

**WAIKIKI BANYAN CONDOMINIUM
STORAGE LOCKER RENTAL AGREEMENT**

**STORAGE LOCKERS ARE LOCATED IN UNSECURED AREAS.
ANY ITEMS STORED IN THE STORAGE LOCKERS ARE AT THE SOLE RISK OF THE LESSEE.**

The undersigned _____ (Lessee), whose mailing address is _____, hereby leases Storage Locker No. _____ at the Waikiki Banyan Condominium located at 201 Ohua Avenue, Honolulu, Hawaii (“**Waikiki Banyan**”) from the Association of Apartment Owners of Waikiki Banyan, Inc., a Hawaii corporation (“**Association**”).

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Lessee hereby agrees to the following terms and conditions:

- 1. ELIGIBILITY.** Eligibility to lease and use a storage locker at the Waikiki Banyan is limited to current owners in good standing at the Waikiki Banyan.
- 2. TERM.** The initial term of this Agreement is one (1) year commencing _____ 20__ and expiring _____, 20__. Thereafter, this Agreement shall be automatically renewed for additional one (1) year terms, upon the full and timely payment in advance of the annual rent unless Lessee fails to qualify to lease said locker as provided in this Agreement or as otherwise provided herein.
- 3. RENT.** The rent for the locker is due annually in advance in the amount of _____ and __/100 Dollars (\$_____). Hawaii general excise tax (currently 4.712%) is included in the amount. The annual rental fee is established by the Association. The Association may change the annual rent by providing written notice of such change to Lessee no less than sixty (60) days prior to the end of the then annual rental period. The rent will be pro-rated on a monthly basis on lockers that are rented for less than a full annual period. Provided that the locker is returned to the Association in a timely manner and in a clean, sanitary and undamaged condition, Lessee is entitled to a refund of any unused portion of Lessee’s rent, pro-rated on a monthly basis.
- 4. DEPOSIT.** Lessee shall pay a security deposit of fifty and 00/100 Dollars (\$50.00), which is refundable upon the return of the storage locker at the expiration or termination of this Agreement in substantially the same condition it was in at the commencement of the term of this Agreement. If all or any part of the deposit is applied by the Association for any injury or damage caused to the locker by Lessee, or anyone under Lessee, Lessee shall immediately, upon demand by the Association, reimburse the amount spent by the Association and replenish the deposit to its original amount.
- 5. LOCK & KEYS.** Lessee will be solely responsible for providing the lock and keys, if applicable, to Lessee’s assigned storage locker. The Association shall have no liability therefor of any kind whatsoever.
- 6. USE.** Lockers are to be used only for the storage of items intended for the personal use of and belonging to the owner of an apartment unit at the Waikiki Banyan. The owner shall not permit its tenants, employees, agents or other third parties to store items or otherwise use the locker. Any violation of this provision shall, in the Association’s sole discretion, result in the immediate termination of this Agreement.
- 7. ITEMS STORED.** All items stored in the storage locker must be clean, odor free, nontoxic and nonflammable. Nothing shall be stored that would violate the Waikiki Banyan House Rules, as amended, or any applicable federal, state or local law, statute, code, ordinance, rule or regulation.

8. ASSOCIATION ACCESS. The Association shall have the right at all times to access the locker in case of emergency or for routine operation or maintenance of the building in which the locker is located. In the case of routine operation or maintenance of the building, notice shall be given directly to Lessee where practical and in any event by posting of same on the locker. In the event the Association must remove Lessee's lock to access the locker for inspection or maintenance, the Association will replace said lock with the same or similar lock, to the extent possible, at no cost to Lessee.

9. INSPECTION. Lessee shall make the locker available to the Association and its employees, contractors and agents for inspection or maintenance during reasonable business hours upon the request of the Association. In the event the Lessee fails to make the locker available for inspection or maintenance within five (5) days of written request therefor made by the Association to Lessee's mailing address noted above, or at such other current address as Lessee may from time to time provide to the Association, Lessee hereby authorizes the Association to enter the locker from the sixth (6th) day following the mailing date of the Association's written request to Lessee to enter the locker. Lessee agrees that the Association may have Lessee's lock removed and replaced with another lock after the inspection or maintenance of the locker. Lessee shall reimburse the Association upon demand for all costs incurred in removing and replacing said lock.

10. NO MODIFICATION OF STORAGE LOCKERS. Storage lockers may not be modified, altered, or changed in any way without the prior written approval of the Association's Board of Directors, which approval shall be in the Association's Board's sole discretion. Should Lessee make any modifications, alterations, or changes to, or do any painting or redecorating of, the locker without the prior written consent of the Association's Board of Directors, then all costs incurred to restore the locker to its prior condition, together with an administrative fee of one-hundred and 00/100 Dollars (\$100.00) shall be immediately paid by Lessee to the Association.

11. DAMAGE. Lessee is liable for any damage to Lessee's assigned locker. Lessee shall immediately notify the Association in writing of any defects or dangerous conditions which arise on, in or around Lessee's locker. Lessee shall at all times keep the locker in a neat, clean and sanitary condition and shall pay the Association upon demand for any repair of the locker necessitated by any negligence or misuse of the locker by Lessee.

12. ASSIGNMENT & SUBLEASE. Lessee may not assign or sublet the locker. Any such assignment or sublet, or attempt to assign or sublet, shall be grounds for Association's immediate termination of this Agreement.

13. TERMINATION. This Agreement may be terminated by either party upon sixty (60) days' written notice to the other party. Any prepaid rent for the remainder of the term shall be refunded by the Association to Lessee within thirty (30) days of the date this Agreement is terminated.

This Agreement will automatically terminate and the locker returned to the exclusive possession, custody and control of the Association if:

- a. The locker rent remains unpaid for ten (10) days after the commencement of the term, or any renewal period; or
- b. Lessee fails to comply with any of the provisions of this Agreement within fifteen (15) days after the Association gives Lessee written notice thereof. The Association shall give Lessee notice of its intention to terminate this Agreement for non-compliance as aforesaid by sending the notice by certified mail, return receipt requested, to Lessee's address noted above or any other address provided in writing by Lessee. The fifteen (15) day period will commence upon the date of the mailing of the Association's notice. Lessee's compliance includes payment of the Association's fees and expenses incurred in enforcement of the aforesaid provisions; or

- c. Lessee is no longer the owner of the condominium apartment unit in the Waikiki Banyan. In such event, Lessee shall clear the locker of all its contents and clean the locker to return it to substantially the same condition as existed at the commencement of the term of this Agreement on or before the transfer date of the apartment unit or the termination of this Agreement. Lessee is permitted to rent one (1) locker for each condominium apartment unit owned by such Lessee. Upon the transfer of Lessee's apartment unit, Lessee's entitlement to rent a locker shall automatically terminate.

14. REMOVAL OF CONTENTS. Upon the termination of this Agreement, the Association shall have the absolute right to dispose of all of the locker's contents not removed by Lessee without further notice or liability to Lessee. The cost of disposal shall be borne solely by Lessee. Lessee may retrieve Lessee's belongings prior to the termination of this Agreement and the Association's disposal of same, subject to compliance with Paragraph 13.c. above.

15. HOLD HARMLESS. Lessee hereby acknowledges that Lessee has been specifically advised that the storage of any items in the lockers of the Waikiki Banyan is solely at Lessee's own risk. Lessee hereby expressly assumes sole responsibility for any and all loss or damage to any stored items, and shall indemnify, defend and hold harmless the Association, its employees, Board of Directors and agents, from and against any and all claims arising from said damage or loss. In this connection, the Association shall not be liable for any damage to any property at any time stored or kept in the locker, either from steam, rain or any other water which may leak, issue or flow from any part of the Waikiki Banyan, or from the pipes or plumbing of the same or from any other place or location, nor shall the Association be liable for damage of any kind to Lessee's stored property arising out of defects of construction either of the Waikiki Banyan, or any machinery, equipment, electrical wiring or facility therein. Lessee shall reimburse the Association for any and all legal fees and costs incurred by the Association in defending any action relating to loss or damage to Lessee's stored items.

16. LATE FEE. A late fee in the amount of ten and 00/100 Dollars (\$10.00) shall be paid to the Association by Lessee for each rent payment not paid in full within five (5) days of the date such payment is due. If payment is not received within ten (10) days, this Agreement shall automatically, and without further notice to Lessee and without liability to the Association, terminate.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any and all prior or contemporaneous negotiations, correspondence, understandings and agreements, written or oral, between the parties and/or their representatives. This Agreement and any provision hereof may not be amended, modified, waived, extended, changed, discharged or terminated orally, or by any act or failure to act by a party, but only by a written instrument executed and delivered by the party against whom the enforcement of any amendment, modification, waiver, extension, change, discharge or termination is sought.

18. NO JOINT VENTURE. The execution and performance of this Agreement, the agreements of the parties in this Agreement, and the exercise of any rights hereunder are not intended, and shall not be construed, to create a partnership or joint venture between the parties.

19. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or electronic signature and shall be effective for all purposes when so executed.

20. NOTICES. Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by United States mail, registered or certified mail, postage prepaid, return receipt requested, and shall be deemed to have been given upon the date of delivery (or refusal to accept delivery) as

indicated on the return receipt, to the addresses noted on the first page of this Agreement, or such other address as either party may from time to time specify in writing to the other in the manner set forth herein.

21. TIME OF THE ESSENCE. Time is of the essence in the observance, performance and discharge of all of the terms, covenants, conditions and provisions of this Agreement.

22. APPLICABLE LAW. The laws of the State of Hawaii shall govern the validity, construction and enforcement of this Agreement, without giving effect to the conflict of laws principles thereof. In the event of litigation, the parties hereto agree that all proceedings shall be conducted in the state or federal court in Honolulu, Hawaii. This choice of venue is mandatory and not permissive in nature, to preclude the possibility of litigation between the parties in any jurisdiction other than Honolulu, Hawaii. Further, the parties waive the right to assert that such court is located in an inconvenient forum or similar doctrine or to object to venue with respect to any proceedings brought in accordance with this Paragraph.

23. ATTORNEYS' FEES. In the event of litigation between the parties under this Agreement, the prevailing party shall be entitled to recover, in addition to any judgment or order rendered therein, all costs and expenses of suit, including reasonable attorneys' fees. Attorneys' fees shall include any and all attorneys', paralegal and law clerk fees and disbursements, including fees and disbursements at the pretrial, trial and appellate levels incurred by a party in protecting its interest and enforcing its rights.

EFFECTIVE DATE _____ ANNUAL RENT \$ _____

ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN, INC.

By: _____

Name:

Its:

“Association”

Name:

Apt. No.: _____

“Lessee”