



**MAUNA KEA**

RESORT

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THE CLUB

**Rules and Regulations**

**January 1, 2019 - December 31, 2019**

**Homeowner ■ Kama'aina**

## TABLE OF CONTENTS

	Page
PREAMBLE.....	1
MEMBERSHIP IN THE CLUB.....	1
TERM OF MEMBERSHIP .....	5
NON-TRANSFERABILITY.....	5
LEVELS OF MEMBERSHIP .....	6
GENERAL CLUB RULES.....	9
MEMBERSHIP CARDS .....	11
MEMBER DUES AND CHARGES .....	11
MAILING ADDRESSES .....	12
MEMBERSHIP CORRESPONDENCE.....	13
PRIVATE FUNCTIONS.....	13
RESIGNATION OF MEMBERSHIP .....	13
DISCIPLINE.....	13
LOSS OR DESTRUCTION OF PROPERTY OR INSTANCES OF PERSONAL INJURY.....	14
RESERVATIONS AND CANCELLATIONS.....	15
GRATUITIES .....	15
CHILDREN .....	15
ATTIRE .....	15
GENERAL GOLF RULES.....	16
HOURS OF PLAY .....	18
GOLF STARTING TIMES.....	18
REGISTRATION .....	18
PRACTICE RANGES.....	18
GENERAL GOLF CART RULES .....	19
GOLF COURSE ETIQUETTE.....	20
GENERAL TENNIS RULES .....	20
GENERAL POOL RULES .....	21
GENERAL SPA RULES .....	23
FITNESS RULES .....	23
GENERAL BEACH RULES .....	24
CLUB OPERATIONS.....	25

## **Preamble**

These Rules and Regulations are established to promote the health, safety, welfare and enjoyment of the Club members (each a “Member” and collectively, the “Members”), their immediate family members and their guests and all other persons using the facilities made available to Members from time to time (“Club Facilities”) under the amenity program at The Club at Mauna Kea Resort (“The Club”).

Mauna Kea Resort LLC, a Hawaii limited liability company (“MKR”), owns the Club Facilities. MKR and The Club are hereinafter sometimes collectively referred to as “The Club”. Where these Rules and Regulations refer to The Club taking action or having certain rights, MKR or its designees may take such action and shall have such rights. These Rules and Regulations may be amended by The Club from time to time and are effective from January 1, 2019 to December 31, 2019.

## **Membership in the Club**

### **1. Eligibility for Membership**

Membership in The Club is currently available to the owners of lots, residences or condominium units in the following developments within the Mauna Kea Resort: (i) Mauna Kea Fairways (also known as The Fairways at Mauna Kea South), (ii) The Fairways at Mauna Kea North, (iii) The Villas at Mauna Kea, (iv) The Bluffs at Mauna Kea, (v) The High Bluffs at Mauna Kea, (vi) Kauna’oa at Mauna Kea, (vii) Moani Heights at The Uplands, (viii) Apa’apa’a Heights at The Uplands, (ix) The Kumulani at The Uplands, (x) Wai’ula’ula at Mauna Kea Resort, (xi) The Hapuna Beach Residences and (xii) Hapuna Beach Villa. Other projects and/or developments may be added at the sole and absolute discretion of The Club from time to time. Each lot, residence or condominium unit within a project or development that is approved by The Club for eligibility in The Club is hereinafter referred to as an “Eligible Property”. The Club reserves the right to deny eligibility. Membership in The Club is also currently available for persons who do not own lots, residences or condominium units within the Mauna Kea Resort, however The Club reserves the right to limit such capacity.

### **2. Individual Membership**

Only individual persons, whether they own or do not own an Eligible Property, are eligible for membership in The Club. In the event that an Eligible Property is owned by multiple individuals, up to four (4) individuals who have an ownership interest in the Eligible Property may be designated as individuals who are each eligible to purchase an individual membership in the Club on the basis of such ownership. For trusts, corporations, and other entities, the following persons are eligible for membership in The Club:

a. Trust Owners. For a trust, a maximum of four (4) individual persons who are beneficiaries of the trust shall be eligible to each purchase an individual membership in The Club.

b. Other Entities. For corporations, partnerships, limited liability companies and other entities, up to four (4) individuals who are either (i) owners of at least twenty-five percent (25%) of the shares, partnership interests or other ownership interests of any such entity, or (ii) bona fide full-time executive officers of such corporation, or (iii) managers of any such limited liability company or owners of at least twenty-five percent (25%) of the shares or other ownership interests of a corporation or other entity which is the manager of the limited liability company, or (iv) owners of any comparable legal or beneficial ownership interest in any such entity, may be designated as individuals who are each eligible to purchase an individual membership in The Club, subject to approval by The Club in its sole and absolute discretion.

### **3. Family Privileges**

All immediate family members of a Member of The Club shall have the same access rights to the Club Facilities that the Member has commensurate with the level of membership purchased by the Member. A Member's "immediate family member" includes the Member's spouse and the immediate children of the Member and Spouse. A Member living together with another individual ("significant other") in the same household as a family unit may designate the significant other as an "immediate family member" of the Member. The Member and the Member's significant other shall be individually and jointly responsible for the payment of all fees and charges incurred by the significant other. The Club reserves the right to require such forms and establish such fees and other rules as it deems appropriate with respect to access to and use of the Club Facilities by a Member's immediate family members and/or significant other.

### **4. Accompanied Guests**

a. The Club reserves the right to restrict accompanied guest access during peak periods.

b. The same accompanied guest cannot play golf more than six (6) times in any calendar year regardless of the sponsoring Member. No more than six (6) accompanied guests can be sponsored to use the Club Facilities on any given day unless permitted by The Club.

c. A particular individual using the Club Facilities as an accompanied guest must be registered by the sponsoring Member with The Club. The Club reserves the right to require identification by each accompanied guest. Accompanied guests will be charged guest fees for use of selected Club Facilities as determined from time to time by The Club.

d. Accompanied guest charges for any goods or services must be paid for through their guest account if a Residential Guest Registration Form is on file with the Membership Department or with cash or major credit card if they are not registered.

e. Accompanied guest privileges may be limited by The Club, from time to time.

f. The sponsoring Member shall be responsible for all unpaid charges incurred by the accompanied guest. The sponsoring Member is also responsible for the conduct of an accompanied guest while at the Club Facilities and is liable to The Club for any damages, costs, injuries or other liability suffered or incurred by The Club as a direct or indirect result of the conduct or actions of the sponsoring Member's accompanied guests. If the manner, deportment or appearance of any accompanied guest is deemed to be unsatisfactory, the sponsoring Member shall, at the request of The Club, cause such accompanied guest to leave the premises.

## **5. Unaccompanied Guests**

Members are allowed to extend access to unaccompanied guests based upon level of membership as governed by the Levels of Membership and completion of a Residential Guest Registration Form, approval by the Membership Department, and payment of applicable Mauna Kea Resort guest fees.

Although it is the intention of The Club to accommodate registered unaccompanied guests without inconvenience to the Members, The Club reserves the right to limit the number of unaccompanied guests that are sponsored by a Member on any given day or over the course of the calendar year or portion thereof. The Club shall establish from time to time the rate of the Mauna Kea Resort guest fees, charges and the rules and regulations for use of the Club Facilities by unaccompanied guests. Unaccompanied guest privileges may be denied, withdrawn or revoked at any time for reasons considered sufficient by The Club. All unaccompanied guests shall be either houseguests or rental guests. A houseguest is defined as a guest temporarily residing in a Member's Eligible Property, without the payment of any consideration to the owner for the use of the property. A rental guest is defined as a person who leases or rents a Member's Eligible Property for a consideration. Further rules and regulations applicable to houseguests and rental guests are set forth herein.

### **a. Houseguests**

1) Houseguests must be registered by the sponsoring Member with the Membership Department prior to the arrival of the guests. To provide privileges for a houseguest, the sponsoring Member must initiate the application for houseguest privileges at least thirty (30) days prior to the arrival date of the houseguest by submitting a Residential Guest Registration Form.

2) Houseguests who have submitted a Residential Guest Registration Form will be listed on the Residential Guest Residing List for the length of stay. At the expiration of the privileges, renewals of houseguest privileges will be granted at the discretion of The Club.

3) Houseguests are permitted to use the Club Facilities unaccompanied by the Member in accordance with the Levels of Membership and rules, regulations and policies adopted by The Club from time to time.

4) Houseguests will be charged registration fees as set forth in the Residential Guest Procedures Fee Schedule.

5) The sponsoring Member does not have to give up his or her membership privileges for the period of time the houseguest is in residence.

6) The Club must be notified of a cancellation at least two (2) days prior to the arrival date of the houseguest. Failure to advise The Club of a cancellation may result in the Member's club account being charged an administrative cancellation fee.

7) Houseguests must be listed on the Residential Guest Residing List to have access to privileges and amenities of The Club.

8) The Club reserves the right to require identification by each houseguest.

9) Houseguest privileges may be limited by The Club, from time to time.

10) The sponsoring Member shall be responsible for all charges incurred by the houseguest. The sponsoring Member shall also be responsible for the conduct of a houseguest while at the Club Facilities and is liable to The Club for any damages, costs, injuries or other liability suffered or incurred by The Club as a direct or indirect result of the conduct or actions of the sponsoring Member's guests. If the manner, deportment or appearance of any houseguest is deemed to be unsatisfactory, the sponsoring Member shall, at the request of The Club, cause such houseguest to surrender their guest privileges and leave the premises.

**b. Rental Guests**

1) Subject to the completion of a Residential Guest Registration Form by the rental guest, approval of The Club and payment of a rental guest access fee determined by The Club from time to time, rental guests will have residential guest access to the Club Facilities on a space available basis. A rental guest's access and privileges shall be subject to the Levels of Membership, rules, regulations and policies adopted by The Club from time to time. The Member will be obligated to pay all unpaid fees and charges incurred by the rental guest. Rental guest privileges may be extended or cancelled in the future at the discretion of The Club. To the extent a Member owns multiple Eligible Properties, the Member shall have acquired a membership privilege in The Club for each Eligible Property that is being leased or rented by such rental guest.

2) Rental guests who have submitted a Residential Guest Registration Form will be listed on the Residential Guest Residing List for the length of stay. At the

expiration of the privileges, renewals of rental guest privileges will be granted at the discretion of The Club.

3) Rental guests must be listed on the Residential Guest Residing List to have access to privileges and amenities of The Club.

4) The Member shall be responsible for all unpaid charges incurred by the rental guest. The Member shall also be responsible for the conduct of the rental guest while at the Club Facilities and is liable to The Club as a direct or indirect result of the conduct or actions of the rental guests.

5) If the manner, deportment or appearance of any rental guest is deemed to be unsatisfactory, the rental guest may be removed from the Residential Guest Residing List and asked to leave the premises.

### **Term of Membership**

Membership in The Club is on a calendar year basis, expiring on December 31 of each calendar year (unless otherwise earlier terminated by The Club as provided herein), and must be renewed each year on January 1, subject to The Club's determination to renew such membership and further subject to the terms and conditions established by The Club. Membership in The Club is at all times subject to rules, regulations, policies, guidelines, systems, and/or pricing governing The Club and/or the Club Facilities established from time to time by The Club in its sole and absolute discretion.

### **Non-Transferability**

Membership in The Club is non-transferable and any attempted hypothecation, sale or transfer shall be null and void.

### **Termination of Membership Rights with Cause**

A Member's right to participate in The Club may automatically terminate upon the occurrence of any of the following (unless The Club elects to waive such termination):

(a) A Member's failure to pay any fees and/or charges within sixty (60) days after the applicable due date established by The Club;

(b) A Member's delinquency on the payment of any fees and/or charges of more than thirty (30) days on two (2) or more occasions in any twelve (12) month period or on three (3) occasions in any twenty-four (24) month period;

(c) Repeated or serious violations by the Member or the Member's immediate family or guests of any of these Rules and Regulations or any other applicable rules, regulations, restrictions or policies established by The Club, which determination shall be made by The Club in its sole and absolute discretion;

(d) Initiation by a Member or the Member's immediate family or guests of a lawsuit, proceeding, arbitration, action or claim of any nature whatsoever, irrespective of the merits or outcome, against The Club, or any related person, entity, officer, employee or agent of either;

(e) A Member's conviction of a felony or plea of guilty or nolo contendere to a felony charge;

(f) A Member's failure to comply with the provisions of this Plan of Membership or any other applicable rules, regulations, restrictions or policies established by The Club from time to time, which is not timely cured within five (5) days of the Member's written notice from The Club of such failure; or

(g) A Member makes a false, deceitful, or misleading statement in any application or submittal to The Club.

Upon termination of a Member's rights of membership as provided herein, the annual fee paid by the Member shall be forfeited and there will be no refund of any fees or charges which are paid in advance.

### **Levels of Membership**

There are currently four (4) levels of membership in The Club, which are (i) the Platinum Level, (ii) the Gold Level, (iii) the Silver Level and (iv) The Hapuna Club Level. Each level of membership currently has the respective privileges described below and outlined in the "2019 Annual Fees (Tax Included) – Homeowner" and "2019 Annual Fees (Tax Included) – Kama'aina" (collectively, the "Club Summary"), and is subject to change by The Club.

#### **Platinum Level Privileges.**

Platinum Level privileges currently include the following:

(a) Golf. Subject to availability of tee times, a Member and the Member's immediate family members may play golf at the Mauna Kea Golf Course and the Hapuna Golf Course, without charge for green fees or cart fees. Any other charges or fees, such as golf equipment rentals, shall be at the then applicable Hotel guest rates. Complimentary golf equipment storage and range balls are provided to Members and the Members' immediate family members. Green fees for accompanied guests of a Member (limited to not more than three (3) accompanied guests) shall be as set forth in the Club Summary.

(b) Tennis. The tennis courts at the Mauna Kea Beach Hotel may be used by a Member, the Member's immediate family members, and up to a maximum of three (3) accompanied guests, without charge.

(c) Fitness Center. The fitness facilities at the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort's Westin Workout may be used by a Member and the



Member's immediate family members on a space available basis. Classes will require payment of a fee as established by The Club.

(d) Beach and Swimming Pools. The beach area fronting the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort and the swimming pools at both Hotels may be used by a Member, the Member's immediate family members, and up to a maximum of six (6) accompanied guests of the Member on a space available basis.

(e) Charging Privileges. Subject to credit approval, Members shall have charging privileges at all restaurants, lounges, shops, activities and concessions at both Hotels, the Mauna Kea Golf Course, and the Hapuna Golf Course. Guests of a Member shall not be allowed to charge on the Member's account.

(f) Guests. Homeowner & Kama'aina Members will be allowed to extend Club privileges to their accompanied and unaccompanied guests subject to registration through the Residential Guest Program. Registered guests, both accompanied and unaccompanied will have access to the above-named privileges and amenities (a) through (e) subject to the rules and regulations and Mauna Kea Resort guest fees set forth under the Residential Guest Program. Unaccompanied guest privileges may be denied, withdrawn or revoked at any time for reasons considered sufficient by The Club.

#### **Gold Level Privileges.**

Gold Level privileges currently include the following:

(a) Golf. Subject to availability of tee times, a Member, the Member's immediate family members, and accompanied guests of the Member (limited to not more than three (3) accompanied guests) may play golf at the Mauna Kea Golf Course and the Hapuna Golf Course at special fees set forth in the Club Summary.

(b) Tennis. The tennis courts at the Mauna Kea Beach Hotel may be used by a Member, the Member's immediate family members, and up to a maximum of three (3) accompanied guests of the Member, without charge.

(c) Fitness Center. The fitness facilities at the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort's Westin Workout may be used by a Member and the Member's immediate family members on a space available basis. Classes will require payment of a fee as established by The Club.

(d) Beach and Swimming Pools. The beach area fronting the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort and the swimming pools at both Hotels may be used by a Member, the Member's immediate family members, and up to a maximum of six (6) accompanied guests on a space available basis.

(e) Charging Privileges. Subject to credit approval, Members shall have charging privileges at all restaurants, lounges, shops, activities and concessions at both Hotels, the Mauna Kea Golf Course, and the Hapuna Golf Course.

(f) Guests. Homeowner Members will be allowed to extend Club privileges to their accompanied and unaccompanied guests subject to registration through the Residential Guest Program. Registered guests, both accompanied and unaccompanied will have access to the above-named privileges and amenities (a) through (e) subject to the rules and regulations and Mauna Kea Resort guest fees set forth under the Residential Guest Program. Unaccompanied guest privileges may be denied, withdrawn or revoked at any time for reasons considered sufficient by The Club.

### **Silver Level Privileges.**

Silver Level privileges currently include the following:

(a) Golf. Subject to availability of tee times, a Member, the Member's immediate family members, and accompanied guests of the Member may play golf at the Mauna Kea Golf Course and Hapuna Golf Course at special fees set forth in the Club Summary.

(b) Tennis. The tennis courts at the Mauna Kea Beach Hotel may be used by a Member and the Member's immediate family members, without charge and up to a maximum of three (3) accompanied guests of the Member at the rate per person published on the Club Summary.

(c) Fitness Center. The fitness facilities at the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort's Westin Workout may be used by a Member and the Member's immediate family members on a space available basis. Classes will require payment of a fee as established by The Club.

(d) Beach and Swimming Pools. The beach area fronting the Mauna Kea Beach Hotel and The Westin Hapuna Beach Resort and the swimming pools at both Hotels may be used by a Member, the Member's immediate family members, and up to a maximum of six (6) accompanied guests on a space available basis.

(e) Charging Privileges. Subject to credit approval, Members shall have charging privileges at all restaurants, lounges, shops, activities and concessions at the Hotels, the Mauna Kea Golf Course, and the Hapuna Golf Course. Guests of a Member shall not be allowed to charge on the Member's account.

(f) Guests. Homeowner & Kama'aina Members will not be allowed to extend Club privileges to unaccompanied guests.

### **The Hapuna Club Level.**

The Hapuna Club Level privileges currently include the following:

(a) Fitness Center. The fitness facilities at The Westin Hapuna Beach Resort's Westin Workout may be used by a Member and the Member's immediate family members on a space available basis. Classes will require payment of a fee as established by The Club.

(b) Beach and Swimming Pools. The beach area fronting The Westin Hapuna Beach Resort and both swimming pools at the Hotel may be used by a Member, the Member's immediate family members, and up to a maximum of six (6) accompanied guests on a space available basis.

(c) Charging Privileges. Subject to credit approval, Members shall have charging privileges at all restaurants, lounges, shops, activities and concessions at the Hotels, the Mauna Kea Golf Course, and the Hapuna Golf Course. Guests of a Member shall not be allowed to charge on the Member's account.

(d) Guests. Members of The Hapuna Club will not be allowed to extend Club privileges to unaccompanied guests unless expressly permitted in writing in advance by The Club in its sole discretion.

### **Upgrade of Level of Membership**

A Member may upgrade his or her level of membership in The Club on a one-time basis at any time during the Club year. In order to upgrade the level of membership, the Member shall (i) complete and submit a membership application for the upgraded level of membership desired, (ii) be accepted by The Club (in its sole and absolute discretion) as a Member in the upgraded level of membership desired, and (iii) pay the prorated difference between the annual fees for the upgraded level of membership and the Member's existing level of membership effective the first day of the month of the Upgrade.

### **General Club Rules**

1. Members, their immediate family members and their guests shall abide by all rules and regulations in effect including, without limitation, all posted rules and regulations.

2. The Club Facilities shall be open on the days and during the hours as may be established by The Club. The Club reserves the right to modify access to Club Facilities due to high occupancy, scheduled maintenance and repairs, safety and security and for the purpose of holding events from time to time.

3. Alcoholic beverages will not be served or sold, nor permitted to be consumed, at the Club Facilities in any manner prohibited by law. The Club reserves the right to refuse service to a Member, a Member's immediate family members or a Member's guest when that Member, immediate family member or guest appears to be intoxicated or under the legal drinking age.

4. All food and beverages consumed at the Club Facilities must be furnished by The Club, except as otherwise permitted.

5. Employees are permitted to deliver food or alcoholic beverages to locations away from food and beverage outlets or other designated areas of the Club Facilities only with the permission of The Club and in conformance with The Club's liquor license.

6. Commercial advertisements shall not be posted or circulated at the Club Facilities nor shall solicitations of any kind be made at the Club Facilities or upon club stationery without the prior approval of The Club. Other than as permitted in writing by The Club, no petition shall be originated, solicited, circulated or posted at the Club Facilities.

7. Members shall not use the roster or list of Members for solicitation or commercial purposes.

8. It is contrary to The Club's policy to have its facilities used for functions or fund raising efforts for the benefit of a political cause, except as specifically permitted by The Club.

9. The Club Facilities shall not be used in connection with organized religious services or other activities except as may be approved by The Club.

10. Members should not request special personal services from employees who are on duty or the personal use of furnishings or equipment at the Club Facilities which are not ordinarily available for use by Members.

11. Dogs or other pets (with the exception of service animals, as defined under the Americans with Disabilities Act) are not permitted on the Club Facilities, except with the permission of The Club. Where dogs are permitted on the grounds, they must be on a leash. Members are responsible for damage caused by an animal owned by the Member or under the Member's control.

12. Members, their immediate family members and their guests may not abuse any of the employees, verbally or otherwise. All service employees are under the supervision of the Hotel Manager and no Member, a Member's immediate family member, or a Member's guest shall reprimand or discipline any employee, nor shall a Member request an employee to leave the Club Facilities for any reason. Any employee not rendering courteous and prompt service should be reported to management immediately.

13. Self parking is permitted in areas identified as Club Member or Platinum Member parking. No parking will be allowed on grassed areas, at curbs, valet or reserved spaces. "No Parking" signs must be observed. Violators may be towed at the owner's expense.

14. Smoking is not permitted at the Club Facilities except in designated areas.

15. Absolutely no fireworks are permitted anywhere on the Club Facilities or adjacent areas unless part of a fireworks exhibit organized and conducted by The Club.

16. Firearms and all other weapons of any kind are not permitted on the Club Facilities property at any time.

17. Use of the Club Facilities may be restricted or reserved from time to time by The Club.

18. Members, their immediate family members and their guests are required to comply with all Mauna Kea Resort rules and regulations.

19. Violation of any of these rules or conduct in a manner prejudicial to the best interests of The Club may subject the person in violation to disciplinary action by The Club in accordance with these Rules and Regulations.

20. The personnel of The Club will have full authority to enforce these Rules and Regulations and any infractions will be reported to management.

21. In no event shall The Club discriminate against any individual because of the individual's race, sex, gender identity, sexual orientation, color, religion, ancestry, familial status, age, disability, marital status or HIV infection.

### **Membership Cards**

1. The Club will issue a Membership Card to the Member and the Member's immediate family members. Membership Cards will only be issued upon payment of annual fees by the Member and approval as a Member for the subject calendar year by The Club. Membership Cards will not be issued to children under the age of fourteen (14). Member and their immediate family members must have their Membership Card with them at all times while using the Club Facilities. Membership Cards are not transferable. In order to provide accurate identification and protect Members from improper charges, The Club requires Members to present their membership card when requesting access or service and at the point of sale for all transactions. All transactions require the member's full account number, printed first and last name and signature.

2. In the event of a lost or stolen Membership Card, The Club must be notified immediately. Until notification of card loss or theft is received in writing by The Club, the Member shall be responsible for all charges placed on the account. A Membership Card replacement fee as determined by The Club may be charged for lost or stolen Membership Cards or in any situation where the account number must be changed.

### **Member Dues and Charges**

1. Annual member dues will be payable in advance unless otherwise determined by The Club and are fully earned upon receipt. Other charges are due and payable within thirty (30) days of the Member's receipt of an invoice therefor, unless otherwise determined by The Club.

2. Members are required to provide The Club with one credit card to which the Member authorizes The Club to charge fees and charges which become delinquent and the Member shall substitute such credit card with another credit card when it expires. Upon approval of The Club, the Member will then be entitled to credit and charge privileges at the Club Facilities so long as his or her membership privileges are in good standing. Cash payments will be permitted unless otherwise determined by The Club from time to time.

3. Members have the option of having fees and charges billed to their credit card on file with The Club, or billed directly to their club account. Such charges will be billed on a monthly basis and Members will receive a written statement of their charges. All Members agree to pay directly to The Club any amounts not paid by the credit card company within ten (10) days of receipt of written notice from The Club.

4. Club accounts shall be deemed delinquent from the date first billed if payment is not received within thirty (30) days after the date of the monthly statement. Past due bills will be subject to a one and one-half percent (1.5%) interest charge per month, but not to exceed the maximum amount permitted by law. The interest charge shall accrue thirty (30) days from the date of the monthly statement until the account is paid in full. Members having past due bills may be charged a reinstatement fee at the discretion of The Club to reactivate an account once it is deemed delinquent.

5. If a Member fails to pay any club account within thirty (30) days of when it is first billed, The Club shall have the right to suspend membership privileges at any time until the delinquent account is paid in full. Continued delinquency for a period of sixty (60) days from the date a club account is first billed or delinquency on payment by a Member for more than thirty (30) days on two occasions in any calendar year may result in termination of the Member's membership privileges in The Club and forfeit of club membership dues.

6. If the account of any Member is delinquent, The Club may at its option take whatever action it deems necessary to effect collection. If The Club commences any legal action to collect any amount owed by any Member or to enforce any other liability of any Member to The Club, and if judgment is obtained by The Club, the Member shall also be liable for all costs and expenses of such legal action and reasonable attorneys' fees, including any fees required in connection with appellate proceedings.

### **Mailing Addresses**

1. Each Member shall be responsible for filing with The Club's Administration Office his or her mailing address and any changes thereto, where the Member wishes all notices and invoices to be sent. A Member shall be deemed to have received mailings from The Club ten (10) days after they have been mailed to the address on file with The Club. In the absence of an address on file at The Club's Administration Office, any mailing may, with the same effect described above, be addressed as the Club Administration may think is most likely to cause its prompt delivery.

2. The Club must be notified in writing of any change of address. Failure to do so shall constitute a waiver of the right to receive notices, bulletins and any other communications, and a violation of these Rules and Regulations.

### **Membership Correspondence**

Complaints, criticisms or suggestions concerning the management, service or operation of The Club shall be in writing, signed by the Member and addressed to the "Director of Membership" at The Club's Administration Office. Errors in billing charges should be directed to the attention of the "Accounting Department" at The Club's Administration Office.

### **Private Functions**

Private functions are permitted at the Club Facilities only with prior permission of The Club. The individual Member sponsoring the function shall assume full responsibility for the conduct of guests and the removal of any decor. The Member sponsoring the function shall be responsible for any damage to the Club Facilities and for the payment of any charges not paid by individuals attending the private function.

### **Resignation of Membership**

1. A Member may resign his or her membership privileges in The Club by delivering written notice of resignation to The Club's Administration Office. A Member's membership privileges shall be deemed to have been resigned as of the date which is thirty (30) days after The Club receives written notice of the Member's resignation. Resignation is irrevocable unless otherwise determined by The Club.

2. Notwithstanding any resignation, annual fees are fully earned at receipt.

3. Notwithstanding any resignation, the Member and his or her spouse/partner shall remain liable for any amounts unpaid on the Member's account.

### **Discipline**

1. Members are responsible for their own conduct and for the conduct of their immediate family members and guests. Any Member whose conduct or whose immediate family member's or guest's conduct shall be deemed by The Club to be likely to endanger the welfare, safety, harmony or good reputation of The Club, its affiliates, and/or the Club Facilities or is otherwise improper, may be reprimanded, fined, suspended or expelled from The Club and have all membership privileges suspended or terminated by The Club. The Club shall be the sole judge of what constitutes improper conduct.

2. The Club may restrict or suspend some or all of a Member's, a Member's family member's and/or guest's privileges. No Member may on account of any restriction or suspension be entitled to any refund of any fee or charges. During the restriction or

suspension, fees and charges shall continue to accrue and shall be paid in full prior to reinstatement as a Member in good standing.

3. The membership privileges of any Member who has been expelled pursuant to the terms hereof shall be treated as being terminated as of the date the Member is expelled. A Member who has been expelled is not entitled to any refund whatsoever.

#### **Loss or Destruction of Property or Instances of Personal Injury**

1. Each Member as a condition of membership in The Club assumes sole responsibility for his or her property. Neither The Club nor any manager of the Club Facilities shall be responsible for any loss or damage to any private property used or stored on the Club Facilities, whether in lockers or elsewhere. Any such personal property which may have been left in or on the facilities for six (6) months or more without payment of storage thereon may be sold by The Club, with or without notice, at a public or private sale, or may be otherwise disposed of, and the proceeds, if any, may be retained by The Club.

2. No person shall remove from the facility at which it is placed any property or furniture belonging to The Club or its affiliates without proper written authorization. Every Member shall be liable for any property damage caused by the Member or any of the Member's immediate family members or guests. The cost of such damage shall be charged to the responsible Member's account.

3. Any Member, the Member's immediate family member or guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by The Club or its affiliates, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by The Club or its affiliates shall do so at his or her own risk. The Member and his or her immediate family members and guests release and shall hold The Club, its affiliates, any manager of the Club Facilities and their respective shareholders, partners, directors, officers, members, employees, representatives, agents (collectively, the "Indemnified Parties") harmless, from and with respect to, any and all loss, cost, claim, injury, damage or liability sustained or incurred by him or her, resulting therefrom, arising out of or incident to membership in The Club and/or from any act or omission of any of the Indemnified Parties. Any Member shall have, owe and perform the same obligation to the Indemnified Parties hereunder in respect to any such loss, cost, claim, injury, damage or liability sustained or incurred by any guest or immediate family member.

4. Should any party bound by these Rules and Regulations bring suit against any of the Indemnified Parties in connection with any event operated, organized, arranged or sponsored by The Club or its affiliates or on any other claim or matter in connection with membership in The Club, and fail to obtain judgment therein against any one or more of them, said party shall be liable to the prevailing Indemnified Parties for all costs and expenses incurred by them in the defense of such suit, including court costs and attorneys' fees and



expenses through all appellate proceedings and shall forfeit both club membership and club membership dues.

### **Reservations and Cancellations**

1. Reservations are required for most activities and shall be accepted on a first-come, first-served basis by pre-registering with the appropriate personnel.

2. Reservations for dining will be held for only fifteen (15) minutes after the reserved time.

3. Not less than twenty-four (24) hours notice shall be required for any cancellation unless a greater cancellation period exists for the particular activity. Any cancelled reservations after that time may be charged the then applicable Hotel guest rate for that event.

### **Gratuities**

1. A fixed gratuity may be added to all food and beverage purchases, which gratuity may be allocated by The Club between service fees to employees as tips or wages and service fees for costs or expenses other than tips or wages of employees. Gratuities for special functions may be higher than the gratuities for a la carte dining.

2. Cash tipping is permitted.

### **Children**

1. Children ages fourteen (14) to sixteen (16) must be accompanied by an adult when using the fitness facilities. Children under fourteen (14) years of age are not permitted in any of the fitness centers.

2. Children under the lawful drinking age are not permitted in any lounge unless accompanied by an adult.

3. Juniors under the age of eighteen (18), must be accompanied by an adult when playing golf.

4. Members are responsible for the conduct and safety of their children when at the Club Facilities.

### **Attire**

1. It is expected that Members will choose to dress in a fashion befitting the surroundings and atmosphere provided in the setting of The Club. It is also expected that Members will advise their guests of the dress requirements. The Club may publish dress requirements from time to time.

2. Gentlemen and ladies are requested to dress in a fashion compatible with the appropriate occasion.

3. Shirts and shoes must be worn at all times when at the Club Facilities, other than at the swimming, beach, spa and locker facilities.

4. Proper golf attire is required for all players. Proper attire shall mean the following:

- Men: Shirts with collars and sleeves and slacks or Bermuda shorts of mid-thigh length are considered appropriate attire. Mock polo shirts are the only non-collared shirts permitted. Tank tops, tee shirts, mesh shirts, sweat pants, warm-up suits, blue jeans, swim wear, short shorts, cut-offs, gym shorts, tennis outfits or other athletic shorts are not permitted.
- Women: Dresses, skirts, slacks, mid-length shorts and blouses are considered appropriate attire. Halter tops, tee shirts, cut-offs, sweat pants, warm-up suits, blue jeans, swim wear, tennis dresses, short shorts, or other athletic shorts are not permitted.
- Golf Shoes: Appropriate golf shoes are required for all golfers. Football, soccer or other large knobby spike shoes are not allowed. Tennis shoes or other soft sole shoes are subject to the approval of the golf professional on duty. Use of non-metal spikes of a type approved by The Club is mandatory.

This dress code is mandatory for all players. Improperly dressed golfers shall be asked to change before playing. If you are in doubt concerning your attire, please check with the pro shop before starting play.

### **General Golf Rules**

1. The Rules of Golf as adopted by the USGA together with the Rules of Etiquette as adopted by the USGA shall be the rules of The Club, except when in conflict with local rules or with any of the rules herein.

2. "Cutting-in" is not permitted at any time. All players must check in with the starter or golf shop.

3. Practice is not allowed on the golf courses. The practice facilities should be used for all practice.

4. Speed of play: It is the goal of all players to complete their round in less than four and one-half hours. This amount of time is more than adequate, provided all players remain aware of the rights of others to play without delay. It is the responsibility of each group to keep pace with the group ahead. If a group falls one complete hole behind the group ahead, the group should allow the following group to go through. It is each group's

responsibility to be observant of its position on the course and keep pace. The player assistant has the authority to keep play moving at the proper pace for all players' enjoyment. Players unable to keep proper pace may be requested to leave the course.

5. If a player is repeatedly warned for slow play, The Club may take such action as it deems appropriate, including without limitation, restricting the person's use of a golf course during certain times of the day.

6. All players who stop after playing nine holes for any reason must occupy the next tee before the following players arrive at the tee or they shall lose their position on the golf course and must get permission from the starter to resume play.

7. All tournament play must be approved in advance by The Club.

8. Enter and leave bunkers at the nearest level point to the green and smooth sand over with a rake upon leaving.

9. Repair all ball marks on the green.

10. Repair all divots.

11. Searching for balls other than those played by members of the group is not allowed on the courses at any time.

12. Each player must have his or her own set of golf clubs.

13. Proper golf attire is required for all players, as previously described.

14. If lightning is in the area, all play shall cease. Although the pro shop staff may warn players about lightning in the area, of which it is aware, The Club does not assume any duty to detect lightning and warn players. If Club personnel warn players about potential lightning in the area, players must stop play immediately.

15. No beverage coolers are permitted on the course unless provided by The Club.

16. "Discontinued Play" Policy: less than three (3) holes played - full eighteen (18) hole credit; less than twelve (12) holes played - nine (9) hole credit.

17. Twosomes may play at the discretion of the pro shop. Twosomes should not expect to play through foursomes and should not exert any pressure on the groups ahead. Foursomes shall have the right of way.

18. Twosomes and singles shall be grouped with other players, if available, at the discretion of the pro shop.

19. Singles shall have no priority on the golf course and shall be permitted to play only at the discretion of the pro shop. Singles should not expect to play through other groups and should not exert any pressure on groups ahead.

20. Groups of five (5) or more players shall only be permitted on the golf course with the permission of the pro shop.

21. The Club reserves the right to implement a caddie program. In the event such a program is implemented, caddies will be available for Members and their guests.

### **Hours of Play**

The hours of play and pro shop hours shall be posted in the pro shop. The Director of Golf or his or her designee shall determine when a golf course is fit for play.

### **Golf Starting Times**

1. The staff shall assign the starting time depending on availability.
2. Starting times may be made in person or by phone during pro shop hours according to The Club's tee time reservation policies.
3. Starting time changes must be approved by the pro shop.
4. Members should notify the pro shop of any cancellation as soon as possible. Members who fail to cancel a starting time at least twenty-four (24) hours in advance are subject to a cancellation fee determined by The Club.

### **Registration**

1. All Members and guests must register in the pro shop before beginning play.
2. Failure to check in and register ten (10) minutes prior to a reserved starting time may result in assignment of another starting time or cancellation, at the discretion of the starter.

### **Practice Ranges**

1. A practice range is open during normal operating hours as posted in the pro shop. A practice range may be closed for general maintenance at The Club's discretion.
2. Range balls are for use on the practice range and may not be used on the golf courses.
3. Golf carts are not permitted on any tee area. Parking of golf carts is allowed in designated areas.

4. Balls must be hit from designated areas.
5. Proper golf attire is required at all times on the practice range.
6. Lessons by unauthorized professionals are prohibited.

#### **General Golf Cart Rules**

1. The use of golf carts on paths is mandatory when posted.
2. The Club reserves the right to permit/prohibit walking.
3. Golf carts shall not be used by a Member or guest on the Club Facilities without proper assignment and registration in the pro shop.
4. Golf carts may only be used on a golf course when the course is open for play.
5. Golf carts may only be operated by persons sixteen (16) years of age or older.
6. Only two (2) persons and two (2) sets of golf clubs are permitted per golf cart.
7. Individual carts are not allowed for twosomes or foursomes.
8. In the event The Club permits walking, then pull carts may or may not be permitted in The Club's discretion.
9. Obey all golf cart traffic signs.
10. Always use golf cart paths where provided.
11. Be careful to avoid soft areas on fairways, especially after rains. Use roughs whenever possible.
12. Never drive a golf cart through a hazard.
13. Operation of a golf cart is at the risk of the operator. Persons who are or appear to be legally intoxicated may not operate a golf cart. Cost of repair to a golf cart which is damaged by the Member, a Member's immediate family member or a guest of the Member shall be charged to the Member. Each Member and guest of The Club shall be held fully responsible for any and all damages, including damages to the golf cart, that are caused by the misuse of the golf cart by the Member, his or her immediate family members or guests, and shall reimburse The Club and/or any operator of the Club Facilities for any and all damages any of them may sustain by reason of misuse.
14. Each Member accepts and assumes all responsibility for liability connected with operation of the golf cart. The Member also expressly indemnifies and agrees to hold harmless the Indemnified Parties from any and all damages, whether direct or consequential,

arising from or related to the Member's, his or her immediate family members' or guests' use and operation of the golf cart.

15. "Course closed" or "hole closed" signs are to be adhered to without exception.

16. Violations of the golf cart rules may result in loss of golf cart privileges and/or playing privileges.

17. No private golf carts are permitted on the Mauna Kea Golf Course or the Hapuna Golf Course.

### **Golf Course Etiquette**

Persons using the golf courses should do their part to make a round of golf a pleasant experience for everyone. Here are some suggestions:

1. Do not waste time. Anticipate the club or clubs you may need, and go directly to your ball. Always be near your ball to play promptly when it is your turn. If a player is delayed in making his shot, it would be courteous for such player to indicate to another player to play which should not be deemed playing out of turn.

2. The time required to "hole out" on and around the green is a chief cause of slow play. Study and clear the line of your putt while others are doing the same. Be ready to putt when it is your turn.

3. Be sociable, but reserve your extended conversations for the 19th hole.

4. When approaching a green, park your golf cart on the cart path on the best direct line to the next tee, in order to save significant time. Never leave the golf cart in front of the green where you will have to go back and get it while the following players wait for you to move on.

5. When play of a hole is completed, leave the green promptly and proceed to the next tee without delay. Record the scoring for the completed hole while the others in your group are playing from the next tee.

6. If you are not holding your place on the course (see General Golf Rules), allow the players behind to play through. Do the same if you stop to search for a lost ball.

7. The golf marshals will report slow play and all breaches of golf etiquette to the golf staff. Appropriate action will be taken by the golf staff.

### **General Tennis Rules**

1. The Rules of Tennis of the USTA shall apply at all times, except when in conflict with the local rules or with any of the rules herein.

2. Court reservations may be made by phoning or visiting the tennis pro shop. Reservations can be made twenty-four (24) hours in advance for court bookings, however, Platinum members can reserve forty-eight (48) hours in advance. No standing reservations will be accepted.

3. All players must check in and register at the tennis pro shop ten (10) minutes prior to their court time or the court will be released to the first name on the waiting list.

4. Players who fail to cancel their reservation two (2) hours prior to their scheduled court time or do not register ten (10) minutes prior to their court time may be charged a fee to be determined by The Club.

5. Members can play for ninety (90) minutes. At the end of their playing period, players must promptly relinquish their court to the next players. Once a Member is off the court, the Member may sign up for the next available court time.

6. Proper tennis attire and non-streak marking shoes are required. Tank tops are not allowed for men.

7. Smoking is not permitted on or near the tennis courts at any time.

8. Skateboards, bicycles, roller skates, roller blades, golf carts etc., are not permitted on the tennis courts.

9. Proper tennis etiquette should be observed at all times. Excessive noise, racquet throwing or profanity will not be permitted at any time. Trash and other litter must be deposited in the proper receptacles.

### **General Pool Rules**

1. Use of the pools at any time is at the swimmer's own risk. Be advised that the pool depths range from 3 feet to 10 feet and there is NO LIFEGUARD ON DUTY. Any injuries or accidents should be reported to the attendant immediately.

2. Persons using the pool facilities are required to show their membership identification card or identify as a residential guest to Club personnel.

3. Umbrellas, lounges and chairs are available on a first-come, first-served basis and are provided, subject to availability, at the time of arrival. Reservation of pool lounge chairs is not permitted. The Club reserves the right to set a fee for cabana use and provide subject to availability.

4. Children who cannot swim must be accompanied by a parent or guardian at all times while in any of the pool areas.

5. Children wearing diapers are not permitted in the pools, unless such children are wearing swimming diapers approved by The Club.
6. Swimming is permitted only during designated hours. Reference should be made to posted signage and unexpected closures should be respected.
7. Showers are required before entering a pool.
8. Bottles, glass objects, drinking glasses and sharp objects are not permitted in the pool areas. Trash should be placed in the containers located throughout the pool areas.
9. Food is allowed only in designated areas of the pool facilities.
10. All swimmers must wear bona fide swimming attire. Cut-offs, dungarees and bermuda shorts are not considered appropriate swimwear. Proper non-swim attire is required at all times other than at the pools or the locker rooms. Shoes or other foot coverings and caftans or shirts must be worn outside the swimming pool and locker areas.
11. Headphones must be used with all electronic devices so as to not negatively affect the enjoyment of other members and guests.
12. Animals, bicycles, skateboards, play balls of any type and coolers are restricted from the pool areas.
13. Lifesaving and pool cleaning equipment should be used only for the purposes intended.
14. Running, ball playing and hazardous activity are not permitted in the pool areas. Pushing, dunking and dangerous games are prohibited.
15. Diving is not permitted unless otherwise indicated at a pool.
16. Fishing, spear fishing and snorkeling equipment, other than a mask and snorkel, are not to be used in the pool areas except as part of an organized course of instruction.
17. Throwing footballs, frisbees, tennis balls, or other objects, spitting or spouting water, and tag games are not allowed in the pool areas. Subject to the foregoing restrictions, small toys such as balls, water guns, rings, etc., may be permitted, depending on the number of persons in the pool and the manner in which the toys are used. Tire inner tubes are not permitted, however, flotation devices are permitted for non-swimming children up to five (5) years of age. The pool staff has the authority to expel from the pool areas anyone who fails to cooperate in following and/or comply with these Pool Rules or whose conduct is otherwise unbecoming of a Member.



18. All persons using pool furniture are required to cover the furniture with a towel when using suntan oils and lotions. The use of these oils and lotions could stain or damage the furniture.

19. All persons using the pool areas are urged to cooperate in keeping the area clean by properly disposing of towels, cans, etc.

20. Persons who leave the pool area for over one (1) hour must relinquish lounges, chairs, and umbrellas and must remove all towels and personal belongings, except that, between the hours of 12:00 noon and 2:00 p.m. there is a two-hour period for eating lunch where the foregoing requirement shall not apply. Saving lounges, chairs, or umbrellas for persons absent from the pool area is prohibited.

21. The pool staff is advised to remove and secure items from lounges and chairs that are left unattended. Unclaimed items are sent to "Lost & Found" if not retrieved by the end of the day.

### **General Spa Rules**

1. Use of the spa is permitted only during designated hours. Reference should be made to posted signage and unexpected closures should be respected.

### **Fitness Rules**

1. Regular operating hours for each fitness facility will be posted by The Club and may be changed from time to time.

2. Prior to use of the fitness facilities, a Member and any guests will be required to sign a waiver of liability agreeing to hold the Indemnified Parties harmless from any and all injuries sustained from the use of the facility.

3. All Members and guests must sign in at the front desk. Membership Cards are required to be presented to gain entry.

4. Guest fees may be charged for use of the fitness facilities. If fees are established, the Member's club account will be billed.

5. Any Member or guest with health or physical problems should first consult his or her physician before using the fitness facilities and notify staff upon entrance to a facility.

6. All weights and pieces of equipment must be returned to their proper places at the completion of use.

7. Casual workout attire is acceptable at the fitness facilities such as tee shirts, tank tops, gym shorts or warm-up pants for men; and leotards, tights, tee-shirts, tank tops,

gym shorts or warm-up pants for women. No black-soled (running type) shoes shall be permitted on court surfaces at the fitness facility. Only aerobic or court shoes may be worn.

8. Pregnant women should not undertake exercise that would elevate their core body temperature.

9. Alcoholic beverages are prohibited at the fitness facilities. No food or drink may be brought onto the premises.

10. It is the responsibility of all persons to obtain instruction on how to use the equipment prior to usage of such equipment, and the equipment is only to be used in accordance with such instructions.

11. Members and immediate family members and guests of a Member assume full risk of loss and responsibility for damage to their health.

12. No clothing or personal articles may be stored under benches or in the common areas.

13. Children ages fourteen (14) to sixteen (16) must be accompanied by an adult when using the fitness facilities. Children under the age of fourteen (14) are not permitted in those areas.

14. Horseplay, profanity, disruptive conduct and indiscreet behavior at the fitness facilities are strictly prohibited.

15. Head phones must be used with all electronic devices so as not to negatively affect the enjoyment of other members and guests.

16. All jewelry must be removed prior to exercising.

17. Healthy gym protocol should be observed, such as use of towels when on equipment and wiping equipment down when done.

#### **General Beach Rules**

1. Members and guests using the beach shall abide by all rules and regulations established by The Club from time to time with respect to the use thereof. Members should pay attention to and observe all restrictions with respect to posted flag colors.

2. Umbrellas, lounges and chairs are available on a first-come, first-served basis and are provided, subject to availability, at the time of arrival. The Club reserves the right to set a fee for cabana use and provide subject to availability.

3. The member seating area is available on a first-come, first-served basis until 12:00 noon daily after which The Club reserves the right to offer the additional area to hotel guests as needed.

4. All members are required to present a membership identification card when requesting towels, chairs, umbrellas and any other services at the beach shack.

5. Persons who leave the beach area for over one (1) hour must relinquish lounges, chairs, and umbrellas and must remove all towels and personal belongings, except that between the hours of 12:00 noon and 2:00 p.m. there is a two-hour period for eating lunch where the foregoing requirement shall not apply.

6. The beach staff is advised to remove and secure items from lounges and chairs that are left unattended. Unclaimed items are sent to "Lost & Found" if not retrieved by the end of the day.

7. Headphones must be used with all electronic devices so as not to negatively affect the enjoyment of other members and guests.

8. Members shall be responsible for returning all towels and chair covers to the beach shack at departure, removing all refuse, and keeping the beach clean and sanitary.

9. Swimming in the ocean is at all times at the risk of the Member and the Member's immediate family members or guests, as the case may be.

### **Club Operations**

The Club is solely responsible for the government and administration of The Club and will have the exclusive authority to accept or reject Members, set the fees and charges, establish rules and regulations and control the management and affairs of The Club. The Club reserves the right, from time to time, to engage one or more management companies to operate the Club Facilities or any portion thereof. Members shall have no right to participate in the management or operation of The Club and/or any of the Club Facilities through any Board of Governors, Advisory Committee or otherwise.

### **Limited Rights**

Membership in The Club permits the Member to access and use the Club Facilities in accordance with the terms and conditions of these governing Rules and Regulations and any other restrictions and policies established by The Club from time to time. Membership in The Club does not grant to the Member any legal or equitable right, title or interest in or easement to use the Club Facilities. Membership in The Club is not a security or investment in The Club or its affiliates and does not provide the Member with an equity or ownership interest or any other property right, title or interest in The Club, its affiliates and/or the Club Facilities. A

Member only acquires a revocable license to use the Club Facilities in accordance with the terms and conditions of these governing Rules and Regulations and any other restrictions and policies established by The Club. The Club reserves the right to modify these Rules and Regulations to reserve membership rights, to modify, terminate or issue any type, category, level, or class of membership in The Club, to discontinue operation of any of the Club Facilities, and/or make any other changes in the terms and conditions of membership in The Club or access or use of the Club Facilities by the Members.

#### **The Club's Discretion**

With respect to any determination, decision or judgment of The Club hereunder, such determination, decision or judgment shall be final and shall be at the sole and absolute discretion of The Club.

#### **Amendment; Modification; Termination.**

These Rules and Regulations which govern The Club at Mauna Kea Resort are subject to amendment, modification and/or termination at any time by The Club.