

FORM FOR HAWAII NONPROFIT CORPORATION WITH MEMBERS

BYLAWS

OF

MAKAWAO MERCHANTS ASSOCIATION

ARTICLE I.

PURPOSES; NONPROFIT CHARACTER

Section 1.1 Purposes. The purposes of the Corporation shall be as specifically set forth in Article IV of the Articles of Incorporation.

Section 1.2 Nonprofit Character. The Corporation shall be a nonprofit corporation. The Corporation shall not authorize or issue shares of stock. No dividend shall be paid and no part of the income or earnings which may be derived from its operations, in pursuance of the purposes of the Corporation, shall be distributed to or inure to the benefit of any Member, Director or Officer of the Corporation, or any private individual, but shall be used to promote the purposes of the Corporation.

ARTICLE II.

PRINCIPAL OFFICE; PLACE OF MEETINGS; SEAL

Section 2.1 Principal Office. The principal office of the Corporation shall be maintained at such place within or without the State of Hawaii, and the Corporation may have such other offices within or without the State of Hawaii, as the Board of Directors shall determine.

Section 2.2 Place of Meetings. All meetings of the Members and of the Board of Directors shall be held at the principal office of the Corporation, unless some other place is stated in the call. Any meeting, regular or special, of either the Board of Directors or of the Members may be held by conference telephone or similar communication equipment as long as all Directors or all Members participating in the meeting can hear one another, and all such Directors or Members shall be deemed to be present in person at the meeting.

Section 2.3 Seal. The Corporation may have a corporate seal as the Board of Directors shall determine.

ARTICLE III.

MEMBERS

Section 3.1 Members. Any person who is interested in promoting, fostering and furthering the purposes of the Corporation shall be eligible for membership. The membership shall be divided into Voting Members and Associate Members.

Section 3.2 Voting Members. The Voting Members of the Corporation shall be those persons who from time to time are the members of the Board of Directors of the Corporation. Only the Voting Members shall participate in making those decisions of the Corporation reserved to its membership. Death, resignation or removal of any Director as provided in these Bylaws shall automatically terminate his membership as a Voting Member. Election or appointment of a successor Director as provided in these Bylaws shall operate to elect or appoint that Director as a Voting Member.

Section 3.3 Associate Members. Members who are not Voting Members shall be Associate Members. Associate Members shall be entitled to attend meetings of the full membership of the Corporation and to serve on committees of the Corporation, except that no Associate Member need be given notice of any meeting of the Corporation.

Section 3.4 Annual Meeting. The annual meeting of the Voting Members shall be held on such day within ninety (90) days following the close of each fiscal year as the Board of Directors shall designate, or, if the Board of Directors shall not have designated such day by the end of the second month following the close of the fiscal year, the annual meeting shall be held on the first Monday of April in each year, if not a legal holiday, and if a legal holiday, on the next calendar day following.

Section 3.5 Regular Meetings. The Voting Members may establish regular meetings to be held in such places and at such times as the Voting Members may from time to time by vote determine, and when such meeting or meetings shall be so determined, no further notice thereof shall be required.

Section 3.6 Special Meetings. Special meetings of the Voting Members may be held at any time upon the call of the President or any two (2) Directors, or upon the call of one-fourth (25%) of all of the Voting Members. Upon receipt of such call or written request, the Secretary shall send out notices of the meeting to all Voting Members in the same manner as for annual meetings of the Voting Members.

Section 3.7 Notice of Meetings. Subject to Section 3.5 of Article III, notice setting forth the time and place of the annual and any special meetings and the general nature of the business to be considered thereat shall be given by the Secretary, or by the person or one of the persons calling the meeting, to each Voting Member. Such notice shall be given to each such Voting Member by advising him of the meeting by telegram or by personally delivering written notice thereof to him, in each case not less than forty-eight (48) hours prior to the time set for the meeting, or by mailing written notice thereof, postage prepaid, addressed to him at his residence or usual place of business at least ten (10) nor more than sixty (60) days prior to the time set for the meeting. Nonreceipt by a Voting Member of notice of a meeting mailed to such Voting Member by first class or certified mail shall not invalidate any business done at the meeting while a quorum is present.

Section 3.8 Waiver of Notice.

(a) Any Voting Member may waive notice of any meeting of Voting Members in writing signed by himself or his duly authorized proxy or attorney-in-fact, either prior to, at or after the meeting.

(b) The presence or representation at any meeting of any Voting Member shall be the equivalent of the waiver of the giving of notice of such meeting to such Voting Member, unless the Voting Member, at the beginning of the meeting, objects to holding the meeting or transacting business at the meeting.

Section 3.9 Quorum. At any meeting of the Voting Members of which proper notice has been given, a majority of Voting Members present in person or by proxy (provided that not more than three-fourths (75%) of the votes present are by proxy) shall constitute a quorum, and the concurring vote of a majority of the Voting Members constituting a quorum shall be valid and binding upon the Corporation, except as otherwise provided by law, these Bylaws or the Articles of Incorporation.

Section 3.10 Voting; Proxies. Each Voting Member is entitled to one (1) vote, either in person or by proxy, at all meetings of the Voting Members. The authority given by a Voting Member to any person to represent such Voting Member at meetings of the Voting Members shall be in writing and signed by such Voting Member, and shall be filed with the Secretary. No proxy shall be valid after eleven (11) months from the date of such proxy, unless otherwise provided in such proxy.

Section 3.11 Adjournment. Any meeting of the Voting Members, whether annual or special, may be adjourned from time to time, whether a quorum be present or not, without notice other than the announcement at the meeting, unless a new record date is or must be fixed under Hawaii Revised Statutes § 414D-107, in which event notice of the adjourned meeting shall be given to the Voting Members of record as of the new record date. Such adjournment may be to such time and to such place as shall be determined by a majority of the Voting Members present. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted by a quorum at the original meeting as originally called.

Section 3.12 Action by Members Without a Meeting. Any action required or permitted to be taken at a meeting of the Voting Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by eighty percent (80%) of the Voting Members with respect to the subject matter thereof and filed with the records of the meetings of the Voting Members. Such consent shall have the same effect as a vote of the Voting Members at a meeting and may be stated as such in any articles or documents filed with the Director of the Department of Commerce and Consumer Affairs.

Section 3.13 Removal; Withdrawal; Admission. Any Member, whether Voting or Associate, may be removed as a Member of the Corporation by the affirmative vote of all Voting Members at the time of such vote (which shall not include any Voting Member whose removal is the subject of such vote). Not less than twenty (20) days prior to the date on which the vote for removal shall be held, the Member who is proposed to be removed shall be sent written notice, by hand or first class mail, of his proposed removal and the reasons therefor. The Member may provide a written response no later than five (5) days prior to the date on which the vote shall be held, and his response shall be provided to all the Voting Members prior to the vote for removal. Any Member may withdraw from the Corporation at any time upon giving prior written notice to the Secretary. Additional members may be admitted upon the affirmative vote of not less than a majority of all Voting Members at the time of such vote.

Section 3.14 Dues. Members shall be liable for such annual membership dues and assessments as shall from time to time be determined by general or special resolution of the Board of Directors.

Section 3.15 Committees. Any member may serve on a committee of the Corporation or the Board of Directors so long as such committee is not exercising the authority of the Board of Directors.

ARTICLE IV. BOARD OF DIRECTORS

Section 4.1 Powers. The Board of Directors shall manage the property and business of the Corporation and shall have and may exercise all of the powers of the Corporation except such as are reserved to or may be conferred from time to time by law, the Articles of Incorporation and any amendments thereto, or the Bylaws upon the Voting Members of the Corporation.

Section 4.2 Number; Election. There shall be a Board of Directors of the Corporation, to consist of **not less than three (3) members, nor more than four (4) members.** The number of Directors for the ensuing year shall be fixed by the Voting Members at each annual meeting, and the number so designated shall then be elected by ballot by the Voting Members to hold office until the next annual meeting and thereafter until their successors shall be duly elected, and [, within the foregoing limitation as to the minimum and maximum number,] the number of Directors may be decreased or increased by the Voting Members at any special meeting and, in case the number is increased, the additional Directors shall be elected by ballot as if elected at an annual meeting.

Section 4.3 Chairman. The Board of Directors may appoint from among its members a Chairman who shall preside at all meetings, serve during the pleasure of the Board of Directors, and perform such other duties as may be assigned to him by the Articles of Incorporation, these Bylaws or the Board of Directors.

Section 4.4 Annual Meeting. A meeting of the Board of Directors shall be held at the place of each annual meeting of the Voting Members and immediately following such meeting. At such annual meeting, the Board of Directors shall elect the Officers of the Corporation for the ensuing year.

Section 4.5 Regular Meetings. The Board of Directors may establish regular meetings to be held in such places and at such times as it may from time to time by vote determine, and no further notice thereof shall be required.

Section 4.6 Special Meetings. Special meetings of the Board of Directors may be called at any time by the President or by any two (2) Directors.

Section 4.7 Notice of Meetings. Except as otherwise expressly provided, reasonable notice of any meeting of the Board of Directors shall be given to each Director (other than the person or persons calling the meeting and other than the person giving notice of the meeting) by the Secretary, or by the person or one of the persons calling the meeting, by advising the Director of the meeting by word of mouth or by telephone or by leaving written notice thereof with him or at his residence or usual place of business. Such written notice shall be mailed not less than ten (10) days prior to the date of the meeting. Nonreceipt by a Director of any written notice of a meeting mailed to such Director shall not invalidate any business done at the meeting while a quorum is present.

Section 4.8 Waiver of Notice.

(a) Any Director may, prior to, at the meeting, or subsequent thereto, waive notice of any meeting in writing, signed by him.

(b) The presence at any meeting of any Director shall be the equivalent of a waiver of the requirement of the giving of notice of said meeting to such Director, unless the Director, at the beginning of the meeting or prior to the vote on a matter not properly noticed, objects to the lack of notice and does not thereafter vote or assent to the objected action.

Section 4.9 Quorum. A majority of the total number of Directors at which the Board of Directors has been fixed by the Voting Members shall constitute a quorum to transact business, and, in order to be valid, any act or business must receive the approval of a majority of such quorum. A vacancy or vacancies in the membership of the Board of Directors shall not affect the validity of any action of the Board of Directors, provided there is present at the meeting a quorum of all the Directors at which the Board of Directors has been fixed.

Section 4.10 Adjournment. In the absence of a quorum at a meeting duly called, the President or a majority of the Directors present may adjourn the meeting from time to time without further notice, and may convene or reconvene the meeting when a quorum shall be present.

Section 4.11 Action by Directors Without a Meeting. Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors with respect to the subject matter thereof and filed with the records of the meetings of the Board of Directors. Such consent shall have the same effect as a unanimous vote of the Board of Directors and may be stated as such in any articles or documents filed with the Director of the Department of Commerce and Consumer Affairs.

Section 4.12 Permanent Vacancies. If any permanent vacancy shall occur in the Board of Directors through death, resignation, disqualification, removal or other cause other than temporary absence, illness or disability, the remaining Directors, by the affirmative vote of a majority of all remaining members of the Board of Directors, may elect a successor Director to hold office for the unexpired portion of the term of the Director whose place shall be vacant or until the Voting Members shall elect a successor Director.

Section 4.13 Temporary Vacancies, Substitute Directors. If any temporary vacancy shall occur in the Board of Directors through the sickness or disability of any Director, the remaining Directors, whether constituting a majority or a minority of the whole Board of Directors, may by the affirmative vote of a majority of such remaining Directors appoint some person as a substitute Director, who shall be a Director during such absence, sickness or disability and until such Director shall return to duty or the office of such director shall become permanently vacant.

Section 4.14 Proxies. Voting by proxy shall not be permitted at any meeting of the Board of Directors or of any committees, boards or bodies created by the Board of Directors.

Section 4.15 Executive and Other Committees.

(a) The Board of Directors, by resolution adopted by a majority of the Board of Directors, may designate and appoint an Executive Committee and any other committees, each of which, to the extent provided in the resolution, the Articles of Incorporation or these Bylaws, shall have and may exercise all the authority of the Board of Directors; except that no such committee shall have the authority of the Board of Directors in reference to:

- (1) Authorizing distributions;

(2) Approving or recommending to the Members dissolution, merger, or the sale, pledge or transfer of all or substantially all of the property and assets of the Corporation;

(3) Electing, appointing or removing any member of any such committee or any Director or Officer of the Corporation;

(4) Adopting, amending, altering or repealing the Articles of Incorporation or Bylaws;

(b) The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual Director of any responsibility imposed upon the Board of Directors or the Director by law.

Section 4.16 Compensation. The Board of Directors shall have authority to fix the compensation of members of the Board of Directors.

Section 4.17 Gifts and Contributions. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes, or for any special purpose, of the Corporation.

Section 4.18 Procedure. The Board of Directors shall fix its own rules of procedure that shall not be inconsistent with these Bylaws.

ARTICLE V. OFFICERS AND MANAGEMENT

Section 5.1 Appointment, Term, Removal. The Officers of the Corporation shall be the President, Vice President, the Secretary, the Treasurer, and in addition thereto, one or more Assistant Secretaries, one or more Assistant Treasurers and such other Officers, with such duties, as the Board of Directors shall from time to time determine. The Officers shall be elected annually by the Board of Directors at the first meeting thereof after the annual or special meeting of the Voting Members at which the Board of Directors is elected and shall hold office at the pleasure of the Board of Directors until the next annual meeting and thereafter until their respective successors shall be duly elected or appointed and qualified. **[Each Officer must be a Director and Voting member of the Corporation.]** Any person may hold more than one office. The Board of Directors may, in its discretion, from time to time limit or enlarge the duties and powers of any officer appointed by it.

Section 5.2 The President. The President shall be the Chief Executive Officer of the Corporation. He shall preside at all meetings of the Voting Members and in the absence of the Chairman of the Board of Directors, or if no Chairman of the Board of Directors shall have been appointed, the President shall preside at all meetings of the Board of Directors. He may call special meetings of Voting Members at his discretion

and shall call annual meetings of Voting Members, as provided by these Bylaws. Subject to the direction and control of the Board of Directors, the President shall:

- (a) be in personal charge of the principal office of the Corporation;
- (b) have the general management, supervision and control of all of the property, business and affairs of the Corporation, prescribe the duties of the managers of all branch offices, and exercise such other powers as the Board of Directors may from time to time confer upon him; and
- (c) subject to approval of the Board of Directors, appoint heads of departments and generally control the engagement, government and discharge of all employees of the Corporation, and fix their duties and compensation.

He shall at all times keep the Board of Directors fully advised as to all of the Corporation's business.

Section 5.3 The Vice President or Vice Presidents. The Vice President or Vice Presidents shall, in such order as the Board of Directors shall determine, perform all of the duties and exercise all of the powers of the President provided by these Bylaws or otherwise during the absence or disability of the President or whenever the office of President shall be vacant, and shall perform all other duties assigned to him or them by the Board of Directors or the President. The Board of Directors may designate one of the Vice Presidents as Executive Vice President and the Vice President so designated shall be first in order to perform the duties and exercise the power of the President in the absence of that Officer.

Section 5.4 The Secretary. The Secretary shall attend all meetings of the Voting Members and of the Board of Directors, and shall record the proceedings thereof in the minute book or books of the Corporation. He shall give notice, in conformity with these Bylaws, of meetings of Voting members and, where required, of the Board of Directors. In the absence of the Chairman of the Board of Directors and of the President and the Vice President, or the Vice Presidents if there be more than one, he shall have power to call such meetings and shall preside thereat until a President Pro Tempore shall be chosen. The Secretary shall perform all other duties incident to his office or which may be assigned to him by the Board of Directors or the President.

Section 5.5 The Treasurer. The Treasurer shall have custody of all of the funds, notes, bonds and other evidences of property of the Corporation. He shall deposit or cause to be deposited in the name of the Corporation all monies or other valuable effects in such banks, trust companies or other depositories as shall from time to time be designated by the Board of Directors. He shall make such disbursements as the regular course of the business of the Corporation may require or the Board of Directors may order. He shall perform all other duties incident to his office or which may be assigned to him by the President or the Board of Directors.

Section 5.6 Assistant Secretary and Assistant Treasurer. The Assistant Secretary or Assistant Secretaries and Assistant Treasurer or Assistant Treasurers, if elected or appointed, shall, in such order as the Board of Directors may determine, perform all of the duties and exercise all of the powers of the Secretary and Treasurer, respectively, during the absence or disability, and in the event of a vacancy in the office, of the Secretary or Treasurer, respectively, and shall perform all of the duties assigned to him or them by the President, the Secretary in the case of Assistant Secretaries, the Treasurer in the case of Assistant Treasurers, or the Board of Directors.

Section 5.7 Absence of Officers. In the absence or disability of the President and Vice President, or Vice Presidents if there be more than one, the duties of the President (other than the calling of meetings of the Voting Members and the Board of Directors) shall be performed by such persons as may be designated for such purpose by the Board of Directors. In the absence or disability of the Secretary and of the Assistant Secretary, or Assistant Secretaries if there be more than one, or of the Treasurer and the Assistant Treasurer, or Assistant Treasurers if there be more than one, the duties of the Secretary or of the Treasurer, as the case may be, shall be performed by such person or persons as may be designated for such purpose by the Board of Directors.

Section 5.8 Compensation. The Board of Directors shall have the authority to fix the compensation, if any, of the Officers, agents and employees.

ARTICLE VI. REMOVALS

The Voting Members may at any time depose or remove from office any Director, Officer, subordinate Officer, agent or employee, whenever, in their judgment, the best interests of the Corporation will be served thereby. The number of votes cast to remove a Director must be sufficient to elect the Director at a meeting to elect Directors. The Board of Directors may at any time remove from office or discharge from employment any Officer, subordinate Officer, agent or employee appointed by it or by any person under authority delegated by it, whenever, in their judgment, the best interests of the Corporation will be served thereby.

ARTICLE VII. AUDIT OF BOOKS

The Board of Directors shall cause a complete audit to be made of the books of the Corporation at least once in each fiscal year and more often if required by the Board of Directors, and shall thereafter make appropriate reports to all Voting Members and the Board of Directors. The Board of Directors may appoint some person, firm or corporation engaged in the business of auditing to act as the auditor of the Corporation.

ARTICLE VIII.
EXECUTION OF INSTRUMENTS

Section 8.1 Proper Officers. Except as hereinafter provided or as required by law, all checks, drafts, notes, bonds, acceptances, deeds, leases, contracts, bills of exchange, orders for the payment of money, licenses, endorsements, powers of attorney, proxies, waivers, consents, returns, reports, applications, notices, mortgages and other instruments or writings of any nature, which require execution on behalf of the Corporation, shall be signed by (a) the Chairman of the Board and the President or one of such officers and (b) a Vice President, the Secretary or the Treasurer. The Board of Directors may from time to time authorize any such documents, instruments or writings to be signed by such Officers, agents or employees of the Corporation, or any one of them, in such manner as the Board of Directors may determine.

Section 8.2 Facsimile Signatures. The Board of Directors may, from time to time by resolution, provide for the execution of any corporate instrument or document, including but not limited to checks, warrants, letters of credit, drafts and other orders for the payment of money, by a mechanical device or machine or by the use of facsimile signatures under such terms and conditions as shall be set forth in any such resolution.

Section 8.3 Funds. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE IX.
CORPORATE BOOKS AND RECORDS; INSPECTION OF SAME AND BYLAWS

Section 9.1 Books and Records. The Corporation must keep correct and complete books and records of account of the Corporation and minutes of the proceedings of its Voting Members, Board of Directors and any committee having any of the authority of the Board of Directors, and shall keep at its registered office or principal office in the State a record of the names and addresses of its Voting Members. All books and records of the Corporation may be inspected, upon written demand, by any Voting Member or Voting Member's agent or attorney for any proper purpose at any reasonable time. Demand of inspection other than at a meeting shall be made in writing upon the President, the Secretary or any other officer designated by the Board of Directors.

Section 9.2 Inspection of Bylaws. The Corporation must keep in its principal office for the transaction of business a copy of the Bylaws of the Corporation as amended or otherwise altered to date, to be open to inspection by the Voting Members at all reasonable times during office hours.

ARTICLE X.
FISCAL YEAR

The fiscal year of the Corporation is as may from time to time be established by resolution by the Board of Directors.

ARTICLE XI.
AMENDMENT TO BYLAWS

The Bylaws may be altered, amended or repealed, and new Bylaws may be adopted, by the vote of a majority of the Voting Members of the Corporation or by the written consent of the Voting Members.

DEFINITIONS

The word “**person**” or any pronoun used in place thereof, where the context so requires or admits, shall include and mean individuals, firms, corporations, partnerships and associations. The singular includes and means the plural, or *vice versa*. Masculine, feminine, and neuter genders include or interchange each of the other genders as the context implies or requires.

CERTIFICATE OF SECRETARY

I certify:

1. I am the Secretary of Makawao Merchants Association
2. The attached Bylaws are the Bylaws of the Corporation adopted by the Board of Directors at a meeting held on _____, 20__.

DATED: _____, 20__.

Secretary