

## THE HŌKŪALA CLUB MEMBERSHIP AGREEMENT

This Hōkūala Club Membership Agreement (this “**Agreement**”) is entered into by and between Hokuala Club LLC, a Hawaii limited liability company (together with its successors and assigns, the “**Company**”) and the undersigned (hereinafter, the “**Member**”). Capitalized terms in this Agreement not defined herein are defined in the Membership Plan for the Hōkūala Club (as amended from time to time, the “**Membership Plan**”).

In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Membership. The Company is providing a range of memberships in the Hōkūala Club (the “**Club**”), operating within the Hōkūala Resort (the “**Project**”) located in Lihue, Kaua’i, Hawaii. Member hereby accepts a membership in the Club upon the terms and conditions set forth in this Agreement and the other Membership Documents during the period of such Member’s ownership of an interest in the Project (hereinafter, a “**Membership**”). Membership in the Club permits the Member and the Member’s Family to use the Benefits and Services in accordance with the Membership Plan. Upon acquiring a Membership, each member acquires a revocable license to enjoy the Club Benefits and Services with his or her Family, all in accordance with the terms and conditions of the Membership Documents, as amended from time to time. Membership in the Club is not an investment in the Company, the Club or the Project and does not provide the Member with an equity or ownership interest or any vested or prescriptive right or easement in or to use the Club or any part of the Project. Member will not be entitled to vote or participate in the management of the Company or the Club.

2. Membership Documents. By signing this Agreement, Member acknowledges receipt and review of the following documents related to the Club:

- (a) the Membership Plan; and
- (b) the Rules and Regulations of the Club (as amended from time to time, the “**Club Rules**”).

This Agreement and the above documents are referred to, collectively, as the “**Membership Documents**.” The Membership Plan and the Club Rules contain many important provisions supplementing and implementing the terms of this Agreement, and Member hereby agrees to abide by the terms of the Membership Documents. Any information or representation regarding the Club or membership in the Club not contained in the Membership Documents is unauthorized and, if given or made, such information or representation must not be relied upon as having been authorized by the Company or the Club.

3. The Project. As of the date of adoption of the Membership Plan, certain amenities of the Project are under construction, and certain of the Benefits and Services will not be available until the Project amenities are open for use by the residential owners of the Project.

4. Club Operations. All references herein to actions to be taken by the Club shall mean actions by the Company or its designee or agent. The Company is responsible for the governance and administration of the Club and has the exclusive authority to approve Membership Agreements, set Annual Dues and other fees and charges, establish and revise the Membership Plan and the Club Rules and to otherwise control the management and affairs of the Club. The Company may delegate all or any portion of the operations of the Club and/or any other obligations of the Company under the Membership Documents to one or more individuals or entities selected by the Company (individually or collectively herein, the “**Manager**”).

5. Membership Initiation Fee. The current “**Membership Initiation Fee**” for each member by ownership type is set forth on the attached form, plus any applicable sales tax, transfer tax, or similar tax. No later than the date the Member acquires an ownership interest in the Project, Member shall deliver or cause to be delivered to the Company, payment in immediately available good funds in the amount of the Membership Initiation Fee. Member acknowledges and agrees that, upon receipt by the Company, the Membership Initiation Fee will have been fully earned by the Company and shall be nonrefundable to Member. Member understands and acknowledges that no portion of the Membership Initiation Fee shall be refundable to Member at any time, even if Member later sells its ownership interest in the Project or its Membership is terminated.

6. Annual Dues and Other Fees and Charges.

(a) Member shall pay Annual Dues to the Company for each Membership Year, with any initial partial year being prorated as appropriate. For the 2023 calendar year, “**Annual Dues**” for each member by ownership type are listed in the attached form. Those Members who elect the Unlimited Golf Option shall pay, in addition to Annual Dues, the Unlimited Golf Option Annual Dues to the Company for each Membership Year that such an election is made. Attached is the election form for the Unlimited Golf Option and the current Unlimited Golf Option Annual Dues for each ownership category. For each subsequent calendar year, the Company will determine the amount of Annual Dues and Unlimited Golf Option Annual Dues to be charged to members, and will determine the other fees and charges payable by members from time to time; provided that increases from one year to the next in the Annual Dues payable by the Member shall be subject to any limitations set forth in the Membership Plan. Member acknowledges and agrees that at all times during the Membership, Member must maintain on file with the Manager a valid credit card for payment of the Club fees and charges due from Member under the Membership Documents and, to the extent provided in the Membership Plan, for Annual Dues and Unlimited Golf Option Annual Dues. Member agrees to promptly pay directly to the Club any amounts not paid by the credit card company upon written notice from the Club. The Annual Dues, Unlimited Golf Option Annual Dues, and any other fees or charges properly collected by the Club pursuant to the Membership Documents, are nonrefundable. Delinquency may result in enforcement of the Pledge and/or imposition of additional charges and/or enforcement of other remedies by the Club as described in the Membership Documents.

(b) At the discretion of the Club, Annual Dues, Unlimited Golf Option Annual Dues and other Club fees and charges may be included in, and collected as part of,

annual dues and assessments of the condominium association that governs the portion of the Project in which Member has an ownership interest (the “**Association**”). To the extent Annual Dues, Unlimited Golf Option Annual Dues and other Club fees and charges are included in the Association’s annual dues and assessments, such amount shall be treated as a charge due to the Association and subject to all rights of collection, lien and assessment afforded to the Association by the applicable condominium declaration or applicable law.

7. Pledge of Membership. Member hereby grants to the Company a security interest in the Membership for the purpose of securing payment of the Annual Dues, fees, charges and other amounts to be paid by Member to the Company under the terms of the Membership Documents (herein, the “**Monetary Obligations**”), and Member hereby further pledges the Membership as security for the future payment of the Monetary Obligations (herein, the “**Pledge**”). This Membership Agreement is intended to be and shall be deemed to be a security agreement as defined in the Uniform Commercial Code as in effect in Hawaii (the “**UCC**”). Pursuant to this Section 7, the Membership is collateral for Member's obligation to pay the Monetary Obligations, and failure to make any such payment will be a default which will entitle the Company (in addition to all other rights and remedies) to proceed with all rights and remedies of a secured party under the UCC and to foreclose on the Membership in the manner allowed under Hawaii law. If requested by the Company, the Member shall execute any financing statements or other reasonable documents in order to effectuate the Pledge and/or the Company's rights as a secured party.

8. Resale and Transfer.

(a) Member acknowledges that the Membership is personal to Member and is not transferable except in accordance with this Agreement. Member agrees that the Authorized Transfer provisions of the Membership Plan shall not apply to Member or Member’s Membership. Rather, the provisions of this Section 8 shall control and govern. In the event Member elects in the future to sell its ownership interest in the Project (herein, the “**Resale**”), Member shall disclose to any intended future transferee or purchaser of the ownership interest, prior to the closing of the Resale: (i) the existence of the Club; and (ii) the contact information for the Company as set forth in Section 14(a), as the same may have been changed as provided therein, in order to obtain a copy of the Membership Plan. Member shall require any intended future transferees or purchasers of the ownership interest in the Project to include the disclosures set forth in subsections (i) and (ii) above in any agreements or contracts used by such transferees or purchasers in the sale of the ownership interest in the Project to subsequent transferees or purchasers.

(b) In the event of a Resale, Member may elect to use, as its listing and sales broker for such Resale, the agent designated by the Company (the “**Agent**”), which Agent is currently Timbers Hawaii Real Estate LLC, an affiliate of the Company. If Member elects to use the Agent in connection with any such Resale, then Member shall execute the form of listing and sales agreement then in use by the Agent for sales of similar interests, and in such event (and only in such event) Member may transfer the Membership to its buyer or transferee at the closing of the Resale in accordance with the terms of this subparagraph (b). In connection with such a Resale through Agent, Member shall transfer its Membership in the Club to its transferee upon

delivery of the following to the Company contemporaneously with the closing of the Resale: (i) the standard Membership Application executed by Member's grantee or purchaser, (ii) payment of all amounts then due to the Company by Member; and (iii) payment of a Membership Transfer Fee in the amount of \$1,000. In the event the Member continues to hold an ownership interest in the Project other than the ownership interest being conveyed, the above described transfer shall result in the creation of a new Member Account for the transferee.

(c) If Member elects not to use Agent in connection with a Resale or if the documents and payments described above are not delivered to the Company contemporaneously with the closing of the Resale in accordance with this Agreement, the Member's grantee or purchaser may only become a Member of the Club by enrolling in the Club as a new Member, including payment of the then current Membership Initiation Fee.

(d) Except as permitted herein, Member is not authorized to, and shall not, make any representations or warranties on behalf of the Company or the Club with respect to the Club. Member acknowledges that the Company reserves the right to refuse any Membership Application, including any delivered in connection with a Resale.

9. Member's Information.

(a) Member certifies that the information provided on the attached Member Information Form is accurate and complete as of the date of this Agreement and agrees to provide updated information to the Company, from time to time, as necessary to maintain the accuracy and completeness of the Member Information Form. Member agrees to supply the Company with such references as may be reasonably requested by the Company.

(b) Member hereby authorizes the disclosure and release of information requested by the Company for investigating Member's qualifications for Membership, and Member releases and holds the Company Parties (as defined below) harmless from any and all liabilities, claims or causes of action in any matter related to use of the information provided herein or in the attached Member Information Form. The Company respects the privacy of Club Members and will take reasonable measures to protect the nonpublic personal information of the Members in accordance with the Club privacy policy posted on the member website.

10. Member Acknowledgements. In addition to the other acknowledgments set forth in the Membership Documents, by executing this Agreement, Member acknowledges the following:

(a) Personal Use. Member acknowledges that the Membership provides benefits solely for the Member, his or her Family, and permitted guests.

(b) No Investment Representations. Member acknowledges that neither the Company nor any Manager nor their respective successors, assigns, affiliates, parents, subsidiaries, owners, members, partners, officers, directors, managers, shareholders, agents, brokers, servants and employees and their respective heirs, executors, administrators, legal representatives, predecessors, successors, and assigns (all of the foregoing collectively, the

“**Company Parties**”) has made any warranty or representation upon which Member has relied in executing this Agreement or joining the Club concerning the investment value of the Membership, or the possibility or probability of profit or loss resulting from ownership of the Membership. Member acknowledges that he or she does not expect to derive income, dividends, distributions, or other economic benefit from Membership in the Club. On the contrary, Member hereby represents to the Company that Member is acquiring the Membership for no purpose other than for the recreational and social use and enjoyment of Member, Member’s Family and permitted guests.

(c) Member Discipline. Member acknowledges that as a member of a private club he or she is responsible for his or her conduct, the conduct of his or her Family, and the conduct of his or her guests. Member acknowledges that the Club may exercise broad rights to discipline a Member whose conduct or the conduct of a Member’s Family or guests negatively affects the welfare, safety, harmony or good reputation of the Project, the Club or its members or otherwise violates the Membership Plan or the Club Rules. The Club’s remedies may include reprimand, suspension, fines, and expulsion from the Club, as further set forth in the Membership Plan and the Club Rules. The severity of the discipline is in the Company’s sole discretion and will be determined on a case-by-case basis, without liability to any decision maker. Member shall not, on account of any restriction, suspension, or other enforcement action, be entitled to any repurchase or refund of the Membership Initiation Fee, or of any Annual Dues or any other fee or charge. During any restriction or suspension, the Monetary Obligations shall continue to accrue and shall be paid in full prior to Member’s reinstatement in good standing.

(d) Termination of Membership. In addition to (and not in limitation of) all other remedies, in the event Member has egregious or repetitive offenses or an extended period of payment delinquency, the Club may elect to terminate the Membership as further described in the Membership Plan. In such event, Member shall be notified by the Club prior to termination and shall be given an opportunity to be heard by the Company to show cause why his or her Membership should not be terminated. If Member desires to be heard, the Company shall set a time and date (not less than 10 days thereafter) for a hearing.

(e) Tax Consequences. Member acknowledges that the Club makes no representations and expresses no opinions regarding the national, federal, state or local income tax consequences of acquiring a Membership or with respect to any proceeds paid to the Member upon any transfer. Member acquires the Membership subject to all applicable tax laws, as the same may be amended from time to time. Accordingly, Member should consult with a tax advisor with respect to the tax consequences of Membership.

(f) Modification of Membership Documents. The Company has the right to amend the Membership Plan and the Club Rules in the manner set forth therein.

(g) Entire Agreement. The Membership Documents constitute the entire agreement between the parties. There are no understandings or agreements other than those incorporated in the Membership Documents.

11. Release and Hold Harmless. Member for itself and for its Family members, guests, agents, employees, servants, affiliates, contractors, heirs, successors, executors, administrators, representatives and assigns (the “**Member Parties**”), acknowledges that any person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege, benefits or service whatsoever owned, leased or operated by the Club, or who engages in any function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, including the Benefits and Services, shall do so at his or her own risk, and Member further acknowledges a risk of possible injury associated with such use, access, and activities and hereby accepts and assumes such risks. Member, for itself and for the Member Parties, hereby releases and shall hold the Company and the Company Parties harmless, from, against, and with respect to, any and all actions, causes of action, choses in action, suits, accounts, bills, reimbursements, costs, debts, expenses, covenants, contracts, controversies, demands, rights, agreements, promises, damages, liabilities, judgments, executions, and claims of every kind (including, without limitation, personal injury, death or property damage), whether at law or in equity, whether known or unknown, and whether accrued or to accrue, which Member or a Member Party ever had, now has, or may have or hereafter acquire for any reason whatsoever resulting from, arising out of or incident to, or in any way connected with, the Club, membership in the Club, and/or use of or access to the facilities, services, activities or benefits described above. This provision is not intended to, and shall not be construed to, release the Company from its contractual obligations pursuant to this Membership Agreement.

12. Confidentiality, Non-Disclosure, and Trademark Obligations. Member acknowledges that the Membership Documents involve proprietary information and that the Company would suffer damages if this information were inappropriately disclosed to unauthorized third parties. Member agrees not to disclose the Membership Documents to any third person without the Company’s prior written consent, not to record or otherwise place the Membership Documents in the public record and not to copy or otherwise duplicate any of the Membership Documents to provide to anyone other than (i) Member’s professional advisors who will be advised of this confidentiality provision and be subject to it; and (ii) pursuant to a request or order to disclose under a subpoena, order or other instrument issued by a court of competent jurisdiction, regulatory agency, or other governmental entity and then only after notifying the Company of the required disclosure. In addition, Member acknowledges that Company and/or one or more of its affiliates is the owner of the names, logos, identifying marks, symbols, trademarks and/or service marks of the “Hōkūala Club” and the marks associated therewith are registered trademarks, service marks, or trade names of the Company or its affiliate(s) (the “**Trademarks**”). Member acknowledges that Member has no right, title, or interest in the Trademarks and that Member may not use the Trademarks without the prior written consent of the Company. No Member shall advertise or publish announcements concerning the Club or Membership, without the prior written consent of the Company, which may be withheld and conditioned in its sole discretion.

13. Arbitration. Except as specifically provided in Section 7 above, all disputes and claims between the Member and the Company shall be governed by the Membership Documents. Certain disputes concerning Member’s rights and obligations as a member of the Club or interpretation of the Membership Documents, including its Membership Agreement, shall be submitted to binding arbitration as described further in the Membership Plan. Member agrees to

such arbitration, and Member understands and agrees that, through such arbitration rights, Member is waiving any right to a jury trial that might otherwise be available to Member.

14. General Provisions.

(a) Notices. Any notice, request, demand, instruction, or other document required or allowed to be given under the terms of this Agreement or the terms of any other Membership Document shall be in writing and shall be either personally delivered, sent via facsimile or electronic mail, or by certified mail, return receipt requested, by overnight mail with a reputable commercial delivery service, or by any other process permitted under the Membership Documents, addressed as follows:

If to the Company:   Hokuala Club LLC  
Attn: [\_\_\_\_\_]   
[\_\_\_\_\_]   
[\_\_\_\_\_]   
Fax: [\_\_\_\_\_]   
Email: [\_\_\_\_\_]

If to Member:       The address provided in the attached information form.

Notices shall be deemed given in accordance with the provisions of the Membership Documents. The addresses provided for in this Agreement may be changed by given written notice of such change to the other party in the manner provided for giving notice herein.

(b) Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto. This Agreement may be assigned by Member only in accordance with the Membership Documents.

(c) Non-waiver. No waiver or failure by the Company Parties to require Member's strict performance or timely payment shall diminish, affect or waive any right of the Company to demand strict performance or timely payment or any other remedy at any other time or in any other manner.

(d) Headings. The paragraph headings are inserted only for convenient reference and do not define, limit or prescribe the scope of this Agreement or any particular paragraph.

(e) Governing Law. This Agreement shall be construed under the provisions of laws of the State of Hawaii.

(f) Number and Gender; Defined Terms. The term Member in this Agreement, or any pronoun used in place of that term, shall include the masculine, feminine, singular, plural, individuals, partnerships, limited liability companies, trusts, corporations or other legal entities, where applicable.

(g) Severability. If any term, covenant or provision of this Agreement shall be illegal or unenforceable for any reason, the same shall not invalidate any other terms, covenants or provisions and all the remaining terms, covenants and provisions shall remain in full force and effect.

(h) Survival. The provisions of this Agreement shall survive delivery of the Membership Initiation Fee.

(i) Conflict Between Documents. In the event of a conflict between this Agreement and the other Membership Documents, the other Membership Documents shall control and govern unless the conflicting provision herein expressly states that it controls over such other Membership Documents.

(j) Counterparts. The Agreement may be executed in any number of counterparts, each deemed an original as against any party whose signature appears thereon, and all together constituting the same instrument. The receipt of the signature of a party transmitted via a facsimile machine is satisfactory to bind such party to the provisions of this Agreement. If a signature is transmitted via facsimile, the party so transmitting shall also deliver the original signature page to the other parties as soon thereafter as is reasonably possible.

(k) Effective Date. The effective date of this Agreement shall be the date of the Company's execution of this Agreement. This Membership Agreement shall not be binding on the Company until signed by the Company. In the event the Company, in its sole and absolute discretion, elects not to accept this Membership Agreement or determines a lack of eligibility for Membership, the Company shall promptly refund the Membership Initiation Fee (or any portion thereof delivered).



This Club Membership Agreement is effective and approved upon the Company's acceptance on the effective date set forth below.

MEMBER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**APPROVED AND ACCEPTED:**

**THE HOKUALA, LLC**, a Hawaii limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Membership Number: \_\_\_\_\_

Membership Effective Date: \_\_\_\_\_

## **MEMBERSHIP INITIATION FEES**

Membership Initiation Fees by Ownership Type (for 2023 Membership Year):

Pakela Ike Initiation Fee - \$35,000.00

## **ANNUAL DUES**

Annual Dues by Ownership Type (for 2023 Membership Year):

Pakela Ike Annual Dues - \$1,394

*\*(Currently included in the annual dues)*

## **UNLIMITED GOLF OPTION**

Unlimited Golf Option Annual Dues by Ownership Type (for 2023 Membership Year):

**Pakela Ike - \$18,000**

- ☐ Yes, I want the Unlimited Golf Option and acknowledge I will be responsible, in addition to Annual Dues, for the Unlimited Golf Option Annual Dues initially set forth before and thereafter set by the Company, from time to time:

**THE HŌKŪALA CLUB  
MEMBER INFORMATION FORM**

Preferred method of Club communications:

☐ Phone      Home: ☐      Cell: ☐      Work: ☐  
☐ Email  
☐ Fax  
☐ Mail

Name in which Membership will be held: \_\_\_\_\_

**Personal Information:**

Full Name \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address (primary): \_\_\_\_\_

Email Address (secondary): \_\_\_\_\_ (cc: all email to this address? ☐ Yes ☐ No)

**Secondary Address:**

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Marital Status: \_\_\_\_\_ Single \_\_\_\_\_ Married \_\_\_\_\_ Companion

Date of Birth: \_\_\_\_\_

**Spouse/Companion Information:**

Name (Please Print) \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Children – Name(s)	Gender	Date of Birth	Authorize Charging Privileges
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____