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OFFICE OF ASSISTANT REGISTRAR
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/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

LAND COURT REGULAR SYSTEM

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LAW OFFICES OF STEVEN GUTTMAN
1132 Bishop St., Suite 1404
Honolulu, HI 96813



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No of Pages: _____

TMK NO.: (1) 2-6-012-032

AMENDMENT TO APARTMENT LEASES

THIS AMENDMENT TO APARTMENT LEASES, is made this 2nd day of April, 2001, by and between LANIAKEA, INC., a Hawaii corporation, whose business and post office address is 369 Hobron Lane, Honolulu, Hawaii 96815, hereinafter referred to as "Lessor", and the ASSOCIATION OF APARTMENT OWNERS OF LANIAKEA APARTMENTS ("Association"), by and through its Board of Directors ("Board"), whose business and post office address is 369 Hobron Lane, # 3, Honolulu, Hawaii 96815,

RECITALS:

1. The Horizontal Property Regime known as "Laniakea Apartments" ("Project"), was created by Declaration of Condominium Property Regime for the "Laniakea Apartments" Condominium Project dated December 23, 1965, filed in the Office of the Assistant Registrar of the Land Court for the State of Hawaii as Document No. 380483 ("Declaration"), and noted on Transfer Certificate of Title Number 76,522, and the Bylaws of the Association of Apartment Owners of Laniakea Apartments, attached to said Declaration ("Bylaws").

2. Lessor is the owner and holder of the leased-fee simple interest in the land underlying the Project, as more particularly described in Exhibit "A" attached hereto and made a part hereof.

3. The Project contains twenty-eight (28) leasehold apartment units (singularly an "Apartment" and collectively the "Apartments"). Lessor entered into a total of twenty-eight (28) individual apartment leases (singularly an "Apartment Lease" and collectively the "Apartment Leases"), the apartment numbers and document numbers of which are as listed in Exhibit "B" attached hereto.

4. The Apartment Leases have a term of fifty-five (55) years. The Apartment Leases will terminate on March 31, 2021.

5. Each Apartment Lease provides that the annual ground rental for the land underlying the Project for the period commencing April 1, 2001 and ending on March 31, 2021, shall be such sum as shall be mutually agreed upon between the Association, as agent for the lessees of the Apartments, and the Lessor.

6. The individual Apartment Leases further provide that each Apartment lessee's share of such ground rent shall be that percent of the total ground rent applicable to the specific Apartment.

7. The Association, through the Board, in accordance with the terms of the Apartment Leases, the Declaration and Bylaws, and at a meeting duly called and held on March 6, 2001, accepted the Lessor's proposed annual ground lease rent of \$42,000.00 for the rental period of April 1, 2001 through and including March 31, 2006.

8. The annual ground rent of \$42,000.00 shall be allocated to each Apartment as follows: \$125.00 per month or \$1,500.00 per year for each Apartment, as set forth in Exhibit "B" attached hereto and as also stated above.

9. The Association and the Lessor have further agreed that for the period commencing April 1, 2006 through and including March 31, 2011, the ground rent shall be adjusted every two (2) years, commencing on April 1, 2006 (i.e. April 1, 2006, 2008 and 2010), based on the change in the Consumer Price Index for Honolulu, Hawaii.

10. Ralph Foulger, Vice-President, and Gail P. Pacheco, Secretary of the Board are authorized, pursuant to Article VI, Section 1 of the By-Laws, to execute this Amendment to Apartment Leases.

11. The Lessor and the Association have approved this Amendment to Apartment Leases.

NOW THEREFORE, the parties hereto agree to the following:

1. Subparagraph (c) of each of the Apartment Leases is amended to provide that the annual ground lease rent for the Project for the period of April 1, 2001 to and including March 31, 2006, shall be \$42,000.00, and each Apartment lessee in the Project shall pay one-twenty-eighth (1/28th) of said amount. The annual ground lease rent allocated to each Apartment for said period is \$1,500.00, as more particularly set forth in Exhibit "B" attached hereto.

2. Each Apartment lessee shall pay the ground lease rent in equal monthly payments of \$125.00.

3. Subparagraph (c) of each of the Apartment Leases is further amended to provide that ground rent for the period commencing April 1, 2006 through and including March 31, 2011, shall be increased every two (2) years, commencing on April 1, 2006 (i.e. April 1, 2006, 2008 and 2010), to the lower of:

- a. Four percent (4%) per year over the previous ground rent; or
- b. The percentage increase, if any, in the Consumer Price Index for all Urban Consumers, Honolulu, Hawaii (1982-84 = 100), all items, as adjusted for seasonal variations (the "CPI Adjustment"), published by the Bureau of Labor Statistics of the United States Department of Labor (the "Index"). The increased rent based on the CPI Adjustment shall be determined as follows.

CONSUMER PRICE INDEX RENTAL ADJUSTMENT PROVISION FOR THE YEAR 2006

- (1) As promptly as practicable subsequent to January 1, 2006, obtain the CPI Adjustment for January 2006.
- (2) The CPI Adjustment for January 2006 shall be divided by the arithmetic average of the semi-annual indexes for January and July 2001 (the year 2001 is hereinafter referred to as the "Commencement Date").
- (3) The quotient resulting from the division described in subparagraph (2) (carried to four (4) decimal places) shall be multiplied by the then annual ground rent of \$42,000.00.
- (4) Any additional rent payable by reason of the above computation for periods in which the semi-annual rent shall have been paid shall be due and payable by the Apartment lessees within thirty (30) days of notification of such increase.

CONSUMER PRICE INDEX RENTAL ADJUSTMENT PROVISION FOR THE YEARS FOLLOWING 2006

- (5) As promptly as practicable subsequent to January 1 of each year in which there may be a CPI Adjustment, obtain the CPI Adjustment for January of said year.
- (6) The CPI Adjustment for said year, as determined in accordance with subparagraph (5) above shall be divided by the arithmetic

average of the semi-annual Indexes from January and July of the second preceding year.

- (7) The quotient resulting from the division described in subparagraph (6) (carried to four (4) decimal places) shall be multiplied by the annual ground rent for the immediately preceding year.
- (8) Any additional rent payable by reason of the above computation for periods in which the semi-annual rent shall have been paid shall be due and payable by the Apartment lessees within thirty (30) days of notification of such increase.

Example. The following is an example of the computation of annual ground rent for the period beginning April 1, 2006, applying the procedures described above:

- (A) Assume that 144.5 is the CPI Adjustment for January 2006.
 - (B) Assume that 113.4 is the arithmetic average of the semi-annual Indexes for the semi-annual Indexes from January and July of the calendar year in which the Commencement Date occurs. [e.g. Assuming a Commencement Date of April 1, 2001, January 2001 and July 2001.]
 - (C) Assume the Annual Rent of \$42,000.00 for April 1, 2005.
 - (D) The Annual Rent for the beginning April 1, 2006 would be \$53,518.52 computed as follows: $144.5/113.4 = 1.2743$ x $\$42,000.00 = \$53,518.52$.
 - (E) The annual ground rent for the period beginning April 1, 2008 would be \$57,923.34 computed as follows [e.g. Assuming the CPI Adjustment for January 2008 is 157.8 and an average of the semi-annual Indexes for 2006 of 145.8.]: $157.8/145.8 = 1.0823$ x $\$53,518.52 = \$57,923.34$.
- (9) In the event any installment of the rent, for the period for which the adjusted ground rent is being calculated, shall have been paid prior to the computation as provided for herein, any additional rent payable by the Apartment lessees shall be paid within thirty (30) days of notification of such increase.
 - (10) In no event shall the annual ground rent be less than the annual ground rent for the immediately preceding annual period.
 - (11) Within a reasonable time after obtaining the appropriate Index

data necessary to compute the increased annual ground rent, Lessor shall give the Apartment lessees, through the Association, written notice of the amount thereof together with the calculations used to determine said amount, and Lessor's computation shall be conclusive and binding but shall not preclude any adjustment which may be required in the event of a published amendment of the Index data upon which the computation was based, or an error in Lessor's computation, provided that the Apartment lessees shall, within thirty (30) days after receipt of such notice of increase, notify Lessor of any claimed error or dispute therein. Any unresolved dispute between the parties shall be determined by arbitration. Until any increase in the annual ground rent is determined, the Apartment lessees shall pay the same annual ground rent as the previous year. When the properly adjusted annual ground rent has been determined, and the Apartment lessees are notified, the adjusted annual ground rent as so determined shall be due and payable to Lessor, retroactive to the beginning of the period for which such rent adjustment is made and any deficiency resulting from such rent adjustment shall be payable within thirty (30) days after the giving of such notice to the Apartment lessees.

- (12) In the event of an unresolved dispute as to the computation of the CPI Adjustment requiring arbitration, the matter shall be settled by arbitration in the following manner.
- (A) The question as to the determination of the adjusted annual ground rent shall be submitted to and determined by a single arbitrator appointed in accordance with the Commercial Arbitration Rules, Expedited Procedures, of the American Arbitration Association and Chapter 658 of the Hawaii Revised Statutes, as amended. The arbitrator shall be an individual of substantial experience with respect to commercial property in Hawaii.
- (B) In the interest of an expedited and inexpensive arbitration process, the arbitrator shall do the minimum necessary in order to reach a satisfactory decision. The situs for said arbitration shall be Honolulu, Hawaii. Any award rendered by the arbitrator shall be binding and conclusive upon the parties. Judgment upon the award rendered by the arbitrator may be entered in the First Circuit Court of the State of Hawaii as provided by statute and judgment shall not be subject to appeal. Each party shall bear one-half (1/2) of the cost of the arbitrator's fees and all of their respective attorneys' and witnesses' fees.

- (13) If publication of the Consumer Price Index, as described above, shall be discontinued, Lessor shall select comparable statistics computed and published by an agency of the United States, by a responsible financial periodical or by a recognized authority. In the event of use of comparable statistics in place of the Consumer Price Index, revisions shall be made in the method of computation herein provided as the circumstances may require to carry out the intent of this section.

4. The Association and Lessor have further agreed that for the period commencing April 1, 2011 through and including March 31, 2021, the ground rent shall be adjusted to an amount, to be determined by mutual agreement between the Lessor and the Apartment lessees or by three impartial appraisers, as the case may be, all as more particularly provided for in subparagraph (c) of each of the Apartment Leases.

5. The Association and the Lessor hereto acknowledge that the terms of this Amendment have been read, that its provisions are fully understood, that it has been approved by each of them respectively and that the same has been fully signed by them as their free act, and shall be binding upon all parties upon execution, and that each of the undersigned parties acknowledges that it has the requisite authority to enter into this Amendment.

6. Except as expressly modified hereby, the terms and conditions of the Apartment Leases are incorporated herein by this reference and each Apartment lessee shall remain bound by the terms and conditions of his or her respective Apartment Lease, as modified herein. If there shall be any conflict between the provisions of this Amendment and the provisions of the Apartment Leases, the provisions of this Amendment shall control with respect to the determination of the amount of ground lease rent due under the Apartment Leases for the period of April 1, 2001 through March 31, 2011; provided, however, that the terms of the Apartment Leases shall control with respect to all other issues which may arise between Lessor and the Apartment lessees other than the determination of the amount of ground lease rent due under the Apartment Leases for the period of April 1, 2001 through March 31, 2011.

7. This document may be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii and noted on Transfer Certificate of Title No. 76,522, and also recorded in the Bureau of Conveyances of the State of Hawaii, as the case may be.

8. The parties hereto agree that this Amendment may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.


IN WITNESS WHEREOF, the parties hereto have executed this statement as of the day and year first above written.

LANIAKEA, INC.,
a Hawaii corporation

By 
Its President

"Lessor"

ASSOCIATION OF APARTMENT OWNERS OF
LANIAKEA APARTMENTS

By 
Ralph Faulger
Its Vice President 4/2/01

By 
Gail P. Pacheco
Its Secretary 4/2/01

"Association"

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

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) SS:
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On this 2 day of April, 2001, before me personally appeared Wendilee L. Adkins to me personally known, who being by me duly sworn or affirmed, did say that he/she is the President of LANIAKEA, INC., a Hawaii corporation, and 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.


L.S.

Gail Cardenas
Gail Cardenas
Notary Public, State of Hawaii

My commission expires: 9/23/2001

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

On this 2nd day of April, 2001, before me personally appeared RALPH FOULGER and GAIL P. PACHECO, to me personally known, who being by me duly sworn or affirmed, did say that they are the Vice-President and Secretary, respectively, of the BOARD OF DIRECTORS OF THE ASSOCIATION OF APARTMENT OWNERS OF LANIAKEA APARTMENTS, and that said instrument was executed on behalf of said Association by authority of its Board of Directors, and said Officers, acknowledged that they executed said instrument as the free act and deed of the BOARD OF DIRECTORS OF THE ASSOCIATION OF APARTMENT OWNERS OF LANIAKEA APARTMENTS.



Cherie H. Yamane
Notary Public, State of Hawaii

My commission expires: 7/5/02

EXHIBIT "A"

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 118, area 13,116 square feet, more or less, as shown on Map 49, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 852 of Bishop Trust Company, Limited, Trustee.

Being the land(s) described in Transfer Certificate of Title No. 76,522 issued to Laniakea, Inc., a Hawaii corporation.

[END OF EXHIBIT "A"]

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EXHIBIT "B"

The following are the individual Apartment annual ground rent payments for the period April 1, 2001, to and including March 31, 2006, for Laniakea Apartments condominium project, situate at 369 Hobron Lane, Honolulu, Hawaii 96815.

<u>Apt. No.</u>	<u>Apartment Lease Document Number</u>	<u>Annual Ground Rent (In U.S. Dollars)</u>
1	389989 ✓	1,500
2	391089 ✓	1,500
3	391026 ✓	1,500
4	392178 ✓	1,500
5	392344 ✓	1,500
6	389991 ✓	1,500
7	389993 ✓	1,500
8	389995 ✓	1,500
20	389997 ✓	1,500
21	389999 ✓	1,500
22	390001 ✓	1,500
23	390003 ✓	1,500
24	390073 ✓	1,500
25	390075 ✓	1,500
26	390077 ✓	1,500
27	390005 ✓	1,500
28	390007 ✓	1,500
29	390009 ✓	1,500
30	390011 ✓	1,500
31	390013 ✓	1,500
32	390015 ✓	1,500
33	393694 ✓	1,500
34	401624 ✓	1,500
35	390017 ✓	1,500
36	390019 ✓	1,500
37	390021 ✓	1,500
38	390023 ✓	1,500
39	390102 ✓	1,500

[END OF EXHIBIT "B"]