

FIRST AMENDMENT TO
THE AMENDED AND RESTATED

BY-LAWS

OF

THE CLUB AT KUKUI`ULA



Kukui`ula

KAUAI'S LIVING GARDEN

FIRST AMENDMENT TO THE AMENDED AND RESTATED
BY-LAWS OF THE CLUB AT KUKUI`ULA

This First Amendment to the Amended and Restated By-Laws of The Club at Kukui`ula (this "Amendment") amends that certain Amended and Restated By-Laws of The Club at Kukui`ula adopted on September 6, 2012 (the "By-Laws") as follows:

1. All references to "Builder" in the By-laws are hereby replaced with "Sub-Developer."
2. Section 3.5(a) of the By-Laws is amended in its entirety to provide as follows:

3.3 Exercise of Membership Privileges.

(a) *Multiple Co-Owners.* If there are multiple co-Owners of the Unit, they shall jointly designate in writing to The Club one co-Owner to be the Member with respect to that Unit. The designated co-Owner must satisfy the ownership criteria specified in Section 4.2(a) of the Covenant and shall be subject to change no more than once in any 12-month period, except that such 12-month limitation shall not apply to a change necessitated by the death of the co-Owner designated as the Member. A change in a designated co-Owner more than once in any 12-month period shall be subject to approval by the Board and payment of a change of co-Owner as Member fee in such amount as the Board may establish from time to time. Such fee may be equivalent to the Initiation Fee that would be charged upon a transfer of title to the Unit. In addition, in all instances, if no Initiation Fee was paid by the Owner or co-Owner when the Unit was transferred to such Owner or co-Owner under Section 5.3(d) of the Covenant (except for clauses (i) or (iii)), then upon the change in the designated co-Owner for such Unit, the Initiation Fee is immediately due and payable.

(b) *Legal Entity.* If a Member is a legal entity, the entity shall designate one individual who shall be entitled to exercise the privileges of such membership, as specified in the Covenant ("Designee"). The Designee shall be subject to approval of the Declarant if designated at the time of purchase of a Unit, and thereafter by the Board, in accordance with the eligibility criteria for Designees specified in the Covenant. An Owner may change the Designee only once in any 12-month period, except that such limitation shall not apply to designation of a new Designee upon the death of the prior Designee. The new Designee shall be subject to approval by the Board and payment of a change of Designee fee in such amount as the Board may establish from time to time. Such fee may be equivalent to the Initiation Fee that would be charged upon a transfer of title to the Unit. In addition, in all instances, if no Initiation Fee was paid by the Owner or co-Owner when the Unit was transferred to such Owner or co-Owner under Section 5.3(d) of the Covenant (except for clauses (i) or (iii)), then upon the change in the Designee for such Unit, the Initiation Fee is immediately due and payable.

An approved Designee shall be entitled to exercise all of the privileges of membership in accordance with the rights of membership held by the designating Member, including the right to vote (if applicable) and serve on the Board or committees, unless and until otherwise specified by written notice from the Owner to The Club. A Designee shall be subject to the same rules and limitations and shall be entitled to the same guest privileges as Mem-

bers under these By-Laws and The Club Rules. The Designee shall be primarily responsible for and shall be billed directly for all assessments and personal charges. Notwithstanding the above, the Owner shall be responsible for payment of all assessments and dues that are not paid by the Designee.

3. Section 3.5(a) of the By-Laws is amended in its entirety to provide as follows:

(a) Purchase of Golf Memberships. Any Plantation Member, Provisional Member who is a Sub-Developer, or Koloa Estates Member desiring to purchase a Golf Membership shall present to The Club a written application, and a check for the applicable fee. The application shall be in such form as the Board may prescribe. If the applicant is required to designate a Designee pursuant to Section 3.3, the intended Designee shall also complete and execute an application and submit it to The Club.

4. Section 3.8(a) (i) of the By-Laws is amended in its entirety to provide as follows:

(i) A Provisional Plantation Membership shall automatically terminate upon the Member's default prior to closing under, failure to close, or termination of, the Member's contract to purchase a Unit. A Provisional Plantation Membership and any Golf Membership issued to a Sub-Developer shall automatically terminate upon (a) the Member's default prior to closing under, failure to close, or termination of, the Member's development contract with Declarant or its affiliate, or (b) the sale of the last Unit developed by the Sub-Developer.

5. Section 3.8(b) of the By-Laws is amended to add the following subsection (iii):

(iii) A Sub-Developer may voluntarily resign his or her Provisional Membership or Golf Membership at any time by written notice to The Club. However, voluntary resignation of the Golf Membership shall not constitute resignation of the underlying Provisional Membership unless it is also expressly resigned by written notice to The Club.

6. The following shall be added to the second full paragraph of Section 3.9 of the By-Laws:

Notwithstanding the foregoing, the Board may suspend immediately use privileges of a Member or any use rights provided to authorized users, guests, or any third parties because of conduct by a Member or such other person that the Board determines, in its sole discretion, to be detrimental to the interests, welfare, safety, well-being, harmony or reputation of The Club, its Members, or employees. In such an event, The Club shall give the Member written notice of the alleged violation and the right to a hearing within three business days of such suspension. Use privileges shall continue to be suspended while disciplinary proceedings are pending.

Except as amended by this Amendment, all other provisions of the By-Laws remain in full force and effect.

CERTIFICATION

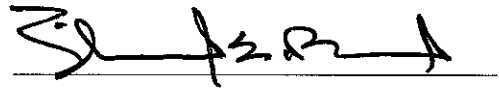
I, the undersigned, do hereby certify:

That I am the duly elected Secretary of The Club at Kukui`ula, a Hawai`i nonprofit corporation;

That the original By-Laws of The Club at Kukui`ula were duly adopted by the Board of Governors pursuant to a Unanimous Consent in Lieu of a Board Meeting dated the 10th day of August, 2005, and were amended and restated by that certain Amended and Restated By-Laws of The Club at Kukui`ula adopted by the Board of Governors pursuant to a Unanimous Consent in Lieu of a Board Meeting on the 6th date of September, 2012 (the "Restated By-Laws");

That the foregoing First Amendment to the Amended and Restated By-Laws of The Club at Kukui`ula By-Laws amends the Restated By-Laws and was duly adopted by the Board of Governors pursuant to a Unanimous Consent in Lieu of a Board Meeting dated the 5th day of August, 2015.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of The Club at Kukui`ula this 5th day of August, 2015.



Secretary