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DECLARATION OF PROTECTIVE PROVISIONS

THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF BERNICE PAUHI BISHOP, DECEASED, whose place of business and post-office address is 519 Halekauwila Street, Honolulu, Hawaii, herein called the "Trustees", the owners of all the land situate at Kaelepu, Kailua, District of Koolaupoko, City and County of Honolulu, State of Hawaii, covered by Bishop Estate Lease No. 11400 dated December 1, 1958, recorded in the Bureau of Conveyances of Hawaii in Book 3577, page 182, as amended by instrument dated November 28, 1960, recorded in said Bureau in Book 4090, page 152, including the area of approximately 74 acres thereof now or hereafter to be occupied by a lake known as "Enchanted Lake" and also including all those certain lots adjoining said lake described as follows:

Lots 28, 29, 30, 31, 32, 33, 34, 35, 36, 37,
38, 39, 54, 55, 56, 59, 60, 61, 62,

as shown and described on File Plan 740 in said Bureau, hereinafter called the "lakeside lots",

and JOSEPH RODRIGUES PAO, whose residence and post-office address is 2123 Chamberlain Street, Honolulu, Hawaii, and MICHAEL THOMAS SCARFONE, whose residence and post-office address is 2056 Clement Street, Honolulu, Hawaii, herein called the "Tenants", the holders of said lease as amended, do hereby certify, declare and establish that all the lakeside lots shall hereafter be held, used, leased and conveyed subject to and with the benefit and protection of

the following restrictions, covenants, conditions, provisions and easements:

1. Use of Lake. The lessee (which term herein shall include any sublessees) and occupants of any lakeside lot shall have no right whatsoever under the lease of such lot to enter upon or use said lake for swimming, fishing, boating or any other purpose and may obtain such right only by specific permission of the Trustees and Tenants or their lessee of said lake. So long as Enchanted Lake Yacht Club or any successor corporation or association shall be the lessee of said lake, the lessee and occupants of every lakeside lot shall be entitled to membership therein upon application for admission and payment of reasonable fees and dues. Such membership shall include the right in common with all others so entitled to use Enchanted Lake, as said lake shall exist from time to time, for purposes of navigation including the right to operate thereon any boats propelled by sail, manual or mechanical power or other means for personal pleasure use only, to moor such boats in said lake adjacent to such lakeside lot or in any other mooring area designated by the Trustees for such lot and to have access to and use any launching area, ramp and other common facilities of such club and for swimming and fishing therein, all subject to the provisions of this declaration and to all rules and regulations now or hereafter made as herein provided for the time being applicable to the use of said lake; provided, however, that the Trustees or Tenants and their agents or contractors may defer or interrupt such use and enjoyment of said lake or any part thereof from time to time as may be necessary or convenient in their judgment.

for or in connection with the dredging, draglining, development, maintenance, repair or policing of said lake or any adjacent property.

2. Care and Control of Lake. For the purpose of insuring the full enjoyment of said lake to the members of said club and all others so entitled and in order to prevent improper use of said lake the Trustees shall have the right to control the use of said lake by the adoption and enforcement of appropriate rules and regulations therefor and to provide for the necessary care, maintenance and operation of said lake; provided, however, that nothing in this declaration or any other declaration supplemental hereto shall require the Trustees at any time to dredge or redredge any part of said lake or maintain the same in any manner or at any depth.

3. Rules and Regulations. Rules and regulations for the use of said lake may place reasonable restrictions on the speed of boats in all or any part of said lake and the size and types of boats permitted to navigate therein, may regulate or prohibit anchorage, water skiing, skin diving, swimming and fishing in all or any part of said lake and the use thereof by aircraft, and may impose such other rules and regulations for the safety, protection and enjoyment of said lake and such penalties for the violation thereof as may from time to time be deemed necessary or desirable. Any such rules and regulations may be adopted, amended, modified or revoked by the Trustees at any time upon reasonable notice to all lessees of the lakeside lots and opportunity to be heard thereon. The Trustees may delegate the authority to adopt, amend, modify and revoke such rules and regulations with respect to speed and operation of boats on said lake

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and other use thereof to a corporation, voluntary association or club whose members consist of the lessees of not less than seventy-five per cent (75%) of all lakeside lots entitled to the use thereof.

4. Assessments. Any lakeside lots specially benefited by any improvements to said lake requested or approved by the lessees thereof, or whose lessees or occupants cause any damage thereto necessitating repairs, shall be subject to special assessments for the cost of such improvements or repairs according to their respective special benefits or the fault of their respective lessees or occupants. Every assessment shall be a lien on the lease of the lakeside lot on which assessed, prior and superior to all other liens against such lease except that of outstanding mortgages, and the lessee of such lot at the time of assessment shall be personally liable for the payment thereof.

5. Reservation of Rights. The Trustees reserve the right at any time and from time to time:

(a) to alter or modify said lake or any part thereof as they deem advisable by addition, subtraction, extension, cutting, filling, dredging, draglining, development of other subdivisions of land in or adjacent to said lake, construction of any roads or other improvements in or appurtenant to said lake, and any other change whatsoever in the size, shape or character thereof;

(b) to grant like or similar rights to the owners, lessees and occupants of any other lots of the same or other subdivisions;

(c) to license the use of said waters to any other persons or vessels on any terms and conditions not inconsistent with the provisions hereof;

(d) to grant easements, licenses, permits and rights-of-way for public or private utility purposes, drainage, gas distribution systems, pedestrian walkways and other similar uses in, over, through and under said lake;

(e) to convey to the appropriate governmental authority or otherwise dedicate for public use all or any part of said lake or any improvements therein or appurtenant thereto;

(f) to use said lake for navigation and access for the purpose of constructing any improvements or changes in or appurtenant to said lake and performing other proper functions in connection with the care, maintenance and operation thereof or the development or subdivision of any adjoining land;

(g) to enter on any lakeside lots for the purpose of constructing any improvements or changes in or appurtenant to said lake and performing other proper functions in connection with the care, maintenance and operation thereof, provided that such lots shall promptly be restored as nearly as practicable to the condition thereof prior to such work at no expense to the lessee thereof;

(h) to remove and dispose of any deposits of soil, sand and other materials whatsoever to the shore of any lakeside lots or mooring areas outside of the established boundaries thereof, whether caused by natural accretion, avulsion or otherwise;

(i) to permit deviations from any restrictions, covenants, conditions and provisions contained in or established by this declaration or any other declaration supplemental hereto as to any lakeside lots in such particulars

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and cases as may be deemed proper, provided that no such permit or deviation shall constitute a waiver of said restrictions, covenants, conditions or provisions as to any other lots, particulars or cases;

(j) to assign and transfer all or any of their rights, privileges, powers, interests and obligations hereunder to any other person, including without limitation a lessee or sublessee of said lake, and such assignee and the successors and assigns thereof may exercise and enjoy such rights, privileges, powers and interests so assigned to the same extent as the Trustees in the absence of such assignment.

6. Improvements. No bulkheads, groins, docks, piers, wharves, breakwaters, canals, slips, landings, pilings, cuts, fills, dredging, boathouses, mooring facilities or other improvements whatsoever shall be constructed, made, placed or maintained in or appurtenant to said lake or any part thereof except by persons entitled to use said lake and in strict accordance with complete plans, specifications and plot plan therefor first approved in writing by the Trustees, and any such approved improvements shall be completed with due diligence after commencement of construction. Such improvements other than mooring facilities generally shall be permitted only within the boundaries of the lakeside lot or mooring area to which appurtenant. All boathouses, docks, piers and landings shall be of finished construction, and no makeshift boathouses or boat coverings shall be erected, placed or maintained on or appurtenant to any lakeside lot or mooring area, nor shall any unfinished boathouses or other improvements be used or permitted to remain thereon in such condition. No boat bumpers shall be installed on any mooring facility on or appurtenant to any lakeside lot in such manner as to be visible

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outside of such lot unless such bumpers are of a design approved by the Trustees.

7. Building Setback. No buildings or other structures whatsoever except approved boathouses, docks, piers, landings and other mooring facilities in or appurtenant to said lake shall be erected, placed or maintained on any lakeside lot within fifteen (15) feet of any lake front boundary of the lot.

8. Boat Building and Repair. No building, repair, reconstruction or renovation of boats beyond such activities customarily performed personally by the owners of pleasure boats generally shall be carried on or performed on or appurtenant to any lakeside lot or mooring area of said lake.

9. Maintenance and Repair. The lessees and occupants of every lakeside lot shall be responsible for the care and maintenance of such lot and any appurtenant mooring area within the established boundaries thereof and also outside of such water boundaries to the lake's edge in a neat and attractive condition, suitably planted and free from weeds and debris, and shall at their own expense well and substantially repair, maintain, amend and keep all bulkheads, banks, pilings, boathouses, docks, piers, landings, mooring facilities and other improvements whatsoever on or appurtenant to such lot or mooring area, including without limitation the dredging of any slips thereon, with all necessary reparations and amendments whatsoever in good order and condition. In case the lessee or occupants of any lakeside lot shall fail to maintain such lot or appurtenant mooring area or any improvements thereon or appurtenant thereto as herein provided with due diligence after notice by the Trustees or

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their agents so to do, the Trustees may at their option perform any such maintenance and repair as they deem advisable, and may remove, store, or dispose of any such improvement as they deem unfit for repair or dangerous to persons, property or navigation, and all costs and expenses thereof shall be payable by such lessee and occupants on demand.

10. Mooring in Lake. No boat or other vessel whatsoever shall at any time be anchored or moored in said lake in such location or manner as to interfere with navigation thereon or in any case more than thirty (30) feet from the shore when unattended.

11. Residents on Boats. No boats or other floating vessels shall be used for any residential purpose within the boundaries of any lakeside lot or mooring area or in said lake.

12. Dumping in Lake. No grass or hedge clippings, leaves, branches, trees, waste or scraps of any kind, garbage, sewage, debris, sand, soil or other refuse, rubbish or materials whatsoever except authorized fill shall be dumped or placed in said lake. No fill shall be placed in said lake except within the established boundaries of any lakeside lot or mooring area in accordance with plans therefor including banks, bulkheads and other retaining structures first approved in writing by the Trustees, and no refuse, rubbish or waste materials shall be used for such fill.

13. Indemnity. All lessees and occupants of the lakeside lots shall indemnify and hold the Trustees and the Tenants harmless against all claims and demands for loss or damage, including property damage, personal injury

and wrongful death, arising out of or in connection with the exercise by such lessees or occupants respectively or any rights and easements herein provided, and shall use said lake at their sole risk without any obligation or responsibility whatsoever of the Trustees for the condition or control of said lake or any use thereof or improvements there-in or appurtenant thereto.

14. Amendment, Waiver and Termination. All or any of the restrictions, covenants, conditions and provisions herein contained or hereby established may be amended, enlarged, modified or waived in any way from time to time or terminated with respect to all or any of the lakeside lots by a supplemental declaration thereof in writing, duly executed and acknowledged by the Trustees and recorded in said Bureau, with the prior written consent of the lessees of not less than sixty-six and two-thirds per cent (66-2/3%) of all the lakeside lots. In case any lakeside lot is held in joint tenancy or tenancy by the entirety, the written consent of one such tenant shall constitute consent of all in the absence of written objection by any of the others to the Trustees.

15. Binding Effect. All restrictions, covenants, conditions and provisions contained in or established by this declaration or any other declaration supplemental hereto as herein provided shall constitute easements and servitudes running with the lakeside lots and said lake and shall bind and inure to the benefit of the Trustees, their successors in trust, assigns, lessees (including the Tenants), sublessees and occupants of the lakeside lots. Every lessee of any lakeside lot, assignee of the lease thereof, and occupant of such lot under any sublease thereof or contract to purchase the lease or sublease thereof shall, by accepting such lease, assignment, sublease or contract, be deemed conclusively to

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have accepted the same upon and subject to all said restrictions, covenants, conditions and provisions and agreed to be bound thereby, whether or not set forth or referred to in such instruments. Said restrictions, covenants, conditions and provisions are in addition to and supplement any other requirements of law and provisions of such instruments.

16. Remedies for Breach. The Trustees and their assigns, lessees and sublessees of said lake or any lakeside lot shall be entitled to enjoin by appropriate legal action the continuing or repeated breach of any restrictions, covenants, conditions and provisions contained in or established by this declaration or other declaration supplemental hereto, and damages for such breach shall not be deemed adequate compensation therefor. Failure of the Trustees or any other person so entitled to enforce any of said restrictions, covenants, conditions and provisions shall not constitute or be deemed a waiver thereof or of the right to enforce the same. Any breach of said restrictions, covenants, conditions and provisions by the lessee or occupants on any lakeside lot and the continuance of such breach for thirty (30) days after written notice thereof given to such sublessee at his last known address and to any such occupant, or repeated within six months after such notice, shall entitle the Trustees to re-enter such lot or terminate the lease thereof without further notice or legal process and without prejudice to any other remedy or right of action they may have, subject to all rights of any mortgagee of such lease as therein provided.

17. Expenses of Enforcement. In case the Trustees or any other persons so entitled shall bring and sustain any action to enforce any of said restrictions, covenants, conditions and provisions contained in or established by this declaration or any other declaration supplemental hereto, they

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shall be entitled to recover from the persons violating said restrictions, covenants, conditions or provisions all their costs and expenses including a reasonable attorney's fee incurred in connection with such action.

18. Duration of Provisions. All said restrictions, covenants, conditions and provisions contained in or established by this declaration or any other declaration supplemental hereto shall continue in full force and effect until December 31, 2016, and thereafter for so long as may then be permitted by law and extended by the Trustees by supplemental declaration in the same manner as any amendment hereto, unless they shall at any time prior thereto be terminated in the manner herein provided.

19. Separability. Invalidation of any restrictions, covenants, conditions or provisions contained in or established by this declaration or any other declaration supplemental hereto by judgment or order of any court having jurisdiction thereof shall in no way affect any others of said restrictions, covenants, conditions and provisions, which shall remain in full force and effect according to their terms.

IN WITNESS WHEREOF, the Trustees and Tenants have executed these presents this 12th day of March, 1962.

Joseph Rodriguez Pao
Joseph Rodriguez Pao
Michael Thomas Scarfone
Michael Thomas Scarfone
by Joseph Rodriguez Pao, Trustee

H. Kappeler
Richard Spence
Frank E. Williams
Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased.
Trustees.

APPROVED AS TO FORM
BY NOTARY, CASTLE & ANTHONY
[Signature]

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

On this 14th day of March, 1962,
before me personally appeared H. K. Koppeler
Richard Dymann, Jr. and Frank E. Mithoff,
three of the Trustees under the Will and of the Estate of
Bernice Pauahi Bishop, deceased, to me known to be the
persons described in and who executed the foregoing instru-
ment, and severally acknowledged that they executed the
same as their free act and deed as said Trustees.

Sophie K. Skerfving
Notary Public, First Judicial
Circuit, State of Hawaii.

My Commission expires: Nov. 15, 1964.

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

On this 12th day of March, 1962,
before me personally appeared JOSEPH RODRIGUES PAO and
~~MICHAEL THOMAS SCARFONE~~, to me known to be the persons
described in and who executed the foregoing instrument,
and acknowledged that they executed the same as their free
act and deed.

Ernest G. Berendes
Notary Public, First Judicial
Circuit, State of Hawaii.

My commission expires: 9-15-64.

State of Hawaii) ss.
City and County of Honolulu)

On this 12th day of March, 1962, before me personally
appeared Joseph Rodrigues Pao, to me known to be the person who executed
the foregoing instrument in behalf of Michael Thomas Scarfone, and
acknowledged that he executed the same as the free act and deed of said
Michael Thomas Scarfone.

Ernest G. Berendes
Notary Public, 1st Judicial Circuit
State of Hawaii
My Commission expires: 9-15-64

Entered of Record
and compared.

MAR 14 1962
Oliver H. Liu

at 3:10 o'clock P. M.
Registrar of Conveyances.

By [Signature]

Clerk