

ORIGINAL

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. 6-4878

between

STATE OF HAWAII

and

FORT ASSOCIATES LIMITED PARTNERSHIP

covering

PARCEL F, WAILUA COCONUT GROVE  
WAILUA, KAWAIHAE (PUNA), KAUAI, HAWAII

## TABLE OF CONTENTS

	<u>PAGE</u>
TERM OF LEASE . . . . .	1
ANNUAL RENTAL . . . . .	2
REOPENING OF ANNUAL RENTAL. . . . .	2
INTEREST RATE . . . . .	3
RESERVATIONS:	
1. Minerals and waters . . . . .	3
2. Prehistoric and historic remains. . . . .	4
3. Ownership of fixed improvements . . . . .	4
4. Withdrawal . . . . .	4a
5. Easements, trails . . . . .	4a
AGREEMENTS & COVENANTS BETWEEN PARTIES:	
1. Payment of rent . . . . .	5
2. Taxes, assessments, etc. . . . .	5
3. Utility services . . . . .	5
4. Covenant against discrimination . . . . .	5
5. Sanitation. . . . .	6
6. Waste and unlawful, improper or offensive use of premises . . . . .	6
7. Compliance with laws . . . . .	6
8. Inspection of premises. . . . .	6
9. Improvements . . . . .	6
10. Repairs to improvements . . . . .	7
11. Liens . . . . .	7
12. Character of use . . . . .	7
13. Assignments, etc. . . . .	7
14. Subletting . . . . .	8
15. Indemnity . . . . .	8

	<u>PAGE</u>
16. Costs of litigation . . . . .	9
17. Liability insurance . . . . .	9
18. Bond, performance . . . . .	10
19. Lessor's lien . . . . .	10
20. Mortgage . . . . .	11
21. Breach . . . . .	12
22. Right of holder of record of a security interest . . . . .	13
23. Condemnation . . . . .	14
24. Right to enter . . . . .	15
25. Inspection by prospective bidders . . . . .	15
26. Acceptance of rent not a waiver . . . . .	16
27. Extension of time . . . . .	16
28. Justification of sureties . . . . .	16
29. Waiver, modification, reimposition of bond provision . . . . .	17
30. Quiet enjoyment . . . . .	18
31. Surrender . . . . .	18
32. Non-warranty . . . . .	18
33. Incorporation by reference . . . . .	18
34. Utilization of land . . . . .	19
35. Annual report . . . . .	19
36. Construction of improvements . . . . .	19
DEFINITIONS . . . . .	20
SIGNATURE PAGE . . . . .	21
ACKNOWLEDGMENT PAGE . . . . .	22

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

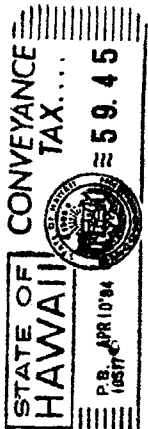
GENERAL LEASE NO. 5-4878

THIS INDENTURE OF LEASE, made this 15th day of  
March, 1984, by and between the STATE  
OF HAWAII, hereinafter referred to as the "Lessor", by its  
Board of Land and Natural Resources, called the "Board", and  
FORT ASSOCIATES LIMITED PARTNERSHIP, a Texas Limited  
Partnership,  
whose ~~residence~~ <sup>business</sup> and ~~post office~~ <sup>mailing</sup> address is c/o Amfac Property  
Corporation, 700 Bishop Street, Honolulu, Hawaii 96813,  
hereinafter referred to as the "Lessee";

WITNESSETH:

THAT the Lessor, for and in consideration of the  
rent to be paid and of the terms, covenants and conditions  
herein contained, all on the part of the Lessee to be kept,  
observed and performed, does hereby demise and lease unto  
the Lessee, and the Lessee does hereby lease and hire from  
the Lessor the premises identified as Parcel F, Wailua  
Coconut Grove, situate at Wailua, Kawaihae (Puna), Kauai, Hawaii  
-----, more particularly described  
in Exhibit "A" and as shown on the map marked Exhibit "B",  
hereto attached and made parts hereof.

TO HAVE AND TO HOLD the demised premises unto the  
Lessee for the term of sixty-five (65) years, commencing on  
the 18th day of August, 1983, up to and  
including the 17th day of August, 2048, unless  
sooner terminated as hereinafter provided, the Lessor reserving  
and the Lessee yielding and paying to the Lessor at the  
Office of the Department of Land and Natural Resources,  
Honolulu, Oahu, State of Hawaii, a net annual rental as



9 1 0 2 6 4  
CERTIFICATE FILED

provided hereinbelow, payable in advance, without notice or demand, in semi-annual installments on August 18 and February 18 of each and every year during said term as follows:

A. For the first ten (10) years, the sum of SEVEN THOUSAND THREE HUNDRED AND NO/100----- DOLLARS (\$ 7,300.00 ) per annum.

B. The annual rental hereinabove reserved shall be reopened and redetermined at the expiration of the 10th, 20th, 30, 40th, 50th & 60th years of said term.

C. Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the rental for the immediately preceding period or the fair market rental at the time of reopening, whichever is higher. At the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the Lessor; provided, that should the Lessee fail to agree upon the fair market rental as determined by Lessor's appraiser, the Lessee may appoint his own appraiser who shall prepare an independent appraisal report and the two appraisers shall then exchange their reports for review. The two appraisers shall make every effort to resolve whatever differences they may have. However, should differences still exist 14 days after the exchange, the two appraisers shall then appoint a third appraiser who shall also prepare an independent appraisal report and furnish copies thereof to the first two appraisers. After review, all three shall meet to determine the fair market rental in issue. The fair market rental as determined by a majority of the appraisers shall be final and binding upon both Lessor and Lessee, subject to

vacation, modification or correction in accordance with the provisions of Sections 658-8 and 658-9, Hawaii Revised Statutes. The Lessee shall pay for his own appraiser and the cost of the services of the third appraiser shall be borne equally by the Lessor and the Lessee. All appraisal reports shall become part of the public record of the Lessor.

If the rental for any ensuing period has not been determined prior to the expiration of the preceding rental period, the Lessee shall continue to pay the rent effective for the previous rental period, but the Lessee shall, within thirty (30) days after the new rental has been so determined, make up the deficiency, if any, together with interest thereon.

D. The interest rate on any and all unpaid or delinquent rentals shall be at one per cent (1%) per month.

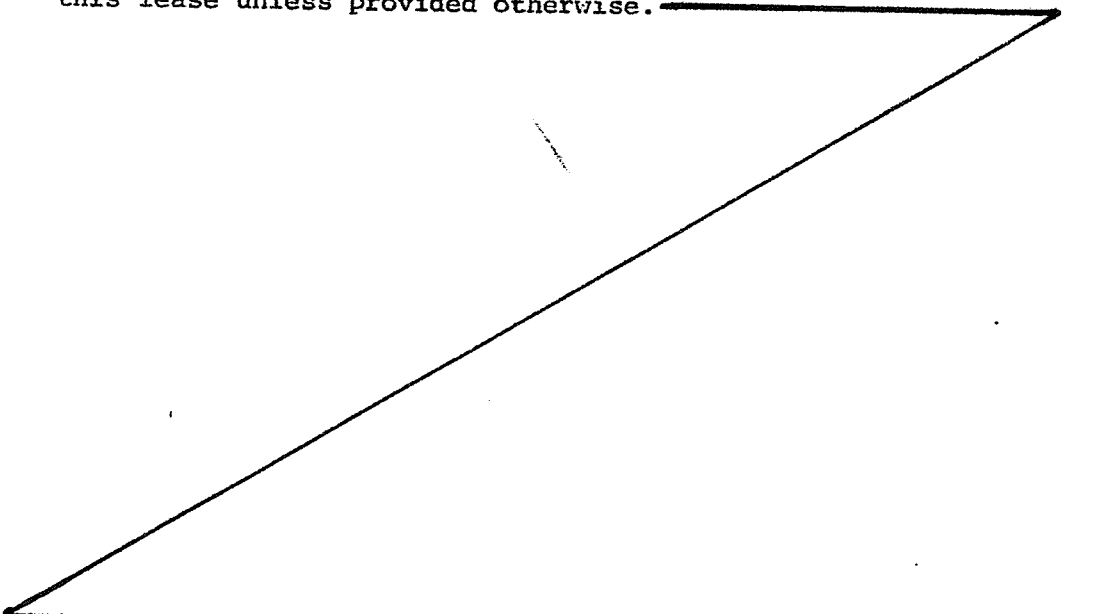
RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in

furtherance of the Lessee's permitted activities on the demised premises and not for sale to others. (b) All surface and ground waters appurtenant to the demised land and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the demised premises as may be required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Prehistoric and historic remains. All prehistoric and historic remains found on said demised premises.

3. Ownership of fixed improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences and stockwater system(s) located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease unless provided otherwise.



4. Withdrawal. The Lessor shall have the right to withdraw the demised land, or any portion thereof, at any time during the term of this lease upon the giving of reasonable notice by the Board and without compensation, except as provided herein, for public uses or purposes, including residential, commercial, industrial or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the Board to remove soil, rock or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided, that upon such withdrawal, or upon such taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the Lessee is destroyed or made unusable in the process of such withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided, further, that no such withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the Board pays to the Lessee the value of such crops.

5. Easements, trails. All existing rights-of-way, easements, and trails including the right to grant these rights to other parties.



THE LESSEE COVENANTS AND AGREES WITH THE LESSOR  
AS FOLLOWS:

1. Payment of rent. That the Lessee shall pay said rent to the Lessor at the times, in the manner and form aforesaid and at the place specified above, or at such other place as the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. That the Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, assessments and other outgoings of every description as to which said demised premises or any part thereof, or any improvements thereon, or the Lessor or Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during said term.

3. Utility services. That the Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which said demised premises, or any part thereof, or any improvements thereon or the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. That the use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin or physical handicap.

5. Sanitation, etc. That the Lessee shall keep the demised premises and improvements in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. That the Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the demised premises, or any part thereof, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on said premises.

7. Compliance with laws. That the Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws pertaining to the said premises, now in force or which may hereinafter be in force.

8. Inspection of premises. That the Lessee will permit the Lessor and its agents, at all reasonable times during the said term, to enter the demised premises and examine the state of repair and condition thereof.

9. Improvements. That the Lessee shall not at any time during said term construct, place, maintain and install on said premises any building, structure or improvement of any kind and description whatsoever except with the prior approval of the Board and upon such conditions as the Board may impose, including any adjustment of rent, unless otherwise provided herein. The ownership thereof shall be in the Lessee until the expiration or termination pursuant to a breach of the lease, at which time the ownership thereof shall vest in the Lessor.

10. Repairs to improvements. That the Lessee shall, at its own expense, keep, repair and maintain all buildings and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition and repair, reasonable wear and tear excepted.

11. Liens. That the Lessee will not commit or suffer any act or neglect whereby the demised premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge or encumbrance whatsoever, except as hereinafter provided, and shall indemnify and hold harmless the Lessor from and against all attachments, liens, charges and encumbrances and all expenses resulting therefrom.

12. Character of use. That the Lessee shall use or allow the premises hereby demised to be used solely for Landscaping and maintenance of premises for aesthetic, park and recreation  
purpose(s).

13. Assignments, etc. That the Lessee shall not transfer, assign or permit any other person to occupy or use the said premises or any portion thereof, or transfer or assign this lease or any interest therein, either voluntarily or by operation of law, except by way of devise, bequest or intestate succession, and any transfer or assignment so made shall be null and void; provided, that with the prior written approval of the Board the assignment and transfer of this lease or unit thereof may be made if:

- (1) it contains the personal residence of the Lessee;
- (2) in the case of commercial, industrial, hotel, resort, apartment and other business uses, the Lessee was required to put in substantial building improvements;
- (3) the Lessee becomes mentally or physically disabled;
- (4) extreme economic

hardship is demonstrated to the satisfaction of the Lessor; or  
(5) it is to the corporate successor of the Lessee; provided,  
further, that prior to the approval of any assignment of  
lease, the Board shall have the right to review and approve  
the consideration paid by the Assignee and, if necessary,  
revise the rent of the demised premises based upon the  
consideration paid by the Assignee; and, provided, further,  
that the rent shall not be revised downward.

14. Subletting. That the Lessee shall not rent  
or sublet the whole or any portion of the demised premises,  
without the prior written approval of the Board; provided,  
however, that prior to such approval, the Board shall have  
the right to review and approve the rent to be charged to  
the proposed sublessee and, if necessary, revise the rent  
of the demised premises based upon the rental rate charged  
to the said sublessee; provided, further, that the rent may  
not be revised downward.

15. Indemnity. That the Lessee will indemnify,  
defend and hold the Lessor harmless from and against any  
claim or demand for loss, liability or damage, including  
claims for property damage, personal injury or death, arising  
out of any accident on the demised premises and sidewalks  
and roadways adjacent thereto or occasioned by any act  
or nuisance made or suffered on the premises, or by any  
fire thereon, or growing out of or caused by any failure on  
the part of the Lessee to maintain the premises in a safe  
condition, or by any act or omission of the Lessee, from  
and against all actions, suits, damages and claims by  
whomsoever brought or made by reason of the non-observance  
or non-performance of any of the terms, covenants and  
conditions herein or the rules, regulations, ordinances  
and laws of the federal, state, municipal or county governments.

16. Costs of litigation. That in case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall and will pay all costs and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall and will pay all costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the demised premises or in the collection of delinquent rental, taxes and any and all other charges.

17. Liability insurance. That the Lessee shall procure, at its own cost and expense, and maintain during the entire period of this lease, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Chairman, insuring the Lessor and Lessee against all claims for personal injury, death and property damage; that said policy or policies shall cover the entire premises; including all buildings, improvements and grounds and all roadways or sidewalks on or adjacent to the demised premises in the control or use of the Lessee. The Lessee shall furnish the Lessor with a certificate showing such policy to be initially in force and shall furnish a like certificate upon each renewal of such policy, each such certificate to contain or be accompanied by an assurance of the insurer to notify the Lessor of any intention to cancel any such policy prior to actual cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease as set forth herein or limit the amount of its liability under this lease. The notice to cancel shall be sent to the Lessor sixty (60) days prior to the date of cancellation.

18. Bond, performance. That the Lessee shall, at its own cost and expense, within thirty (30) days after the date of receipt of this lease document, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by said Lessee of all of the terms, conditions and covenants of this lease, in an amount equal to two times the annual rental then payable. Said bond shall provide that in case of a breach or default of any of the terms, covenants, conditions and agreements contained herein, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

19. Lessor's lien. That the Lessor shall have a lien on all the buildings and improvements placed on the said premises by the Lessee, on all property kept or used on the demised premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings situated on said premises for all such costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee and for the payment of all money as provided in this lease to be paid by the Lessee, and such lien shall continue until the amounts due are paid.

20. Mortgage. That, except as provided herein, the Lessee shall not mortgage, hypothecate or pledge the said premises or any portion thereof of this lease or any interest therein without the prior written approval of the Board and any such mortgage, hypothecation or pledge without such approval shall be null and void.

That upon due application and with the written consent of the Lessor, the Lessee may mortgage this lease or any interest therein or create a security interest in the leasehold of the public land hereby demised. If the mortgage or security interest is to a recognized lending institution in either the State of Hawaii or elsewhere in the United States, such consent may extend to foreclosure and sale of Lessee's interest at such foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified to lease, own or otherwise acquire and hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term "holder" shall include an insurer or guarantor of the obligation or condition of such mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other Federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental

holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned Federal agencies.

21. Breach. That time is of the essence of this agreement and if the Lessee shall fail to yield to pay such rent or any part thereof at the times and in the manner aforesaid within thirty (30) days after delivery by the Lessor of a written notice of such breach or default, or if the Lessee shall become bankrupt, or shall abandon the said premises, or if this lease and said premises shall be attached or otherwise be taken by operation of law, or if any assignment be made of the Lessee's property for the benefit of creditors, or shall fail to observe and perform any of the covenants, terms and conditions herein contained and on its part to be observed and performed, and such failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of such breach or default, by personal service, registered mail or certified mail to the Lessee at its last known address and to each mortgagee or holder of record having a security interest in the demised premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter such premises or any part thereof, and upon or without such entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of such termination, all buildings and improvements thereon shall remain and become the property of the Lessor; furthermore, Lessor shall retain all rent paid in advance as damages.



22. Right of holder of record of a security interest. In the event the Lessor seeks to forfeit the interest created by this lease, each recorded holder of a security interest may, at its option, cure or remedy the default or breach of rent payment within thirty (30) days or any other default or breach within sixty (60) days, from the date of receipt of the notice hereinabove set forth, or within such additional period as the Lessor may allow for good cause, and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Lessor may: (a) pay to the holder from any monies at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of said debt and mortgage from said holder or if ownership of such interest or estate shall have vested in such holder by way of foreclosure, or action in lieu thereof, the Lessor shall be entitled to the conveyance of said interest or estate upon payment to said holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with such foreclosure and preservation of its security interest, less appropriate credits, including income received from said interest or estate subsequent to such foreclosure; or (b) terminate the outstanding interest or estate subject to the lien of such mortgage, without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and thereupon use its best efforts to redispense of the land affected thereby to a qualified and responsible person who will assume the obligation of the mortgage and the debt thereby secured;

provided, that a reasonable delay by the Lessor in instituting or prosecuting any right or remedy it may have hereunder shall not operate as a waiver of such right or to deprive it of such remedy when it may still hope otherwise to resolve the problems created by the breach or default. The proceeds of any redistribution effected hereunder shall be applied first, to reimburse the Lessor for costs and expenses in connection with such redistribution; second, to discharge in full any unpaid purchase price or other indebtedness owing the Lessor in connection with such interest or estate terminated as aforesaid; and the balance, if any, shall be paid to the owner of such interest or estate.

23. Condemnation. That, if at any time, during the term of this lease, or any portion of the demised premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which he is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of such condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of said leasehold interest by reason of such condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee

shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion so taken renders the remainder unsuitable for the use or uses for which the land was demised, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability therefor; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within such reasonable period as may be allowed by the Lessor.

24. Right to enter. The Lessor or the County and the agents or representatives thereof shall have the right to enter and cross any portion of said demised land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.

25. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the demised premises at all reasonable times following a published notice for the proposed disposition of the same for purposes of informing and apprising such person or persons of the condition of said lands preparatory to such proposed disposition; provided, however, that any such entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no such authorization shall be given more than two years before the expiration of the term of this lease.

26. Acceptance of rent not a waiver. That the acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease, nor of the Lessor's right to re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

27. Extension of time. That notwithstanding any provision contained herein to the contrary, wherever applicable, the Board may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

28. Justification of sureties. Such bonds as may be required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as such in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates

of deposit (payable on demand or after such period as the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to said Lessor a deed or deeds of trust of real property, all of such character as shall be satisfactory to said Lessor and valued in the aggregate at not less than the principal amount of said bond. It is agreed that the value at which any securities may be accepted and at any time thereafter held by the Lessor under the foregoing proviso shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until such consent be granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation hereunder.

29. Waiver, modification, reimposition of bond provision. Upon substantial compliance by the Lessee of the terms, covenants, and conditions herein contained on its part to be observed or performed, the Lessor at its discretion may waive or suspend the performance bond and/or improvement bond requirements or modify the same by reducing the amount thereof; provided, however, that the Lessor reserves the right to reactivate or reimpose said bond and/or bonds in and to their original tenor and form at any time throughout the term of this lease.

30. Quiet enjoyment. The Lessor hereby covenants and agrees with the Lessee that upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess and enjoy the demised premises for the term hereby demised, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through or under it.

31. Surrender. That the Lessee shall, at the end of said term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the demised premises, together with all improvements existing or constructed thereon unless provided otherwise. Furthermore, upon the expiration, termination and/or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, the Board of Land and Natural Resources may remove any and all such personal property from the premises and place said property in storage at the cost and expense of Lessee, and the Lessee does hereby agree to pay all costs and expenses for removal and storage of such personal property.

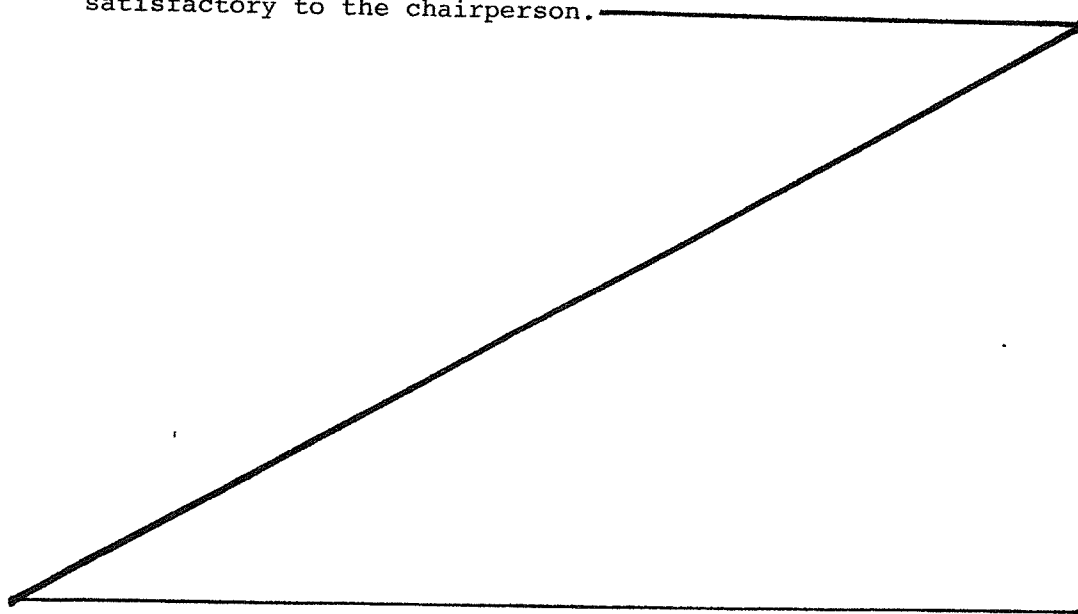
32. Non-warranty. The Lessor does not warrant the conditions of the leased premises, as the same is being leased as is.

33. Incorporation by reference. References to various parcels of land herein are in accordance with those designated in the Notice of Sale and the Conduct of Sale which, together with the Special Notice to Bidders are incorporated herein and made a part hereof. The terms of this lease shall govern where there is any inconsistency between the terms thereof and the terms contained in the Special Notice to Bidders.

34. Utilization of land. The Lessee shall, at its own cost and expense, clear the demised premises of all noxious grasses, trees and plants and plant adaptable grasses and trees approved by the chairperson. The Lessee shall also maintain the lawn and coconut grove in a manner consistent with modern nursery and landscaping practices.

35. Annual Report. The Lessee shall submit to the Lessor an annual written report on its activities during the preceding year. This annual report shall be submitted in duplicate and shall address efforts made towards maintenance and improvement work required by this lease.

36. Construction of improvements. The Lessee may construct or provide non-commercial structures upon the demised premises subject to the following conditions:  
(1) prior written approval of the chairperson; and (2) upon surrender of the demised premises, Lessee shall remove these structures and restore the premises to a condition satisfactory to the chairperson.



Definitions.

As used herein, unless clearly repugnant to the context:

(a) "Chairman" shall mean the Chairman of the Board of Land and Natural Resources of the State of Hawaii or his successor;

(b) "Lessee" shall mean and include the Lessee herein, its heirs, executors, administrators, successors or permitted assigns, according to the context hereof;

(c) "Holder of a record of a security interest" is a person who is the owner or possessor of a security interest in the land demised and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of such interest;

(d) "Premises" shall be deemed to include the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon;

(e) The use of any gender shall include all genders, and if there be more than one lessee, then all words used in the singular shall extend to and include the plural;

(f) The paragraph headings throughout this lease are for the convenience of the Lessor and the Lessee and are not intended to construe the intent or meaning of any of the provisions thereof.

(g) "Waste" shall be deemed to include, but not limited to, (1) permitting the premises or any portion thereof to become unduly eroded and/or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds in uncultivated portions thereof and (3) failure to employ all of the usable portions of the demised premises.



IN WITNESS WHEREOF, the parties hereto have caused  
these presents to be executed this 15th day of March,  
1984.

STATE OF HAWAII

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

May 14, 1982

By S. Cho  
Chairman and Member  
Board of Land and  
Natural Resources

By L. K. Keoloha  
Member  
Board of Land and  
Natural Resources

LESSOR

FORT ASSOCIATES LIMITED PARTNERSHIP  
a Texas Limited Partnership by  
Amfac Property Corp. its General Partner

Approved as to Form:  
By [Signature]

By [Signature]  
Its PRESIDENT

By Maureen C. Jones  
Its ASSISTANT SECRETARY LESSEE

APPROVED AS TO FORM:

[Signature]  
Deputy Attorney General

Dated: 10/14/83

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

On this \_\_\_\_\_ day of JAN 27 1984, 19\_\_\_\_, before  
me appeared TENEY K. TAKAHASHI and MAUREEN A. JONES,  
to me personally known, who, being by me duly sworn, did say

that they are the PRESIDENT and ASSISTANT SECRETARY  
of AMFAC PROPERTY CORP., a Hawaii corporation, a general  
partner of FORT ASSOCIATES LIMITED PARTNERSHIP, a Texas limited  
partnership; and that the seal affixed to the foregoing instru-  
ment is the corporate seal of said corporation, and that said  
instrument was signed and sealed in behalf of said corporation  
by authority of its Board of Directors as general partner of  
(and on behalf of) said partnership by authority of the Limited  
Partnership Agreement of said partnership; and said officers  
acknowledged said instrument to be the free act and deed of  
said corporation as said general partner.

L.S.

Karen Lynn Akau  
Notary Public  
State of Hawaii

My commission expires: Oct. 22, 1986



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

December 17, 1962

C.S.F. No. 13,898

REVISED DECEMBER 1962

WAILUA COCONUT GROVE

PARCEL F

Wailua, Kawaihau (Puna), Kauai, Hawaii

Being a portion of the Government (Crown) Land of Wailua

Beginning at the south corner of this parcel of land, on the northwest side of Wailua Coconut Grove Drainage Ditch Right-of-Way, and on the northeast side of Kuamoo Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 4863.51 feet South and 6178.43 feet East, as shown on Government Survey Registered Maps 2699 and 2716, thence running by azimuths measured clockwise from True South:-

1. 120° 36' 560.10 feet along the northeast side of Kuamoo Road;
2. Thence along the northeast side of Kuamoo Road, on a curve to the right with a radius of 780.00 feet, the chord azimuth and distance being 121° 10' 21" 15.59 feet;
3. 168° 14' 457.76 feet along Parcel 1, Wailua Drainage Canal;
4. 241° 30' 658.93 feet along L.C.Aw. 3561 to Iosia Kaunualii to a concrete monument;
5. 137° 35' 244.22 feet along L.C.Aw. 3561 to Iosia Kaunualii;
6. 239° 54' 60.40 feet along Lot 1-B of Wailua Rice and Kula Lots;
7. 277° 30' 55.10 feet along Lot 1-B of Wailua Rice and Kula Lots;
8. 299° 07' 150.70 feet along Lot 1-B of Wailua Rice and Kula Lots;
9. 265° 40' 230.00 feet along Lot 1-B of Wailua Rice and Kula Lots;

EXHIBIT "A"

- 2 -

10. 303° 46' 190.04 feet along Grant 12211 to Ernest Apana,  
Lot 1-C of Wailua Rice and Kula Lots  
to a pipe;
11. 28° 39' 30" 732.39 feet along Lots 2 and 1 of Land Court  
Application 1667 to a pipe;
12. 91° 00' 80.75 feet along L.C.Aw. 3568 Apana 2 to Kelani;
13. 359° 00' 85.80 feet along L.C.Aw. 3568 Apana 2 to Kelani;
14. 271° 00' 32.80 feet along L.C.Aw. 3568 Apana 2 to Kelani  
to a pipe;
15. 28° 39' 30" 243.10 feet along Lot 1 of Land Court Application  
1667 to a pipe;
16. 295° 50' 109.30 feet along Lot 1 of Land Court Application  
1667 to a pipe;
17. 20° 32' 18.89 feet along the northwest side of Wailua  
Coconut Grove Drainage Ditch Right-of-  
Way;
18. 345° 14' 28.89 feet along the northwest side of Wailua  
Coconut Grove Drainage Ditch Right-of-  
Way;
19. 29° 47' 30" 73.01 feet along the northwest side of Wailua  
Coconut Grove Drainage Ditch Right-of-  
Way to the point of beginning and con-  
taining an Area of 14.834 Acres.

Subject, however, to a right-of-way ten (10.00) feet wide, in a nature of an easement in favor of L.C.Aw. 3568 Apana to Kelani for ingress and egress between said L.C.Award and Kuamoo Road, such right-of-way to be designated by the Commissioner of Public Lands or his successors in office at such time as he may deem proper and necessary.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

Compiled from Govt.  
Survey Records.

By: Ichiro Sakamoto  
Ichiro Sakamoto  
Land Surveyor

ac

N	S	E	W	Area	Coord	C.B.14	P. Hashimoto
285.11	1285.12	1344.99	1344.98	14.834	Same as	Eno 48	D. 17 1962

