements and/or rights of way as provided above without the necessity of any Owner or the Association or those claiming by, through or under an Owner or the Association entering into any further agreement respecting such action or document; provided, however, that such Owner and the Association and those claiming by, through or under an Owner or the Association agree to join in and execute such documents and do such other things as may be necessary or convenient to effect the same within ten (10) days after a request by the Developer and without payment of additional consideration by the Developer. The Developer shall have the right, without being required to obtain the consent or joinder of any Unit Owner, lien holder or other Persons, to unilaterally execute, acknowledge, and deliver any and all instruments, including, without limitation, all amendments to this Declaration, the Bylaws and the Condominium Map, necessary or appropriate for the purpose of carrying out the provisions and exercising the rights, powers, and privileges granted or reserved by this Section 9.9. Any such action shall be deemed taken by the Developer as the true and lawful attorney-in-fact of the respective Unit Owners and lien holders.

9.10 Storm Water Operation and Maintenance Plan. The Project, the Association and all Unit Owners and residents must comply with and abide by the applicable permanent source control BMPs (or best management practices) set forth in the Storm Water Operation and Maintenance Plan. The BMPs include, but are not limited to, only washing vehicles in the designated Car Wash Stations and making sure that all outside trash containers are properly covered. The Association is responsible for (a) assuring and monitoring the proper operation and maintenance of the permanent source control BMPs and (b) making and maintaining records showing that the Storm Water Operation and Maintenance Plan is being adhered to, which records are subject to inspection by the City and County of Honolulu.

10. PURPOSES OF AND RESTRICTIONS AS TO USE OF UNITS AND THE PROJECT. Each Owner of a Unit shall have the absolute right to sell, lease or otherwise transfer such Unit, or such Owner's undivided interest in the Unit, subject to all provisions of the Act, this Declaration and the Bylaws. No Unit Owner shall sell, lease or otherwise transfer less than the entire Unit and its appurtenant interest in the common elements, except by way of a transfer of an undivided interest in the Unit. Any lease of a Unit shall be in writing and shall be subject to the provisions of this Declaration, the Bylaws and the Act.

10.1 General Limitations on the Use of Units. No Unit Owner shall use the Owner's Unit or its appurtenant limited common elements for any purpose or in any manner that will: (a) injure the reputation of the Project; (b) jeopardize the soundness of the Project or any

portion thereof; (c) interfere with or unreasonably disturb the rights of other Owners and occupants; (d) reduce the value of the Project; (e) increase the insurance rate or result in the cancellation of insurance on any of the Units or their contents; (f) invalidate or otherwise jeopardize the warranty on any portion of the Project; or (g) fail to satisfy the applicable requirements of the Storm Water Operation and Maintenance Plan. The House Rules provide further guidance regarding the use of the Units.

10.2 Unit Owner's Responsibility - Generally. Except as otherwise specifically provided in this Declaration or in any agreement with the Association, the performance and cost of all maintenance, repair and replacement of each Unit and such Unit's limited common elements (including the Private Yard Area appurtenant to such Unit) shall be the sole responsibility of the Owner of the Unit. Each Owner shall maintain the exterior appearance of the Owner's Unit and the limited common elements (including the front yard area and Private Yard Area) appurtenant to the Owner's Unit in a state of good repair and in a neat and attractive condition, consistent with the surrounding areas and in accordance with the provisions of this Declaration and the Master Declaration. Each Owner is responsible for the control of pests (termites, insects, rodents, and the like) in and around the Owner's Unit and the limited common elements (including the front yard area and Private Yard Area) appurtenant to the Owner's Unit.

10.3 Grading and Drainage. Each Owner shall maintain the grade and ground cover of the Owner's front yard area and Private Yard Area so as to prevent soil erosion and excessive water run-off onto any neighboring front yard area and Private Yard Area and to prevent the ponding of any water on the Owner's front yard area and Private Yard Area. Further, no Owner shall alter the existing drainage pattern on any front yard area and Private Yard Area. Each Owner shall be responsible for keeping all swales, ditches and drainage ways within the Owner's front yard area and Private Yard Area free of debris, open and in good operating condition, and for making sure that the Owner's front yard area and Private Yard Area satisfy the applicable requirements of the Storm Water Operation and Maintenance Plan.

10.4 Landscaping. All front yard areas and Private Yard Areas shall be landscaped in compliance with this Declaration, the House Rules, the Master Declaration and the Storm Water Operation and Maintenance Plan, which landscaping shall be maintained in a neat and attractive manner. If, after thirty (30) days following written demand from the Association, the Board or the Managing Agent, an Owner fails to maintain, repair and/or restore the landscaping on the front yard area and/or Private Yard Area in a neat and attractive manner, then the Board or the Managing Agent may, at their respective option, perform the work and the costs incurred to perform the work shall be specially assessed against the Owner. Any sums not paid by the Owner on demand shall be a lien against the Owner's Unit, subject to foreclosure.

10.5 Private Yard Areas that Directly Abut a Benefitted Unit. Neither the Owner nor any occupant of an Adjacent Unit shall:

(a) unreasonably prevent access to the exterior sides of a Benefitted Unit or to a Benefitted Unit's Gravel Strip when such access is impeded by a fence and/or gate enclosing a portion of the Adjacent Unit's Private Yard Area and when the Owner of the Benefitted Unit has complied with the terms of Section 9.1B of this Declaration;

(b) cause or allow any trees, shrubbery or other vegetation belonging to such Owner or occupant or pertaining to the Adjacent Unit to interfere with the access to, or the

inspection, maintenance or repair of, the exterior sides of the Benefitted Unit or the Benefitted Unit's limited common element Gravel Strip;

(c) keep or allow any items on any portion of the Benefitted Unit's Gravel Strip;

(d) attach anything to the Benefitted Unit or allow any items (including any trees, shrubbery or other vegetation) belonging to an Owner or occupant of an Adjacent Unit to touch any portion of the Benefitted Unit;

(e) perform or allow any landscaping, grading or other work that would or could (i) prevent proper drainage of the Benefitted Unit or its limited common element front yard area and Private Yard Area, (ii) promote soil erosion, attract termites or other insects, (iii) undermine the integrity of the foundation of the Benefitted Unit, or (iv) disturb any portion of the Benefitted Unit's Gravel Strip;

(f) cause or allow water from a hose or from the Adjacent Unit's irrigation system to come into contact with any portion of the Benefitted Unit or the Benefitted Unit's limited common element Gravel Strip;

(g) cause or allow any offensive contact (including, but not limited to, pounding or bouncing of objects) with the Benefitted Unit; or

(h) cause or allow any activity by household pets or other animals that would tend to cause damage to any portion of the Benefitted Unit or the Benefitted Unit's limited common element Gravel Strip.

10.6 Residential Use. Units shall be occupied and used only as residential dwellings for the Unit Owners, their families, tenants and social guests. The foregoing notwithstanding, nothing shall prevent a person from pursuing his or her legal occupation if such person also uses the Unit as his or her principal residence and does not conduct business in a manner that creates additional congestion or traffic. All garages shall be used for parking operational vehicles only and for incidental storage. No Unit, garage or any portion thereof shall be leased for transient or hotel purposes, which are defined herein as (a) rental for any period of less than thirty (30) days or (b) any rental in which the occupants of the Units are provided customary hotel services, such as room services for food and beverage, maid service, laundry and linen or bellboy service. Neither the Units in the Project nor any interest therein shall be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including, without limitation, any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess a Unit or Units in the Project rotates among various Persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise and whether or not registered or required to be registered under Chapter 514E, Hawaii Revised Statutes, as amended. No Unit may be used as a rooming house or for bed and breakfast purposes. Except for the foregoing, the Owner of a Unit shall have the absolute right to lease such Unit.

10.7 Developer's Right to Use Its Units for Sales Purposes. Notwithstanding any other provision to the contrary contained in this Declaration, the Bylaws or the House Rules, the Developer has the right to use any Unit that it owns or leases for promotional purposes or in connection with the initial sales of the Units in the Project.

10.8 Exceptions for Persons With Disabilities. Notwithstanding any other provision to the contrary contained in this Declaration, the Bylaws or the House Rules, Owners or occupants with disabilities shall be allowed reasonable exemptions from this Declaration, the Bylaws and the House Rules when necessary to enable them to use and enjoy their Units and the common elements, provided that any such Owner or occupant shall first make such request in writing to the Board. The request shall specifically set forth the nature of the request and the reason that the requesting party needs to be granted such an exemption. The Board shall not unreasonably withhold or delay its consent to such request. Any such request shall be deemed to be granted if not denied in writing within forty-five (45) days after the Boards' receipt of the request, or within forty-five (45) days after the Boards' receipt of additional information reasonably required by the Board in order to consider such request, whichever shall occur later.

10.9 Use of Common Elements. Each Unit Owner may use the common elements in accordance with the purposes permitted under this Declaration, subject to:

- (a) the rights of other Unit Owners to use the common elements;
- (b) any Owner's (or Owners') exclusive right to use of the limited common elements, as provided in this Declaration;
- (c) the right of the Owners to amend this Declaration to change the permitted uses of the common elements; provided that, subject to Section 514B-140(c) of the Act:
 - (i) changing common element open spaces or landscaped spaces to other uses shall not require an amendment to this Declaration; and
 - (ii) minor additions to or alterations of the common elements for the benefit of individual Units are permitted if the additions or alterations can be accomplished without substantial impact on the interests of other Owners in the common elements, as reasonably determined by the Board;
- (d) any rights reserved in this Declaration to amend this Declaration to change the permitted uses of the common elements;
- (e) the right of the Board, on behalf of the Association, to lease or otherwise use for the benefit of the Association those common elements that the Board determines are not actually used by any of the Unit Owners for a purpose permitted in this Declaration. Unless the lease is approved by at least sixty-seven percent (67%) of the Owners, the lease shall have a term of no more than five years and may be terminated by the Board or the lessee on no more than sixty (60) days prior written notice; provided that the requirements of this paragraph shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Act;
- (f) the right of the Board, on behalf of the Association, to lease or otherwise use for the benefit of the Association those common elements that the Board determines are actually used by one or more Unit Owners for a purpose permitted in this Declaration. The lease or use shall be approved by at least sixty-seven percent (67%) of the Owners, including all directly affected Unit Owners that the Board reasonably determines actually use the common

elements, and the Owners' Mortgagees; provided that the requirements of this paragraph shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Act; and

(g) the applicable requirements of the Storm Water Operation and Maintenance Plan.

10.10 Use of Roadways. No vehicle belonging to an Owner or to an Owner's family member, tenant, guest, employee or service or delivery person shall be stopped or parked in such a manner so as to prevent the exit from or entrance to any portion of the Project. To help ensure the safe use of the Project's roadways, the Board shall establish appropriate speed limits for driving on the Project's roadways.

10.11 Privacy Fences.

(a) Owners and residents may not remove the Privacy Fences and gate appurtenant to their Unit and each Owner (i) shall be responsible, at the Owner's cost, to maintain, repair, reconstruct and replace as necessary the Privacy Fences and gate appurtenant to the Owner's Unit (the "**Fence Maintenance Obligation**"), and (ii) shall, to the extent required, have a right in the nature of an easement over the adjacent front yard area, Private Yard Area and common element area to perform such Fence Maintenance Obligation. Any maintenance, repair, reconstruction or replacement of Privacy Fences and/or gate must be in a style and with material as close as is reasonably possible to the original style and material of the Privacy Fence and/or gate. No additions or alterations shall be made to Privacy Fences and/or gates except as permitted pursuant to this Section 10.11.

(b) The constructed placement and location of Privacy Fences and gates within the Project, together with the encroachments resulting therefrom, are specifically authorized by this Declaration. A Privacy Fence and/or gate may not be demolished or relocated by the Owner of a Unit served by the Privacy Fence and/or gate, except (i) in accordance with the terms of this Declaration, and (ii) with the written consent of the Owner of the other Unit (if any) served by the Privacy Fence. Owners of the Private Yard Areas that share a Privacy Fence on a common boundary have a mutual Fence Maintenance Obligation to maintain, repair, reconstruct and replace the common Privacy Fence in a neat and attractive manner and as directed by the Association. The cost of such maintenance, repair, reconstruction and replacement, as required, shall be shared equally by such Owners. Each Privacy Fence shall constitute a "party wall" and, to the extent not inconsistent with the provisions of this Section 10.11, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(c) If a Privacy Fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner of a Private Yard Area where part of a Privacy Fence is located may restore the entire Privacy Fence. The Owner of the other Private Yard Area where the other part of the Privacy Fence is located shall contribute one-half (1/2) of the cost of such restoration, without prejudice, however, to the right of either Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner under this Section 10.11 shall be appurtenant to the Unit and shall pass to such Owner's successors-in-title.

(d) Should an Owner fail to pay such Owner's share of the cost to maintain, repair, restore or replace the Privacy Fence serving such Owner's Private Yard Area within thirty (30) days following a demand therefor by the other Owner whose Private Yard Area is served by the Privacy Fence and who advanced such sum, the Board, at the request of the advancing Owner and upon the receipt of proof of such advance, shall specially assess the non-paying Owner therefor, which shall be a lien on the non-paying Owner's Unit, subject to all the rights of the Association, including foreclosure of such lien, set forth in and in accordance with this Declaration, the Bylaws and the Act.

(e) If, after thirty (30) days following a written demand from the Association, the Board or the Managing Agent, an Owner or Owners fails to maintain, repair, reconstruct or replace a Privacy Fence that is dilapidated or destroyed, then the Board or the Managing Agent may, at their respective option, perform the work and the costs incurred to perform the work shall be specially assessed against the Owner or Owners. Any sums not paid by the Owner or Owners on demand shall be a lien against the Owner's Unit or the Owners' Units, subject to foreclosure.

10.12 Gravel Strips. Owners and occupants of Units that have a Gravel Strip running along the outside edge of certain portions of the Unit shall keep and maintain the Gravel Strip in good and proper condition, and shall neither remove nor allow the removal of any portion of the Gravel Strip.

10.13 Ewa by Gentry Perimeter Fence. The Ewa by Gentry Perimeter Fence runs along, but outside of, the boundary of the Project that borders Keaunui Drive. The Ewa by Gentry Perimeter Fence will be owned by the Ewa by Gentry Community Association and is not a part of the Project. Owners and residents must not alter, tamper or affix anything to the Ewa by Gentry Perimeter Fence. The Developer intends that the Ewa by Gentry Perimeter Fence will have openings that lead to Keaunui Drive. The Association is specifically prohibited from closing off or barricading these openings in the Ewa by Gentry Perimeter Fence. Notwithstanding the foregoing, the Association shall be allowed to install fencing that closes these entrances, provided that the Association installs a gate in this fencing and also provides the residents of the Project with a key (or some other means of opening) any gate installed.

11. ADMINISTRATION OF THE PROJECT. Administration of the Project shall be vested in the Association of Unit Owners of NorthPark by Gentry IV, consisting of all Unit Owners in the Project. An Owner of a Unit shall automatically be a member of the Association upon becoming the Owner of a Unit. Each Owner shall remain a member of the Association until such Owner no longer owns a Unit. The Association (through the Board or otherwise) shall have the power to enact resolutions, rules and regulations, and to amend and repeal the same from time to time, which resolutions, rules and regulations may reasonably restrict and regulate the use of the Units and the common elements. Any such resolutions, rules or regulations shall be consistent with the terms of this Declaration, the Bylaws and the Act.

Except as otherwise provided in this Declaration with respect to limited common elements, operation of the Project and the maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto, shall be according to the provisions of the Act, this Declaration and the Bylaws and shall include, but shall not be limited to, the following:

11.1 Association to Maintain and Repair Infrastructure Improvements.

The Association shall make, build, maintain and repair all sewers, drains, roads, curbs, sidewalks, street lights and other improvements within the Project that may be required by law to be made, built, maintained and repaired in connection with or for the use of the Project. The costs for such work by the Association shall be charged to and allocated among the Owners as provided in this Declaration, the Bylaws or the Act.

11.2 Association to Comply With All Governmental Rules and

Regulations. The Association shall keep the common elements of the Project in a strictly clean and sanitary condition and shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority during the period that such laws, ordinances, rules and regulations are applicable to the Project.

11.3 Time Frame for Repairs.

The Association shall repair, maintain and keep the common elements of the Project in good order and condition. Any and all defects in the common elements of the Project must be repaired by the Association within thirty (30) days after any Unit Owner or the Owner's agent gives notice of such defect, or within such additional time as may be reasonably necessary to complete such work diligently. Except as otherwise set forth in this Declaration, each Unit Owner shall be responsible for repairing, maintaining and keeping in good order and condition the Unit Owner's Unit, limited common element Private Yard Area and the other limited common elements appurtenant to the Owner's Unit.

11.4 Private Drainage System.

The Project uses a private drainage system that connects to the City and County of Honolulu's municipal drainage system. As such, federal regulations prohibit the following from being discharged into the drainage system used by the Project:

- (a) domestic wastewater;
- (b) industrial wastewater;
- (c) any debris, refuse or solid waste or yard waste;
- (d) chlorinated swimming pool water;
- (e) wastewater from vehicle and equipment cleaning; and
- (f) oil and petroleum products.

Owners are prohibited from discharging any of the above into the drainage system used by the Project.

The Association is solely responsible for the maintenance and upkeep of the Project's drainage system. The Association shall cooperate with the Developer by assuming the Developer's Drainage Connection License(s) for the Joint Development Area. By assuming the Developer's Drainage Connection License(s), the Association shall also assume the City and County of Honolulu's National Pollutant Discharge Elimination System permit(s) (the "NPDES Permit") and shall be responsible for enforcing the terms and conditions of the NPDES Permit as it relates to the Project.

Further, drainage from the Project must be in compliance with the applicable requirements of the Storm Water Operation and Maintenance Plan. Vehicles can only be washed within the Project if done so at one of the Car Wash Stations.

11.5 Bonding Requirements. Before the Association commences or permits construction of any improvement on the Project costing in excess of TEN THOUSAND DOLLARS (\$10,000.00), the Association must obtain a bond or certificate naming as obligees, collectively, all Unit Owners and their respective Mortgagees, as their interests may appear, in a penal sum not less than ONE HUNDRED PERCENT (100%) of the cost of such construction with a surety authorized to do business in the State of Hawaii, guaranteeing performance and completion of such construction free and clear of all mechanics' and materialmen's liens and liens in lieu of mechanics' and materialmen's liens arising under the Act or other applicable laws.

11.6 No Unlawful Use of the Project. The Association must not make or suffer any strip or waste or unlawful, improper or offensive use of any portion of the Project.

11.7 Setback Requirements. The Association shall observe any setback lines affecting the Project and shall 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 lines along such boundary, except as allowed by the Joint Development Agreement.

11.8 Requirements for New Structures. The Association shall not erect or place on the Project any building or structure, including fences and walls, or make additions or structural alterations to, or exterior changes of, any common elements of the Project, except according to plans and specifications, including detailed plot plans, prepared by a licensed architect and approved by a Majority of Unit Owners (or such fraction or percent as required by law or this Declaration), and by all of the Owners whose Units or limited common elements are directly affected by such erection or placement. Such approval shall be evidenced by Recordation of an amendment to this Declaration and/or the Condominium Map. The Developer's prior written consent to such amendment(s) will be required during the Development Period.

11.9 Association to Assume Obligations Under the Storm Water Operation and Maintenance Plan. As required by the Storm Water Operation and Maintenance Plan, the Association shall accept and assume responsibility (financial and otherwise) for the operation and maintenance of the permanent source control BMPs set forth in the Storm Water Operation and Maintenance Plan. The Association shall indemnify, defend and hold the Developer harmless from any loss incurred by the Developer as a result of any claim made against the Developer (after the expiration of the Developer's Association Control Period (as defined below)) regarding the Association's obligations under the Storm Water Operation and Maintenance Plan.

12. MANAGING AGENT AND SERVICE OF PROCESS. Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent appointed by the Association in accordance with the Bylaws. The Developer appoints Certified Management, Inc. (dba Associa Hawaii), the principal place of business and post office address of which is 737 Bishop Street, Suite 3100, Honolulu, Hawaii 96813, as the initial Managing Agent. The initial Managing Agent is hereby designated as the exclusive agent to receive service of process until the Board of Directors and officers of the Association are appointed or elected.

Once the Board of Directors is appointed or elected, process may be served upon any member of the Board of Directors who has a residence or place of business within the City and County of Honolulu, Hawaii.

13. COMMON PROFITS AND EXPENSES. The common profits of the Project shall be distributed among, and the common expenses shall be charged to, the Unit Owners, including the Developer, in proportion to the common interest appurtenant to their respective Units, except as otherwise provided in this Declaration or in the Bylaws; provided, however, that, pursuant to the Act, the Developer shall have the right, but not the obligation, to temporarily assume the payment of all the actual common expenses in the Project until the Developer sends the Unit Owners the written notice described in Section 13.3 below. No Unit Owner may exempt himself, herself or itself from liability for common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of said Owner's Unit.

13.1 Definition of Common Expenses. The term "common expense" means and includes the expenses to operate the Project and all sums designated as common expenses under the Act, this Declaration, or the Bylaws. Except as otherwise provided in the Act, this Declaration, or the Bylaws, the common expenses include, without limitation, (a) all costs and expenses for labor, services, materials, utility services and equipment, (b) all liability for loss or damage arising out of or in connection with the common elements, including any accident, fire, or any nuisance, (c) the premiums for the insurance policies that are required for the Project, (d) the cost of all utility services, including water, electricity, garbage disposal and any other similar services, unless separately metered, sub-metered or allocated, and (e) all costs and expenses, if any, incurred by or on behalf of the Association with respect to the Mail Center, the Car Wash Stations and the visitor parking stalls. As set forth in Section 514B-4 of the Act, real property taxes and special assessments assessed against the various Units shall not be common expenses of the Project.

13.2 Definition of Limited Common Expenses. The term "limited common expenses" means and includes all charges, assessments, costs and expenses unique to a particular Unit or group of Units that includes fewer than all of the Units in the Project. Limited common expenses shall be assessed against and allocated to the appropriate Unit or group of Units. Where more than one Unit is responsible for and/or incurs a limited common expense, the limited common expense shall be evenly divided among such Units. The Developer shall be solely responsible for all of the reasonable costs and expenses for a Unit (and its appurtenant limited common elements) until the Developer conveys its interest in such Unit.

13.3 Commencement of Assessments. Each Unit Owner shall be assessed and responsible for applicable limited common expenses and for the Owner's Unit's share of the common expenses of the Project and shall be severally liable for payment of those common expenses. Pursuant to Section 514B-41(b) of the Act, assessments for each Unit will start on the date the certificate of occupancy has been issued for the Unit by the City and County of Honolulu. The first installment of common expenses for a Unit will be prorated from the date that the certificate of occupancy was issued for the Unit. The foregoing notwithstanding, pursuant to the Act, the Developer may decide to assume all the actual common expenses in the Project and to delay the commencement of assessments against the other Unit Owners until the Developer sends the Unit Owners a written notice that, after a specified date, the Unit Owners shall be obligated to pay for the portions of common expenses that are allocated to their

respective Units. The written notice shall be mailed to the Unit Owners, the Association and the Managing Agent at least thirty (30) days before the specified date. (If a Unit Owner takes title to a Unit after the notice has been mailed, then the Unit Owner's obligation to pay the Unit Owner's share of the common expenses shall commence when the Unit Owner takes title to the Unit.) All subsequent assessments will be payable in advance in monthly installments on the first day of each month or at any other time as the Board shall determine.

13.4 Basis for Assessments. A Unit Owner will pay for the common expenses and limited common expenses incurred in connection with the Owner's Units only if a certificate of occupancy has been issued for the Unit. Common expenses will be allocated among the Unit Owners on a per-unit basis. As such, the common expenses will be divided equally among all of the Units for which a certificate of occupancy has been issued for that Unit. The Developer will be responsible for all costs associated with a Unit (and its appurtenant limited common elements) until a certificate of occupancy has been issued for that Unit.

13.5 Expenses Due to Negligence. Notwithstanding the foregoing, all charges, costs and expenses incurred by the Association that are necessitated by the negligent, reckless or intentional conduct of a Unit's Owner or occupant shall be charged to the Owner of the Unit as a limited common expense or special assessment, which shall be secured by the lien described in the Bylaws.

14. DAMAGE AND DESTRUCTION.

14.1 Rebuilding by the Association in the Event of an Insured Casualty. The Association shall maintain such property (hazard) insurance as is required by the Act and the Bylaws. If, at any time, any common elements of the Project (excluding limited common elements) are damaged or destroyed by any casualty insured against in accordance with the Act and the Bylaws (an "**insured casualty**"), then the Association shall hire one or more contractors to rebuild or repair the damaged improvements, unless the Unit Owners elect to not rebuild, in accordance with the provisions of Section 14.3 of this Declaration. The Association will rebuild and repair the improvements according to their design just before the damage occurred. If such rebuilding or repair cannot be performed (e.g., if changes in the law prevent it), then the Association will rebuild or repair the improvements according to a new design, which must comply with all applicable laws then in effect. The plans and specifications for such new design must first be approved by the Board.

14.2 Shortfall of Insurance Proceeds. If there are not enough insurance proceeds to pay the full cost to repair and/or rebuild the damaged common element improvements, then the Association can pay the shortfall from the Association's replacement reserve fund. If there is not enough money in the replacement reserve fund, then the Association must (a) determine the amount of the remaining shortfall, and (b) charge a special assessment to all of the Units in the Project. The special assessment will be allocated among the Units on a per unit basis. If a Unit Owner does not pay the full cost to repair and/or rebuild the Owner's Unit or its limited common element(s), then the Association shall charge a special assessment to the applicable Unit Owner for any costs incurred by the Association for repairing and/or rebuilding such Unit or its limited common elements.

14.3 Election to Not Rebuild after an Insured Casualty. In the event of an insured casualty of all or any part of the Project's common elements (excluding the limited common elements), the Association shall cause the rebuilding, repairing or restoration of the

damaged improvements (as provided in this Section 14), unless seventy-five percent (75%) or more of the Unit Owners vote against rebuilding, repairing or otherwise restoring the improvements. If the Project is merged with other condominium projects in the Joint Development Area, as provided for in Section 17A of this Declaration, then the vote to not rebuild must be by at least seventy-five percent (75%) of the Unit Owners in the Joint Development Area. The vote shall be taken at a meeting of the Association held prior to the commencement of the rebuilding, repairing or other restoration of the improvements and prior to the later of (a) ninety (90) days after the loss or damage has occurred, or (b) thirty (30) days after the insurance loss has been finally adjusted. During the Development Period, the Developer's written consent shall also be required for any election to not rebuild the improvements.

If an election is made by a Unit Owner to not rebuild, repair or restore the Owner's Unit or its limited common elements, then the Unit Owner's insurance proceeds shall be used first to remove all remains of the Unit and its limited common elements and to restore the site to a good orderly condition and grade. Thereafter, the part of the remaining balance of the insurance proceeds that is allocable to that Unit shall be paid to the Owner and/or to any lender having a Mortgage on that Unit, according to their respective interests.

14.4 Release of Claims. To the extent that the Association's insurance covers any loss, damage or destruction to any part of the Project, the Association and the Owners will have no claim or cause of action for that loss, damage or destruction against the Developer, the Managing Agent, the Association or any of their representatives, or against any Unit Owner (except for any special assessment charged under Section 14.2 of this Declaration) or any Person under any of them.

14.5 Uninsured Casualty. This Section 14.5 shall apply to any common element improvements of the Project that are damaged or destroyed by any casualty that is not insured against. In such event, the improvements shall be rebuilt, repaired or restored unless seventy-five percent (75%) or more of the Unit Owners decide not to rebuild, repair or restore the improvements. If the Project is merged with other condominium projects in the Joint Development Area, as provided for in Section 17A of this Declaration, then the vote to not rebuild, repair or restore must be by at least seventy-five percent (75%) of the Unit Owners in the Joint Development Area. During the Development Period, the Developer's written consent shall also be required for any election to not rebuild, repair or restore the improvements. Unless the decision has been made to not rebuild, repair or restore, the Association shall diligently work to rebuild, repair or restore the common elements, except for the limited common elements, and will pay the cost thereof as a common expense. Unless such rebuilding, repairing or restoring is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of the damaged and destroyed common element improvements and restore the site to good orderly condition and even grade. The Unit Owners shall be solely responsible for any rebuilding, repairing or restoring of their respective Units (and appurtenant limited common elements), according to the original plans and elevations reflected in the Condominium Map, or according to such other plans approved according to this Declaration.

15. CONDEMNATION. If there is a taking in condemnation or by eminent domain of part or all of the Project, then all compensation payable for or on account thereof shall be payable to a condemnation trustee, who shall be designated by the Board and who shall be a bank or trust company doing business in the State of Hawaii (the "**Condemnation Trustee**").

Each Unit Owner other than the Developer gives the Association a special power of attorney to represent the Owner in any proceedings, negotiations, settlements or agreements related to any actual or threatened condemnation of the Project or any part of it. The Developer may represent itself with respect to any right or claim it may have to proceeds payable for the Developer's Reserved Rights or with respect to any Units owned by the Developer.

15.1 Division of Proceeds Between the Developer and the Owners. If all or any part of the Project is taken or is sold under threat of condemnation before the end of the Development Period, then the condemnation proceeds must first be divided between the Developer and the Unit Owners. The Developer will be entitled to receive all proceeds payable to or on account of the loss of the Developer's Reserved Rights. This includes, for example, but is not limited to (a) the right to all proceeds paid for any part of the Land that the Developer has the right to withdraw under Section 17B of this Declaration, and (b) the right to all proceeds paid for any improvements made by the Developer to serve any Phases or Increments to be built in the future. The amount payable to the Developer under this Section 15.1 shall be based upon the court's final decision as to such allocation, if such a decision is made. If a court has not made such a decision, then the amount payable to the Developer shall be based upon the value of the Developer's Reserved Rights, as determined by a qualified appraiser pursuant to Section 15.2 of this Declaration. After payment to the Developer as set forth above, the balance of the condemnation proceeds shall be payable to the Unit Owners or shall be used by the Condemnation Trustee as set forth in Section 15.3 of this Declaration. The amounts allocable to the various Unit Owners affected by the condemnation action shall be determined by the court (if the court has made such a determination) or by a qualified appraiser, as set forth in Section 15.2 of this Declaration.

15.2 Determination by Qualified Appraiser. If the allocation of condemnation proceeds shall be made by an appraiser, then such determination shall be made by a real estate appraiser who must be a member of the American Institute of Real Estate Appraisers (a "qualified appraiser"). If a single qualified appraiser acted on behalf of the Developer and the Association in the condemnation proceedings, then such appraiser shall act as the appraiser to make the determinations under this Section 15. If more than one appraiser represented the Developer and/or the Association, then the Board and the Developer shall choose an appraiser. If they are unable to agree upon a single appraiser within ten (10) days after request to do so is made by either party, then they shall each appoint an appraiser within fifteen (15) days thereafter, and the two appointed appraisers shall select a third appraiser. If either party fails to choose an appraiser on time, then the appraiser chosen by the other party will make the determination on its own. Otherwise, the decision of any two appraisers will decide how much to pay the Developer and/or how much to pay to each Unit Owner. The costs of the appraiser(s) will be divided equally among the parties involved in the condemnation.

15.3 Partial Taking. If only part of the Project is taken, and if the Association does not decide to terminate the condominium property regime, then the Condemnation Trustee must (a) pay to the Developer the Developer's share of the condemnation proceeds for the value of the Developer's Reserved Rights, as provided in Section 15.1 of this Declaration, and (b) use the rest of the proceeds in the manner set forth below. The Condemnation Trustee shall arrange for the repair and restoration of the buildings and improvements according to the Condominium Map on file immediately prior to such condemnation. If such repair and restoration according to the Condominium Map on file is not permissible under the laws then in force, then repair and

restoration shall be according to such modified plan as is previously approved by the Board. If a partial taking occurs in which any Unit is eliminated or not restored, then the Condemnation Trustee shall disburse the portion of the proceeds of such award allocable to the Unit, less the Unit's proportionate share of the cost of debris removal, to the Owner of the Unit and his Mortgagee, if any, as their interests may appear, in satisfaction of their interests in the Unit. The Condemnation Trustee shall disburse the remainder of the proceeds of such award to the contractor engaged in such repair and restoration in appropriate progress payments. If such proceeds are insufficient to pay the costs, then the Board is expressly authorized to pay such excess costs from the reserve fund(s), provided that, if the reserve fund(s) is/are insufficient for this purpose, then the Board shall levy a special assessment on the Owners of the Units in proportion to their common interests. If sums are received in excess of the cost of repairing and restoring the remaining buildings and improvements, then such excess proceeds shall be divided among the Owners of the Units according to their common interests.

16. ALTERATIONS TO UNITS AND THE PROJECT. Except as otherwise provided for in this Declaration or the Bylaws, neither the Association nor any individual Unit Owner shall construct any additional structure or make any structural alterations or additions to an existing structure without first (a) obtaining the affirmative vote or written consent of at least sixty-seven percent (67%) of the Unit Owners and (b) Recording an amendment to this Declaration and the Condominium Map to reflect such change. This provision shall not apply to the Developer during the Development Period, when the Developer is exercising Developer's Reserved Rights. This provision shall also not apply to the extent it conflicts with the City and County of Honolulu's number of approved dwellings in the Project or any provision of the federal Fair Housing Act (42 U.S.C. Sec 3601, et seq), as the same has been amended and may be further amended from time to time.

16.1 Optional Floor Plans Shown on the Condominium Map.

Notwithstanding the foregoing, a Unit Owner may add any optional floor plan shown on the Condominium Map for that Unit's particular floor plan without amending the Condominium Map, provided the Unit Owner first obtains written approval from the Board and any necessary governmental permits and approvals. The Board shall not unreasonably withhold or delay its consent to such request, and any such request shall be deemed to be granted if not denied in writing within forty-five (45) days after the Board's receipt thereof or within forty-five (45) days after the Board's receipt of additional information reasonably required by the Board in order to consider such request, whichever shall occur last.

16.2 Limited Approval for Certain Floor Plans. Notwithstanding any other provision in this Declaration to the contrary, a Unit Owner need only obtain the consent of the Board and any necessary governmental permits and approvals for changes to the layout of a Unit that do not increase or decrease the total area of the original Unit's "building footprint" by more than one hundred square feet (100 sq. ft.). As used in this Section 16.2, the original Unit shall mean the Unit as originally constructed by the Developer. Upon obtaining the necessary approvals and completing the construction of the changes or alterations, the Unit Owner shall Record an amendment to this Declaration and to the Condominium Map that includes a revised set of floor plans describing and showing the changes and/or alterations to the Unit. The amendment need only be signed by the Unit Owner and an officer of the Board.

16.3 Solar Energy Devices. The installation, maintenance and repair of any "solar energy device" (as defined in the Act) within any portion of the Project must be in compliance with the Act, Hawaii Revised Statutes Section 196-7, as may be amended from time to time ("**Section 196-7**"), this Section of the Declaration and any additional rules relating to solar energy devices that may be adopted by the Board. The installation of any solar energy device must be performed by a duly licensed Hawaii contractor, and the solar energy device shall be registered with the Managing Agent within 30 days after installation. The Board shall have the right to adopt additional rules relating to the installation, maintenance and repair of solar energy devices within the Project, provided such rules are in compliance with the Act and Section 196-7.

16.4 Optional Lanais. If a Unit includes an optional lanai, then such lanai cannot be enclosed, covered or otherwise permanently improved or altered without first obtaining written approval of such painting, decorating, enclosure, covering, improvement or alteration from the Board and the Community Association, as well as any necessary governmental permits and approvals. The Board shall not unreasonably withhold or delay its consent to such request, and any such request to the Board shall be deemed to be granted by the Board if not denied in writing within forty-five (45) days after the Board's receipt thereof or within forty-five (45) days after the Board's receipt of additional information reasonably required by the Board in order to consider such request, whichever shall occur last. Lanais shall be used only as outdoor living areas containing appropriate patio furniture and other similar outdoor furnishings that comply with any standards governing the appearance of such items as determined by the Board.

17. DEVELOPER'S RESERVED RIGHTS. The Developer's Reserved Rights described in this Declaration (including in Sections 17 to 17D, inclusive) are necessary and/or helpful to the development of the Project. The Developer, at the Developer's sole discretion, may exercise the Developer's Reserved Rights separately, in one or more combinations, at one or more times, or not at all. Except as otherwise stated in this Declaration, the Developer may exercise the Developer's Reserved Rights unilaterally and until the expiration of the Development Period.

The Developer may exercise any of the Developer's Reserved Rights stated in this Declaration (including, without limitation, the Developer's Reserved Rights set forth in Sections 17 through 17D, inclusive) without being required to obtain the approval, consent, or joinder of anyone else and without the knowledge of anyone else. This includes, but is not limited to, the Association, any lender, any Unit Owner or any other Person who may have an interest in any part of the Project. The Developer shall have the unilateral right to execute, acknowledge and Record any and all instruments, including without limitation all amendments to the Project Documents, necessary or appropriate for the purpose of carrying out the provisions and exercising the Developer's Reserved Rights. When a Person acquires an interest in a Unit or in any other part of the Project, said Person automatically:

(a) takes said Person's interest subject to the Developer's Reserved Rights and each and every exercise and/or assignment of them;

(b) acknowledges, approves, consents to, agrees to and accepts (i) the Developer's Reserved Rights and the exercise of them from time to time; (ii) that such exercise may change the Project; (iii) that such exercise may result in the recalculation of the common

interest of some or all Units; and (iv) that the Developer can file and/or Record any and all documents that the Developer deems necessary or convenient to the exercise of its rights, including, but not limited to, any amendment to the Project Documents;

(c) agrees, promptly after being asked to do so, to join in, consent to, sign, have notarized, deliver and Record all documents and do all other things that the Developer in its sole discretion determines to be necessary or convenient to the exercise of the Developer's Reserved Rights or to accomplish the purpose for which those rights were reserved (as determined by the Developer); and

(d) appoints the Developer as said Person's attorney-in-fact with full power of substitution to execute such documents and do such other things on said Person's behalf as may be necessary or convenient to the exercise of the Developer's Reserved Rights or to accomplish the purpose for which those rights were reserved (as determined by the Developer), which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such Person. The Developer cannot use its power of attorney under this Section 17 to waive or release any right an Owner or other interested Person might have under the Act, to cancel the purchase of a Unit, or to mortgage an Owner's Unit.

17A. THE DEVELOPER'S RESERVED RIGHT TO EFFECT MERGER. Any other provision in this Declaration or the Bylaws to the contrary notwithstanding, the Developer reserves and shall have the right to effect one or more administrative mergers of the Project with some or all of the Increments or other condominium projects built within the Joint Development Area, pursuant to and in accordance with the terms of the Declaration of Intent to Develop and Merge. All of the provisions of the Declaration of Intent to Develop and Merge are incorporated into and made a part of this Declaration and shall govern in the event of a conflict with the provisions of this Declaration or any of the other Project Documents. The allocations of maintenance fees and votes among the Units in the Merged Project (as defined in the Declaration of Intent to Develop and Merge) shall be as described in the Declaration of Intent to Develop and Merge.

17A.1 Reserved Right to Review and Approve Project Documents. Pursuant to the terms of the Declaration of Intent to Develop and Merge, the Developer reserves the right to review and approve, using its reasonable discretion, any and all amendments to any or all of the Project Documents to ensure that, subject to the exceptions allowed by and authorized in the Declaration of Intent to Develop and Merge, the Project Documents are generally similar, in form and substance, to the condominium documents of any other condominium project created within the Joint Development Area so that the Developer is able to effect an administrative merger of the various condominium projects.

17B. THE DEVELOPER'S RESERVED RIGHT TO ADD and/or WITHDRAW LAND. Any other provision in this Declaration or the Bylaws to the contrary notwithstanding, the Developer shall have the right, but not the obligation, at its sole discretion, at any time and from time to time, to unilaterally add real property to and/or withdraw real property from the Project and the effect of this Declaration, the Condominium Map and the Bylaws by amending this Declaration, the Bylaws, the Condominium Map and/or any other documents that the Developer deems necessary or convenient to effect such addition or withdrawal.

17B.1 Effect of Withdrawal of Land. Upon a withdrawal of real property from the Project and this Declaration, and with no further action required, the withdrawn property shall cease to be a part of the Project or subject to this Declaration, the Bylaws, or the Act, and no Unit Owner, Mortgagee, lien holder, Unit purchaser or any other Person who may have an interest in the Project or in any Unit (other than the Developer and the then-current holder of any Mortgage still in effect covering the Land prior to the Recording of this Declaration) shall have any legal or equitable interest in the withdrawn real property. It is the intent of this provision that, upon such withdrawal, legal title to the withdrawn real property will be vested solely in the Developer. If deemed necessary to effect the intent of this Section 17B, each Unit Owner, Mortgagee, lien holder and any other Person who may have an interest in the Project or any Unit shall, within 10 days after a written request by the Developer, unconditionally quitclaim and/or release its interest, if any, in the withdrawn real property to the Developer or to the Developer's designee.

17B.2 Developer's Rights With Respect to Withdrawal of Land. In exercising the rights set forth in this Section 17B, the Developer may at any time: (a) execute, file and process to final approval an application with the City and County of Honolulu for the legal subdivision of the withdrawn land from the balance of the Land covered by this Declaration; (b) execute and Record a petition and any supporting documentation necessary or convenient for such subdivision; (c) execute and Record any amendments to this Declaration, the Condominium Map and the Bylaws to facilitate, describe and show the withdrawal of real property from the Project and this Declaration; and (d) apply for and obtain from the Real Estate Commission of the State of Hawaii an effective date for one or more public reports (or amendments thereto) in connection with the withdrawal of real property from the Project and this Declaration. The withdrawn real property shall be deemed deleted from the Project and this Declaration for all purposes upon the Recordation in the Bureau of an amendment to this Declaration and/or the Condominium Map that sets forth the withdrawal of the real property.

17B.3 Limits on Developer's Reserved Right to Add or Withdraw Land. The Developer's reserved rights in this Section 17B are subject to the following terms and conditions:

(a) The addition or withdrawal of land shall not affect the layout, location, dimensions or structure of any Unit that has been sold and the conveyance thereof Recorded.

(b) The addition or withdrawal of land shall not change or reapportion the relative common interests of any Units that have been sold and the conveyance thereof Recorded.

(c) The withdrawn land shall not include any land upon which a Unit that has been sold and the conveyance thereof Recorded is directly located.

17C. THE DEVELOPER'S RESERVED RIGHT TO SUBDIVIDE AND/OR CONSOLIDATE LAND. Any other provision in this Declaration to the contrary notwithstanding, the Developer shall have the right, but not the obligation, at its sole discretion, at any time and from time to time to unilaterally subdivide any portion of the Land and/or consolidate any portion of the Land with other land (and to re-subdivide the consolidated lands if appropriate) in order to effect the addition and/or withdrawal of real property as described in

Section 17B of this Declaration by amending this Declaration, the Bylaws, the Condominium Map and/or any other document that the Developer deems necessary or appropriate to effect such subdivision and/or consolidation.

17D. MAIL CENTER, CAR WASH STATIONS AND VISITOR PARKING STALLS. The Project is part of the Joint Development Area, which was designed to operate as a cohesive, integrated condominium community. As set forth in the Declaration of Intent to Develop and Merge, the Project and other condominium projects developed in the Joint Development Area will share certain common infrastructure, including, but not limited to, systems for potable water, irrigation, drainage, sewer and electricity, visitor parking areas and roadways. Except as otherwise provided in the Project Documents or the Declaration of Intent to Develop and Merge, the use and cost of maintaining, repairing and operating the shared infrastructure and facilities are to be shared among all owners in the Joint Development Area on a per-unit basis.

17D.1 Mail Center and Car Wash Stations. The Developer reserves the right to design and construct a mail pavilion to serve as a centralized mail station for the Project and for the rest of the Joint Development Area (the "**Mail Center**"). The Mail Center will be located within the Project (on Lot 17). The Developer also reserves the right to design and construct two car wash stations to serve as car wash areas for the Project and for the rest of the Joint Development Area (each a "**Car Wash Station**" and, collectively, the "**Car Wash Stations**"). The Car Wash Stations will be provided because cars are prohibited from being washed in driveways or in any other areas of the Project or the Joint Development Area. One of the Car Wash Stations will be located on Lot 13 (the "**North Car Wash Station**") and the other Car Wash Station will be located on Lot 9 (the "**South Car Wash Station**"), both of which are part of the Joint Development Area. The Mail Center and the Car Wash Stations will be available for use by the residents of the Units in the Project and by all the other residents in the Joint Development Area. The several associations of unit owners within the Joint Development Area, including the Association, shall have the duty and obligation to maintain the Mail Center and the Car Wash Stations at the common expense of all of the owners of units within the Joint Development Area. This duty and obligation may be delegated to a single association of unit owners should the several associations be merged as described in Section 17A of this Declaration. Upon the merger of this Project with other condominium projects (the "**merged condominium project**"), the owners and occupants of the units in the merged condominium project will have the right to use the common elements of the merged condominium project, which common elements shall include the Mail Center and the Car Wash Stations.

17D.2 Scenario If Future Merger Does Not Include the Entire Joint Development Area. If the Developer does not merge certain other condominium projects within the Joint Development Area with the Project pursuant to Section 17A of this Declaration, then the association(s) of unit owners for the condominium project(s) where the Mail Center and the Car Wash Stations are located will be obligated to allow the residents of the Project and the other condominium projects within the Joint Development Area to use the Mail Center and the Car Wash Stations in the same manner and to the same extent as residents of the condominium project(s) where the Mail Center and the Car Wash Stations are located. Each condominium project using the Mail Center and a Car Wash Station that is not merged with the condominium project(s) where the Mail Center and the Car Wash Stations are located may be charged a usage

fee equal to that condominium project's proportionate share of the costs attributable to the Mail Center and the Car Wash Stations, allocated on a per-unit basis.

17D.3 Rights, Easements and Obligations of the Condominium Projects in the Joint Development Area. There shall exist the following rights, easements and obligations:

(a) If there is a merger of the Association (i.e., the association of unit owners for the Project, which is where the Mail Center will be located) with the other associations of unit owners in the Joint Development Area, then each unit in the Joint Development Area shall have a non-exclusive right, in common with all other units in any existing or future condominium projects within the Joint Development Area, to use the Mail Center on Lot 17 of the Project, as well as a non-exclusive easement for ingress and egress to and from the Mail Center over the various condominium projects within the Joint Development Area.

(b) If there is a merger of the association of unit owners for the condominium project on Lot 9 (which is where the South Car Wash Station is located) and the Association (i.e., the association of unit owners for the Project) with the other associations of unit owners in the Joint Development Area, then each unit in the Joint Development Area shall have a non-exclusive right, in common with all other units in any existing or future condominium projects within the Joint Development Area, to use the South Car Wash Station, as well as a non-exclusive easement for ingress and egress to and from the South Car Wash Station over the various condominium projects within the Joint Development Area.

(c) If there is a merger of the association of unit owners for the condominium project on Lot 13 (which is where the North Car Wash Station is located) and the Association (i.e., the association of unit owners for the Project) with the other associations of unit owners in the Joint Development Area, then each unit in the Joint Development Area shall have a non-exclusive right, in common with all other units in any existing or future condominium projects within the Joint Development Area, to use the North Car Wash Station, as well as a non-exclusive easement over appropriate portions the Project and the various other condominium projects within the Joint Development Area for ingress and egress to and from the North Car Wash Station.

(d) If the Project is merged with other condominium projects within the Joint Development Area, then, upon such merger, each unit in the Joint Development Area, including each Unit in the Project, shall have a non-exclusive right, in common with all other units within the Joint Development Area, to use the Mail Center and the Car Wash Stations and a non-exclusive easement over the Project and over the condominium projects where the Mail Center and the Car Wash Stations are located for ingress and egress to and from the Mail Center and the Car Wash Stations.

(e) Each Unit in the Project and each unit in the other condominium projects in the Joint Development Area will have an exclusive easement to use the mailbox in the Mail Center that has the same numerical designation as the Unit or the unit. Such easement is not a limited common element, but is a permanent easement appurtenant to a particular Unit or unit and shall be conveyed or assigned together with the Unit or unit to which it is appurtenant, whether or not reference is made to such easement in the document conveying the Unit or unit. The Developer reserves the right to Record the necessary documentation, including, without

limitation, amendments to this Declaration, the Bylaws and the Condominium Map to effect this easement.

(f) Certain parking stalls in the Project and in other condominium projects in the Joint Development Area are visitor parking stalls that are available for use by visitors to any or all of the units in the Joint Development Area.

17E. DEVELOPER'S ASSOCIATION CONTROL PERIOD. Separate and apart from the Development Period and the Developer's Reserved Rights described in this Declaration (including in Sections 17 to 17D, inclusive), the Developer shall exercise all of the rights and incidents of Association membership for a Unit, including voting, until closing of the sale of the Unit occurs; provided, however, that, notwithstanding the foregoing or anything else in this Declaration or the Bylaws to the contrary, pursuant to Section 514B-106(d) of the Act, the Developer shall control the Association and appoint and remove the officers and the members of the Board until expiration of the "**Developer's Association Control Period**", which shall be the earlier of: (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than the Developer or an affiliate of the Developer; (b) two (2) years after the Developer has ceased to offer Units for sale in the ordinary course of its business; (c) two (2) years after any right to add new Units was last exercised by the Developer; or (d) the day the Developer, after giving written notice to Unit Owners, Records an instrument voluntarily surrendering all rights to control activities of the Association. If the Developer voluntarily surrenders its right to appoint and remove the officers and members of the Board before termination of the Developer's Association Control Period, then the Developer may require, for the balance of the Developer's Association Control Period, that specified actions of the Association or the Board, as described in a Recorded instrument executed by the Developer, be approved by the Developer before they become effective. As part of the exercise of the Developer's control of the Association, the Developer shall be entitled to appoint the initial Managing Agent on behalf of the Association.

18. AMENDMENT OF DECLARATION.

18.1 Votes Required to Amend This Declaration. Except as otherwise provided in this Declaration or in the Act, this Declaration and (if necessary) the Condominium Map may be amended by the affirmative vote or written consent of at least sixty-seven percent (67%) of the Unit Owners and shall be effective only upon Recording an instrument setting forth such amendment and vote or written consent, duly executed by such Unit Owners or by the proper officers of the Association. However, at any time prior to Recording of the first Unit deed conveying a Unit to a party other than the Developer, the Developer may amend this Declaration (including the Bylaws, the Condominium Map and the exhibits to this Declaration) in any manner, without the approval, consent or joinder of any Unit purchaser or anyone else. Further, this Section 18 and any other provision or section in this Declaration that give the Developer any right, authority or reservation can be amended only if, in addition to the foregoing vote or written consent of the Unit Owners, the Developer or its successors or assigns gives its written consent to such amendment.

18.2 Amendments Requiring the Developer's Consent. An amendment to any provision of this Declaration that is for the express benefit of the Developer shall require the express written consent and joinder of the Developer, together with such other applicable approval requirements, if any, that are set forth in this Section 18. Subject to the Owner-

approval requirements set forth above and any other requirements set forth in this Declaration, any two officers of the Board may prepare, execute, certify, and Record an amendment to this Declaration, the Bylaws and/or the Condominium Map on behalf of the Association. The requirement for two officers to execute documents does not apply to the Developer when the Developer is exercising any of the Developer's Reserved Rights.

18.3 The Developer's Ability to Amend this Declaration. Notwithstanding the foregoing and notwithstanding the sale or conveyance of any of the Units, the Developer may unilaterally amend this Declaration (and, when applicable, the Condominium Map) without the approval, consent or joinder of Persons then owning the Units or of any Mortgagee of a Unit in order to:

(a) Record the "as-built" statement (with plans, if applicable) required by Section 514B-34 of the Act, (i) as long as such amendment is accompanied by a certification of a licensed architect, engineer or surveyor certifying that the Recorded Condominium Map, as amended, fully and accurately depicts the layout, location, boundaries, dimensions and numbers of the Units substantially as built, or (ii) as long as the plans being filed simultaneously therewith involve only confirmation of the selection of construction options to the layout, location and dimensions of the Unit as built, or any change in any Unit number;

(b) update or correct the legal description of the Land, including substituting a file plan description of the Land in place of a metes and bounds description of the Land;

(c) correct misstatements of fact, typographical errors and/or mathematical errors;

(d) exercise any of the Developer's Reserved Rights described in this Declaration; and

(e) comply with the law or with requirements imposed by the Real Estate Commission of the State of Hawaii or any other governmental agency (including, without limitation, FNMA and/or FHLMC), by any title insurance company issuing title insurance on the Project or any of the Units and/or by any institutional lender lending funds on the security of the Project or any of the Units.

18.4 Restatement of the Declaration. The Association at any time may, by a resolution duly adopted by the Board, restate this Declaration and/or the Bylaws to amend this Declaration and/or the Bylaws for the reasons set forth in Section 514B-109(b) of the Act, subject, however, to the requirements of Section 514B-109(b) of the Act.

19. COMPLIANCE WITH PROJECT DOCUMENTS; ENFORCEMENT.

19.1 Compliance. All Unit Owners, their successors and assigns, tenants of such Owners, employees of Owners or tenants, and any other Persons who may in any manner use any part of the Project are subject to the provisions of the Act and to the provisions of this Declaration, the Bylaws and the House Rules, and to all agreements, decisions and determinations lawfully made by the Board and the Association. Failure to comply with any of the Project Documents shall be grounds for an action to recover sums due, for damages or

injunctive relief, or both, maintainable by the Managing Agent or the Board of Directors on behalf of the Association or, in a proper case, by an aggrieved Unit Owner.

19.2 Enforcement. Except as otherwise set forth in this Declaration, the Bylaws or the House Rules, the Managing Agent and the Board, on behalf of the Association, shall have the right, but not the obligation, to enforce the provisions of the Project Documents and all agreements, decisions, and determinations of the Board and the Association as lawfully made or amended from time to time. The Managing Agent and the Board, on behalf of the Association, shall also have the right to enforce assessment liens against the Units. Failure by the Board to enforce any provision of the Project Documents shall in no event be deemed a waiver of the right to do so thereafter. No Owner may bring an action or proceeding on behalf of the Association or on behalf of another Owner. Any judgment, award, or other recovery on behalf of the Association shall be payable only to the Association as a realization of the Association. The limitations, restrictions, conditions, and covenants set forth in the Project Documents constitute a general scheme for (a) the maintenance, protection, and enhancement of the value of the Project, and (b) the benefit of all Owners and occupants. Each remedy provided for in this Declaration shall be cumulative and not exclusive. The result of or condition caused by any violation of any of the provisions of the Project Documents is and shall be deemed a nuisance.

19.3 Recovery of Costs. All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association for (a) collecting delinquent assessments against any Owner, (b) foreclosing a lien on any Owner's Unit, and (c) enforcing provisions of the Project Documents or the Act against any Owner, shall be promptly paid on demand to the Association by the Unit Owner; provided that the Association shall promptly pay on demand to the Unit Owner those costs and expenses, including reasonable attorneys' fees, incurred by the Unit Owner as a result of claims made by the Association that are not substantiated.

19.4 Compliance Excused by Court. The First Circuit Court of the State of Hawaii may excuse compliance with any of the provisions referenced in Section 514B-111(a) of the Act that are in this Declaration or the Bylaws if the Court finds that the provision unreasonably interferes with the Association's ability to manage the common elements, administer the Project, or carry out any other function set forth in this Declaration or the Bylaws, and that compliance is not necessary to protect the legitimate interests of the members or lenders holding security interests. The Board, on behalf of the Association, shall, by certified mail, provide all Owners with notice of the date, time, and place of any court hearing to be held pursuant to this Section 19.4 and Section 514B-111 of the Act.

19.5 Obligation of Good Faith and Mutual Cooperation. Each Unit Owner, by acquiring a Unit, acknowledges and agrees that such Owner shall have an obligation to act in good faith and mutual cooperation with respect to the Project, the Association and the other Unit Owners. In that respect, if something needs to be done that is reasonable and necessary, but the Project Documents do not address (i.e., are silent on) the act that needs to be done, then, provided the act will not have a material and adverse effect on the Owner, the Owner's Unit or the use of or obligations with respect to the Owner's Unit and provided the Unit Owner is not required to incur any costs related thereto, then the Unit Owner agrees to cooperate, in good faith, in the performance of the desired act. If, despite such good faith mutual cooperation, an

agreement cannot be reached with respect to the act that needs to be done, then the matter shall be submitted to the dispute resolution process set forth in Section 23 of this Declaration.

20. EWA BY GENTRY COMMUNITY ASSOCIATION. Each Unit Owner, upon acquiring his or her Unit, shall automatically become a member of the Ewa by Gentry Community Association, a Hawaii non-profit corporation (the "**Community Association**"), which is separate from the Association of Unit Owners of NorthPark by Gentry IV. Each Unit Owner shall remain a member of the Community Association until such time as his ownership of a Unit ceases. All Unit Owners and other Persons acquiring any right, title or interest in the Project, including contract purchasers, are subject to, bound by, and shall comply strictly with the provisions of the Master Declaration, the Charter of Incorporation, the Bylaws of the Community Association, and the lawful rules and regulations of the Community Association, as each may be amended from time to time. Pursuant to the Master Declaration, the Community Association is authorized to assess maintenance fees to cover expenses incurred by the Community Association in providing for the maintenance, restoration and repair of any improvements located on the common areas of the Ewa by Gentry Community Area. All assessments made by the Community Association shall be separate from assessments for the Project. If a Unit Owner fails to timely pay all required assessments to the Community Association, then the Unit Owner shall be subject to the consequences set forth in the Master Declaration, which consequences include, but are not limited to, the right of the Community Association to Record a notice of lien against the Owner's Unit and to enforce such lien by foreclosure.

21. LATENT DEFECTS. So long as the Developer owns one or more of the Units, the Developer will take no action that would adversely affect the rights of the Association or of any Unit Owner with respect to assurances made by third parties against latent defects in the Project or other rights assigned to the Association, if any, by reason of the establishment of this condominium property regime.

22. SECURITY. Neither the Developer nor the Association shall be considered in any way an insurer or guarantor of security within the Project, and each Unit Owner agrees not to hold the Developer or the Association liable for any loss or damage such Unit Owner or anyone else may suffer by reason of a failure to provide adequate security or from the ineffectiveness of any security measures undertaken at the Project. Each Unit Owner assumes the risk of injury, loss or damage that may arise due to a failure to provide adequate security or from the ineffectiveness of any security measures undertaken at the Project. By acquiring an interest in a Unit in the Project, each Unit Owner acknowledges and agrees that neither the Developer nor the Association has made any representations or warranties, either express or implied, about any security measures at the Project, and such Unit Owner has not relied upon any such representations or warranties.

23. MANDATORY MEDIATION/ARBITRATION OF DISPUTES INVOLVING THE DEVELOPER.

23.1 If any dispute or claim arises in connection with or relates to the design, development, construction, sale, marketing, financing or any other activity or matter relating to the Project between one or more Unit Owners and/or the Association on one side and the Developer on the other side (a "**Dispute**"), then the parties must first attempt to resolve a Dispute by negotiation and then by mediation. If the parties are unable to resolve a Dispute by

negotiation and mediation, then (a) any unresolved Dispute shall be resolved by arbitration before a single arbitrator administered by Dispute Prevention and Resolution, Inc., or another dispute resolution group acceptable to all parties, (b) the parties voluntarily, knowingly and intelligently waive their right to a jury trial, and (c) judgment upon the arbitrator's award may be entered in any court having jurisdiction thereof. If all parties agree, then the person serving as mediator may also serve as arbitrator for a Dispute. Each party shall be responsible for the administrative fees incurred by that party, and the arbitrator's and mediator's compensation shall be shared equally by the parties. The prevailing party, if any, shall be entitled to an award of reasonable attorney's fees, and the arbitrator shall be the sole judge in determining the reasonableness of attorney's fees to be awarded and in determining which party is the prevailing party. The parties and the mediator and arbitrator shall keep the content and results of any mediation or arbitration confidential. The arbitration may not be consolidated with other arbitration proceedings unless all parties agree to such consolidation.

23.2 Any negotiation, mediation and arbitration concerning a Dispute shall take place only in Honolulu, Hawaii. Any lawsuit filed to enforce an arbitration award or otherwise must be brought only in the courts of the State of Hawaii, including the United States District Court in Honolulu, and nothing shall be done to (a) defeat the jurisdiction of a Honolulu negotiation, mediation and arbitration or of those courts or (b) try to get a change of venue (in other words, to have the negotiation, mediation, arbitration or lawsuit transferred to another city or state or another jurisdiction).

23.3 The foregoing notwithstanding, if any of the parties to a Dispute have a contractual relationship (e.g., the sales contract by which the Developer sold a Unit to an Owner) that requires them to follow different procedures to resolve a particular Dispute, then such different procedure shall be followed.

24. CHANGES IN LAW. If any law that applies to the Project changes after this Declaration and the Bylaws are Recorded, then the change in law will control over the provisions of this Declaration and the Bylaws only to the extent that said law expressly provides that the changes in law will control over inconsistent provisions in existing Project Documents.

25. INVALIDITY. The invalidity of any provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and, in such event, all other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included in this Declaration.

26. WAIVER. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

27. RIGHTS OF ACTION. Nothing in this Declaration or in the Bylaws shall abridge the right of an aggrieved Unit Owner or the Association to bring and maintain an action against another Unit Owner or the Association, as the case may be, for failure to comply with the provisions of the Act, this Declaration, the Bylaws, the House Rules or any other rules and regulations or decisions of the Association or the Board that have been duly made pursuant to authority granted to the Association or the Board in this Declaration, the Bylaws or the House Rules.

28. **CAPTIONS.** The captions used in this Declaration are used only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision in this Declaration.

29. **RIGHTS OF MORTGAGEES AND GUARANTORS.**

29.1 **Notices of Action.** A Mortgagee and guarantor of the Mortgage on any Unit in the Project will be entitled to timely written notice of:

(a) any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its Mortgage;

(b) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds its Mortgage;

(c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) any proposed action that requires the consent of a specified percentage of Mortgagees.

29.2 **Termination of Condominium Property Regime.** Any action to terminate the condominium property regime after substantial destruction or condemnation occurs or for other reasons may only occur upon approval of Mortgagees that represent at least fifty-one percent (51%) of the common interests appurtenant to the Units that are subject to Mortgages.

29.3 **First Mortgagees' Rights Confirmed.** No provision of this Declaration or of the Bylaws gives or shall be construed as giving any Owner or other Person priority over any rights of the first Mortgagee of any Unit pursuant to its Mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or common elements.

29.4 **Amendments to Declaration.** Any other provision in this Declaration to the contrary notwithstanding, in addition to obtaining the necessary votes or consents specified in Section 18 of this Declaration, proposed amendments to this Declaration that are of a material adverse nature to Mortgagees must be agreed to by Mortgagees that represent at least fifty-one percent (51%) of the common interest of Units that are subject to Mortgages. Implied approval by a Mortgagee to a proposed amendment to this Declaration shall be assumed when such Mortgagee fails to submit a response to a written proposal for such amendment within sixty (60) days after such Mortgagee receives proper notice of the proposal, provided the notice was delivered by certified mail, with a "return receipt" requested.

30. **ASSIGNMENT OF RIGHTS BY DEVELOPER.** The Developer may, without the consent or approval of the Association, the Board, any Unit Owner, any Mortgagee, or any other Person, and in the Developer's sole discretion, transfer or assign all or any portion of the Developer's rights under this Declaration to third Persons, in whole or part, either directly or as security for financing relating to the development of the Project; provided, however, that such rights shall not be transferred except by a Recorded instrument expressly referencing the rights

contained in this Declaration that are being transferred or assigned. A Person shall be deemed a transferee, successor or assign of the Developer for purposes of this Declaration if such Person is a successor by merger and otherwise only if specifically so designated in a duly Recorded written instrument as a transferee, successor or assign of the Developer under this Declaration, and shall be deemed a transferee, successor or assign of the Developer only as to the particular rights or interests of the Developer under this Declaration that are specifically designated in the Recorded written instrument. No deed of the Land in whole or part and no deed of a Unit shall transfer or assign any of the Developer's rights under this Declaration unless reference is expressly made to said transfer or assignment. Once transferred or assigned, the transferee, successor or assignee may have and exercise all of the rights under the provisions of this Declaration so transferred or assigned, but only to the extent so transferred or assigned by the Developer.

31. DEPARTMENT OF VETERANS AFFAIRS FINANCING. To the extent that any provision in this Declaration, the Bylaws or any deed conveying a Unit from the Developer to a Unit Owner is inconsistent with the requirement(s) of guaranteed or direct loan programs of the United States Department of Veterans Affairs, as set forth in chapter 37 of title 38, United States Code, or part 36 of title 38, Code of Federal Regulations ("**DVA Financing**"), such provision shall not apply to any Unit that is: (a) encumbered by DVA Financing; or (b) owned by the Department of Veterans Affairs.

32. CONSTRUCTION.

32.1 The provisions of this Declaration and the Bylaws shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Project under the provisions of applicable laws, including the Act. To the extent such provisions affect or pertain to this Declaration, the Bylaws and the Project, the provisions of the Act shall be liberally construed to effectuate the intent of this Declaration.

32.2 The use of the singular shall be deemed to include the plural whenever the context shall so require. The use of the plural shall be deemed to include the singular whenever the context shall so require.

32.3 The terms "herein," "hereof" or "hereunder" or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used.

32.4 When the term "including" is used in this Declaration, it shall not be interpreted as a term of limitation, but shall mean "including, but not limited to".

32.5 When, in this Declaration, a Person reserves or is given or granted a right to do something, the Person shall not be obligated to exercise that right, even if a term such as "but is not obligated" or "but not the obligation" does not accompany the reservation, giving or granting of the right.

32.6 References to "days" in this Declaration mean calendar days unless otherwise specified. References to "business days" means those non-weekend days that are not recognized as holiday days by the government of the State of Hawaii.

32.7 When used in this Declaration, the words "and/or" shall be deemed to mean one, some or all of the listed items.

[signature page follows]

The undersigned has executed this Declaration of Condominium Property Regime of NorthPark by Gentry IV on March 8, 2022.

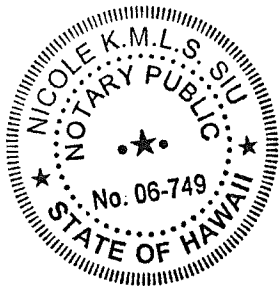
GENTRY HOMES, LTD.,
a Hawaii corporation

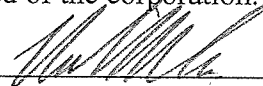
By: Andrew Kamikawa
Andrew Kamikawa
Its Vice President

"Developer"

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

On March 8, 2022, before me personally appeared **ANDREW KAMIKAWA**, to me personally known, who, being by me duly sworn and 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, and acknowledged the instrument to be the free act and deed of the corporation.




Name: Nicole K.M.L.S. Siu

Notary Public, State of Hawaii

My commission expires: December 3, 2022

(Stamp or Seal)

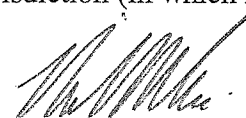
NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Declaration of Condominium Property Regime of NorthPark by Gentry IV

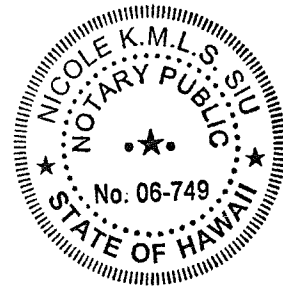
Document Date: March 8, 2022

No. of Pages: 46

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


Signature of Notary

March 8, 2022
Date of Notarization and Certification Statement



(Stamp or Seal)

Nicole K.M.L.S. Siu
Printed Name of Notary

December 3, 2022
My commission expires

EXHIBIT "A"

ALL of those certain parcels of land situate at Honouliuli, District of Ewa, Island of Oahu, City and County of Honolulu, State of Hawaii, described as follows:

Lot 16, 0.914 acre, more or less,

Lot 17, 1.192 acres, more or less, and

Lot 18, 0.811 acre, more or less, all as shown on DPP File No. 2020/SUB-38 and further described in Surveyor's Affidavit recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") on October 8, 2020 as Document No. A-75860469 (the "Increment 2 Surveyor's Affidavit"), which description is incorporated into this Declaration by reference.

Lot 19, 0.577 acre, more or less, all as shown on DPP File No. 2018/SUB-153 and further described in Surveyor's Affidavit recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") on January 24, 2020 as Document No. A-73281122 (the "Increment 1 Surveyor's Affidavit"), which description is incorporated into this Declaration by reference.

TOGETHER WITH, as to Lot 16, rights of access over Easements 12 to 15, inclusive, and Easements 17 to 18, inclusive, as shown on Gentry Area 32, Increment 2 Subdivision, DPP File No. 2020/SUB-38, as referenced in the Increment 2 Surveyor's Affidavit, and over Easements 1 to 11, inclusive, and Easement 19, as shown on Gentry Area 32, Increment 1 Subdivision, DPP File No. 2018/SUB-153, as referenced in the Increment 1 Surveyor's Affidavit.

TOGETHER WITH, as to Lot 17, rights of access over Easements 12 to 16 inclusive, and Easement 18, as shown on Gentry Area 32, Increment 2 Subdivision, DPP File No. 2020/SUB-38, as referenced in the Increment 2 Surveyor's Affidavit, and over Easements 1 to 11, inclusive, and Easement 19, as shown on Gentry Area 32, Increment 1 Subdivision, DPP File No. 2018/SUB-153, as referenced in the Increment 1 Surveyor's Affidavit.

TOGETHER WITH, as to Lot 18, rights of access over Easements 12 to 17, inclusive, as shown on Gentry Area 32, Increment 2 Subdivision, DPP File No. 2020/SUB-38, as referenced in the Increment 2 Surveyor's Affidavit, and over Easements 1 to 11, inclusive, and Easement 19, as shown on Gentry Area 32, Increment 1 Subdivision, DPP File No. 2018/SUB-153, as referenced in the Increment 1 Surveyor's Affidavit.

TOGETHER WITH, as to Lot 19, rights of access over Easements 1 to 11, inclusive, as shown on Gentry Area 32, Increment 1 Subdivision, DPP File No. 2018/SUB-153, as referenced in the Increment 1 Surveyor's Affidavit, and over Easements 12 to 18, inclusive, as shown on Gentry Area 32, Increment 2 Subdivision, DPP File No. 2020/SUB-38, as referenced in the Increment 2 Surveyor's Affidavit.

The foregoing lands are portions of former Land Court lots (having been described on Land Court Transfer Certificate of Title Nos. 667,068 and 493,722) deregistered from the Land Court system by instrument recorded in the Bureau on October 11, 2019 as Document No. A-72230928, and by instrument recorded in the Bureau on November 29, 2019 as Document No. A-72720473.

END OF EXHIBIT "A"

EXHIBIT "B"

UNIT DESCRIPTIONS

Unit No.	Plan Type	Approximate Net Living Area (sq. ft.)	Approximate Net Covered Entry (sq. ft.)	Approximate Net Garage Area (sq. ft.)	Common Interest (%)
101	Plan 4	1,259	21	428	2.88
103	Plan 3	1,231	21	425	2.80
105	Plan 2	1,214	30	443	2.70
107	Plan 1	1,194	25	463	2.70
109	Plan 4	1,259	21	428	2.88
111	Plan 1	1,194	25	463	2.70
113	Plan 3-R	1,231	21	425	2.80
501	Plan 2-R	1,214	30	443	2.70
503	Plan 3-R	1,231	21	425	2.80
505	Plan 4-R	1,259	21	428	2.88
507	Plan 1-R	1,194	25	463	2.70
509	Plan 3-R	1,231	21	425	2.80
511	Plan 4-R	1,259	21	428	2.88
513	Plan 3-R	1,231	21	425	2.80
515	Plan 1-R	1,194	25	463	2.70
517	Plan 2	1,214	30	443	2.70
518	Plan 2-R	1,214	30	443	2.70
519	Plan 3	1,231	21	425	2.80
520	Plan 1	1,194	25	463	2.70
521	Plan 4-R	1,259	21	428	2.88
522	Plan 4	1,259	21	428	2.88
523	Plan 3-R	1,231	21	425	2.80
524	Plan 1	1,194	25	463	2.70
525	Plan 4-R	1,259	21	428	2.88
526	Plan 3	1,231	21	425	2.80
527	Plan 2-R	1,214	30	443	2.70
600	Plan 1-R	1,194	25	463	2.70
601	Plan 4	1,259	21	428	2.88
602	Plan 3	1,231	21	425	2.80
603	Plan 2-R	1,214	30	443	2.70
604	Plan 1	1,194	25	463	2.70
605	Plan 3-R	1,231	21	425	2.80
606	Plan 4	1,259	21	428	2.88
607	Plan 2-R	1,214	30	443	2.70
609	Plan 1-R	1,194	25	463	2.70
611	Plan 4-R	1,259	21	428	2.88

* The Developer has the reserved right to make adjustments to the common interests of individual Units as may be necessary so that the total of all the common interests equals exactly one hundred percent (100.00%).

NOTE: If applicable, an "R" next to the plan number above designates a reverse floor plan.

DESCRIPTIONS OF FLOOR PLANS

Plan 1 (4 Bedroom, 2 ½ Bath)

Two story, 4 bedroom, 2 ½ bath Unit with the kitchen, dining/living room and half bathroom on the ground floor, connected by an interior stairway to the second floor, which has a master bedroom, master bathroom, three other bedrooms and an additional bathroom. The Unit also includes a covered entry and a two-car garage containing one standard and one compact parking stall. Certain Units may have a seven foot (7 ft.) deep covered lanai built off of the dining/living room and an enlarged concrete slab, which optional additions are depicted on the Option 1 drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. Certain Units may have a five foot (5 ft.) deep covered lanai built off of the dining/living room and an enlarged concrete slab, which optional additions are depicted on the Option 1A drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. All Units have a fenced limited common element Private Yard Area. This type of Unit has a net living area of approximately 1,194 square feet, a net covered entry area of approximately 25 square feet and a net garage area of approximately 463 square feet.

Plan 2 (3 Bedroom, 2 ½ Bath)

Two story, 3 bedroom, 2 ½ bath Unit with the kitchen, living room and half bathroom on the ground floor, connected by an interior stairway to the second floor, which has a master bedroom, master bathroom, two other bedrooms, a loft and an additional bathroom. The Unit also includes a covered entry and a two-car garage containing one standard and one compact parking stall. Certain Units may have a seven foot (7 ft.) deep covered lanai built off of the living room and an enlarged concrete slab, which optional additions are depicted on the Option 1 drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. Certain Units may have a five foot (5 ft.) deep covered lanai built off of the living room and an enlarged concrete slab, which optional additions are depicted on the Option 1A drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. All Units have a fenced limited common element Private Yard Area. This type of Unit has a net living area of approximately 1,214 square feet, a net covered entry area of approximately 30 square feet and a net garage area of approximately 443 square feet.

Plan 3 (3 Bedroom, 2 ½ Bath)

Two story, 3 bedroom, 2 ½ bath Unit with the kitchen, dining/living room and half bathroom on the ground floor, connected by an interior stairway to the second floor, which has a master bedroom, master bathroom, two other bedrooms, a loft and an additional bathroom. The Unit also includes a covered entry and a two-car garage containing one standard and one compact parking stall. Certain Units may have a seven foot (7 ft.) deep covered lanai built off of the dining/living room and an enlarged concrete slab, which optional additions are depicted on the Option 1 drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. Certain Units may have a five foot (5 ft.) deep covered lanai built off of the dining/living room and an enlarged concrete slab, which optional additions are depicted on the Option 1A drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. All Units have a fenced limited common element Private Yard Area. This type of Unit has a net living area of approximately 1,231 square feet, a net covered entry area of approximately 21 square feet and a net garage area of approximately 425 square feet.

Plan 4 (4 Bedroom, 2 ½ Bath)

Two story, 4 bedroom, 2 ½ bath Unit with the kitchen, dining/living room and half bathroom on the ground floor, connected by an interior stairway to the second floor, which has a master bedroom, master bathroom, three other bedrooms and an additional bathroom. The Unit also

includes a covered entry and a two-car garage containing one standard and one compact parking stall. Certain Units may have a seven foot (7 ft.) deep covered lanai built off of the living room and an enlarged concrete slab, which optional additions are depicted on the Option 1 drawings of the Condominium Map and on Pages S1 to S4, inclusive, of the Condominium Map. Certain Units have a loft instead of the fourth bedroom, as depicted on the Option 2 drawings of the Condominium Map. Certain Units have a den instead of the fourth bedroom, as depicted on the Option 3 drawings of the Condominium Map. Certain Units have a master retreat instead of the fourth bedroom, as depicted on the Option 4 drawings of the Condominium Map. All Units have a fenced limited common element Private Yard Area. This type of Unit has a net living area of approximately 1,259 square feet, a net covered entry area of approximately 21 square feet and a net garage area of approximately 428 square feet.

NOTE: The sizes and configurations of the fenced Private Yard Areas reflected on the Condominium Map are approximations only. Actual sizes and configurations may vary due to the placement and location of utilities and due to varying terrain surrounding each building.

END OF EXHIBIT "B"