

Registration No. TD(P)-49  
Date Accepted December 26, 1981  
Date Revised March 6, 1990

November 14, 1991  
December 31, 1991

**DISCLOSURE STATEMENT**

**ON**

MAUI LEA TIME INTERVAL PROGRAM  
*Name of Time Share Plan or Building*

KIHEI, MAUI, HAWAII  
*Location*

**READ THIS  
DISCLOSURE STATEMENT  
BEFORE SIGNING  
ANYTHING**

The disclosure statement is prepared and issued by the developer of the time share plan. It is NOT prepared or issued by the State of Hawaii.

**THE STATE OF HAWAII HAS NOT PASSED ON THE MERITS OF THE TIME SHARE PLAN DESCRIBED HEREIN.**

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

State of Hawaii

Form TS-9

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## DISCLOSURE STATEMENT

### 1. DEVELOPER

The developer of the Maui Lea Time Interval Program is:

Kraus-Anderson Resort Properties, Inc.  
2510 Minnehaha Avenue South  
Minneapolis, Minnesota 55404  
(612) 721-4877

### 2. PLAN MANAGERS

Administration and management of the time sharing program is the responsibility of the Maui Lea Time Interval Owner's Association (the "Association"), a non-profit corporation. (It is discussed later in Section 16). However, the Board of Directors of the Association must use its best efforts to hire a reputable firm to perform all of the duties of the Association. That firm is called the "plan manager". The plan manager acts under the authority and supervision of the Board of Directors of the Association.

The current plan managers for the Maui Lea Time Interval Program are:

Hotel Corporation of the Pacific, Inc.  
dba Aston Hotels and Resorts  
2255 Kuhio Avenue, 18th Floor  
Honolulu, Hawaii 96815  
(808) 923-0745

Frank L. Robar, Certified Public Accountant  
P.O. Box 1079  
Kihei, Maui, Hawaii 96753  
(808) 879-9232

The responsible managing employee is:

Frank L. Robar, Certified Public Accountant  
P.O. Box 1079  
Kihei, Maui, Hawaii 96753

The co-plan managers are jointly referred to herein as plan manager.

The responsible managing employees for the Plan Manager (persons who are directly in charge of the management of the time share program) are:

Ruth Shiota	Resident Manager
Aston Hotels & Resorts	Maui Hill Resort
2255 Kuhio Avenue	2881 South Kihei Road
Honolulu, HI 96815-2658	Kihei, Maui, HI 96753
(808) 923-0745	(808) 879-6321

#### A. Powers and Duties of the Plan Manager

The plan manager is responsible for the administration and operation of the time share program. Its duties include, for example,

organizing and conducting meetings of the Association, collecting the Association fees and other charges from owners, payment of bills for the program, including real property taxes and assessments charged to the apartments, keeping records of the Association, handling bank accounts, preparing the budget and financial statements, maintaining and repairing the apartments and furnishings, buying insurance policies to cover the apartments and furnishings, supervising use of the apartments and enforcing the restrictions on that use. The plan manager can enter into contracts with others for services to the time share program. With limited exceptions, no contract can be more than one year in length unless authorized by the Association. The plan manager will provide maid service and clean linen to the apartments once a week and may conduct an inventory after each use of the apartments to see if any items are damaged or missing.

#### B. Things For Which The Plan Manager Is Not Responsible (The Association and The Developer Are Also Not Responsible)

The plan manager may not be held responsible for the acts, failure to act, or conduct of any owner, exchange user or their visitors or any exchange company. An "exchange user" is someone who uses an apartment through an exchange of occupancy rights under recognized exchange programs. The "exchange company" arranges the exchange. See section 3.F. The Association and the developer also may not be held responsible.

#### C. Selection, Replacement And Fees Of The Plan Manager.

The Board of Directors of the Association hired the present plan manager and will decide when to replace the plan manager and will pick the replacement.

The Board may hire a plan manager on a contract lasting up to three (3) years. After the first three years, the contract will be automatically extended one year at a time unless the Board or the plan manager ask that it not be renewed. The Board may cancel the contract if the plan manager violates it. The Board must not renew it if asked to do so by the owners having a majority of the time share interests.

The fees paid to the plan manager shall be determined by the Association.

### 3. TIME SHARE PLAN

#### A. Background Information

The time share program was created on April

15, 1980 when a Time Share Declaration was recorded. That Declaration, as later revised, put certain apartments in the Maui Hill condominium project into the time share program. The apartments in the program are called "time shared apartments". Each of those apartments comes with a lease to use the land until the year 2049. After that, the apartments must either be torn down or removed or conveyed to the Sublessor under the Condominium Conveyance Document.

The developer has filed with the State preliminary title reports confirming its ownership interests in each apartment in the program, those title reports are described in more detail below in Section 9.

#### B. *The Buyer's Interest*

The Maui Lea Time Interval Program is a time share ownership plan. The developer has divided each time shared apartment into 50 shares called "time share interests". Each time share interest includes ownership of a 2% interest or share in the apartment and the right to use the apartment for about one week (the "use period"). The buyer of a time share interest in the Maui Lea Time Interval Program is buying an interest in a specific apartment. It is identified in the sales contract. He is also buying the right to use that apartment during a specific use period each year. The use period is also identified in the sales contract.

A buyer's right to use the apartment will end when the lease for the land expires (November 20, 2049) or when the apartment is withdrawn from the time share plan. His right to use it will also end if the apartment is condemned or destroyed and not replaced. And, if the Declaration for the Maui Hill condominium project (the "Master Declaration") is terminated, his right to use the apartment will end.

Each person who buys a time share interest in Maui Lea Time Interval Program will receive a time share deed and lease from the developer at closing. A buyer may buy a title insurance policy for his time share interest from a title insurance company of his choice. The escrow company will make the arrangements for the policy but the buyer will have to pay the entire cost and any fees charged to arrange it.

#### C. *Rights and Responsibilities of Buyers.*

Every owner of a time share interest and every occupant of a time shared apartment is subject to all of the requirements and restrictions in two separate sets of documents. The first set governs the time share program and includes the Declaration, the by-laws of the Association and rules and regulations adopted by the Association, as amended to date. (Those documents are called

the "time share documents") The second set of documents governs the condominium project and includes the Master Declaration, the by-laws of the condominium association, and the rules and regulations adopted by the condominium association, as amended to date (Those documents are called the "condominium documents").

(1) Under the time share documents the owner of a time share interest has the right to use his apartment, its furnishings and the common elements in the Maui Hill condominium project (areas of the project owned in common - for example, the pool) during the use period identified in his sales contract. He may not use the apartment, the furnishings or the common elements at any other time. Owners must obey check-in and check-out procedures and take care of the apartment and its furnishings during their use period. Owners are not permitted to make repairs or alterations to the apartments - the Board of Directors will be responsible for deciding when and how repairs will be made. No more than 4 persons may stay in a one bedroom apartment, 6 in a two bedroom apartment, or 8 in a three bedroom apartment. There are restrictions on the use of the apartment for anything other than vacation purposes. No pets are permitted in the apartments.

(2) An owner may permit guests to use his apartment during his use period and he does not have to be present. However, both he and guests will be held responsible for any damage, expenses which his guests cause, whether or not he is present. (Owners are not responsible for loss or damage caused by persons who occupy his apartment during his use period through a recognized exchange program.)

(3) Although an owner can rent his unit, he must make the arrangements himself. No rental assistance can be provided by the developer, the plan manager or the sales agent. Furthermore, until December 31, 2001, an owner cannot join a "rental pool" or any similar arrangement which permits pooling of owners' use periods, rental income and/or expenses.

(4) Owners are responsible for paying the Association fees which include amounts for real property taxes, for lease rent, for repair and maintenance of the apartments and for other costs of operation and administration.

(5) For a complete and detailed explanation of the responsibilities of buyers of time share interests in Maui Lea Time Interval Program and restrictions on use of the apartments, the buyer should review the time share documents and the condominium documents. A copy will be provided when the buyer signs the sales contract.

**D. Rights and Responsibilities of the Developer.**

(1) The developer is considered the owner of all unsold time share interests and must pay the Association fees for those interests.

(2) For a period of 20 years after the Revised Declaration is recorded, the developer has the right

(a) to use the apartments and the common elements for the purpose of selling time share interests and providing services to its customers; however, the developer must minimize any interference with the rights of owners to use and occupy the apartments; and

(b) to add more apartments to or withdraw apartments from the program.

(3) The developer has the right to rent the apartments during any unsold use periods.

(4) The developer may sell his interest in the time share program but anyone who buys the developer's interest as the "developer" will be bound by the same restrictions and have the same rights as the developer.

**E. Enforcement of Owners' Duties and Restrictions on Owners' Rights in the Time Share Program.**

If anyone violates any of the provisions of the time share documents or the condominium documents, the Association or any other owner can enforce those provisions as permitted in those documents. The provisions can be enforced in a court of law or by any of the methods described in the time share documents. For example, a violation could result in the Board of Directors imposing a fine against the owner or suspending his right to use the time shared apartment. Such disciplinary action by the Board can be taken if the owner fails to pay any amount due to the Association or for a violation of any provisions of the documents. The Board must provide the owner an opportunity to explain why he feels the fine or suspension should not be imposed unless the reason for the fine or suspension is his failure to pay amounts due to the Association.

An owner who fails to pay his Association fees or personal charges or who fails to perform other obligations under the Declaration also risks losing his time share interest through "foreclosure" proceedings. This means his time share interest may be taken from him and sold with or without a court order. The owner whose interest is being sold must be given certain notices and a chance to cure the default before the sale. A defaulting owner will be liable for all amounts past due plus late charges, interest, attorneys' fees, costs and other expenses incurred in an effort to collect that amount. If the foreclosure sale does not bring in enough money to pay all of those amounts, the owner will remain personally liable to the Association.

If an owner fails to vacate the time shared apartment at the end of his use period, he will be evicted immediately. In addition, he will have to repay the Association and the owner or owners who are unable to use the apartment as a result of his actions for any expenses they incurred in obtaining another place to stay or in evicting him. He will also be liable for "liquidated damages" which is an amount equal to twice the daily rental value of the apartment as determined by the Board for each day he prevents use by other owners. Any owner who damages the apartment so as to prevent another owner from using that apartment will be liable for the same charges and liquidated damages.

**F. Exchange Programs.**

At his own option and risk, any owner may participate in any exchange program. An exchange program permits owners of time share interests in one place to exchange their occupancy rights with owners of time share interests at another place. Any rule or regulation of the exchange program will not change or suspend the duties of the owner under the time share documents. Any amounts charged to the owner relating to the exchange program will not change or reduce the owner's obligation to pay his Association fees and personal charges.

The Maui Lea Time Interval Program has been accepted in an exchange program provided by:

Resort Condominiums International ("RCI")

P.O. Box 80229

Indianapolis, Indiana 46280

(800) 338-7777

RCI is not affiliated with the developer; it is an entirely separate company. The developer has no control over RCI and is not RCI's agent. The only relationship between RCI and the developer is that the developer has paid the application fee for the Maui Lea Time Interval Program to become a member of the exchange service and has agreed to pay the membership fee for any buyer of a time share interest in the Maui Lea Time Interval Program for one year. Each owner must pay his own membership fees after the first year if he wants to continue to be a member. Because it has no control over the exchange company or its program, the developer cannot guarantee any buyer of a time share interest the right to exchange.

The developer has a contract with RCI. If that contract is not renewed, the owner may continue with RCI as long as he pays the fees and the time sharing program meets standards set by RCI. The developer cannot make any forecasts about an

owner's chance for making a successful exchange or any other promise or representation about RCI's program. Any information about the exchange program, including costs, should be obtained from a representative of RCI.

The developer is not responsible for RCI's exchange program or its program material or any representations or promises about its program. Under Hawaii law, Chapter 514E, the developer has no liability for publishing or giving out current written materials supplied to the developer by RCI.

The Association has approved inclusion of the Maui Lea Time Interval Program in an exchange program provided by Trading Places ("Trading Places"), 2881 South Kihei Road, Kihei, Maui, Hawaii 96753.

Trading Places is not affiliated with the developer; it is an entirely separate company. The developer has no control over Trading Places and is not Trading Places' agent. Trading Places does not have a direct relationship with the developer by contract or otherwise. The Association has agreed to recognize Trading Places as an exchange program for use by owners at Maui Lea. This recognition may be withdrawn at any time by the Association. Each owner must pay his own fees to Trading Places. Because they have no control over Trading Places or its program, neither the developer nor the Association can guarantee any buyer of a time share interest the right to exchange.

Neither the developer nor the Association can make any forecasts about an owner's chance for making a successful exchange or for any other promise or representation about the Trading Places program. Any information about this program including costs shall be obtained from a representative of Trading Places. Neither the developer nor the Association is responsible for Trading Places exchange program or its program material or any representation or promises about its program. Under Hawaii Law Chapter 514E, the developer has no liability for publishing or giving out current materials supplied to the developer by Trading Places.

An owner's exchange privileges can be suspended by the Board of Directors of the Association along with the owner's right to use his apartment for a violation of the time share documents or the condominium documents.

At present the only exchange companies which have been designated as recognized exchange companies for the purpose of the Maui Lea Program are RCI and Trading Places. Other exchange companies exist, however, owners will be fully responsible for any exchange users through such other exchange companies as if they were the

owners' own guests. Owners are advised to thoroughly check out such other exchange companies before using them.

#### 4. DESCRIPTION OF TIME SHARE UNITS, BUILDINGS, LOCATION, ETC.

The Maui Lea Time Interval Program is located in the Maui Hill condominium project at 2881 South Kihei Road, Kihei, Maui. The Maui Hill condominium project is a resort project on a hill over-looking the Pacific Ocean across the street from Maalaea Bay. It was completed in May, 1981. The project consists of twelve separate buildings holding a total of 140 condominium apartments located on about 12.25 acres of land. It also includes a swimming pool, tennis court and outdoor hot tub, shuffle board and putting green.

As noted above, each time shared apartment has been divided into 50 time share interests and each interest includes the right to use the apartment for about a week as well as a 2% ownership right. Additional apartments may be added to the time sharing program by the developer. Those apartments must be located in the Maui Hill condominium project.

There are three types of apartments in the project and in the time share program. The condominium documents described them as follows: Type I has one bedroom, two bathrooms and a lanai and has an approximate total floor area, including the lanai, of 1,034 square feet. Type II has two bedrooms, two bathrooms and two lanais and has an approximate total floor area, including the lanais, of 1,397 square feet. Type III is a two story apartment with three bedrooms, three bathrooms and three lanais and has an approximate total floor area, including the lanais, of 1,688 square feet.

The units currently in the Program are listed in Exhibit "C" attached hereto.

All apartments have wall-to-wall carpeting, along with carpeted lanais and walkways, draperies, mini-blinds, mirrored wardrobe closets and wet bars adjacent to the dining room. Upper floor apartments have beamed vaulted ceilings and lower floor apartments have railed sunken living rooms. All kitchens are equipped with all electric self-cleaning range, dishwasher, disposal, refrigerator with automatic through-the-door ice ejection and microwave oven with ducted hood fan. Appliances are complimented with Koa wood cabinets. Each apartment has a clothes - washer and dryer. The bathrooms have either cultured marble tubs or shower units complimented with simulated gold-plated or brass fixtures, large vanities with large mirror areas and side wall storage cabinets.

All apartments may be opened fully to the lar

by a series of french doors. The apartments are equipped with screen doors and mini-blinds to allow privacy and views during the evening time. In addition, all apartments have through-the-wall air conditioning units which are augmented with 52" deluxe cooling fans in each living room and bedroom. Each apartment is furnished with a complete furniture package.

Maui Hill sits near the entry to Wailea which is adjacent to the Kihei area, and located a few miles from the golf courses, tennis courts, shops and restaurants of Wailea. The Kahului airport, which is 18 minutes by jet from Honolulu, is a 20-minute drive from the condominium project.

The area has golf at Wailea and several other courses. Scuba diving and snorkeling in Maalaea Bay are permissible.

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The Maui Hill condominium project consists of existing building and structures. The developer is making no warranties, express or implied, about the time share interest, the apartments, the condominium project, or anything installed or contained in them. This means that the buyer will not have (1) any written warranties or (2) any warranties which the law might otherwise give him. This includes but is not limited to any warranties of merchantability, habitability, workmanlike construction, fitness for a particular use or any other warranties at all. Everything is being sold in its present condition, "as is", without any warranties except for warranties which are implied by law and which cannot be disclaimed by agreement.

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This means, among other things that the developer is selling everything as "used". It does not have to correct or fix any defects. It makes no difference what causes the defect or when it is discovered - the developer does not have to fix it or pay to have someone fix it. The Condominium Association or the Time Share Association usually will have to fix it and each owner will pay a share of the cost by paying Time Share Association fees.

The Association and/or Master Association must buy either fire insurance or "all risk" insurance covering the time shared apartments. It must also buy liability insurance with minimum limits of \$1,000,000 for personal injury and \$300,000 for property damage. The plan manager is required to keep copies of the policies on hand for inspection by owners of time share interests. If the apartment or any of its furnishings is destroyed or damaged, it will be repaired or replaced by the Association. The cost of that repair or replacement will be paid first by any available

insurance proceeds and any savings the Association may have. Additional amounts necessary to make the repair or replacement will come from a special assessment which the Association will charge to the owners. If the damage was caused by an owner, visitor, or exchange user, that person may be obligated to repay the Association for the cost of the repairs or replacement. Any owner can buy additional insurance at his own cost.

#### 5. MULTIPLE LOCATION TIME SHARE PLAN.

(If it is a multiple location time share plan, describe the plan, time share units, the building and its location. Give the total number of units, number of interests a unit is divided into, and the number of weeks or days per interest. If the building is under construction, give the schedule of completion of all units and amenities and dates of availability.) This paragraph is not applicable because the Maui Lea Time Interval Program is not a multiple location time share plan.

#### 6. TIME SHARE PLAN IN A CONDOMINIUM

The Maui Lea Time Interval Program is located in the Maui Hill condominium project. A description of the project is included in Paragraph 4, above.

The condominium documents provide that each apartment comes with an undivided interest in the common elements of the condominium project. The common elements consist of all parts of the project except the apartments. For example, the pool, hot tub, tennis court, grounds, driveways, and the outside of the apartment buildings are all common elements. The common elements are owned and used in common by all apartment owners. The undivided interest for each apartment is as follows: Each Type I apartment has a .5520 percentage interest in the common elements; each Type II has a .7465 percentage interest; and each Type III has a .9225 percentage interest. Common expenses of the condominium project are divided among the apartments in proportion to these undivided interests. Voting rights are also based on them. The term "common expenses" means and includes the expenses of operating the condominium project and all other amounts designated as common expenses under the condominium documents or the Hawaii condominium law.

Each apartment owner (including owners of time share interests) is responsible to pay the common expenses for his apartment. If the common expenses are not paid, an apartment can be taken from its owners and sold. (However, the Master Association must first give advance notice) The Association may also sue the apartment owners for the amounts due.

An apartment owner is obligated to pay all costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the Master Association for: (1) collecting unpaid common expenses or other charges owed by him; (2) foreclosing on and selling his apartment; (3) enforcing the condominium documents or (4) enforcing the rules and regulations of the Hawaii Real Estate Commission.

The Master Association and its managing agent may enter any apartment as needed to operate the condominium project or to make emergency repairs.

#### 7. RESTRAINTS ON TRANSFER OF BUYER'S INTEREST

A buyer can resell his time share interest to anyone for any price he wishes. However, no assistance in selling the interest will be provided by the developer, the sales agent or the plan manager. A buyer can also transfer his time share interest by giving it to another or by devising it to another in a will. The Association must be notified of any transfer, however, before it will recognize the new owner.

An owner may sell his time share interest on an "agreement of sale". In some states, an agreement of sale is called a "contract for deed" or "land sale contract" or "buy-sell agreement".

If an owner has not paid his Association fees or disobeys the time share documents, the Association may record a "notice of lien". This notifies everyone that the Association may take away the owner's time share interest and sell it. The money from the sale will be used to pay any amounts owed by the owner to the Association. The notice of lien may make it difficult or impossible for an owner to sell or transfer his time share interest.

#### 8. MUTUAL RESCISSION PROVISION.

Hawaii law provides that the developer or buyer may cancel a contract for the sale of a time share interest without penalty by giving the other party written notice within seven calendar days after (i) signing the contract, or (ii) the buyer receives this disclosure statement, whichever is later. Within fifteen calendar days after the date of the notice of cancellation, the seller must return all payments made and the buyer must return all sales materials received in good condition except for reasonable wear and tear. If the materials are not returned, then the developer may deduct the reasonable value of them (but not more than \$25). Each buyer will be given a notice of cancellation form (Department of Commerce and Consumer Affairs Form TS-10) with all pertinent information filled in by the developer at the time of purchase.

#### 9. TITLE DEFECTS OR ENCUMBRANCES

Preliminary title reports issued by T. Guaranty of Hawaii, Inc. show the following matters are of record and affect title to apartments in the Program:

1. the lien for real estate taxes not yet due;
  2. an easement granted to the Board of Water Supply of the County of Maui for water pipeline purposes (an easement is a right to use property owned by another);
  3. the master lease for the property and the assignment of that lease;
  4. the Declaration of Horizontal Property Regime and the Bylaws attached to that Declaration as amended to date (Those documents established the condominium project, as amended to date.);
  5. the Declaration of Covenants, Conditions and Restrictions for Time Share Ownership as amended to date (That document established the time share program.);
  6. an easement granted to Maui Electric Company to build, construct, reconstruct, rebuild, repair, maintain and operate underground power lines and so forth;
  7. an undivided on-half (1/2) interest in a well site;
  8. an easement to the County of Maui to construct, reconstruct, repair, operate and remove one or more water pipelines, fire hydrants, valves, meters, meter boxes and manholes and any related things;
  9. the Condominium Conveyance Document (the document transferring the apartment and the lease of the land to the developer); and
  10. one or more mortgages as collateral for loans to the apartment owner, and, in some cases, an agreement of sale in favor of the developer.
- NOTE: Before or with the closing of the sale of any time share interest, every mortgage or agreement of sale affecting that time share interest will be released by a partial or full release so that the buyer will receive clear title.

For more detailed information including recording information and dates, the buyer can review the title reports which have been filed with the State of Hawaii Department of Commerce and Consumer Affairs.

#### 10. PENDING OR ANTICIPATED SUITS

At the time this disclosure statement was accepted the developer was not aware of any pending or anticipated suits that are material to the time shared apartments or the time share plan.

## 11. FINANCIAL OBLIGATION OF BUYER

### A. Initial Purchase

Each buyer will be responsible to pay the sales price stated in his sales contract. The current sales prices for all time share interests in the program are set out on Exhibit "B" to this Disclosure Statement. In addition, the buyer must pay certain additional charges at closing. Those charges may include:

- (a) the escrow agent's fee
- (b) conveyance taxes
- (c) notary fees
- (d) recording costs
- (e) processing fee
- (f) costs of any title insurance
- (g) charges for credit reports

The current amounts for the additional charges are set out on Exhibit "B" to the Disclosure Statement.

The buyer must also pay any other expenses to close the sale charged by anyone other than the developer.

### B. After Closing

After closing the buyer will be personally obligated to pay time share association fees which include the cost of operating the time share program. The buyer will be liable for any special assessments charged by the Time Share Association. "Special assessments" are association fees charged to cover shortfalls in the budget or costs of repairing or restoring damaged apartments or furnishings. The buyer will also be liable for any "personal charges" which are expenses which result from his or her guests' acts or failures to act. An owner may not avoid liability for these fees or charges by not using his time share interest or by abandoning it.

### C. Exchange Programs.

The developer provides initial RCI membership to all new buyers. From then on, individual participation is voluntary. Participating owners must pay an annual renewal fee of \$65.00. If an owner asks for an exchange for an interest in the same program, an additional fee of \$89.00 must be paid when the Exchange Request Form is filed with RCI. The additional charge for a domestic exchange is \$89.00 and the additional charge for an International exchange is \$119.00. If the owner permits his RCI subscription to lapse, a \$200.00 membership fee plus the then-current year's subscription fee must be paid to RCI to reactivate membership status.

All participation in Trading Places is voluntary. For Maui Lea owners, there is no membership fee. If an owner asks for an exchange for an interest in

the same program, a fee of \$59.00 must be paid when the Exchange Request Form is filed with Trading Places. The charge for a domestic exchange is \$79.00 and the charge for an international exchange is \$99.00.

## 12. ESTIMATE OF TIME SHARE DUES

The budget for the time share program expenses is prepared by the plan manager and approved by the Board of Directors. The budget includes an estimate of expenses for operating of the program including, for example, lease rents, real estate taxes, insurance premiums, electricity, maid service and dues in the condominium owners association. It also includes an amount for reserves which provides a source of funds if expenses are more than estimated, if unexpected costs arise, and an amount for capital improvements. These amounts are earmarked for major replacements or repairs which will have to be done eventually.

Based on the budget, the plan manager computes each owners' share - his association fees. That share is a portion of the total based on the type of apartment he owns and the number of time share interests he owns. Generally, an owner of a time share interest in a larger apartment pays a bigger share of the expenses. The shares are directly tied to the apartment's number of bedrooms. Unless the Board obtains the appropriate approval by the owners, each owner's yearly share of the budget (the regular assessment) cannot increase more than 20% each year except for increases due to an increase of taxes or lease rent. If there is a shortfall in the budget or loss or damage to an apartment or furnishings, the Board can charge a special fee called a special assessment. The amount of special assessments charged in one year for repairs or replacements cannot exceed 10% of the regular assessment and the amount of special assessments charged for any other reason cannot exceed 5% of the regular assessments unless the Board gets the appropriate approval from the owners.

If an owner fails to pay the assessments when due, his time share interest can be taken from him and sold to pay the amount the owner owes for assessments, and personal charges plus attorneys fees, costs, interest, expenses or late charges. If the sale of the time share interest does not bring enough to pay all of those amount, the owner will remain personally liable. For a complete and detailed description of the owner's liability and the lien and the foreclosure procedures, the buyer should read the Declaration for the time share program.

The estimated monthly assessment for each time share interest and a breakdown of estimated



program expenses is given in the budget attached as Exhibit "A". The developer can make no assurances regarding the estimated program expenses. Variables such as inflation, uninsured accidental loss or damages, increased or decreased services from those contemplated by the developer, owner delinquencies (failure to pay assessments) and other factors may cause assessments to be more or less than the estimated basic assessments.

**NOTE: THE DEVELOPER ADVISES THAT COSTS AND EXPENSES OF MAINTAINING AND OPERATING A TIME SHARING PROGRAM IN A CONDOMINIUM PROJECT ARE DIFFICULT TO ESTIMATE. EVEN IF THEY ARE ACCURATELY ESTIMATED, THE COSTS WILL TEND TO INCREASE WITH INFLATION AND AS THE BUILDINGS GET OLDER, EXPENSES CAN VARY DEPENDING ON SERVICES DESIRED BY TIME SHARE OWNERS. THE BUYERS SHOULD CHECK THE BASIC EXPENSE BUDGET TO SEE WHAT SERVICES ARE INCLUDED IN IT.**

### 13. DEVELOPER AND SPECIAL ESCROW ACCOUNT

The developer has selected to be regulated under Rule 16-106-34(c) of the "Rules Relating to Time Sharing" promulgated by the Department of Commerce and Consumer Affairs. That Rule is intended to protect the buyer's right to refund in the event the time share apartments or facilities are not available. The funds will be held in the special escrow account until the buyer is given a time share deed and lease for that time share interest.

### 14. SPECIAL ESCROW ACCOUNT.

The special escrow account has been set up with:  
Standard Title and Escrow  
1993 So. Kihei Road, Suite 7  
Kihei, Hawaii 96753-0208

### 15. ESCROW AGREEMENT

The escrow agreement was signed by the developer and Standard Title and Escrow. The escrow agreement provides a method for completing the sale and at the same time it preserves the buyer's right to a refund for the statutory period. The escrow agreement also assures the buyer that he will receive a marketable title and that any blanket mortgages or other blanket liens on the time shared apartments are paid off and released.

Among other provisions, the escrow agreement provides that:

1. The escrow agreement is part of each sales contract to buy a time share interest. Because of this, it is binding on each buyer.

2. The escrow agent will hold any funds the buyer pays toward his time share interest in one or more special bank accounts. The escrow agent will also hold any loan documents (for example, notes, mortgages) from the buyer to be used to pay for the time share interest. The escrow agent will order the documents necessary to close the sale of the time share interest and will obtain the necessary signatures on those documents.

3. The escrow agent can close the sale when it holds the necessary funds and the appropriate documents, the time share interest has been released from any blanket mortgages, and any loan requirements have been met. The escrow agent will then record the appropriate documents, deliver copies of those documents to the parties and pay the funds in escrow to the persons or entities entitled.

4. Except as otherwise provided in the sales contract, a buyer may have a refund, only if one of the following has occurred:

(1) The developer tells the escrow agent in writing to return buyer's money; or

(2) A buyer or the developer tells the escrow agent in writing that buyer has used any right to cancel he has under the sales contract; or

(3) The developer uses any right to cancel it has under the sales contract or otherwise, except cancellation for buyer's default; or

(4) A buyer tells the escrow agent that he wants to use his right to cancel if the sale has not closed by one year after the developer signed the contract.

If the buyer is in default or if he cancels the contract (except during the cooling off period), before returning the buyer's funds, the escrow agent may deduct from those funds and pay any charges, including any escrow cancellation fee, provided for in the sales contract.

5. If the developer cancels the sales contract because of buyer's default, the escrow agent will dispose of any money in escrow as directed by the sales contract.

6. No matter what any other part of the escrow instructions say, none of the buyer's money will be given to the developer before:

(i) seven (7) days after buyer signed the sales contract; and

(ii) seven (7) days after buyer receives this disclosure statement; and

(iii) The day after the last day buyer is allowed (according to the sales contract) to cancel the sales contract.

7. The escrow agent will not be liable to the buyer, the developer or anyone else for acting as

directed by the escrow instructions, even if the developer, buyer or anyone else gives some contrary notice to the escrow agent.

8. If there is any dispute between the developer and buyer or if conflicting demands are made on the escrow agent, the escrow agent is not required to choose among them or take any action on them. The escrow agent can wait for the dispute to be finally decided by settlement or by appropriate legal proceedings.

9. Both the developer and buyer agree to indemnify (repay) the escrow agent for losses and damages suffered and all costs and expenses (including attorneys' fees) incurred by the escrow agent in connection with the Escrow Agreement (except for negligence or misconduct of the escrow agent).

10. The escrow agreement provides for various fees including escrow fees, cancellation fees and document change fees. For more detailed information concerning the amount of those fees and the party responsible to pay the fees, the buyer should review the escrow agreement. A copy will be provided when the buyer signs the sales contract.

#### 16. ESTABLISHMENT OF NON-PROFIT CORPORATION, CLUB MEMBERSHIP, OR ASSOCIATION.

The Maui Lea Time Interval Owners Association was established as a Hawaii non-profit corporation by the filing of its Charter of Incorporation with the Department of Commerce and Consumer Affairs of the State of Hawaii on October 6, 1981. Each owner of a time share interest in the Maui Lea Time Interval Program is a member of the Association and only owners are members. Each time share interest has one vote in the Association. If a time share interest is owned by more than one owner, all the owners will be members of the Association; but, for the purposes of the representation and voting, each time share interest has only one (1) vote. Membership in the Association cannot be separated from ownership of a time share interest and is automatically transferred upon any transfer of the time share interest.

The Association has the responsibility for the management and administration of the time share program and the time share apartments. The owners participate in the administration and management of the program through their voting rights in the Association. The owners elect a Board of Directors to govern the Association. The developer is considered the owner of unsold time share interests and holds the voting rights for those interests.

The Association, acting through the Board of Directors, has the authority and the responsibility

to do anything necessary to manage or administer the time share program and apartments. For example, it is responsible to repair and maintain the apartments and furnishings, to provide cleaning and maid service, to pay all taxes, lease rents, assessments, utilities, legal and accounting costs and other costs of the time share program, to have financial statements prepared and sent to each owner and to adopt rules and regulations for use of the apartments. The Board has the authority to take disciplinary action against owners who violate the time share documents or the condominium documents. The Board will represent the owners of time share interests in meetings of the condominium association and will vote on behalf of the owners unless otherwise instructed. As noted above in section 2, the Board will hire a plan manager to perform most of the Association's functions.

#### 17. DEVELOPER IS ALSO ACQUISITION AGENT OR SALES AGENT OR PLAN MANAGER.

The developer is not an acquisition agent or sales agent or the plan manager. However, one of the Hawaii sales agents, (Lea Properties, Ltd.) is an affiliate of the developer.

#### 18. COMPLIANCE WITH COUNTY REQUIREMENTS

Maui County has confirmed that the Maui Hill condominium project is located in a zone in which transient vacation rentals within the meaning of H.R.S. section 514E-1 are a permitted use pursuant to the Maui County Code.

#### 19. SERVICE OF PROCESS

Service of process (delivery of papers for a lawsuit) will be accepted by:

PHCS Hawaii, Inc.  
Suite 1600, Pauahi Tower  
1001 Bishop Street  
Honolulu, HI 96813

#### 20. METHOD OF SALES AND SALES AGENTS.

The time share interests will be offered and sold as real estate and all salespersons will be licensed real estate salesmen or brokers or will hold similar credentials in the state or county of their sales activity. The current sales agent for the State of Hawaii is Lea Properties, Ltd. 2881 South Kihei Road, Kihei, Maui, Hawaii 96753. Telephone: (808) 879-8802.

#### 21. SALES IN VIOLATION OF THE HAWAII TIME SHARE LAW.

Pursuant to Section 514E-11.3, Hawaii Revised Statutes, every sale or transfer made in violation of Chapter 514E, Hawaii Revised Statutes is voidable at the election of the buyer.