

STAMP DUTY

No. _____
(For Official Use)

FIJI

**MEMORANDUM OF SUBLEASE
OF STATE LAND**

TOKOMARU LIMITED a limited liability Fiji company whose registered office is care of Deloitte Touche Tohmatsu, Accountants, Level 10 FNPF Place, Suva, Fiji and whose postal address is Post Office Box 9347, Nadi Airport, Fiji ("**Sublessor**") the lessee under State Lease No _____ of that land which is part of Denarau Island, Tikina of Nadi, Province of Ba identified as Lot _____ Deposited Plan _____ and comprising an area of _____ hectares ("**Land**")

HEREBY SUBLEASES to **AOTEA LIMITED**.....("Sublessee") to be held by the Sublessee as subtenant subject to the terms and conditions contained in the State Lease, all its estate and interest in part of the Land described below excluding the improvements thereon ("**Apartment**").

Title Number	Description	Province or Island	District Town or Tikina	AREA
[]	Denarau Island Lot SLP	Ba	Nadi	

And more particularly shown and delineated on the Sublease Plan attached to this Sublease for the term of ninety-five years and six months less one day commencing from the _____ day of _____, 2003 and ending on the _____ day of _____ at the yearly rental of one dollar subject to the covenant and powers implied in leases under the Property Law Act (Fiji) and other covenants conditions and restrictions contained in this Sublease.

BUT SUBJECT to all subsisting encumbrances and interests that are registered or notified by memorandum underwritten or endorsed herein.

TOGETHER WITH (and also appurtenant to the "Apartment") the right to support of the "Apartment" from the floors above the Apartment and the right to support from the walls

on any boundary between the Apartment and any other Apartment shown on the Sublease Plan attached (“Other Apartments”).

BUT RESERVING to the Sublessor and all others to whom the Sublessor may grant or has granted similar rights and as appurtenant to the Other Apartments the full and free right to use the pipes cables and drains already constructed or connected over or under the floor of the Apartment and

TOGETHER WITH (and as appurtenant as stated above) the right to the shelter and protection of the Other Apartments situated on the floors below the Apartment and the right to the support of the Other Apartments on the floors above the Apartment and the support from the walls on any boundary between the Apartment and any Other Apartment from the Apartment.

No Registered	
	at
	Registrar of Titles

Lodged by	
Date	
Documents	

SPECIAL COVENANTS AND CONDITIONS

1. DEFINITIONS

1.1 In this Sublease where the context permits:

“**Apartment Buildings**” means the physical structure within the Apartment

“**Furniture Fitout**” means all furniture, furnishings and equipment situated in the Apartment of the Sublessee.

“**Head Lease**” means State lease No _____ dated _____ to land which is part of Denarau Island, Tikina of Nadi, Province of Ba, Fiji.

“**Head Lessor**” means the Director of Lands

“**Constitution**” means the Constitution of the Society (including the Rules attached as the first schedule to that Constitution).

“**Society**” means Denarau Golf Terrace Apartments, Inc.

“**Sublessor**” includes and binds:

- (a) the person executing this Sublease as Sublessor; and

- (b) all the Sublessors for the time being under it; and
- (c) all the respective executors, administrators, successors, assigns and successors in title of each Sublessor and if more than one jointly and severally.

“Sublessee” includes and binds

- (a) the person executing this Sublease as Sublessee; and
- (b) all the Sublessees for the time being under it; and
- (c) all the respective executors, administrators, successors, assigns and successors in title of each Sublessee and if more than one jointly and severally

1.2 Words used in this Sublease, which have been defined in the Constitution, have the same meaning.

2. SUBLESSEE TO COMPLY WITH RULES

The Sublessee covenants with the Sublessor that the Sublessee will observe perform and keep and will procure any mortgagee of the Sublessee to observe, perform and keep each and every covenant and provision set out in the Constitution that are required to be observed or performed by the Sublessee.

3. SUBLESSOR TO COMPLY WITH HEAD LEASE

The Sublessor will throughout the term of this Sublease duly and punctually perform observe and keep each and every covenant and provisions set out in the Head Lease to be observed and performed by the Sublessor. The Sublessor will not do, omit or tolerate any act or thing whereby or in consequence of which the power of re-entry into possession or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.

4. SUBLEASE TO COMPLY WITH HEAD LEASE

- (a) The Sublessee will duly and punctually perform observe and keep each and every covenant contained or implied in the Head Lease insofar as they affect the Land, excluding the Apartment.
- (b) The Sublessee shall pay a proportion of the rent payable under the Head Lease as part of the levies payable pursuant to the Constitution.

5. DETERMINATION OF SUBLEASE FOR DEFAULT

If and whenever the Sublessee commits any breach or makes any default in the observance or performance of any of the covenants, conditions and restrictions contained in this Sublease and does not remedy that breach or default in all respects within 21 days of the date of receipt by the Sublessee of a written notice from the Sublessor specifying such breach or default then it shall be lawful for the Sublessor to re-enter the Land or any part of it in the name of the whole and to determine this Sublease and the estate and interest of the Sublessee under it and to expel and remove the Sublessee but without releasing the Sublessee from any liability for any previous breach, non-observance or non-performance of any of the covenants, conditions and restrictions contained or implied in the Sublease. The Sublessor shall have a first lien over the Apartment Building and the Furniture Fitout for the moneys referred to in clause 4(b) and upon such forfeiture or determination the Apartment and Furniture Fitout shall vest absolutely in the Sublessor. Any forfeiture or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Sublessee has been served on every security holder of this Sublease (if the Sublessor has actual notice of the address of the Security holder) before or within seven days after the date of service of the notice on the Sublessee.

6. POWER OF SALE

If the Sublease is determined pursuant to clause 5 then the Sublessor must offer for sale the Apartment Building and the Furniture Fitout relating thereto and a new Sublease of the Apartment on the same terms as are contained in this Sublease for the unexpired term. The Sublessor shall use reasonable endeavours to obtain a fair market price of the Sublease for the Apartment Building and Furniture Fitout but shall not be liable to the Sublessee in respect of any loss however incurred. The proceeds of sale of the new Sublease of the Apartment or Apartment Building and the Furniture Fitout shall be paid to the Sublessee after deducting:

- (a) all moneys owing by the Sublessee to the Sublessor;
- (b) all expenses and costs incurred by the Sublessor in connection with the preparation of the new Sublease of the Apartment and the sale of that Sublease, the Apartment Building and the Furniture Fitout.

7. REQUISITION (CONDEMNATION)

- (a) If any time or times during the term of this Sublease, the Apartment or any portion of it is required or taken, or buildings requisitioned by any competent authority, then and in every such case the estate and interest of the Sublessee in the Apartment or Apartment Building so required, or taken or building requisitioned shall at once cease and determine, and the Sublessee shall not by reason thereof be entitled to claim against the Sublessor, but may claim against the competent authority, for compensation or indemnity for its leasehold interest.
- (b) All compensation and damage payable for or on account of any Apartment shall be payable to and be the sole property of the Sublessor and all compensation and damages payable for or on account of any Apartment Building and improvements on the demised Apartment shall be payable to the Sublessee according to the loss or damage to its improvements, and it shall be used promptly by the Sublessee to the extent necessary for restoring improvements on the remaining Apartment according to their original plans unless such restoration or replacement is impractical in the circumstances provided.
- (c) If only part of the Apartment or Apartment Building shall be so required or taken or requisitioned, the basic annual rent payable for the remainder of the term shall be reduced in the ratio that the Apartment area of such taken or requisitioned part taken bears to the whole of the area of demised Apartment immediately prior to such event: and provided, further, that if more than half of the Apartment or Apartment Building shall be so required or taken or requisitioned thereby rendering the remaining portion unsuitable for its intended purpose, the Sublessee may at its option surrender this Sublease to the Sublessor and all interest of the Sublessee and any improvements on the increment so surrendered and thereby be relieved of any further obligations relating to this Sublease, such surrender to be made not later than thirty (30) days after the Sublessee loses the right to possession of the Apartment or building so required, taken or requisitioned.
- (d) Requisition of any leasehold interest in the Apartment or any part thereof shall not terminate this Sublease nor excuse the Sublessee from full performance of its covenants for the payment of money or any other obligations hereunder capable of performance by the Sublessee, and in any such case the Sublessee may claim and recover from the

requisitioning authority all compensation and damages payable on account of its leasehold interest.

8. VESTING OF IMPROVEMENTS

Subject to clauses 5 and 10(b), this Sublease shall end on the determination of the Head Lease, and unless the Society, by an Extraordinary Resolution resolves otherwise, the Furniture Fitout and the Apartment Building of the Sublessee comprised in the Apartment shall vest absolutely in the Sublessor in consideration of the Sublessor agreeing to account to the Sublessee for such proportion of any payment received by the Sublessor from the Head Lessor or any other entity for improvements under the Head Lease as the Apartment Entitlement of the Apartment comprised in this Sublease bears to the Apartment Entitlements of the Apartment and all of the Other Apartments.

9. RENEWAL

If the Head Lease is renewed, extended or a new lease granted to the Sublessor the Sublessor must grant a renewal or extension of the Sublease for the same term as that granted to the Sublessor.

10. SUBLESSEE TO COMPLY WITH ARTICLES OF ASSOCIATION OF DENARAU CORPORATION LIMITED

- (a) The Sublessee agrees to be bound by the Denarau Island Resort Charter ("**Charter**") and the articles of association of Denarau Corporation Limited ("**Articles**") to the extent that the Sublessee is an "Occupier" (as defined in the Articles) and consents to its name being entered in the Contribution Roll (as provided for in the Articles).
- (b) The Sublessee will pay all costs required to be paid by it as an "Occupier" pursuant to the Articles at the time and in the manner required by the Articles.
- (c) The Sublessee will comply with the applicable provisions of the Charter and Articles when transferring or assigning this Sublessee so as to ensure that the transferee or assignee (and all future transferees and assignees) is bound by the Articles and Charter.

