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LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL (X) PICK-UP ( )

KIHEI CC, LLC  
99-880 Iwaena Street  
Aiea, Hawaii 96701

Total No. of Pages: 13

Tax Map Key No. (2) 3-9-045-014

**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM PROPERTY REGIME  
KIHEI COMMERCIAL CONDOMINIUM II**

This **SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY REGIME KIHEI COMMERCIAL CONDOMINIUM II**, made this 27th day of June, 2007, by KIHEI CC, LLC, a Hawaii limited liability company, whose address is at 99-880 Iwaena Street, Aiea, Hawaii 96701 ("**Unit B Owner**").

**WITNESSETH:**

WHEREAS, KCOM Corp., a Hawaii corporation, and Valentine Peroff, Jr., as Trustee, collectively executed that certain Declaration of Condominium Property Regime Kihei Commercial Condominium II dated May 9, 2001, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2001-095548, as amended by Amendment to Declaration of Condominium Property Regime of Kihei Commercial Condominium II dated September 6, 2001, recorded in said Bureau as Document No. 2001-140242 (collectively, the "**Declaration**"), submitting the property of the project known as "Kihei Commercial Condominium II" (the "**Project**") to the provisions of the Hawaii Condominium Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), together with site, elevation and floor plans filed with said Bureau as Condominium File Plan No. 3285 (the "**Condominium Map**");

WHEREAS, Section 18.0 of the Declaration provides that the owner of Unit B of the Project may split Unit B into two (2) or more separate units and amend said Declaration and the Condominium Map; and

WHEREAS, Unit B Owner, as the current owner of Unit B of the Project pursuant to that certain Warranty Deed dated January 26, 2007, recorded in said Bureau as Document No. 2007-018330, wishes to amend said Declaration as contemplated by the reserved right in Section 18.0 thereof;

NOW, THEREFORE, this instrument witnesseth:

I. The Declaration is hereby amended as follows:

A. Section 3.0 of the Declaration is hereby amended to read as follows:

3.0 DESCRIPTION OF PROJECT. The project consists of seventy-two (72) commercial units (each a "Unit" and collectively, the "Units") and a total of two hundred eighty-four (284) parking stalls situate upon the land hereinbefore described.

Unit A shall consist of two (2) buildings with seventy-six (76) assigned parking stalls, fifty-eight (58) of which are regular stalls, fourteen (14) of which are compact stalls, and four (4) of which are handicapped stalls. Unit A also has two (2) loading stalls.

Units B101 through B116 are located in Building B-1 of the Project as shown on the Condominium Map and which Units are described in Section 4.1 below.

Units B201 through B228 are located in Building B-2 of the Project as shown on the Condominium Map and which Units are described in Section 4.1 below.

Units B301 through B327 are located in Building B-3 of the Project as shown on the Condominium Map and which Units are described in Section 4.1 below.

The principal materials of which the said buildings are constructed are as follows:

- a. the ground floor slab is of poured reinforced concrete;
- b. the first, second and third floors are of reinforced concrete;
- c. the structural system shall be concrete with reinforcing steel, glu lam beams and concrete exterior; and
- d. the roof shall be modified bitchum mineral surface roof system.

The buildings have been constructed in accordance with plans and specifications certified by Sato & Associates, Inc., and recorded in the Bureau of Conveyances of the State of Hawaii, hereinafter referred to as the "Condominium Map".

3.1 DESCRIPTION OF BUILDINGS. Unit A has a court building with 1, 2 and 3-story areas, and a 3-story center court building. The rest of the Project consists of Building B-1 and B-2, each a one-story building, and Building B-3 which is a two-story building.

B. Section 4.0 of the Declaration is hereby amended to read as follows:

4.0 DIVISION OF PROJECT. The project is hereby divided into the following separate freehold estates:

4.1 DESCRIPTION OF APARTMENTS.

Unit A contains one (1) court building with one, two and three story areas, and one (1) three (3) story center court, for a total of approximately 114,446 sq. ft. Unit A also contains three (3) elevators and eight (8) stairways.

With respect to Buildings B-1, B-2 and B-3, freehold estates are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the apartments of the Project within said Buildings; provided, however, that should the descriptions and divisions set forth in this Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control; provided, further, that the Condominium Map is intended only to show the layout, location, Unit numbers and dimensions of the apartments and elevations of the buildings and is not intended to contain any other representation or warranty.

The approximate net area (exclusive of parking areas) and percentage common interest of each apartment in the Project and the parking stall(s) appurtenant to each such apartment, if any, are set forth in Exhibit "B" attached hereto and made a part hereof for all purposes.

All of the apartments in the Project consist of "loft space." Except for Unit B210, each apartment in Buildings B-1 and B-2 shall consist of one (1) room and one (1) bathroom. Unit B210 shall consist of one (1) room and four (4) bathrooms. Each apartment in Building B-3 shall consist of one (1) room. All areas set forth in Exhibit "B" were computed by measuring from the interior surface of the apartment perimeter walls; no reduction was made to account for interior walls, ducts, shafts and the like, located within the perimeter walls.

4.2 NUMBER AND UNIT LOCATION OF UNITS. The units are as shown on the Condominium Map and are numbered as follows:

Unit A is the north section of the project.

The Unit numbers and locations of the Units in each of Buildings B-1, B-2 and B-3 are more fully shown on the Condominium Map. Building B-1 is located in the southeast portion of the Project. There are sixteen (16) Units in Building B-1 of the Project, which Units are numbered from "B101" to "B116" beginning at the northern end of the building and proceeding south.

Building B-2 is located in the south portion of the Project. There are twenty-eight (28) Units in Building B-2 of the Project, which Units are numbered from "B201" to "B228" beginning at the northwestern end of the building and proceeding south from numbers "B201" to "B214". Unit "B215" begins at the northeastern end of the building and proceeds south from numbers "B215" to "B228".

Building B-3 is located in the southwest portion of the Project. There are a total of twenty-seven (27) Units on the two (2) floors of Building B-3 of the Project, which Units are numbered from "B301" through "B314" on the first floor and "B315" through "B327" on the second floor, beginning at the northern end of the building and proceeding south.

4.3 LIMITS OF APARTMENTS. Each unit includes, but is not limited to, the exterior finished surfaces of all exterior walls, roofs, doors, windows and appurtenant structures and also includes all foundations, underpinnings, doors, roofs, windows, structure and other appurtenances.

4.4 COMMON ELEMENTS. The common elements include:

- a. The land described in Exhibit "A".
- b. The common driveway between Unit A and Buildings B-1, B-2 and B-3 as shown on the Condominium Map.
- c. Any common water meter, common waterline or any other utility installations serving more than one apartment.

4.5 LIMITED COMMON ELEMENTS. The limited common elements reserved for the exclusive use of the respective units are the parking stalls set aside for the particular unit as shown in Exhibit "B", if any, the land area and driveways from the common driveway to the parking stalls as shown on the Condominium Map, and any assigned mailboxes. The trash enclosure immediately to the northeast of Building B-1 shall be a limited common element appurtenant to and for the exclusive use of the Units in Building B-1. The trash enclosure immediately to the southeast of Building B-2 shall be a limited common element appurtenant to and for the exclusive use of the Units in

Building B-2. The trash enclosure immediately to the southeast of Building B-3 shall be a limited common element appurtenant to and for the exclusive use of the Units in Building B-3. The two (2) loading areas immediately adjacent to Building B-2 shall be limited common elements appurtenant to and for the exclusive use of the Units in Buildings B-1, B-2 and B-3. The four (4) bathrooms located within Building B-3 shall be a limited common element appurtenant to and for the exclusive use of the Units located in Building B-3.

The owner(s) of each apartment will be responsible for all care, maintenance, control and operation of the limited common element appurtenant to said apartment and all structures therein and all costs and obligations associated therewith, including the obligation to maintain appropriate casualty insurance on all structures erected within said limited common element (including the apartment itself) and appropriate liability insurance covering all acts, omissions and conditions occurring within said limited common element. The owner(s) of each apartment will indemnify the owner(s) and occupant(s) of the other apartment against all loss, liability and expense of every kind (including attorneys' fees) which the indemnified owner(s) and occupant(s) may suffer or incur as a result of any condition within, the use of, or any acts or omissions of any persons within, the indemnifying owners' apartment and limited common element (other than the acts or omissions of the indemnified owner(s) or occupant(s) themselves).

C. Section 5.0 of the Declaration is hereby amended to read as follows:

**5.0 PERCENTAGE UNDIVIDED INTEREST IN THE COMMON ELEMENTS.** The percentage undivided interest in the common elements appertaining to each apartment are as shown in Exhibit "B" attached hereto. For purposes of percentage interest in the common elements, voting and the amount of maintenance required to be paid by each apartment the percentage interest above shall govern.

D. Section 23.0 is hereby added to the Declaration to read as follows:

**23.0 ADDITIONAL PARKING STALLS.** Pursuant to that certain Unilateral Agreement and Declaration dated May 18, 1999, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-094202, as amended by that certain First Amendment to Unilateral Agreement and Declaration Regarding Off-Site Parking dated July 8, 2004, recorded as aforesaid as Document No. 2004-138953, as the same may be supplemented, amended or modified from time to time (collectively, the "**Parking Agreement**"), the owners of the apartments of the Project located within Buildings B-1, B-2 and B-3 and the occupants, customers, visitors and employees of said apartments have the exclusive right to use fifty-three (53) parking stalls as described in said Parking Agreement (the "**Additional Parking**

Stalls") as hereinafter set forth. The owner of Lot 1-B-4 and Lot 1-B-6 (as such lots are more particularly described in Exhibit "A" attached to said Parking Agreement) shall have the sole right to designate the location of the Additional Parking Stalls within Lot 1-B-4 and/or Lot 1-B-6 subject to the terms more particularly stated in the Parking Agreement and may adopt reasonable rules and regulations with respect to the use of any and all parking stalls within Lot 1-B-4 and 1-B-6 including the Additional Parking Stalls. Such rules and regulations may include, but are not limited to, safety procedures, access restrictions, controlled entry and exit locations, parking validation, key card entry, use fee charges, a parking lot attendant/ticket collection booth, limit on the duration of continuous use and other use restrictions. The owner of Lot 1-B-4 and Lot 1-B-6 (the "Lot Owner") shall further have the right to modify, amend or terminate the Parking Agreement as may be necessary or required by the County of Maui. The Association, on behalf of the owners of all of the apartments in Buildings B-1, B-2 and B-3, shall be responsible for the maintenance and repair of the Additional Parking Stalls and the Association shall specifically assess the owners of the apartments in Buildings B-1, B-2 and B-3 for the costs of such maintenance and repair, and other expenses which may include, but are not limited to security, maintenance and operation of the Additional Parking Stalls.

The Lot Owner shall further have the right, but not the obligation, to develop on any portion of Lot 1-B-4 and/or Lot 1-B-6 an additional facility or facilities which may include additional parking other than the Additional Parking Stalls. Upon the request of the Lot Owner, the Association shall accept any conveyance, grant of easement or license agreement relating to the Additional Parking Stalls. If the Lot Owner shall develop a condominium on either Lot 1-B-4 or Lot 1-B-6 in which parking stalls are condominium units, the Association shall accept the conveyance of the Additional Parking Stalls as limited common elements for all of the owners of apartments in Buildings B-1, B-2 and B-3 and the Association, acting through its officers and its Board of Directors, shall be the exclusive representative of such owners and shall have the right to cast all votes as the owner of the Additional Parking Stalls at all meetings of any condominium association. Upon acceptance by the Association of any conveyance, grant of easement or license with respect to the Additional Parking Stalls within a parking structure or condominium project on either Lot 1-B-4 or Lot 1-B-6, the rights granted hereunder with respect to the other lot shall automatically extinguish and be of no further force and effect.

II. Exhibit "B" attached to said Declaration is hereby deleted in its entirety and replaced with Exhibit "B" attached hereto.

III. Said Declaration is hereby further amended by deleting Condominium File Plan No. 3285 and filing in place thereof replacement the Condominium File Plan; and filing the verified statement of the Engineer attached as Exhibit "C" and made a part hereof for all purposes.

IV. Except as modified hereunder, the Declaration is hereby ratified, confirmed and approved, and shall remain in full force and effect.

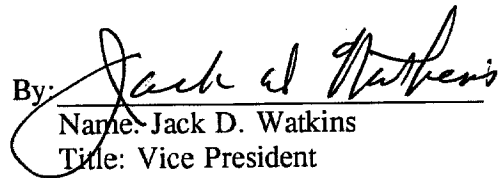
V. The descriptions of the Units herein are the sole responsibility of Unit B Owner and the Owner of Unit A shall not be responsible or liable for any loss, cost, expense, damage, claim, or liability arising out of said Unit descriptions.

-The remainder of this page is intentionally left blank; the next page is the signature page-

IN WITNESS WHEREOF, Unit B Owner has entered into this Second Amendment to Declaration of Condominium Property Regime as of the day and year first above written.

KIHEI CC, LLC,  
a Hawaii limited liability company

By: Pacific Commercial Realty Corp.,  
a Hawaii corporation  
Its Manager

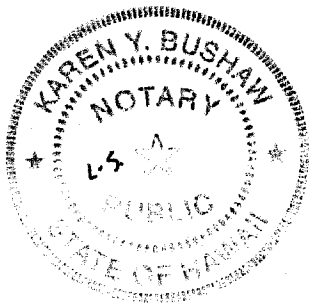
By:   
Name: Jack D. Watkins  
Title: Vice President

Unit B Owner



STATE OF HAWAII )  
 ) ss.  
CITY & COUNTY OF HONOLULU )

On this 26<sup>th</sup> day of June, 2007, before me personally appeared JACK D. WATKINS, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Karen Y. Bushaw  
Print or Type Name

[Handwritten Signature]  
Signature  
Notary Public, State of Hawaii

My Commission Expires: 4/9/2010

**Exhibit "B"**

<b>Unit Number</b>	<b>Approximate Net Area (sq. ft.)</b>	<b>Percentage Common Interest</b>	<b>Reserved Parking Stall(s)</b>
Unit A	111,446	50%	209 through 284
<b>Building B-1</b>			
B101	1,125	0.7750%	1, 2
B102	1,175	0.8094%	4C, 5C
B103	1,175	0.8094%	6C, 7
B104	1,175	0.8094%	9, 10
B105	1,175	0.8094%	11, 12
B106	1,175	0.8094%	14, 15C
B107	1,175	0.8094%	17C, 18
B108	1,175	0.8094%	
B109	1,175	0.8094%	22, 23
B110	1,175	0.8094%	25, 26C
B111	1,175	0.8094%	28C, 29
B112	1,175	0.8094%	
B113	1,175	0.8094%	33, 34
B114	1,175	0.8094%	
B115	1,175	0.8094%	38, 39
B116	1,188	0.8184%	41, 42
<b>Building B-2</b>			
B201	963	0.6634%	
B202	989	0.6813%	
B203	990	0.6820%	
B204	989	0.6813%	
B205	990	0.6820%	
B206	989	0.6813%	
B207	990	0.6820%	
B208	989	0.6813%	
B209	990	0.6820%	
B210	989	0.6813%	
B211	990	0.6820%	
B212	989	0.6813%	
B213	990	0.6820%	
B214	961	0.6620%	
B215	1,016	0.6999%	43, 44
B216	1,051	0.7240%	46, 47C

B217	1,051	0.7240%	49C, 50
B218	1,051	0.7240%	
B219	1,051	0.7240%	54, 55
B220	1,051	0.7240%	57, 58C
B221	1,051	0.7240%	60C, 61
B222	1,051	0.7240%	63, 64
B223	1,051	0.7240%	65, 66
B224	1,051	0.7240%	68, 69C
B225	1,051	0.7240%	71C, 72
B226	1,051	0.7240%	
B227	1,051	0.7240%	76, 77
B228	1,016	0.6999%	79, 80
Building B-3			
B301	1,122	0.7729%	116, 117
B302	1,265	0.8714%	119, 120C
B303	1,265	0.8714%	122C, 123
B304	1,265	0.8714%	125, 126
B305	1,265	0.8714%	127, 128
B306	1,265	0.8714%	130, 131C
B307	1,265	0.8714%	133C, 134
B308	1,265	0.8714%	136, 137
B309	1,265	0.8714%	138, 139
B310	1,265	0.8714%	141, 142C
B311	1,265	0.8714%	144C, 145
B312	1,265	0.8714%	147, 148
B313	1,265	0.8714%	149, 150
B314	1,122	0.7729%	152, 153
B315	592	0.4077%	
B316	586	0.4036%	
B317	586	0.4036%	
B318	586	0.4036%	
B319	586	0.4036%	
B320	749	0.5158%	
B321	749	0.5158%	
B322	586	0.4036%	
B323	586	0.4036%	
B324	586	0.4036%	
B325	586	0.4036%	
B326	586	0.4036%	
B327	592	0.4077%	

Visitor Parking Stalls for the Project are listed as follows:

3H	86	135	184H
8	87	140	185
13	88	143C	186
16C	89	146	187
19	90	151	188
20	91	154H	189
21	92	155	190
24	93	156	191
27C	94C	157	192
30	95C	158	193
31	96C	159	194
32	97	160	195
35	98	161	196
36	99	162	197
37	100	163	198
40H	101	164	199
45	102	165C	200
48C	103	166C	201
51	104	167C	202
52	105C	168	203
53	106C	169	204
56	107C	170	205
59C	108	171	206
62	109H	172	207
67	110H	173	208
70C	111	174	
73	112	175	
74	113	176C	
75	114	177C	
78	115	178C	
81H	118	179	
82	121C	180	
83C	124	181	
84C	129	182	
85C	132C	183H	

H = Handicapped Accessible Stall

C = Compact Stall

Exhibit "C"

REGISTERED ENGINEER'S CERTIFICATE

STATE OF HAWAII )
) ss.
CITY AND COUNTY OF HONOLULU )

The undersigned, RICHARD M. SATO, being first duly sworn on oath, states as follows:

That he is an engineer registered with the State of Hawaii, Hawaii Registration No. PE-2298;

That the plans depicting the layout, location, unit numbers and dimensions of the condominium units comprising the Kihei Commercial Condominium II condominium project filed contemporaneously herewith are hereby certified to be accurate copies of portions of the plans for the project and the building thereof, as filed with the officer of the County of Maui having jurisdiction over the issuance of permits for the construction of buildings and as built.

DATED: June 26, 2007

[Handwritten signature of Richard M. Sato]
RICHARD M. SATO

STATE OF HAWAII )
) ss.
CITY & COUNTY OF HONOLULU )

On this 26 day of JUNE, 2007, before me personally appeared RICHARD M. SATO, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Liane M. Nakamura
Print or Type Name
[Handwritten signature]
Signature
Notary Public, State of Hawaii
My Commission Expires: 10/25/07