

for additional services, including optional housekeeping service during a Use Period, as directed by the Board. The Board may delegate other matters to the Program Operator.

The contract with the Program Operator will last a maximum of three full (3) years. The contract may provide that it will automatically be renewed for a period of up to three years on each termination date (including the date each renewal period ends), unless written notice of non-renewal is given by either party at least ninety (90) days before the end of the then-current term. The Program Operator may resign at any time upon ninety (90) days notice if it turns all books and records over to the Association.

**D. MEMBERSHIP AND VOTING IN THE ASSOCIATION.** Owners of Ownership Interests participate in the administration and management of the Program through their membership and voting in the Association, and their electing of directors to govern it.

Each Owner of an Ownership Interest (including the Developer for unsold Ownership Interests) is automatically a member of the Association, and only Owners are members. Generally, the vote of Owners of a majority of Ownership Interests will control, unless a higher percentage is required by the Program Documents, and, unless such a higher percentage is required in any particular case, Owners of a majority of all Ownership Interests in the Project may veto or direct action by the Board or Program Operator. A "majority (or other specified percentage)" means the Owners, including the Developer, of a majority or other specified percentage of votes attributed to the Ownership Interests represented at a meeting at which a quorum is present or responding to a request for a consent or vote (assuming that there is a "quorum" or other required minimum number of participants established given the number of responses), including those owned by the Developer, unless it is otherwise expressly stated that the Developer or Ownership Interests owned by the Developer are excluded. Each Owner with an Every Other Year Ownership Share has one (1) vote for each Ownership Interest the Owner owns and each Owner with an Every Year Ownership Share has two (2) votes for each Ownership Interest the Owner owns. When more than one (1) person owns an Ownership Interest, they are all members. However, only one (1) vote may be cast per Ownership Interest in the case of an Ownership Interest having an Every Other Year Ownership Share, and only two (2) votes may be cast per Ownership Interest in the case of an Ownership Interest having an Every Year Ownership Share. How their votes may be cast is controlled by the By-Laws.

**E. THE "BY-LAWS" OF THE ASSOCIATION.** The By-Laws are a part of the Program Documents. Generally, their purpose is to establish procedures for running the Association. They contain rules: (1) on how voting will be done and election and appointment of Directors and officers and other decisions made; (2) on how Owners' and Directors' meeting must be run; (3) governing the actions of Directors, officers and committees; and (4) on how to handle books and records. The By-Laws also provide Directors, officers and other Association agents protections on claims made against them because they acted for the Association.

**16. DEVELOPER IS NOT AN ACQUISITION AGENT OR SALES AGENT.** World Class Properties LLC, a Hawaii limited liability company is the Acquisition Agent and Sales Agent for the Program. Andrea Lievens is the principal broker for the Sales Agent. All salespersons in Hawaii must be licensed real estate sales persons or brokers. In addition, Hawaii brokers must be registered as a sales agent or acquisition agent under the Time Share Law. If other sales agents are added later, they will be listed in another exhibit to this Disclosure Statement. Among other things, Ownership Interests will be offered for sale by Sales Agent contacting visitors to the Condominium and through advertising. RCI and HGVC, entities unaffiliated with the Developer, will be the exchange agents for the Program.

**17. COMPLIANCE WITH COUNTY REQUIREMENTS.** The County of Hawaii has confirmed that the Units are located in a zone designated for resort use within which timesharing activities may occur.

**18. SALES IN VIOLATION OF HAWAII TIME SHARE LAW.** The Time Share Law governs sales and sales activities made in the State of Hawaii. With respect to these sales, Section 514E-11.3 provides that every sale or transfer made in violation of the Hawaii Time Share Law is voidable at the election of the Buyer. The sales activities and contracts made in another state or country will be governed by the law of that state or country. These matters, include, but are not limited, to the validity of any Purchase Agreement made outside of Hawaii. Hawaii law governs the Condominium, the Program, the Program Documents, the Condominium Documents, First Deed, and note and mortgage, if any, even if the sale was made outside of Hawaii.

19. **SERVICE OF PROCESS.** The term "service of process" refers to the official delivery of papers involved in a lawsuit. The Developer may be served by serving process on Kiyoshi Hirao, whose business address is The Bay Club at Waikoloa Beach Resort, 69-450 Waikoloa Beach Drive, Waikoloa, Hawaii 96738.

20. **ADDITIONAL DISCLOSURES.**

A. **OWNERSHIP INTERESTS ARE OFFERED AS REAL PROPERTY.** Ownership Interests in the Program are being offered and sold as real estate and not as a security. Purchases should be made for personal use and enjoyment, not as an investment. The Developer makes no representation to Buyer that a rental pool arrangement ("RPA"), as that term is defined in the Securities and Exchange Commission's ("SEC") Securities Act Release No. 33-5347 (17 CFR § 231.5347 (Jan. 18, 1973)) or any other similar arrangement will be transferred to Buyer upon the purchase of such Buyer's Ownership Interest. Buyer is purchasing only an Ownership Interest in an apartment located in the Condominium, which Ownership Interest is not coupled with any RPA. The Developer further makes no representation to Buyer as to the prospective availability of any RPA, nor does it make any representation as to the potential rental value of the Ownership Interest that Buyer may purchase, nor any representation as to any expectation of profit that can be derived with respect to purchasing any Ownership Interest in the Program. A rental pool arrangement is an arrangement under which Ownership Interests are put together for rental purposes and in which proceeds are shared. These arrangements, when coupled with the sale of Ownership Interests, may be deemed a security. Because the Developer does not intend to sell a security, and does not want to appear to be selling a security, you are prohibited from entering into such rental pool arrangements.

B. **RISK OF LOSS.** Since an Ownership Interest is an interest in real estate, the RISK OF TEMPORARY AND PERMANENT LOSS OR DAMAGE OF THIS INTEREST IS ON A BUYER AFTER CLOSING. If a Buyer purchases on credit, the Buyer still has to pay the note and mortgage, and all net proceeds, if any, from insurance (or from the government, if the loss is because the government takes the property through condemnation) must be applied first to the payments due under the note and mortgage, unless the Program documents and Condominium Documents require rebuilding. If available proceeds from insurance, condemnation or other funds are not sufficient to pay for the costs of restoring or rebuilding, each Owner must pay such Owner's share of the difference.

C. **INSURANCE.** The Program Documents and Condominium Documents also require the Association and Condominium Association to obtain property, liability, and other kinds of insurance, if obtainable or if in the Board's judgment, they are obtainable at a reasonable cost. Each Buyer should review (or have a qualified insurance agent review) these requirements, as well as the policies obtained by the Condominium Association and the Association, to decide whether or not to purchase added insurance for himself or herself. Each Buyer is free to obtain more insurance for himself or herself. Each Buyer (and the Association and Condominium Association) are also free to purchase insurance from any company licensed to do business in the State of Hawaii. Since insurance is the responsibility of the Condominium Association, the Association and the individual Buyer, the Developer makes no guarantee that insurance will be available, or available at a reasonable cost, or adequate.

D. **DEVELOPER'S RIGHT TO AMEND PROGRAM DECLARATION.** Under the Program Declaration the Developer has certain rights to amend the Program Documents without obtaining anyone's consent. The Developer may exercise its right at any time prior to a transfer of any Ownership Interest in the Program and may also exercise its rights at anytime within twenty (20) years from the recordation date of the Program Declaration for the following purposes: (a) to bring the Program Documents into compliance with the laws and rules of any state or country in which the Developer intends to sell Ownership Interests; (b) to satisfy requests for changes made to the Developer by any institutional lender of the Developer, by any investor in mortgages initially made in favor of the Developer, or by any title company licensed to do business in the State of Hawaii; or (c) to implement a "split week" or "daily use" program, as set forth in Paragraph 3.7.F. and 3.7.G. of the Program Declaration whereby any Use Period may be divided into two or more periods of use; or (d) as otherwise provided in Chapter 13 of the Program Declaration; provided that any amendment made pursuant to Paragraph 13.5.A.2 of the Program Declaration which may have a material adverse impact on the use rights of an Owner, except those which may be made to implement a "split week" or "daily use" program, shall be effective only upon the approval of a majority of non-Developer Owners who participate in the decision-making process authorized by and conducted in accordance with the Declaration or Bylaws.

To the extent required by law, except with respect to items specified in Paragraph 13.5.C.1 of the Program Declaration, all Owners and other persons hereby appoint the Developer and its successors and assigns as their attorney-in-fact with the right of substitution, to act on their behalf to execute, deliver and record all documents necessary to effect any of the amendments referred to in Paragraph 13.5.A. of the Program Declaration, subject, however, to the proviso set forth in said Paragraph 13.5.A. of the Program Declaration. A special power of attorney with the power of substitution, which power shall be coupled with an interest and is irrevocable for the term of the Developer's reserved right to amend, shall be deemed granted in favor of the Developer to effect any of the amendments referred to in Paragraph 13.5.A. of the Program Declaration, and shall not be affected by the death, disability or incapacity of any party or parties. This means that the Developer can act on behalf of Owners and other persons without further notice to do the things stated above.

21. **THIS DISCLOSURE IS A SUMMARY ONLY, FOR MORE INFORMATION, READ ALL OF THE OTHER DOCUMENTS CAREFULLY.** This document contains disclosures required by Section 514E-9 of the Time Share Law and Section 16-106-3 of the Time Share Rules. It also contains information which the Developer believes will be of general interest to Buyers. Buyers should understand that it is not possible or practical to include in this Disclosure Statement all points which each Buyer may consider important, or a summary of all the documents involved. In addition, as required by law, this document has been written in plain language. However, since the Program Documents are written legal language, the language of this document may not be identical with the Program Documents. Each Buyer is, therefore, cautioned to read carefully the Program and Condominium Documents, the escrow agreement, the form of Purchase Agreement, Buyer's Acknowledgments, the First Deed, note and mortgage, if any, to be sure that the purchase will satisfy such Owner's own personal requirements and expectations. Each Buyer is also cautioned that by signing a Purchase Agreement, the Buyer accepts and agrees to obey all of these documents.

## UNIT TYPES AND UNITS IN THE PROGRAM

A. **UNIT TYPES.** The Units in this Program are currently divided into nine (9) types, as follows:

**TYPE I UNITS.** Deluxe one bedroom, with sleeping accommodations for up to four (4) persons.

**TYPE II UNITS.** Deluxe two bedrooms, with sleeping accommodations for up to six (6) persons.

**TYPE III UNITS.** Penthouse one bedroom, with sleeping accommodations for up to four (4) persons.

**TYPE IV UNITS.** Penthouse two bedrooms, with sleeping accommodations for up to six (6) persons.

**TYPE V UNITS.** Grand Villa two bedrooms, with sleeping accommodations for up to six (6) persons.

**TYPE VI UNITS.** Deluxe two bedrooms, A floor plan, with sleeping accommodations for up to six (6) persons.

**TYPE VII UNITS.** Deluxe two bedrooms, B floor plan, with sleeping accommodations for up to six (6) persons.

**TYPE VIII UNITS.** Penthouse two bedrooms, A floor plan, with sleeping accommodations for up to six (6) persons.

**TYPE IX UNITS.** Penthouse two bedrooms, B floor plan, with sleeping accommodations for up to six (6) persons.

Owners should consult the Condominium Documents available at the offices of the Developer for more particular descriptions of the Units.

B. **TOTAL NUMBER OF UNITS IN THE PROGRAM BY UNIT TYPE.** The total number of Units of each type currently in the Program, and their respective apartment numbers, are as follows:

<u>Type I</u>	<u>Type II</u>	<u>Type III</u>
36 Units, including Units 111, 117, 118, 121, 127, 128, 211, 212, 218, 221, 222, 228, 311, 317, 318, 321, 327, 328, 411, 412, 418, 421, 422, 428, 911, 917, 918, 921, 927, 928, 1011, 1012, 1018, 1021, 1022, and 1028	1 Unit, including Units 423	18 Units, including Units 131, 137, 138, 231, 232, 238, 331, 337, 338, 431, 432, 438, 931, 937, 938, 1031, 1032 and 1038
<u>Type IV</u>	<u>Type V</u>	<u>Type VI</u>
1 Unit, including Units 436	26 Units, including Units 511, 512, 521, 522, 611, 612, 711, 712, 721, 722, 811, 812, 821, 822, 1111, 1112, 1121, 1122, 1211, 1212, 1221, 1222, 1311, 1312, 1321 and 1322	35 Units, including Units 113, 114, 115, 123, 124, 125, 214, 215, 216, 224, 225, 226, 314, 315, 323, 324, 325, 414, 415, 416, 424, 425, 426, 913, 914, 915, 923, 924, 925, 1014, 1015, 1016, 1024, 1025 and 1026

Type VII

23 Units, including Units 112, 116, 122, 126, 213, 217, 223, 227, 312, 316, 322, 326, 413, 417, 427, 912, 916, 922, 926, 1013, 1017, 1023 and 1027

Type VIII

15 Units, including Units 134, 135, 234, 235, 333, 334, 335, 434, 435, 933, 934, 935, 1034, 1035 and 1036

Type IX

12 Units, including Units 233, 237, 332, 336, 433, 936, 1033 and 1037

The Developer has the right to add and/or remove Units to and from the Program from time to time and to create additional Unit Types from time to time. If Units are added to the Program under an existing Unit Type, such Units as may be added shall have the same number of bedrooms and bathrooms, and shall have an approximate net living floor area as the Units which then comprise a particular Unit Type.

I. Schedule of Time Periods

(Applies for Ownership Interests with Every Year Rights, Odd Year Rights and Even Year Rights)

<u>TIME PERIOD NUMBERS*</u>	<u>CHECK IN (In the calendar year)</u>	<u>CHECK OUT (In the calendar year)</u>
1	1st Thurs/Fri/Sat/Sun	2nd Thurs/Fri/Sat/Sun
2	2nd Thurs/Fri/Sat/Sun	3rd Thurs/Fri/Sat/Sun
3	3rd Thurs/Fri/Sat/Sun	4th Thurs/Fri/Sat/Sun
4	4th Thurs/Fri/Sat/Sun	5th Thurs/Fri/Sat/Sun
5	5th Thurs/Fri/Sat/Sun	6th Thurs/Fri/Sat/Sun
6	6th Thurs/Fri/Sat/Sun	7th Thurs/Fri/Sat/Sun
7	7th Thurs/Fri/Sat/Sun	8th Thurs/Fri/Sat/Sun
8	8th Thurs/Fri/Sat/Sun	9th Thurs/Fri/Sat/Sun
9	9th Thurs/Fri/Sat/Sun	10th Thurs/Fri/Sat/Sun
10	10th Thurs/Fri/Sat/Sun	11th Thurs/Fri/Sat/Sun
11	11th Thurs/Fri/Sat/Sun	12th Thurs/Fri/Sat/Sun
12	12th Thurs/Fri/Sat/Sun	13th Thurs/Fri/Sat/Sun
13	13th Thurs/Fri/Sat/Sun	14th Thurs/Fri/Sat/Sun
14	14th Thurs/Fri/Sat/Sun	15th Thurs/Fri/Sat/Sun
15	15th Thurs/Fri/Sat/Sun	16th Thurs/Fri/Sat/Sun
16	16th Thurs/Fri/Sat/Sun	17th Thurs/Fri/Sat/Sun
17	17th Thurs/Fri/Sat/Sun	18th Thurs/Fri/Sat/Sun
18	18th Thurs/Fri/Sat/Sun	19th Thurs/Fri/Sat/Sun
19	19th Thurs/Fri/Sat/Sun	20th Thurs/Fri/Sat/Sun
20	20th Thurs/Fri/Sat/Sun	21st Thurs/Fri/Sat/Sun
21	21st Thurs/Fri/Sat/Sun	22nd Thurs/Fri/Sat/Sun
22	22nd Thurs/Fri/Sat/Sun	23rd Thurs/Fri/Sat/Sun
23	23rd Thurs/Fri/Sat/Sun	24th Thurs/Fri/Sat/Sun
24	24th Thurs/Fri/Sat/Sun	25th Thurs/Fri/Sat/Sun
25	25th Thurs/Fri/Sat/Sun	26th Thurs/Fri/Sat/Sun
26	26th Thurs/Fri/Sat/Sun	27th Thurs/Fri/Sat/Sun
27	27th Thurs/Fri/Sat/Sun	28th Thurs/Fri/Sat/Sun
28	28th Thurs/Fri/Sat/Sun	29th Thurs/Fri/Sat/Sun
29	29th Thurs/Fri/Sat/Sun	30th Thurs/Fri/Sat/Sun
30	30th Thurs/Fri/Sat/Sun	31st Thurs/Fri/Sat/Sun
31	31st Thurs/Fri/Sat/Sun	32nd Thurs/Fri/Sat/Sun
32	32nd Thurs/Fri/Sat/Sun	33rd Thurs/Fri/Sat/Sun
33	33rd Thurs/Fri/Sat/Sun	34th Thurs/Fri/Sat/Sun
34	34th Thurs/Fri/Sat/Sun	35th Thurs/Fri/Sat/Sun
35	35th Thurs/Fri/Sat/Sun	36th Thurs/Fri/Sat/Sun
36	36th Thurs/Fri/Sat/Sun	37th Thurs/Fri/Sat/Sun
37	37th Thurs/Fri/Sat/Sun	38th Thurs/Fri/Sat/Sun
38	38th Thurs/Fri/Sat/Sun	9th Thurs/Fri/Sat/Sun
39	39th Thurs/Fri/Sat/Sun	40th Thurs/Fri/Sat/Sun
40	40th Thurs/Fri/Sat/Sun	41st Thurs/Fri/Sat/Sun
41	41st Thurs/Fri/Sat/Sun	42nd Thurs/Fri/Sat/Sun
42	42nd Thurs/Fri/Sat/Sun	43rd Thurs/Fri/Sat/Sun
43	43rd Thurs/Fri/Sat/Sun	44th Thurs/Fri/Sat/Sun
44	44th Thurs/Fri/Sat/Sun	45th Thurs/Fri/Sat/Sun
45	45th Thurs/Fri/Sat/Sun	46th Thurs/Fri/Sat/Sun

46	46th Thurs/Fri/Sat/Sun	47th Thurs/Fri/Sat/Sun
47	47th Thurs/Fri/Sat/Sun	48th Thurs/Fri/Sat/Sun
48	48th Thurs/Fri/Sat/Sun	49th Thurs/Fri/Sat/Sun
49	49th Thurs/Fri/Sat/Sun	49th Thurs/Fri/Sat/Sun
50	50th Thurs/Fri/Sat/Sun	51st Thurs/Fri/Sat/Sun
51	51st Thurs/Fri/Sat/Sun	52nd Thurs/Fri/Sat/Sun
52**	52nd Thurs/Fri/Sat/Sun	1st Thurs/Fri/Sat/Sun (of the next calendar year)

\* On a Unit by Unit and yearly basis, one Time Period will be set aside as a Major Service Period. It will not be a Use Period. The Program Operator will schedule Major Service Periods for the Units. The Major Service Period does not have to be the same for each Unit, or the same Time Period each year.

\*\* Periodically, to balance the calendar, there will be an extra week after the 52nd week. This additional week may be used by the Developer at no extra cost.

## II. Ownership Interest Identification Codes\*

Each Ownership Interest will be separately identified by a specific identification code prescribed according to the following formula:

1. The number of the apartment unit in which the Owner will have an Ownership Share;
2. The identification of the type of Use Year ("B" for Every Year Rights, "O" for Odd Year Rights and "E" for Even Year Rights.)
3. The Sequential Assigned Number for a Use Period (1 through 52);

\* The Identification Code is for convenience and identification purposes only. If it is set forth incorrectly in any instrument or document, it will not impact the legal effect of the instrument or document or the purpose of intent of such instrument or document.

## LIST OF ENCUMBRANCES

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
  2. Designation of Easement "6" for slope and bikeway purposes, as shown on File Plan No. 1954.
  3. Designation of Easement "7" (area 210 square feet) for electrical purposes, as shown on File Plan 1954.
  4. Designation of Easement "8" (area 210 square feet) for electrical purposes, as shown on File Plan No. 1954.
  5. Grant made by Transcontinental Development Co., a Texas general partnership, in favor of Hawaii Electric Light Company, Inc., and GTE Hawaiian Telephone Company Incorporated, dated May 10, 1989, recorded at said Bureau in Liber 23307 at Page 1; granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate underground lines and transformer vaults, etc., for the transmission and distribution of electricity over said Easement "7" and "8."
- Note:- No joinder by AtPac Land Co. and TA 27DD Limited Partnership, title holders of the land on the date of said Grant.
6. Designation of Easement "9" for roadway purposes, as shown on File Plan No. 1954
  7. A 20-foot building setback line, as shown on survey map prepared by Russell Figueiroa, Registered Professional Land Surveyor, of R. M. Towill Corporation, dated August 5, 1990.
  8. A 12-foot building setback line, as shown on survey map prepared by Russell Figueiroa, Registered Professional Land Surveyor, of R. M. Towill Corporation, dated August 5, 1990.
  9. A 10-foot building setback line, as shown on survey map prepared by Russell Figueiroa, Registered Professional Land Surveyor, of R. M. Towill Corporation, dated August 5, 1990.
  10. Temporary utility lines which may serve other properties, as shown on surveyor's report prepared by Russell Figueiroa, Registered Land Surveyor, of R. M. Towill Corporation, dated August 5, 1990.
  11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Partition Deed dated May 12, 1989, recorded at said Bureau in Liber 23187 at Page 773.

The foregoing includes, but is not limited to, matters relating to the following:

"EXCEPTING AND RESERVING, HOWEVER, unto AtPac Land Co. and its successors and assigns, as the owner and/or developer of the area described as the Waikoloa Beach Resort, easements for drainage purposes, easements for electric, telephone, communication, water and other utility purposes and easements for roadway and vehicular access purposes over, under, across, along, upon and through any easement areas within the granted premises, which are so designated on File Plan 1954, recorded in the Bureau of Conveyances of the State of Hawaii, including, without limitation, Easement 6 for slope and bikeway purposes, Easements 7 and 8 for electrical purposes, and Easement 9 for roadway purposes, together with the rights of reasonable access thereto in connection with the exercise of said easement rights, and together also with the right to grant to the State of Hawaii, the County of Hawaii, any appropriate governmental agency, public utility or private utility, and or any other corporation, partnership or individual, easements for any such purposes within said easements over, under, across, along, upon and through said easement areas.

ALSO, EXCEPTING AND RESERVING unto AtPac Land Co. and its successors and assigns, as the owner and/or developer of the area described as Waikoloa Beach Resort, all water and water rights within or

belonging or appertaining to the granted premises, including, without limitation, any water rights which may be appurtenant to the granted premises arising under Deed dated December 20, 1985, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19166 at Page 513, together with the right to assign and transfer said rights to the State of Hawaii, County of Hawaii, any appropriate governmental agency, public utility or private utility, and or any other corporation, partnership or individual; provided, however, that in the exercise of said rights, AtPac Land Co., its successors and assigns shall not have the right to drill upon or otherwise disturb the surface of the land within the granted premises or any improvements thereon."

By instrument dated February 6, 1991, recorded as Document No. 91-043137, AtPac Land Co. quitclaimed to Nikken and Age X Associates, all rights in and to Easement "9" for roadway purposes.

12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Protective Covenants, Conditions and Restrictions for Waikoloa Beach Resort dated as of April 1, 1980, effective on April 23, 1980, recorded at said Bureau in Liber 14670 at Page 531.

Said Declaration was amended and/or supplemented by the following instruments, namely, (a) dated as of April 1, 1980, effective as of April 23, 1980, recorded in Liber 14670 at Page 607, (b) dated December 30, 1980, effective December 30, 1980, recorded in Liber 15297 at Page 147, (c) dated June 10, 1981, effective as of July 1, 1981, recorded in Liber 15676 at Page 497, (d) dated October 29, 1985, recorded in Liber 19071 at Page 562, (e) dated December 20, 1985, recorded in Liber 19166 at Page 388, (f) dated December 9, 1985, recorded in Liber 19166 at Page 392, (g) dated December 20, 1985, recorded in Liber 19166 at Page 412, (h) dated as of June 1, 1986, recorded in Liber 19792 at Page 339, (i) dated May 1, 1989, recorded in Liber 23179 at Page 433, (j) dated as of May 1, 1989, recorded in Liber 23187 at Page 750, (k) dated as of August 24, 1989, recorded in Liber 23588 at Page 784, (l) dated October 25, 1989, recorded in Liber 23806 at Page 164, (m) dated as of September 8, 1989, recorded in Liber 24007 at Page 530, Joinder and Consent (WBR) dated February 26, 1990, recorded as Document No. 90-057829, (n) dated as of May 21, 1990, recorded as Document No. 90-074294, (o) dated as of May 24, 1990, recorded as Document No. 90-077240, (p) dated as of August 7, 1990, recorded as Document No. 90-120680, (q) dated as of September 27, 1990, recorded as Document No. 90-150228, Joinder and Consent dated September 26, 1990, recorded as Document No. 90-150229, and (r) dated October 9, 1991, recorded as Document No. 91-166876.

Consent and Subordination to Supplemental Declaration (Releasing Covered Property); Second Amendment to Declaration of Protective Covenants, Conditions and Restrictions for Waikoloa Beach Resort; and Supplemental Declaration (Annexing Real Property) dated December 4, 1985, recorded in Liber 19166 at Page 420, by Actna Life Insurance Company, as Mortgagee under Mortgage recorded in Liber 14671 at Page 150.

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Protective Covenants, Conditions and Restrictions for Waikoloa Beach Resort Conference dated as of April 1, 1980, effective on April 23, 1980, recorded at said Bureau in Liber 14670 at Page 631.

Said Declaration was amended and/or supplemented by the following instruments, namely, (a) dated as of April 1, 1980, effective as of April 23, 1980, recorded in Liber 14670 at Page 674, (b) dated December 20, 1985, recorded in Liber 19166 at Page 426, (c) dated December 20, 1985, recorded in Liber 19166 at Page 434, (d) dated December 20, 1985, recorded in Liber 19166 at Page 438, (e) dated December 20, 1985, recorded in Liber 19166 at Page 448, (f) dated as of June 1, 1986, recorded in Liber 19792 at Page 344, (g) dated as of May 1, 1989, recorded in Liber 23187 at Page 757, (h) dated as of August 24, 1989, recorded in Liber 23588 at Page 788, (i) dated October 25, 1989, recorded in Liber 23806 at Page 168, (j) dated as of September 8, 1989, recorded in Liber 24007 at Page 521, Joinder and Consent (WBRC) dated February 26, 1990, recorded as Document No. 90-057830, (k) dated as of May 21, 1990, recorded as Document No. 90-074295, (l) dated as of May 24, 1990, recorded as Document No. 90-077241, (m) dated as of August 7, 1990, recorded as Document No. 90-120681, (n) dated as of September 27, 1990, recorded as Document No. 90-150230, and (o) dated May 1, 1995, recorded as Document No. 95-060406.

Supplemental Declaration (Assigning Declarant's Rights) dated December 27, 1990, recorded as Document No. 91-160953, by and between Transcontinental Development Co., a Texas partnership, "Assignor", and Transcontinental Development (Hawaii) Co., a Hawaii limited partnership, "Assignee".

Consent and Subordination to First Amendment to Declaration of Protective Covenants, Conditions and Restrictions for Waikoloa Beach Resort Conference; Supplemental Declaration (Releasing Covered Property); Second Amendment to Declaration; and Supplemental Declaration (Annexing Real Property) dated December 4, 1985, recorded in Liber 19166 at Page 456, by Aetna Life Insurance Company, as Mortgagee under Mortgage recorded in Liber 14671 at Page 150.

14. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Condominium Property Regime for the "The Bay Club at Waikoloa Beach Resort" Condominium Project dated November 28, 1990, recorded at said Bureau as Document No. 90-183537, as shown on Map No. 1416 and any amendments thereto.

Said Declaration was amended by instruments dated May 17, 1991, recorded as Document No. 91-064814, dated June 24, 1992, recorded as Document No. 92-108693, dated August 5, 1993, recorded as Document No. 93-128861, and dated August 30, 1993, recorded as Document No. 93-143611, dated October 14, 1993, recorded as Document No. 93-171945, dated April 19, 1995, recorded as Document No. 95-053145, dated May 24, 1995, recorded as Document No. 95-072122, and dated November 1, 1995, recorded as Document No. 95-142911.

ASSIGNMENT OF DEVELOPER'S RIGHTS dated June 15, 2005, recorded as Document No. 2005-123402, made by NIKKEN CORPORATION, a Hawaii corporation, "Assignor", and between THE BAY CLUB OWNERSHIP RESORT, INC., a Hawaii corporation, "Assignee".

15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association of Apartment Owners of said Condominium Project dated November 28, 1990, recorded at said Bureau as Document No. 90-183538.

Said By-Laws were amended by instruments dated August 5, 1993, recorded as Document No. 93-128860, dated October 14, 1993, recorded as Document No. 93-171946, dated April 19, 1995, recorded as Document No. 95-053146, and dated March 13, 1997, recorded as Document No. 97-037805.

16. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Cable Television Agreement and Maintenance Agreement dated June 4, 1991, recorded at said Bureau as Document No. 91-116682, made by and between American Cable TV Investors 4, Ltd., a Colorado Limited Partnership, and AOA Bay Club at Waikoloa Beach Resort, an Association.

17. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Apartment Deed dated December 9, 1991, recorded as Document No. 91-168155.

18. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Covenants, Conditions and Restrictions for The Bay Club Vacation Ownership Program and By-Laws dated July 13, 1995, recorded at said Bureau as Document No. 95-091102.

Said Declaration was amended by instruments dated July 19, 1995, recorded as Document No. 95-093483, and dated October 4, 1995, recorded as Document No. 95-128698.

Said Declaration was further amended by Annexation instruments dated October 23, 1995, but effective as of October 24, 1995, recorded as Document No. 95-138337, dated December --, 1995, but effective as of December 27, 1995, recorded as Document No. 95-167726, dated June 14, 1996, but effective as of June 24, 1996, recorded as Document No. 96-089055, dated November 10, 1997, but effective as of November 13, 1997, recorded as Document No. 97-157497, and dated November 20, 1997, recorded as Document No. 97-163969.

Said Declaration was further amended by instrument dated February 1, 1999, recorded as Document No. 99-016461.

Said Declaration was further amended by Annexation instruments dated September 15, 1998, but effective as of September 21, 1998, recorded as Document No. 98-140428, dated May 2, 2000, but effective as of May 4, 2000, recorded as Document No. 2000-061086, dated May 17, 2001, but effective as of May 21, 2001, recorded as Document No. 2001-075556, and dated October 15, 2003, but effective as of October 22, 2003, recorded as Document No. 2003-231711.

19. **-AS TO THOS PREMISES REFERENCED IN EXHIBIT B:-**

**Real Property Mortgage; Security Agreement; Assignment of Rents; Fixture Filing; and Financing Statement dated August 29, 2003, made by and between The Bay Club Ownership Resorts, Inc., a Hawaii corporation, as Mortgagor, and Central Pacific Bank, a Hawaii corporation, as Mortgagee, recorded at said Bureau as Document No. 2003-183462.**

[NOTE: All amounts are in U.S. Dollars.]

A. **PURCHASE PRICES:** The following are the list prices for Ownership Interests with Every Year Rights. Prices for Ownership Interests with Even Year or Odd Year Rights are approximately 60% of the price for Ownership Interests with Every Year Rights indicated below. The Developer may negotiate these prices or from time to time, offer various credits, discounts and rebates. There will be a \$1,000.00 – \$3,000.00 premium charged in addition to the Floating Week prices shown below for a fixed week other than the 51st and 52nd Weeks (prices for which are reflected below).

	<u>Type I</u>	<u>Type II</u>	<u>Type III</u>	<u>Type IV</u>	<u>Type V</u>	<u>Type VI</u>	<u>Type VII</u>	<u>Type VIII</u>	<u>Type IX</u>
Floating Week	\$25,400	\$31,900	\$27,900	\$35,900	\$38,900	\$31,900	\$30,900	\$35,900	\$33,900
51st Week	\$31,400	\$36,900	\$32,900	\$40,900	\$41,900	\$36,900	\$35,900	\$40,900	\$38,900
2nd Week	\$33,400	\$40,900	\$35,900	\$44,900	\$47,900	\$40,900	\$36,900	\$44,900	\$42,900

B. **CLOSING COSTS:** These charges are per transaction not per Ownership Interest. One transaction may include more than one Ownership Interest. The expense for a title insurance policy is the amount that the title company charges. Unless the Buyer tells the Escrow Agent in writing that he or she wants another title company in Hawaii to issue the policy, a company related to the Escrow Agent will issue the Buyer a title policy. The Buyer will not have to pay more than \$600.00 in closing costs if that Buyer gets a title policy through the Escrow Agent. But if the Buyer wants another title company to issue the title policy and that company's charges are more than those stated below, the Buyer must also pay the difference. The Buyer is free to choose any title company licensed in the State of Hawaii to issue the certificate or policy.

1.	Escrow Fee (up to two Ownership Interests):	\$100.00
2.	Title Policies (up to two Ownership Interests):	\$150.00
3.	Recording Fee Deed:	\$ 25.00
	Recording Fee-Mortgage:	\$ 25.00
4.	Document Preparation:	\$225.00
5.	Mortgage Set Up Fee:	\$ 25.00

Additionally, there is a conveyance tax at the rate of 10¢ per \$100.00 of purchase price. Further, a mortgage recording fee will be charged at the rate of 10¢ per \$100.00 of the stated principal amount of the debt secured by the mortgage. Buyers should note that the foregoing charges are estimates only and are therefore, subject to change from time to time.

**Note: If the purchase is financed, Buyers must also pay interest, late charges (if any) and other sums which may be due by the terms of the note and mortgage.**

# ESTIMATED PROGRAM EXPENSES

BAY CLUB  
ANNUAL BUDGET FOR THE PERIOD  
JANUARY 1, 2005 THRU DECEMBER 31, 2004

Description	2005 Annual Budget	2008 Per Unit A	2008 Per Unit B	2008 Per Unit A/B	2008 Per Unit C/D	2008 Per Unit E/F
<b>OPERATING</b>						
Association Fees	5,472,967	678.12	644.88	564.87	535.31	749.83
Real Estate Tax Fee	862,844	71.56	86.48	67.94	63.00	82.12
Subsidy Income	0	0.00	0.00	0.00	0.00	0.00
Lake Fee Income	16,530	1.96	1.98	1.98	1.98	1.98
Interest Income	43,000	5.05	5.05	5.05	5.05	5.05
Support Area 1 - Concession Fees	2,700	0.32	0.32	0.32	0.32	0.32
Support Area 2 - Rental Revenue Commission	90,000	10.87	10.87	10.87	10.87	10.87
Support Area 3 - Pool Bar	0	0.00	0.00	0.00	0.00	0.00
Support Area 4 - Lobby Bar	0	0.00	0.00	0.00	0.00	0.00
Support Area 5 - Deli	0	0.00	0.00	0.00	0.00	0.00
Miscellaneous Income (Activities Income)	4,240	0.52	0.52	0.52	0.52	0.52
<b>TOTAL OPERATING REVENUE</b>	<b>6,192,781</b>	<b>769.12</b>	<b>729.78</b>	<b>741.34</b>	<b>626.74</b>	<b>850.08</b>
<b>EXPENSES</b>						
<b>ADMINISTRATIVE</b>						
Annual Audit	5,000	0.70	0.70	0.70	0.70	0.70
Administration of the Managing Entity	0	0.00	0.00	0.00	0.00	0.00
Other Administrative Expenses	365,772	42.83	42.83	42.83	42.83	42.83
Board Reimbursements	4,400	0.52	0.52	0.52	0.52	0.52
Fees Payable to the Division	N/A	0.00	0.00	0.00	0.00	0.00
Financial Services/Data Processing	69,819	7.00	7.00	7.00	7.00	7.00
Postage, Printing, Newsletter	68,127	8.12	8.12	8.12	8.12	8.12
Management Fee	587,947	69.83	69.83	69.83	69.83	69.83
<b>Total</b>	<b>1,072,965</b>	<b>121.97</b>	<b>126.97</b>	<b>126.97</b>	<b>126.97</b>	<b>126.97</b>
<b>OPERATIONS EXPENSES</b>						
Office, Desk, Reservations, Bill Service	802,005	94.27	94.27	94.27	94.27	94.27
Housekeeping, Laundry, Supplies	1,286,688	152.64	148.36	151.56	148.28	149.18
Common Area Expenses	1,484,207	182.18	172.83	176.34	157.67	215.82
Uniforms	8,399	1.08	0.88	1.07	0.78	1.22
Golfcarts & Landscaping	0	0.00	0.00	0.00	0.00	0.00
Pool & Spa	0	0.00	0.00	0.00	0.00	0.00
Recreation & Concessions	78,820	9.76	9.81	9.81	7.85	11.15
Rent for Recreational and Other Commonly Used Facilities	0	0.00	0.00	0.00	0.00	0.00
Operating Capital	0	0.00	0.00	0.00	0.00	0.00
Other Expenses	0	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>3,607,885</b>	<b>450.84</b>	<b>425.29</b>	<b>432.79</b>	<b>398.94</b>	<b>603.88</b>
<b>UTILITIES</b>						
Electric	639,646	81.33	73.50	77.21	60.23	80.32
Water, Sewer, Gas	0	0.00	0.00	0.00	0.00	0.00
Waste Disposal	0	0.00	0.00	0.00	0.00	0.00
Telephone	0	0.00	0.00	0.00	0.00	0.00
Cable Television	0	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>639,646</b>	<b>81.33</b>	<b>73.50</b>	<b>77.21</b>	<b>60.23</b>	<b>80.32</b>
<b>BUILDING</b>						
Maintenance-Service, Equipment, Supplies	194,900	24.79	23.00	23.53	18.26	28.44
Building & Equipment Contracts	26,820	3.42	3.37	3.24	2.63	3.81
Telephone Contract	20,141	4.21	3.91	4.00	3.12	4.84
Elevator & Fire System Contracts	1,200	0.15	0.14	0.14	0.11	0.18
Garage Maintenance	0	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>250,061</b>	<b>32.56</b>	<b>30.22</b>	<b>30.81</b>	<b>24.11</b>	<b>37.30</b>
<b>INSURANCE &amp; TAXES</b>						
Insurance	0	0.00	0.00	0.00	0.00	0.00
Income Tax	54,000	6.87	6.37	6.52	5.08	7.88
Taxes Upon Timedown Property (Ad Valorem Taxes)	N/A	N/A	N/A	N/A	N/A	N/A
Taxes Upon Leased Areas	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total</b>	<b>54,000</b>	<b>6.87</b>	<b>6.37</b>	<b>6.52</b>	<b>5.08</b>	<b>7.88</b>
<b>TOTAL OPERATING EXPENSES</b>	<b>8,629,882</b>	<b>107.85</b>	<b>633.06</b>	<b>673.40</b>	<b>673.74</b>	<b>787.99</b>
<b>REAL ESTATE TAX</b>	<b>862,844</b>	<b>71.56</b>	<b>86.48</b>	<b>67.94</b>	<b>63.00</b>	<b>82.12</b>
<b>TOTAL OPERATING EXPENSES REAL ESTATE TAX</b>	<b>9,492,726</b>	<b>789.12</b>	<b>729.70</b>	<b>741.34</b>	<b>626.74</b>	<b>860.08</b>
<b>OPERATING PROFIT/(LOSS)</b>	<b>0</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

Ad Valorem Taxes on individual weeks are billed by the Clark County Appraiser's office based on the relative value of the unit week.

**BAY CLUB**  
**ANNUAL BOLD OUT BUDGET FOR THE PERIOD**  
**JANUARY 1, 2006 THRU DECEMBER 31, 2006**

Description	2006 Annual Budget	2005 Per Unit/ A	2005 Per Unit/ B	2005 Per Unit/ A/B	2005 Per Unit/ C/D	2005 Per Unit/ E/F
<b>RESERVES</b>						
RESERVE REVENUE	817,476	72.51	72.88	74.53	68.14	90.09
<b>RESERVE EXPENSES</b>						
Capital Reserve:						
Interior	817,476	72.51	72.88	74.53	68.14	90.09
Pool	0	0	0	0	0	0
Painting	0	0	0	0	0	0
Common Area Rehabilitation	0	0	0	0	0	0
Total	817,476	72.51	72.88	74.53	68.14	90.09
Painting Reserve	0	0	0	0	0	0
Total	0	0	0	0	0	0
<b>RESERVE EXPENSE TOTAL</b>	817,476	72.51	72.88	74.53	68.14	90.09
<b>RESERVE PROFIT/(LOSS)</b>	0	0	0	0	0	0

SUMMARY	2006 Annual Budget	2005 Per Unit/ A	2006 Per Unit/ B	2006 Per Unit/ A/B	2006 Per Unit/ C/D	2006 Per Unit/ E/F
OPERATING FEE	3,472,867	679.12	644.93	654.97	666.31	749.59
CAPITAL RESERVE	817,476	72.51	72.88	74.53	68.14	90.09
PAINTING RESERVE	0	0.00	0.00	0.00	0.00	0.00
REAL ESTATE TAX	662,844	71.56	66.43	67.94	59.00	82.12
HAWAII G.S.T. TAX		34.54	32.97	33.22	27.76	36.40
ARDA RDC/PAC (Voluntary Contribution)		3.00	3.00	3.00	3.00	3.00
<b>TOTAL AMOUNT BILLED</b>	<b>6,693,287</b>	<b>692.74</b>	<b>619.22</b>	<b>633.66</b>	<b>697.21</b>	<b>863.14</b>