

09-26-2003

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

Form PTO-204
(Rev. 10/02)
OMB No. 0651-0047 (6/30/2005)
Tab settings



102559398

To the Honorable Commissioner of Patents and Trademarks, please record the attached original documents or copy thereof.

1. Name of conveying party(ies): **9-22-03**
 Amfac Property Investment Corp.
 Kaanapali Development Corp.
 Amfac Hawaii LLC

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State
 Other _____

Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
 Name: Royal Kaanapali Holdings, LLC
 Internal
 Address: _____

Street Address: 201 Merchant Street, 14th Floor
 City: Honolulu State: HI Zip: 96813

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State _____
 Other limited liability company

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
 (Designations must be a separate document from assignment)
 Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other License

Execution Date: _____

4. Application number(s) or registration number(s):
 A. Trademark Application No.(s)
 B. Trademark Registration No.(s)
2,011,491 2,011,652
~~2,011,489~~

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: _____
 Internal Address: _____

Street Address: Gelber, Gelber, Ingersoll & Klevansky
745 Fort Street, Suite 1400

City: Honolulu State: Hawaii Zip: 96813

6. Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41).....\$ 90.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: _____

(Attach duplicate copy of this page if paying by deposit account)

09/25/2003 09:29:12
01 FC:8521 40.00 OP
02 FC:8522 50.00 OP

DO NOT USE THIS SPACE

Statement and signature
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Stephen M. Gelber
Name of Person Signing

Signature

SEP 17 2003
Date

Total number of pages including cover sheet, attachments, and document: 14

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

TRADEMARK
REEL: 002831 FRAME: 0835

ASSIGNMENT AND CO-EXISTENCE AGREEMENT

This AGREEMENT is made this SEP - 9 2003 day of SEP - 9 2003, 2003, by and between AMFAC PROPERTY INVESTMENT CORP., a Hawaii corporation ("APIC"), KAA NAPALI DEVELOPMENT CORP., a Hawaii corporation ("KDC"), and AMFAC HAWAII, LLC, a Hawaii limited liability company, formerly known as Amfac/JMB Hawaii, L.L.C. and successor-in-interest to AMFAC/JMB HAWAII, INC., a Hawaii corporation ("AHL"), whose principal place of business is at 700 Bishop Street, Honolulu, Hawaii 96813 (AHL, APIC, and KDC being referred to herein as "Assignor"), JOSEPH M. TOY, acting in his capacity as the Commissioner (as defined below), whose business address is Suite 2124, Fort Street Tower, Topa Financial Center, 745 Fort Street, Honolulu, Hawaii 96813, and ROYAL KAA NAPALI HOLDINGS, LLC, a Hawaii limited liability company ("Assignee"), the principal place of business of which is 201 Merchant Street, 14th Floor, Honolulu, Hawaii 96813.

RECITALS:

A. AHL has registered the trademark or service mark "Kaanapali" and "Ka'anapali" (the "Trademark") with the U.S. Patent and Trademark Office ("USPTO") on various dates and in various classifications, including on the following dates and in the following classes (collectively, the "Trademark Registrations"):

<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>	<u>Description</u>
Oct. 29, 1996	2,011,491	25	golf shirts, shirts, sweaters, jackets, shorts, socks, headwear and sweatshirts
Oct. 29, 1996	2,011,489	28	golf clubs, golf balls, golf club covers, golf bags, golf bag strap covers, golf tees, golf ball markers, divot repair tools (golf accessory), golf gloves and golf bag
Oct. 29, 1996	2,011,652	41	golf course services and entertainment in the nature of golf tournaments

B. AHL has used the Trademark since 1961 in connection with the development, operation, and marketing of the Kaanapali Beach Resort.

C. APIC and KDC have also adopted and used the trade names "Royal Kaanapali", "Royal Kaanapali Golf Courses", "Royal Kaanapali Clubhouse", "Royal Kaanapali Golf Club", "Kaanapali Golf Course", and "Kaanapali Country Club" (collectively, the "Trade Names") in connection with the operation of two eighteen-hole golf courses, and certain related operations, at the Kaanapali Beach Resort, on the Island of Maui, State of Hawaii, known as the "Royal Kaanapali Golf Courses" and the "Kaanapali Golf Courses" (and referred to herein as the "Kaanapali Golf Courses"), and hold the following trade name registrations at the State of Hawaii Department of Commerce and Consumer Affairs ("Hawaii DCCA") on the following dates:

<u>Trade Name</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Royal Kaanapali Clubhouse	Jan. 28, 1997	202411
Royal Kaanapali Golf Club	March 14, 2002	259286
Royal Kaanapali Golf Course	June 23, 1994	169098
Kaanapali Golf Course	June 7, 1994	179205
Kaanapali Country Club	June 8, 1984	22862

D. AHL has also obtained the following Japanese trademark registrations for the trade name "Royal Kaanapali" issued with the following registration dates and in the following Japanese classes:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Japanese Class</u>
Royal Kaanapali	February 28, 1992	2,385,099	4
Royal Kaanapali	October 30, 1992	2,470,284	13
Royal Kaanapali	January 31, 1992	2,372,640	19
Royal Kaanapali	March 31, 1992	2,395,385	22
Royal Kaanapali	April 30, 1992	2,409,048	24
Royal Kaanapali	May 29, 1992	2,413,469	25
Royal Kaanapali	September 30, 1992	2,455,719	26
Royal Kaanapali	June 30, 1992	2,429,704	27

E. AHL has registered as a trademark a whale design logo, a design of which is attached hereto as Exhibit "A", with USPTO on the following dates and in the following classes as described below (the "Whale Logo"):

<u>Reg. Date</u>	<u>Reg. No</u>	<u>Class</u>	<u>Description</u>
Sept. 6, 1988	1,502,749	14	gold plated money clips and key chains
		18	tote bags, luggage and umbrellas
		25	shirts, blouses, sweaters, jackets, shorts, socks, golf gloves and headwear
		28	golf clubs, golf balls, golf club covers, golf bag strap covers, golf ball markers, golf ball mark repair tools
		35	promoting the business of tourism of various resorts in the Hawaiian Islands
Oct. 26, 1993	1,801,177	41	golf course services
		41	entertainment services in the nature of golf tournaments

F. KDC holds the following trademark registrations for the Whale Logo as registered at the Hawaii DCCA on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Whale Design (double banded)	April 10, 1994	166322
Whale Design (single banded)	February 12, 1993	149214
Whale Design (single w/ words)	December 23, 1992 (extended October 8, 2002)	148245

G. AHL has obtained the following Japanese trademark registrations for a double banded Whale Logo in the following classes on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>
Whale Design	July 22, 1988	2,064,690	4
Whale Design	March 30, 1998	2,031,281	13
Whale Design	December 18, 1997	2,009,422	17
Whale Design	October 27, 1997	1,990,122	19
Whale Design	June 24, 1998	2,057,214	21
Whale Design	September 30, 1998	2,077,793	22
Whale Design	May 26, 1998	2,049,702	24
Whale Design	November 30, 1988	2,090,069	25
Whale Design	May 26, 1998	2,047,918	26
Whale Design	November 30, 1988	2,094,213	27

H. AHL and its subsidiaries, including APIC, have used the Whale Logo in connection with the Kaanapali Golf Courses and related operations.

I. On or about June 25, 1991, AHL, APIC, and Pioneer Mill Company, Limited ("PMCo"), which is also a subsidiary of AHL, as "Borrower," entered into a Loan Agreement of the same date with the Employees' Retirement System of the State of Hawaii (the "ERS"), as "Lender." Pursuant to the Loan Agreement, APIC and PMCo granted to the ERS a mortgage on the real property comprising the Kaanapali Golf Courses and certain other real property and a security interest in and to, inter alia, all of APIC's and PMCo's general intangible assets relating to such real property (inclusive of the Kaanapali Golf Courses), including without limitation the name "Royal Kaanapali Golf Courses," and any trade names, trademarks, prints, labels, advertising concepts and literature relating to such real property or the Kaanapali Golf Courses.

J. Contemporaneously herewith, pursuant to a final Order Confirming Sale and a Final Judgment Confirming Sale in that certain foreclosure action entitled "Employees Retirement System of the State of Hawaii vs. Amfac/JMB Hawaii, L.L.C., et al.," Civil No. 00-1-2597-08, Circuit Court, First Circuit, State of Hawaii, JOSEPH M. TOY, as the Court-appointed Commissioner in such foreclosure action (the "Commissioner"), conveyed to Assignee the real property on which the Kaanapali Golf Courses are located and certain other real property (the "Property"), by that certain Commissioner's Deeds dated _____, 2003, in favor of Assignee, recorded as appropriate in the Bureau of Conveyances of the State of Hawaii as Documents Nos. _____, _____, and _____, and in the Office of the Registrar of the Land Court of the State of Hawaii as Documents Nos. _____ and _____, and, by separate instruments, all of the personal property used in connection with the operations related thereto. (All references herein to the "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses" in this Agreement shall mean the two 18-hole golf courses, clubhouse, and related improvements located within the Property.)

K. In connection with and pursuant to the foregoing foreclosure proceedings and the foregoing Orders entered therein, and the Settlement Agreement dated March 14, 2003, between Assignor, PMCo, and ERS, Assignor wishes to (1) assign to Assignee the Trade Names and the Whale Logo for its use in connection with the Property, the Kaanapali Golf Courses, and/or any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property); and (2) license to Assignee the right to use the Trademark and the name "Kaanapali" in connection with any and all such development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. ASSIGNMENT OF TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO. Assignor and the Commissioner, as their interests appear, hereby assign to Assignee all of Assignor's and the Commissioner's right, title and interest in and to the Trade Names, including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses", and the Whale Logo and the registrations relating thereto listed above in Recitals C, D, E, F and G (collectively, the "Trade Name Registrations"), the goodwill associated therewith, and the right to sue for past infringements relating thereto. Assignee shall be solely responsible for preparing and filing all assignment documents necessary to transfer all federal, state and foreign trademark, trade name, and domain name registrations for the Trade Names and the Whale Logo and for maintaining and renewing such registrations. Assignor shall cooperate with Assignee in effectuating such transfers and execute all necessary documents. There shall be a separate bill of sale to evidence the transfer to Assignee of inventory of golf-related products which bear the Trade Names and/or the Whale Logo.

2. GRANT OF LICENSE. Assignor hereby, pursuant to Assignor's rights under the Trademark Registrations, grants to Assignee a perpetual, non-exclusive, royalty-free license to use the Trademark (and specifically the name "Kaanapali") in connection with (a) the Trade Names (including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses") and the "Kaanapali-golf.com" domain name, which Trade Names and domain name shall be the exclusive property of Assignee, and (b) the Property and any

and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether used for golf course or other activities or operations), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that Assignee shall have the right to the use of the Trademark (and the Trade Names) in advertising and promoting outside of Hawaii and in the continental United States, Japan, and elsewhere, any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property. Assignee agrees, however, that Assignee's use of the Trademark and any licenses granted pursuant to clause (b) immediately preceding shall be: (1) limited to development activities, businesses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property, and (2) sufficiently distinct from the singular and plural forms of any names which include the name "Kaanapali" that Assignor shall have previously put into service, so as not to create confusion with such names that Assignor has previously put into service. Assignee further agrees its use of the Trademark pursuant to this license shall be consistent with the overall quality of the Kaanapali Beach Resort. No licensee of Assignee shall have any rights to sub-license the Trademark.

3. CO-EXISTENCE AGREEMENT.

(a) Assignee agrees that Assignor shall have the full, complete and unfettered right to use or license the Trademark (and variants thereof that do not use "Royal") and trade names using "Kaanapali" (and variants thereof that do not use "Royal"), including all domain names containing the term "Kaanapali" (and variants thereof that do not use "Royal" and other than "kaanapali-golf.com"), in connection with the development, operation, marketing and sales of any other properties, operations, businesses, goods, services and activities, including, without limitation the development, ownership or operation of up to, but not more than, two (2) golf courses other than the Kaanapali Golf Courses (which two golf courses may, like the Kaanapali Golf Courses, be located on the western side of the Island of Maui ("West Maui")). Assignee further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignor to use the Trademark for such purposes. Assignee also agrees that its use of the Trade Names and the Whale Logo, and Assignee's use of the Trademark pursuant to the license provided in Paragraph 2, shall be limited to use in connection with the Property, the Kaanapali Golf Courses, and/or the activities and operations thereon.

(b) Assignor agrees that it shall not use or license the Trademark or the name "Kaanapali" in connection with the development and operation of more than two (2) golf courses other than the Kaanapali Golf Courses, and that its use and licensing of the Trademark and the name "Kaanapali" in connection with such golf courses and related operations shall be consistent with the overall quality of the Kaanapali Beach Resort. Assignor further agrees that the names of such golf courses shall be sufficiently distinct from the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" (and the singular or plural forms of any other name for the Kaanapali Golf Courses which includes the name "Kaanapali" that Assignee may hereafter use prior to the time that Assignor puts any such other golf course into service (the "Other Prior Established Name")), and that, under no circumstances, shall Assignor have the right to use (and Assignor shall not use) the names "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses"; it being understood and agreed, however, that Assignor shall have the right to use the terms "Kaanapali", "Golf", "Beach", "Course," "Courses" and "Resort" as part of the names of such golf courses in any manner that is sufficiently distinct so as not to create confusion with the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" and any such Other Prior Established Name. The determination whether any name meets the foregoing standard shall exclude consideration of the term "Kaanapali" so long as such name includes a distinguishing term other than "Golf", "Beach", "Course", "Courses" and "Resort". Nothing contained in this Paragraph 3(a) shall be deemed to give Assignor the right to use or license the Trademark or the name "Kaanapali" in connection with more than two (2) golf courses other than the Kaanapali Golf Courses.

(c) Assignor agrees that Assignee shall have the full, complete and unfettered right to use the Trade Names (including, without limitation, "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses"), the Whale Logo and the domain name "kaanapali-golf.com", in connection with any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in

connection with the Property (whether or not related to golf course or other activities or operations on the Property), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignee to use the Trade Names and the Whale Logo for such purposes.

(d) Assignor and Assignee intend and agree that Assignor's usage of the Trademark and Assignee's use in accordance with this Agreement of the Trade Names and the Trademark pursuant to the license described in Paragraph 2 above shall prevent confusion and dilution. Assignor and Assignee agree to cooperate in preserving the distinctiveness and validity of the Trademark and the Trademark Registrations and the Trade Names and the Trade Name Registrations, subject to this Agreement.

4. GOVERNING AND SUPERSEDING AGREEMENT. The parties hereto agree that this Agreement shall supersede, govern solely, and have priority over that certain Commissioner's Assignment of Contracts, Permits, Licenses, and Claims, dated _____, 2003 (the "Commissioner's Assignment"), by and between the Commissioner, as assignor, and Royal Kaanapali Holdings, LLC, as assignee, as and to the extent the Commissioner's Assignment relates to or affects (i) any and all right, title, and interest in and to the names "Kaanapali", "Royal Kaanapali Golf Courses" or "Kaanapali Golf Courses", or (ii) trade names, trademarks, logos, prints, labels, advertising concepts and literature relating to or connected with the Property or the Kaanapali Golf Courses, or the ownership or operation thereof, including without limitation the trade names or other registrations more specifically identified in Exhibit "B-6" of the Commissioner's Assignment, or (iii) any and all other intangible property rights or general intangibles, if any, that are covered by this Agreement. In the event of any conflict or inconsistency between this Agreement and the Commissioner's Assignment, this Agreement shall solely govern and prevail.

5. DISCLAIMER OF WARRANTY. ASSIGNEE ACCEPTS THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO "AS IS" AND ASSIGNOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INFRINGEMENT.

6. GOVERNING LAW. This Agreement, and all of the relationships between the parties hereto, shall be construed and interpreted in accordance with the laws of the State of Hawaii.

7. OTHERS BOUND BY THIS AGREEMENT. This Agreement will be binding upon, and inure to the benefit of, the Assignor and Assignee and their respective successors and assigns, including any licensee or assignee of any interest in the Trademark, Trade Names, or Whale Logo.

8. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto with respect to the matters described herein. No dealings between the parties or custom shall be permitted to contradict, add to, or modify the terms hereof. No waiver or amendment of the provisions hereof shall be effective unless in writing and signed by all parties.

9. COUNTERPARTS; FACSIMILE SIGNATURES. This Agreement may be executed in one or more counterparts. It shall be fully executed when APIC, AHL, KDC, the Commissioner, and Assignee have signed and delivered at least one counterpart, even if no one counterpart contains the signature of the APIC, AHL, KDC, the Commissioner, and Assignee. Each executed counterpart shall be deemed an original, but all such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile signatures on this Agreement shall be binding and effective for all purposes and treated in the same manner as original physical signatures on this Agreement, but that (without affecting the binding force and effect of the facsimile signature) any party executing this Agreement by telefacsimile shall be required to deliver a counterpart of this Agreement bearing such party's original physical signature within ten (10) days after such party's execution hereof by telefacsimile.

10. SEVERABILITY. If any provision of this Agreement shall be declared to be invalid, illegal, void or unenforceable, that provision shall be enforced to the fullest extent permitted under applicable law, and, provided that the material purposes of this Agreement may still be accomplished, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

AMFAC HAWAII, LLC,
a Hawaii limited liability company

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

AMFAC PROPERTY INVESTMENT CORP.,
a Hawaii corporation

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

KAANAPALI DEVELOPMENT CORP.,
a Hawaii corporation

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

Assignor

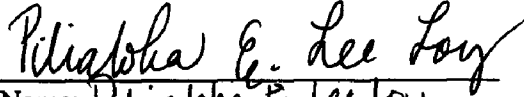
Joseph M. Toy
JOSEPH M. TOY, as Commissioner

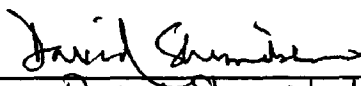
APPROVED AS TO FORM:

ROYAL KAANAPALI HOLDINGS, LLC,
a Hawaii limited liability company

By 
Special Deputy Attorney General

By: Employees' Retirement System of the State
of Hawaii, a governmental agency of the
State of Hawaii
Its Member

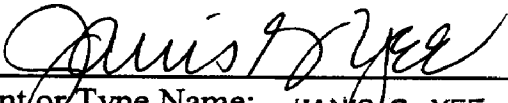
By 
Name: Pili'aloa E. Lee Loy
Title: Trustee

By 
Name: David Shimabukuro
Title: Administrator

Assignee

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

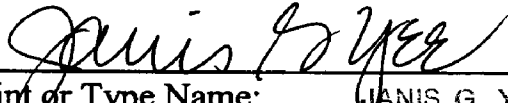


Print or Type Name: JAMES G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2006

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

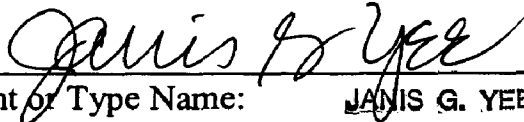


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

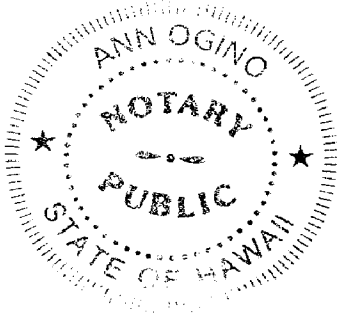


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On SEP - 3 2003, _____, before me personally appeared JOSEPH M. TOY, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



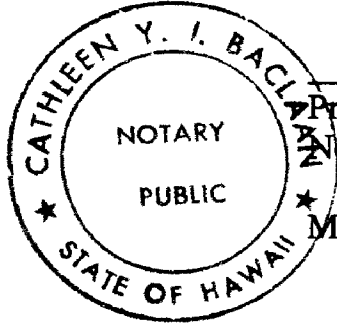
Ann Ogino

Print or Type Name:
Notary Public, State of Hawaii

My commission expires: Ann Ogino
Expiration Date: July 30, 2004

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

On MAY 16 2003, _____, before me personally appeared Puialoha E. Lee, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



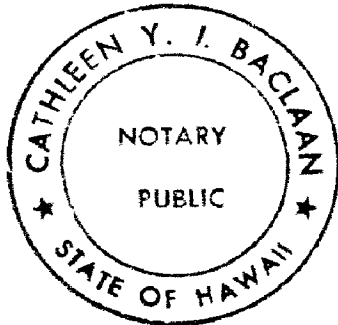
Cathy I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

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

On MAY 16 2003, _____, before me personally appeared David Shimabukuro, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

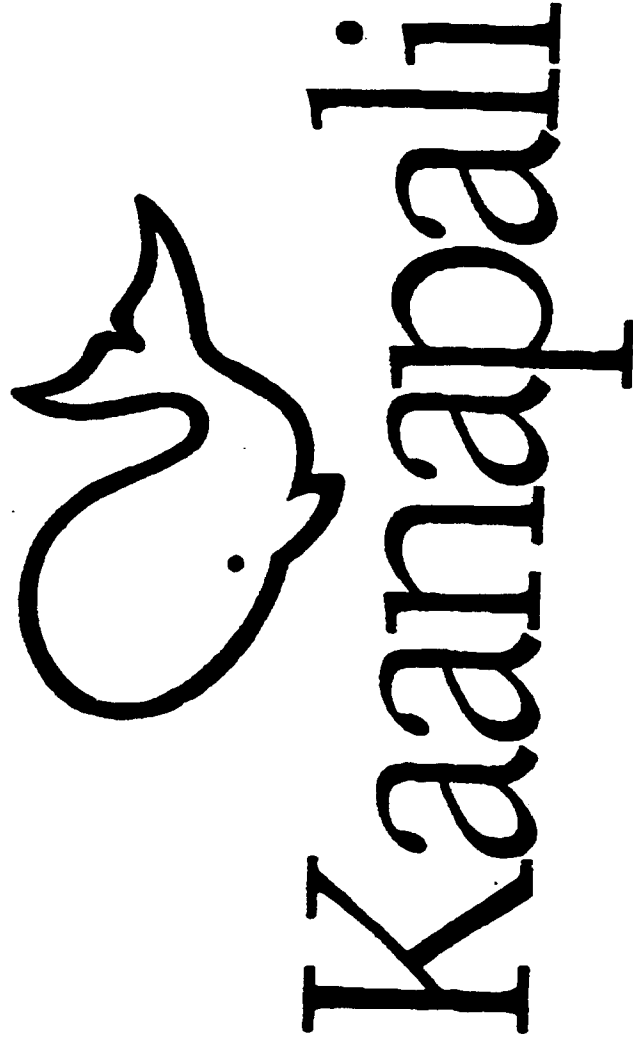


Cathy I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

EXHIBIT "A"





GELBER, GELBER, INGERSOLL & KLEVANSKY

A LAW CORPORATION
SUITE 1400 FORT STREET TOWER
745 FORT STREET
HONOLULU, HAWAII 96813

1/2

TELEPHONE: (808) 524-0155
TELECOPIER: (808) 531-6963

SENDER'S E-MAIL: sgelber@ggik.com

TRANSMITTAL MEMORANDUM

TO: Mail Stop Assignment Recordation Services
Director of the US Patent and Trademark Office
P. O. Box 1450
Alexandria, Virginia 22313-1450

FROM: Stephen M. Gelber (cyib)

RE: License Trademark and Assignment Trademark

DATE: September 17, 2003

We enclose via () Hand Delivery (X) Mail () Exp Mail () Courier () P/Up

<u>COPIES</u>	<u>DATED</u>	<u>DESCRIPTION</u>
Original	09/17/2003	Check No. 1548 in the amount of \$90.00
Original + 2	09/17/2003	Form PTO-1594 with Assignment and Co-Existence Agreement (Re: License for Registration Nos. 2,011,491; 2,011,489; and 2,011,652)
Original	09/17/2003	Check No. 1549 in the amount of \$65.00
Original + 2	09/17/2003	Form PTO-1594 with Assignment and Co-Existence Agreement (Re: Assignment for Registration Nos. 1,502,749 and 1,801,177)

FOR THE FOLLOWING PURPOSE (If you have any questions, please call):

- | | |
|---|--------------------------|
| () Your Information | () Per Our Conversation |
| () Your Signature IN BLACK INK and Return | () Per Your Request |
| () Your Review and Comment | () Your Files |
| () Your Further Necessary Action | (X) SEE REMARKS BELOW |

REMARKS: We would like to record and/or file the enclosed documents. Once the documents have been filed, we would appreciate receiving back a file stamped copy. We have enclosed a self-addressed stamped envelope for your convenience.

Please call me if you should have any questions.

ASSIGNMENT AND CO-EXISTENCE AGREEMENT

This AGREEMENT is made this SEP - 9 2003 day of SEP - 9 2003, 2003, by and between AMFAC PROPERTY INVESTMENT CORP., a Hawaii corporation ("APIC"), KAA NAPALI DEVELOPMENT CORP., a Hawaii corporation ("KDC"), and AMFAC HAWAII, LLC, a Hawaii limited liability company, formerly known as Amfac/JMB Hawaii, L.L.C. and successor-in-interest to AMFAC/JMB HAWAII, INC., a Hawaii corporation ("AHL"), whose principal place of business is at 700 Bishop Street, Honolulu, Hawaii 96813 (AHL, APIC, and KDC being referred to herein as "Assignor"), JOSEPH M. TOY, acting in his capacity as the Commissioner (as defined below), whose business address is Suite 2124, Fort Street Tower, Topa Financial Center, 745 Fort Street, Honolulu, Hawaii 96813, and ROYAL KAA NAPALI HOLDINGS, LLC, a Hawaii limited liability company ("Assignee"), the principal place of business of which is 201 Merchant Street, 14th Floor, Honolulu, Hawaii 96813.

RECITALS:

A. AHL has registered the trademark or service mark "Kaanapali" and "Ka'anapali" (the "Trademark") with the U.S. Patent and Trademark Office ("USPTO") on various dates and in various classifications, including on the following dates and in the following classes (collectively, the "Trademark Registrations"):

<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>	<u>Description</u>
Oct. 29, 1996	2,011,491	25	golf shirts, shirts, sweaters, jackets, shorts, socks, headwear and sweatshirts
Oct. 29, 1996	2,011,489	28	golf clubs, golf balls, golf club covers, golf bags, golf bag strap covers, golf tees, golf ball markers, divot repair tools (golf accessory), golf gloves and golf bag
Oct. 29, 1996	2,011,652	41	golf course services and entertainment in the nature of golf tournaments

B. AHL has used the Trademark since 1961 in connection with the development, operation, and marketing of the Kaanapali Beach Resort.

C. APIC and KDC have also adopted and used the trade names "Royal Kaanapali", "Royal Kaanapali Golf Courses", "Royal Kaanapali Clubhouse", "Royal Kaanapali Golf Club", "Kaanapali Golf Course", and "Kaanapali Country Club" (collectively, the "Trade Names") in connection with the operation of two eighteen-hole golf courses, and certain related operations, at the Kaanapali Beach Resort, on the Island of Maui, State of Hawaii, known as the "Royal Kaanapali Golf Courses" and the "Kaanapali Golf Courses" (and referred to herein as the "Kaanapali Golf Courses"), and hold the following trade name registrations at the State of Hawaii Department of Commerce and Consumer Affairs ("Hawaii DCCA") on the following dates:

<u>Trade Name</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Royal Kaanapali Clubhouse	Jan. 28, 1997	202411
Royal Kaanapali Golf Club	March 14, 2002	259286
Royal Kaanapali Golf Course	June 23, 1994	169098
Kaanapali Golf Course	June 7, 1994	179205
Kaanapali Country Club	June 8, 1984	22862

D. AHL has also obtained the following Japanese trademark registrations for the trade name "Royal Kaanapali" issued with the following registration dates and in the following Japanese classes:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Japanese Class</u>
Royal Kaanapali	February 28, 1992	2,385,099	4
Royal Kaanapali	October 30, 1992	2,470,284	13
Royal Kaanapali	January 31, 1992	2,372,640	19
Royal Kaanapali	March 31, 1992	2,395,385	22
Royal Kaanapali	April 30, 1992	2,409,048	24
Royal Kaanapali	May 29, 1992	2,413,469	25
Royal Kaanapali	September 30, 1992	2,455,719	26
Royal Kaanapali	June 30, 1992	2,429,704	27

E. AHL has registered as a trademark a whale design logo, a design of which is attached hereto as Exhibit "A", with USPTO on the following dates and in the following classes as described below (the "Whale Logo"):

<u>Reg. Date</u>	<u>Reg. No</u>	<u>Class</u>	<u>Description</u>
Sept. 6, 1988	1,502,749	14	gold plated money clips and key chains
		18	tote bags, luggage and umbrellas
		25	shirts, blouses, sweaters, jackets, shorts, socks, golf gloves and headwear
		28	golf clubs, golf balls, golf club covers, golf bag strap covers, golf ball markers, golf ball mark repair tools
		35	promoting the business of tourism of various resorts in the Hawaiian Islands
Oct. 26, 1993	1,801,177	41	golf course services
		41	entertainment services in the nature of golf tournaments

F. KDC holds the following trademark registrations for the Whale Logo as registered at the Hawaii DCCA on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Whale Design (double banded)	April 10, 1994	166322
Whale Design (single banded)	February 12, 1993	149214
Whale Design (single w/ words)	December 23, 1992 (extended October 8, 2002)	148245

G. AHL has obtained the following Japanese trademark registrations for a double banded Whale Logo in the following classes on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>
Whale Design	July 22, 1988	2,064,690	4
Whale Design	March 30, 1998	2,031,281	13
Whale Design	December 18, 1997	2,009,422	17
Whale Design	October 27, 1997	1,990,122	19
Whale Design	June 24, 1998	2,057,214	21
Whale Design	September 30, 1998	2,077,793	22
Whale Design	May 26, 1998	2,049,702	24
Whale Design	November 30, 1988	2,090,069	25
Whale Design	May 26, 1998	2,047,918	26
Whale Design	November 30, 1988	2,094,213	27

H. AHL and its subsidiaries, including APIC, have used the Whale Logo in connection with the Kaanapali Golf Courses and related operations.

I. On or about June 25, 1991, AHL, APIC, and Pioneer Mill Company, Limited ("PMCo"), which is also a subsidiary of AHL, as "Borrower," entered into a Loan Agreement of the same date with the Employees' Retirement System of the State of Hawaii (the "ERS"), as "Lender." Pursuant to the Loan Agreement, APIC and PMCo granted to the ERS a mortgage on the real property comprising the Kaanapali Golf Courses and certain other real property and a security interest in and to, inter alia, all of APIC's and PMCo's general intangible assets relating to such real property (inclusive of the Kaanapali Golf Courses), including without limitation the name "Royal Kaanapali Golf Courses," and any trade names, trademarks, prints, labels, advertising concepts and literature relating to such real property or the Kaanapali Golf Courses.

J. Contemporaneously herewith, pursuant to a final Order Confirming Sale and a Final Judgment Confirming Sale in that certain foreclosure action entitled "Employees Retirement System of the State of Hawaii vs. Amfac/JMB Hawaii, L.L.C., et al.," Civil No. 00-1-2597-08, Circuit Court, First Circuit, State of Hawaii, JOSEPH M. TOY, as the Court-appointed Commissioner in such foreclosure action (the "Commissioner"), conveyed to Assignee the real property on which the Kaanapali Golf Courses are located and certain other real property (the "Property"), by that certain Commissioner's Deeds dated _____, 2003, in favor of Assignee, recorded as appropriate in the Bureau of Conveyances of the State of Hawaii as Documents Nos. _____, _____, and _____, and in the Office of the Registrar of the Land Court of the State of Hawaii as Documents Nos. _____ and _____, and, by separate instruments, all of the personal property used in connection with the operations related thereto. (All references herein to the "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses" in this Agreement shall mean the two 18-hole golf courses, clubhouse, and related improvements located within the Property.)

K. In connection with and pursuant to the foregoing foreclosure proceedings and the foregoing Orders entered therein, and the Settlement Agreement dated March 14, 2003, between Assignor, PMCo, and ERS, Assignor wishes to (1) assign to Assignee the Trade Names and the Whale Logo for its use in connection with the Property, the Kaanapali Golf Courses, and/or any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property); and (2) license to Assignee the right to use the Trademark and the name "Kaanapali" in connection with any and all such development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. ASSIGNMENT OF TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO.

Assignor and the Commissioner, as their interests appear, hereby assign to Assignee all of Assignor's and the Commissioner's right, title and interest in and to the Trade Names, including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses", and the Whale Logo and the registrations relating thereto listed above in Recitals C, D, E, F and G (collectively, the "Trade Name Registrations"), the goodwill associated therewith, and the right to sue for past infringements relating thereto. Assignee shall be solely responsible for preparing and filing all assignment documents necessary to transfer all federal, state and foreign trademark, trade name, and domain name registrations for the Trade Names and the Whale Logo and for maintaining and renewing such registrations. Assignor shall cooperate with Assignee in effectuating such transfers and execute all necessary documents. There shall be a separate bill of sale to evidence the transfer to Assignee of inventory of golf-related products which bear the Trade Names and/or the Whale Logo.

2. GRANT OF LICENSE. Assignor hereby, pursuant to Assignor's rights under the Trademark Registrations, grants to Assignee a perpetual, non-exclusive, royalty-free license to use the Trademark (and specifically the name "Kaanapali") in connection with (a) the Trade Names (including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses") and the "Kaanapali-golf.com" domain name, which Trade Names and domain name shall be the exclusive property of Assignee, and (b) the Property and any

and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether used for golf course or other activities or operations), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that Assignee shall have the right to the use of the Trademark (and the Trade Names) in advertising and promoting outside of Hawaii and in the continental United States, Japan, and elsewhere, any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property. Assignee agrees, however, that Assignee's use of the Trademark and any licenses granted pursuant to clause (b) immediately preceding shall be: (1) limited to development activities, businesses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property, and (2) sufficiently distinct from the singular and plural forms of any names which include the name "Kaanapali" that Assignor shall have previously put into service, so as not to create confusion with such names that Assignor has previously put into service. Assignee further agrees its use of the Trademark pursuant to this license shall be consistent with the overall quality of the Kaanapali Beach Resort. No licensee of Assignee shall have any rights to sub-license the Trademark.

3. CO-EXISTENCE AGREEMENT.

(a) Assignee agrees that Assignor shall have the full, complete and unfettered right to use or license the Trademark (and variants thereof that do not use "Royal") and trade names using "Kaanapali" (and variants thereof that do not use "Royal"), including all domain names containing the term "Kaanapali" (and variants thereof that do not use "Royal" and other than "kaanapali-golf.com"), in connection with the development, operation, marketing and sales of any other properties, operations, businesses, goods, services and activities, including, without limitation the development, ownership or operation of up to, but not more than, two (2) golf courses other than the Kaanapali Golf Courses (which two golf courses may, like the Kaanapali Golf Courses, be located on the western side of the Island of Maui ("West Maui")). Assignee further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignor to use the Trademark for such purposes. Assignee also agrees that its use of the Trade Names and the Whale Logo, and Assignee's use of the Trademark pursuant to the license provided in Paragraph 2, shall be limited to use in connection with the Property, the Kaanapali Golf Courses, and/or the activities and operations thereon.

(b) Assignor agrees that it shall not use or license the Trademark or the name "Kaanapali" in connection with the development and operation of more than two (2) golf courses other than the Kaanapali Golf Courses, and that its use and licensing of the Trademark and the name "Kaanapali" in connection with such golf courses and related operations shall be consistent with the overall quality of the Kaanapali Beach Resort. Assignor further agrees that the names of such golf courses shall be sufficiently distinct from the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" (and the singular or plural forms of any other name for the Kaanapali Golf Courses which includes the name "Kaanapali" that Assignee may hereafter use prior to the time that Assignor puts any such other golf course into service (the "Other Prior Established Name")), and that, under no circumstances, shall Assignor have the right to use (and Assignor shall not use) the names "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses"; it being understood and agreed, however, that Assignor shall have the right to use the terms "Kaanapali", "Golf", "Beach", "Course", "Courses" and "Resort" as part of the names of such golf courses in any manner that is sufficiently distinct so as not to create confusion with the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" and any such Other Prior Established Name. The determination whether any name meets the foregoing standard shall exclude consideration of the term "Kaanapali" so long as such name includes a distinguishing term other than "Golf", "Beach", "Course", "Courses" and "Resort". Nothing contained in this Paragraph 3(a) shall be deemed to give Assignor the right to use or license the Trademark or the name "Kaanapali" in connection with more than two (2) golf courses other than the Kaanapali Golf Courses.

(c) Assignor agrees that Assignee shall have the full, complete and unfettered right to use the Trade Names (including, without limitation, "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses"), the Whale Logo and the domain name "kaanapali-golf.com", in connection with any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in

connection with the Property (whether or not related to golf course or other activities or operations on the Property), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignee to use the Trade Names and the Whale Logo for such purposes.

(d) Assignor and Assignee intend and agree that Assignor's usage of the Trademark and Assignee's use in accordance with this Agreement of the Trade Names and the Trademark pursuant to the license described in Paragraph 2 above shall prevent confusion and dilution. Assignor and Assignee agree to cooperate in preserving the distinctiveness and validity of the Trademark and the Trademark Registrations and the Trade Names and the Trade Name Registrations, subject to this Agreement.

4. GOVERNING AND SUPERSEDING AGREEMENT. The parties hereto agree that this Agreement shall supersede, govern solely, and have priority over that certain Commissioner's Assignment of Contracts, Permits, Licenses, and Claims, dated _____, 2003 (the "Commissioner's Assignment"), by and between the Commissioner, as assignor, and Royal Kaanapali Holdings, LLC, as assignee, as and to the extent the Commissioner's Assignment relates to or affects (i) any and all right, title, and interest in and to the names "Kaanapali", "Royal Kaanapali Golf Courses" or "Kaanapali Golf Courses", or (ii) trade names, trademarks, logos, prints, labels, advertising concepts and literature relating to or connected with the Property or the Kaanapali Golf Courses, or the ownership or operation thereof, including without limitation the trade names or other registrations more specifically identified in Exhibit "B-6" of the Commissioner's Assignment, or (iii) any and all other intangible property rights or general intangibles, if any, that are covered by this Agreement. In the event of any conflict or inconsistency between this Agreement and the Commissioner's Assignment, this Agreement shall solely govern and prevail.

5. DISCLAIMER OF WARRANTY. ASSIGNEE ACCEPTS THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO "AS IS" AND ASSIGNOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INFRINGEMENT.

6. GOVERNING LAW. This Agreement, and all of the relationships between the parties hereto, shall be construed and interpreted in accordance with the laws of the State of Hawaii.

7. OTHERS BOUND BY THIS AGREEMENT. This Agreement will be binding upon, and inure to the benefit of, the Assignor and Assignee and their respective successors and assigns, including any licensee or assignee of any interest in the Trademark, Trade Names, or Whale Logo.

8. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto with respect to the matters described herein. No dealings between the parties or custom shall be permitted to contradict, add to, or modify the terms hereof. No waiver or amendment of the provisions hereof shall be effective unless in writing and signed by all parties.

9. COUNTERPARTS; FACSIMILE SIGNATURES. This Agreement may be executed in one or more counterparts. It shall be fully executed when APIC, AHL, KDC, the Commissioner, and Assignee have signed and delivered at least one counterpart, even if no one counterpart contains the signature of the APIC, AHL, KDC, the Commissioner, and Assignee. Each executed counterpart shall be deemed an original, but all such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile signatures on this Agreement shall be binding and effective for all purposes and treated in the same manner as original physical signatures on this Agreement, but that (without affecting the binding force and effect of the facsimile signature) any party executing this Agreement by telefacsimile shall be required to deliver a counterpart of this Agreement bearing such party's original physical signature within ten (10) days after such party's execution hereof by telefacsimile.

10. SEVERABILITY. If any provision of this Agreement shall be declared to be invalid, illegal, void or unenforceable, that provision shall be enforced to the fullest extent permitted under applicable law, and, provided that the material purposes of this Agreement may still be accomplished, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

AMFAC HAWAII, LLC,
a Hawaii limited liability company

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

AMFAC PROPERTY INVESTMENT CORP.,
a Hawaii corporation

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

KAANAPALI DEVELOPMENT CORP.,
a Hawaii corporation

By Peggy H. Sugimoto
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

Assignor

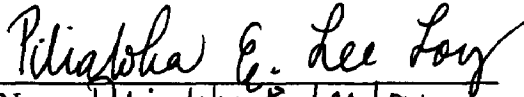
Joseph M. Toy
JOSEPH M. TOY, as Commissioner

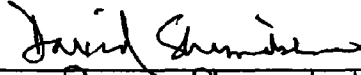
APPROVED AS TO FORM:

ROYAL KAANAPALI HOLDINGS, LLC,
a Hawaii limited liability company

By 
Special Deputy Attorney General

By: Employees' Retirement System of the State
of Hawaii, a governmental agency of the
State of Hawaii
Its Member

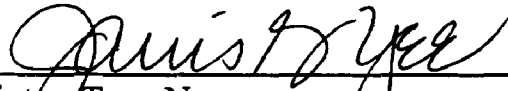
By 
Name: Pili'aloa E. Lee Loy
Title: Trustee

By 
Name: David Shimabukuro
Title: Administrator

Assignee

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

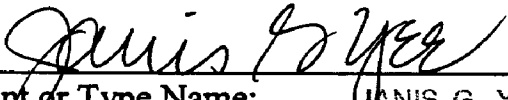


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

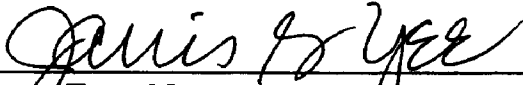


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

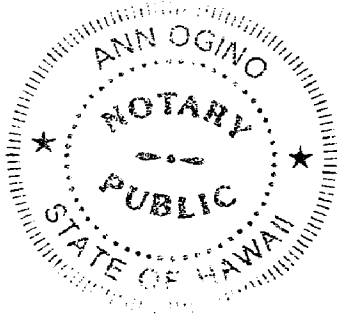


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On SEP - 3 2003, _____, before me personally appeared JOSEPH M. TOY, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



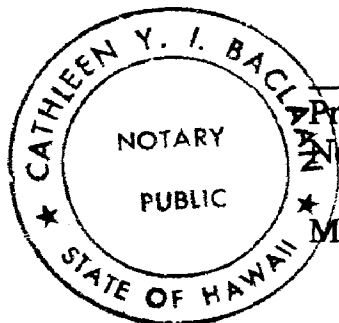
Ann Ogino

Print or Type Name:
Notary Public, State of Hawaii

My commission expires: Ann Ogino
Expiration Date: July 30, 2004

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

On MAY 16 2003, _____, before me personally appeared Puialoha E. Lee, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



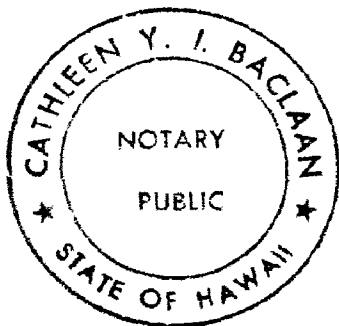
Cathleen Y. I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

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

On MAY 16 2003, _____, before me personally appeared David Shimabukuro, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

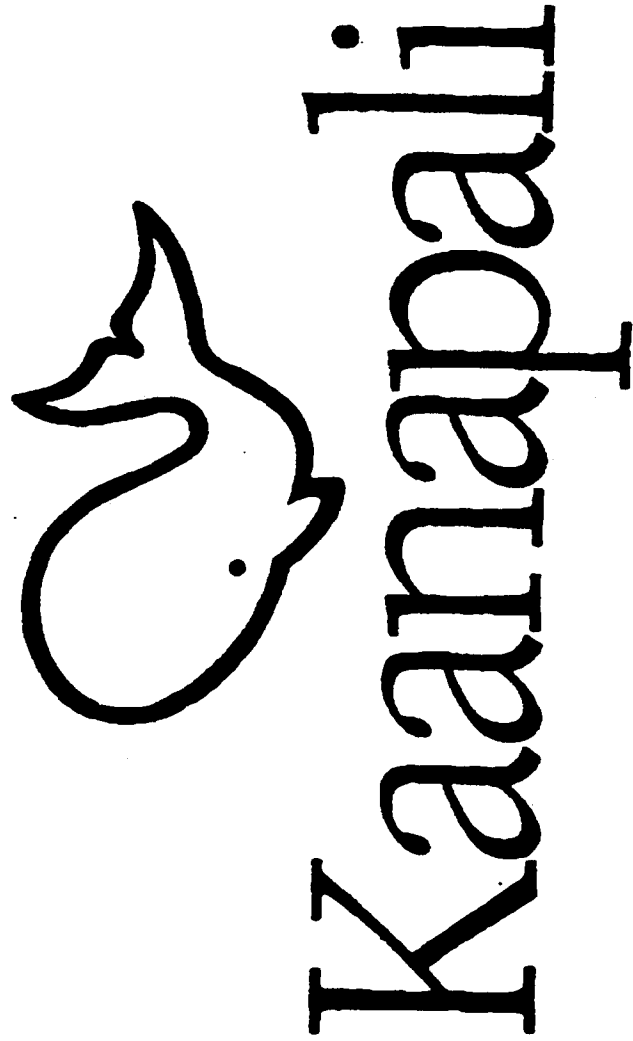


Cathleen Y. I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

EXHIBIT "A"



ASSIGNMENT AND CO-EXISTENCE AGREEMENT

This AGREEMENT is made this SEP - 9 2003 day of SEP - 9 2003, 2003, by and between AMFAC PROPERTY INVESTMENT CORP., a Hawaii corporation ("APIC"), KAA NAPALI DEVELOPMENT CORP., a Hawaii corporation ("KDC"), and AMFAC HAWAII, LLC, a Hawaii limited liability company, formerly known as Amfac/JMB Hawaii, L.L.C. and successor-in-interest to AMFAC/JMB HAWAII, INC., a Hawaii corporation ("AHL"), whose principal place of business is at 700 Bishop Street, Honolulu, Hawaii 96813 (AHL, APIC, and KDC being referred to herein as "Assignor"), JOSEPH M. TOY, acting in his capacity as the Commissioner (as defined below), whose business address is Suite 2124, Fort Street Tower, Topa Financial Center, 745 Fort Street, Honolulu, Hawaii 96813, and ROYAL KAA NAPALI HOLDINGS, LLC, a Hawaii limited liability company ("Assignee"), the principal place of business of which is 201 Merchant Street, 14th Floor, Honolulu, Hawaii 96813.

RECITALS:

A. AHL has registered the trademark or service mark "Kaanapali" and "Ka'anapali" (the "Trademark") with the U.S. Patent and Trademark Office ("USPTO") on various dates and in various classifications, including on the following dates and in the following classes (collectively, the "Trademark Registrations"):

<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>	<u>Description</u>
Oct. 29, 1996	2,011,491	25	golf shirts, shirts, sweaters, jackets, shorts, socks, headwear and sweatshirts
Oct. 29, 1996	2,011,489	28	golf clubs, golf balls, golf club covers, golf bags, golf bag strap covers, golf tees, golf ball markers, divot repair tools (golf accessory), golf gloves and golf bag
Oct. 29, 1996	2,011,652	41	golf course services and entertainment in the nature of golf tournaments

B. AHL has used the Trademark since 1961 in connection with the development, operation, and marketing of the Kaanapali Beach Resort.

C. APIC and KDC have also adopted and used the trade names "Royal Kaanapali", "Royal Kaanapali Golf Courses", "Royal Kaanapali Clubhouse", "Royal Kaanapali Golf Club", "Kaanapali Golf Course", and "Kaanapali Country Club" (collectively, the "Trade Names") in connection with the operation of two eighteen-hole golf courses, and certain related operations, at the Kaanapali Beach Resort, on the Island of Maui, State of Hawaii, known as the "Royal Kaanapali Golf Courses" and the "Kaanapali Golf Courses" (and referred to herein as the "Kaanapali Golf Courses"), and hold the following trade name registrations at the State of Hawaii Department of Commerce and Consumer Affairs ("Hawaii DCCA") on the following dates:

<u>Trade Name</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Royal Kaanapali Clubhouse	Jan. 28, 1997	202411
Royal Kaanapali Golf Club	March 14, 2002	259286
Royal Kaanapali Golf Course	June 23, 1994	169098
Kaanapali Golf Course	June 7, 1994	179205
Kaanapali Country Club	June 8, 1984	22862

D. AHL has also obtained the following Japanese trademark registrations for the trade name "Royal Kaanapali" issued with the following registration dates and in the following Japanese classes:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Japanese Class</u>
Royal Kaanapali	February 28, 1992	2,385,099	4
Royal Kaanapali	October 30, 1992	2,470,284	13
Royal Kaanapali	January 31, 1992	2,372,640	19
Royal Kaanapali	March 31, 1992	2,395,385	22
Royal Kaanapali	April 30, 1992	2,409,048	24
Royal Kaanapali	May 29, 1992	2,413,469	25
Royal Kaanapali	September 30, 1992	2,455,719	26
Royal Kaanapali	June 30, 1992	2,429,704	27

E. AHL has registered as a trademark a whale design logo, a design of which is attached hereto as Exhibit "A", with USPTO on the following dates and in the following classes as described below (the "Whale Logo"):

<u>Reg. Date</u>	<u>Reg. No</u>	<u>Class</u>	<u>Description</u>
Sept. 6, 1988	1,502,749	14	gold plated money clips and key chains
		18	tote bags, luggage and umbrellas
		25	shirts, blouses, sweaters, jackets, shorts, socks, golf gloves and headwear
		28	golf clubs, golf balls, golf club covers, golf bag strap covers, golf ball markers, golf ball mark repair tools
		35	promoting the business of tourism of various resorts in the Hawaiian Islands
Oct. 26, 1993	1,801,177	41	golf course services
		41	entertainment services in the nature of golf tournaments

F. KDC holds the following trademark registrations for the Whale Logo as registered at the Hawaii DCCA on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>
Whale Design (double banded)	April 10, 1994	166322
Whale Design (single banded)	February 12, 1993	149214
Whale Design (single w/ words)	December 23, 1992 (extended October 8, 2002)	148245

G. AHL has obtained the following Japanese trademark registrations for a double banded Whale Logo in the following classes on the following dates:

<u>Trademark</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Class</u>
Whale Design	July 22, 1988	2,064,690	4
Whale Design	March 30, 1998	2,031,281	13
Whale Design	December 18, 1997	2,009,422	17
Whale Design	October 27, 1997	1,990,122	19
Whale Design	June 24, 1998	2,057,214	21
Whale Design	September 30, 1998	2,077,793	22
Whale Design	May 26, 1998	2,049,702	24
Whale Design	November 30, 1988	2,090,069	25
Whale Design	May 26, 1998	2,047,918	26
Whale Design	November 30, 1988	2,094,213	27

H. AHL and its subsidiaries, including APIC, have used the Whale Logo in connection with the Kaanapali Golf Courses and related operations.

I. On or about June 25, 1991, AHL, APIC, and Pioneer Mill Company, Limited ("PMCo"), which is also a subsidiary of AHL, as "Borrower," entered into a Loan Agreement of the same date with the Employees' Retirement System of the State of Hawaii (the "ERS"), as "Lender." Pursuant to the Loan Agreement, APIC and PMCo granted to the ERS a mortgage on the real property comprising the Kaanapali Golf Courses and certain other real property and a security interest in and to, inter alia, all of APIC's and PMCo's general intangible assets relating to such real property (inclusive of the Kaanapali Golf Courses), including without limitation the name "Royal Kaanapali Golf Courses," and any trade names, trademarks, prints, labels, advertising concepts and literature relating to such real property or the Kaanapali Golf Courses.

J. Contemporaneously herewith, pursuant to a final Order Confirming Sale and a Final Judgment Confirming Sale in that certain foreclosure action entitled "Employees Retirement System of the State of Hawaii vs. Amfac/JMB Hawaii, L.L.C., et al.," Civil No. 00-1-2597-08, Circuit Court, First Circuit, State of Hawaii, JOSEPH M. TOY, as the Court-appointed Commissioner in such foreclosure action (the "Commissioner"), conveyed to Assignee the real property on which the Kaanapali Golf Courses are located and certain other real property (the "Property"), by that certain Commissioner's Deeds dated _____, 2003, in favor of Assignee, recorded as appropriate in the Bureau of Conveyances of the State of Hawaii as Documents Nos. _____, _____, and _____, and in the Office of the Registrar of the Land Court of the State of Hawaii as Documents Nos. _____ and _____, and, by separate instruments, all of the personal property used in connection with the operations related thereto. (All references herein to the "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses" in this Agreement shall mean the two 18-hole golf courses, clubhouse, and related improvements located within the Property.)

K. In connection with and pursuant to the foregoing foreclosure proceedings and the foregoing Orders entered therein, and the Settlement Agreement dated March 14, 2003, between Assignor, PMCo, and ERS, Assignor wishes to (1) assign to Assignee the Trade Names and the Whale Logo for its use in connection with the Property, the Kaanapali Golf Courses, and/or any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property); and (2) license to Assignee the right to use the Trademark and the name "Kaanapali" in connection with any and all such development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether or not related to golf course or other activities or operations on the Property).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. ASSIGNMENT OF TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO. Assignor and the Commissioner, as their interests appear, hereby assign to Assignee all of Assignor's and the Commissioner's right, title and interest in and to the Trade Names, including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses", and the Whale Logo and the registrations relating thereto listed above in Recitals C, D, E, F and G (collectively, the "Trade Name Registrations"), the goodwill associated therewith, and the right to sue for past infringements relating thereto. Assignee shall be solely responsible for preparing and filing all assignment documents necessary to transfer all federal, state and foreign trademark, trade name, and domain name registrations for the Trade Names and the Whale Logo and for maintaining and renewing such registrations. Assignor shall cooperate with Assignee in effectuating such transfers and execute all necessary documents. There shall be a separate bill of sale to evidence the transfer to Assignee of inventory of golf-related products which bear the Trade Names and/or the Whale Logo.

2. GRANT OF LICENSE. Assignor hereby, pursuant to Assignor's rights under the Trademark Registrations, grants to Assignee a perpetual, non-exclusive, royalty-free license to use the Trademark (and specifically the name "Kaanapali") in connection with (a) the Trade Names (including without limitation "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses") and the "Kaanapali-golf.com" domain name, which Trade Names and domain name shall be the exclusive property of Assignee, and (b) the Property and any

and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property (whether used for golf course or other activities or operations), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that Assignee shall have the right to the use of the Trademark (and the Trade Names) in advertising and promoting outside of Hawaii and in the continental United States, Japan, and elsewhere, any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property. Assignee agrees, however, that Assignee's use of the Trademark and any licenses granted pursuant to clause (b) immediately preceding shall be: (1) limited to development activities, businesses, operations, goods or services conducted, sold, or provided by Assignee in connection with the Property, and (2) sufficiently distinct from the singular and plural forms of any names which include the name "Kaanapali" that Assignor shall have previously put into service, so as not to create confusion with such names that Assignor has previously put into service. Assignee further agrees its use of the Trademark pursuant to this license shall be consistent with the overall quality of the Kaanapali Beach Resort. No licensee of Assignee shall have any rights to sub-license the Trademark.

3. CO-EXISTENCE AGREEMENT.

(a) Assignee agrees that Assignor shall have the full, complete and unfettered right to use or license the Trademark (and variants thereof that do not use "Royal") and trade names using "Kaanapali" (and variants thereof that do not use "Royal"), including all domain names containing the term "Kaanapali" (and variants thereof that do not use "Royal" and other than "kaanapali-golf.com"), in connection with the development, operation, marketing and sales of any other properties, operations, businesses, goods, services and activities, including, without limitation the development, ownership or operation of up to, but not more than, two (2) golf courses other than the Kaanapali Golf Courses (which two golf courses may, like the Kaanapali Golf Courses, be located on the western side of the Island of Maui ("West Maui")). Assignee further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignor to use the Trademark for such purposes. Assignee also agrees that its use of the Trade Names and the Whale Logo, and Assignee's use of the Trademark pursuant to the license provided in Paragraph 2, shall be limited to use in connection with the Property, the Kaanapali Golf Courses, and/or the activities and operations thereon.

(b) Assignor agrees that it shall not use or license the Trademark or the name "Kaanapali" in connection with the development and operation of more than two (2) golf courses other than the Kaanapali Golf Courses, and that its use and licensing of the Trademark and the name "Kaanapali" in connection with such golf courses and related operations shall be consistent with the overall quality of the Kaanapali Beach Resort. Assignor further agrees that the names of such golf courses shall be sufficiently distinct from the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" (and the singular or plural forms of any other name for the Kaanapali Golf Courses which includes the name "Kaanapali" that Assignee may hereafter use prior to the time that Assignor puts any such other golf course into service (the "Other Prior Established Name")), and that, under no circumstances, shall Assignor have the right to use (and Assignor shall not use) the names "Kaanapali Golf Courses" or "Royal Kaanapali Golf Courses"; it being understood and agreed, however, that Assignor shall have the right to use the terms "Kaanapali", "Golf", "Beach", "Course," "Courses" and "Resort" as part of the names of such golf courses in any manner that is sufficiently distinct so as not to create confusion with the singular or plural forms of the names "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses" and any such Other Prior Established Name. The determination whether any name meets the foregoing standard shall exclude consideration of the term "Kaanapali" so long as such name includes a distinguishing term other than "Golf", "Beach", "Course", "Courses" and "Resort". Nothing contained in this Paragraph 3(a) shall be deemed to give Assignor the right to use or license the Trademark or the name "Kaanapali" in connection with more than two (2) golf courses other than the Kaanapali Golf Courses.

(c) Assignor agrees that Assignee shall have the full, complete and unfettered right to use the Trade Names (including, without limitation, "Kaanapali Golf Courses" and "Royal Kaanapali Golf Courses"), the Whale Logo and the domain name "kaanapali-golf.com", in connection with any and all development activities, businesses, licenses, operations, goods or services conducted, sold, or provided by Assignee in

connection with the Property (whether or not related to golf course or other activities or operations on the Property), including without limitation the Kaanapali Golf Courses and any related operations. Assignor further agrees that it shall in no way interfere with or challenge, or assist or encourage others to interfere with or challenge, the rights of Assignee to use the Trade Names and the Whale Logo for such purposes.

(d) Assignor and Assignee intend and agree that Assignor's usage of the Trademark and Assignee's use in accordance with this Agreement of the Trade Names and the Trademark pursuant to the license described in Paragraph 2 above shall prevent confusion and dilution. Assignor and Assignee agree to cooperate in preserving the distinctiveness and validity of the Trademark and the Trademark Registrations and the Trade Names and the Trade Name Registrations, subject to this Agreement.

4. GOVERNING AND SUPERSEDING AGREEMENT. The parties hereto agree that this Agreement shall supersede, govern solely, and have priority over that certain Commissioner's Assignment of Contracts, Permits, Licenses, and Claims, dated _____, 2003 (the "Commissioner's Assignment"), by and between the Commissioner, as assignor, and Royal Kaanapali Holdings, LLC, as assignee, as and to the extent the Commissioner's Assignment relates to or affects (i) any and all right, title, and interest in and to the names "Kaanapali", "Royal Kaanapali Golf Courses" or "Kaanapali Golf Courses", or (ii) trade names, trademarks, logos, prints, labels, advertising concepts and literature relating to or connected with the Property or the Kaanapali Golf Courses, or the ownership or operation thereof, including without limitation the trade names or other registrations more specifically identified in Exhibit "B-6" of the Commissioner's Assignment, or (iii) any and all other intangible property rights or general intangibles, if any, that are covered by this Agreement. In the event of any conflict or inconsistency between this Agreement and the Commissioner's Assignment, this Agreement shall solely govern and prevail.

5. DISCLAIMER OF WARRANTY. ASSIGNEE ACCEPTS THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO "AS IS" AND ASSIGNOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRADE NAMES, TRADE NAME REGISTRATIONS AND WHALE LOGO, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INFRINGEMENT.

6. GOVERNING LAW. This Agreement, and all of the relationships between the parties hereto, shall be construed and interpreted in accordance with the laws of the State of Hawaii.

7. OTHERS BOUND BY THIS AGREEMENT. This Agreement will be binding upon, and inure to the benefit of, the Assignor and Assignee and their respective successors and assigns, including any licensee or assignee of any interest in the Trademark, Trade Names, or Whale Logo.

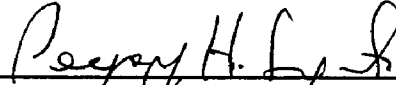
8. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto with respect to the matters described herein. No dealings between the parties or custom shall be permitted to contradict, add to, or modify the terms hereof. No waiver or amendment of the provisions hereof shall be effective unless in writing and signed by all parties.

9. COUNTERPARTS; FACSIMILE SIGNATURES. This Agreement may be executed in one or more counterparts. It shall be fully executed when APIC, AHL, KDC, the Commissioner, and Assignee have signed and delivered at least one counterpart, even if no one counterpart contains the signature of the APIC, AHL, KDC, the Commissioner, and Assignee. Each executed counterpart shall be deemed an original, but all such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile signatures on this Agreement shall be binding and effective for all purposes and treated in the same manner as original physical signatures on this Agreement, but that (without affecting the binding force and effect of the facsimile signature) any party executing this Agreement by telefacsimile shall be required to deliver a counterpart of this Agreement bearing such party's original physical signature within ten (10) days after such party's execution hereof by telefacsimile.


10. SEVERABILITY. If any provision of this Agreement shall be declared to be invalid, illegal, void or unenforceable, that provision shall be enforced to the fullest extent permitted under applicable law, and, provided that the material purposes of this Agreement may still be accomplished, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.


AMFAC HAWAII, LLC,
a Hawaii limited liability company

By 
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

AMFAC PROPERTY INVESTMENT CORP.,
a Hawaii corporation

By 
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

KAANAPALI DEVELOPMENT CORP.,
a Hawaii corporation

By 
Name: PEGGY H. SUGIMOTO
Title: SENIOR VICE PRESIDENT

Assignor

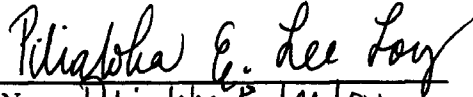

JOSEPH M. TOY, as Commissioner

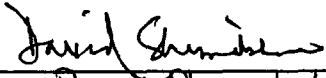
APPROVED AS TO FORM:

ROYAL KAA NAPALI HOLDINGS, LLC,
a Hawaii limited liability company

By 
Special Deputy Attorney General

By: Employees' Retirement System of the State
of Hawaii, a governmental agency of the
State of Hawaii
Its Member

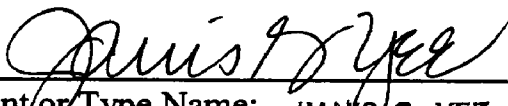
By 
Name: Pili'aloa E. Lee Loy
Title: Trustee

By 
Name: David Shimabukuro
Title: Administrator

Assignee

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

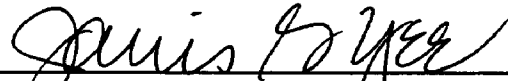


Print or Type Name: JAMES G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

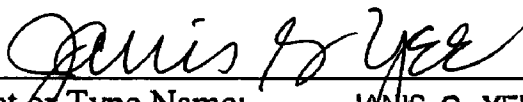


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On MAY 16 2003, _____, before me personally appeared PEGGY H. SUGIMOTO, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

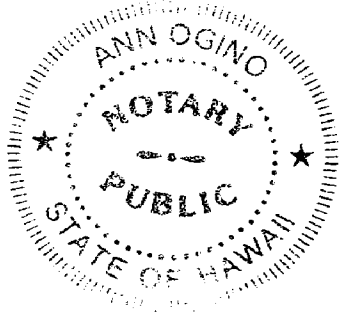


Print or Type Name: JANIS G. YEE
Notary Public, State of Hawaii

My commission expires: DEC. 29, 2005

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

On SEP - 3 2003, _____, before me personally appeared JOSEPH M. TOY, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



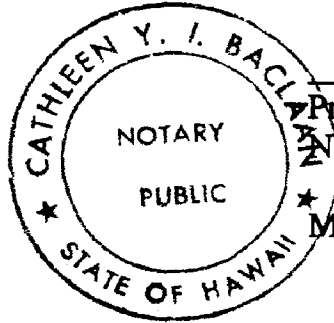
Ann Ogino

Print or Type Name:
Notary Public, State of Hawaii

My commission expires: Ann Ogino
Expiration Date: July 30, 2004

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

On MAY 16 2003, _____, before me personally appeared Puialoha E. Lee, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



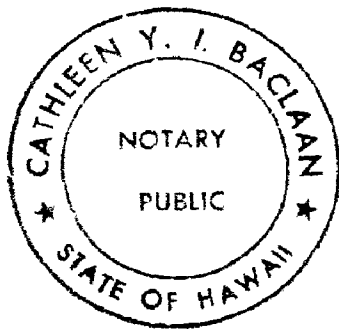
Cathleen Y. I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

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

On MAY 16 2003, _____, before me personally appeared David Shimabukuro, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Cathleen Y. I. Bacloan

Print or Type Name: Cathleen Y.I. Bacloan
Notary Public, State of Hawaii

My commission expires: 4-12-04

EXHIBIT "A"

