

EMILY H. KAWASHIMA, 6498-0
AAL, LLLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawai'i 96813
Telephone No.: (808)744-4688
Facsimile No.: (888)777-5405
E-mail: emily@kawashimalaw.com

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FIRST CIRCUIT
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PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

IN THE MATTER

OF

THE KALIMA CLASS ACTION
SETTLEMENT TRUST, DATED JUNE 23,
2023.

T. No. 1CTR-23-0000142
(Trust Proceeding)

**OMNIBUS ORDER RE: KALIMA
CLASS QUALIFIED SETTLEMENT
TRUST PROCEEDINGS; EXHIBITS
“A” – “C”**

HONORABLE R. MARK BROWNING

**OMNIBUS ORDER RE: KALIMA CLASS
QUALIFIED SETTLEMENT TRUST PROCEEDINGS**

On or about June 2, 2022, the parties in *Kalima v. State of Hawaii*, Civ. No. 99-4771-12 LWC (hereinafter “*Kalima*”), entered into a settlement as full and final resolution on a class-wide basis of all claims that were asserted and could have been asserted in the matter. The Hawaii State Legislature approved the appropriation of \$328,000,000.00 to fund the Settlement, and it was signed into law by Governor David Ige on July 11, 2022.

I do hereby certify that the foregoing is a full, true and correct copy of the official court record of the Courts of the State of Hawai'i.

Dated at: Honolulu, Hawai'i 29-DEC-2023, /s/ Lori Ann Okita, Clerk of the First Judicial Circuit, State of Hawai'i

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The net settlement funds are to be distributed to the Payment Recipients as defined in the *Kalima* Settlement Agreement. Since the inception of *Kalima*, approximately 1,200 out of the 2,752 Class Members are now deceased. The distribution of the funds allocated to the deceased Class Members will require additional administration to ensure the proper distribution of those funds to and among the heirs and devisees of the deceased Class Members.

The *Kalima* Court appointed Emily H. Kawashima, Esq., as Probate Special Master and Scott C. Suzuki, Esq., as Probate Special Counsel to assist with the creation and implementation of a Probate Plan to effectuate the efficient, timely and accurate distribution of the settlement funds to the rightful heirs and devisees of the Deceased Class Members as described more fully below.

On August 1, 2023, the Honorable Lisa W. Cataldo entered an Order Granting Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Judgment. This Order was appealed by a single *pro se* Class Member. On October 26, 2023, the Hawaii Supreme Court issued a unanimous Opinion dismissing the appeal and ending all appellate reviews in the *Kalima* case. The implementation of the Probate Plan can now commence.

This Omnibus Order addresses preliminary issues that shall govern all future pleadings and hearings in this Trust proceeding. This Court hereby enters an Omnibus Order, as follows:

A. Appointment of Probate Special Master

On March 3, 2023, the *Kalima* Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Master*. The Probate Special Master was tasked with implementing a probate plan that will supervise and coordinate issuance of settlement payments to deceased Settlement Class Members' heirs and devisees.

Emily H. Kawashima, Esq., is hereby appointed as the Probate Special Master for this proceeding until discharged.

B. Appointment of Probate Special Counsel

On March 24, 2023, the Kalima Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Counsel*. The Probate Special Counsel works with the Probate Special Master, Class Counsel, and the Settlement Special Master and will directly assist in formulating the Probate Plan, including the creation and administration of a Qualified Settlement Trust.

Scott C. Suzuki, Esq. is hereby appointed as Probate Special Counsel for this proceeding until discharged.

C. Probate Plan and Qualified Settlement Trust

The Kalima Court filed its *First Amended Joint Order Approving Probate Plan and Qualified Settlement Trust*, on June 23, 2023. This Court hereby adopts and approves the Probate Plan, attached here as Exhibit "A" which shall apply to the distribution of settlement funds to the rightful heirs and devisees of the Deceased Class Members.

The Kalima Class Action Qualified Settlement Trust, dated June 23, 2023, (hereinafter "QST") is attached hereto as Exhibit "B," and shall be the governing Trust instrument as to all Petitions that will be filed in this Trust proceeding. Sylvius H. Von Saucken, General Manager – Mass Torts, EPIQ Class Action & Claims Solutions, Inc., is the Trustee of the Kalima Class Action Settlement Trust. The Probate Plan and QST shall also be posted on the *Kalima* website www.kalima-lawsuit.com.

D. Probate Plan Notice

An official Class Notice regarding the Probate Plan was mailed to the last known address of the deceased Class Member and anyone who identified themselves as a Representative of the Deceased Class Member on or about November 30, 2023, and is attached here as Exhibit “C.” It shall be posted on the Kalima website.

E. Order of Reference to Master

Pursuant to Hawai‘i Probate Rules 28 and 29, Emily H. Kawashima, Esq. is appointed to examine and report findings and recommendations to the Court on all Petitions and on any other relevant matters in this Trust proceeding as deemed appropriate by the Master or by the Court.

The Master shall provide periodic status reports to be filed with the Court in this proceeding.

In order to accomplish the investigation, and in addition to the authority provided under Rule 29 of the Hawai‘i Probate Rules, the Master shall also have the authority to obtain subpoenas as necessary to address the outstanding issues contained in the Petitions and any other pleadings filed in this proceeding.

F. Objections to Petitions

Any interested persons or parties who make any objection or otherwise disagree with the Petitions or Master Reports, will be removed from the Probate Plan and referred to the Mediation Center of the Pacific where the parties will have the opportunity to resolve the matter through mediation. When all issues are resolved, the Deceased Class Member’s claim will be included back in the Probate Plan. If the parties are unable to resolve their disputes, they must retain private counsel in order to resolve any disagreements before being included back in the Probate Plan. Any additional expenses incurred in the administration of the Probate Plan resulting from

these extra procedures shall be paid from the settlement funds allocated to the Deceased Class Member about whom the parties are in disagreement.

G. Service to Family Members and Efforts to Locate Wills

Petitioner will make all reasonable efforts to locate and serve all Deceased Class Members' family, heirs, devisees and interested persons as permitted in the Probate Plan. In addition, Epiq, the Claims Administrator, will provide a detailed description of all efforts made in the last two years to identify and notify the Deceased Class Members' families, and to solicit and gather information from them relating to the estates of Deceased Class Members. Epiq has also made numerous efforts to confirm whether the Deceased Class Member had estate planning documents. See Declaration of Robert Coomes filed concurrently with this Order.

H. Hearings on Petitions for Instructions

The date and time for hearings on the Petitions for Instructions will be published in the Star Advertiser and anyone may attend the hearings. There will be no telephone or virtual appearances allowed. *, unless otherwise approved by the court.* Hearings will be held in the courtroom of the Judge of the above-entitled Court who shall be sitting in Probate, located at Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawaii 96813.

I. Allowance to Exceed Page Limit

The Petitions, Master Reports and any supplemental filings in this proceeding are exempt from Hawai'i Probate Rule 4(a) regarding length of filings.

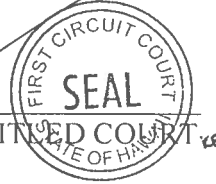
This Omnibus Order may be subject to further update and revisions as deemed necessary by the Court.

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Dated: Honolulu, Hawai'i, DEC 28 2023.


JUDGE OF THE ABOVE-ENTITLED COURT
R. MARK BROWNING



T. No. 1CTR-23-0000142; IN THE MATTER OF THE KALIMA CLASS ACTION
SETTLEMENT TRUST, DATED JUNE 23, 2023; Omnibus Order Re: Kalima Class Action
Trust Proceedings.

EXHIBIT "A"

EMILY H. KAWASHIMA, 6498-0
AAL, LLLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813
Telephone No.: (808)744-4688
Facsimile No.: (888)777-5405
E-mail: emily@kawashimalaw.com

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FIRST CIRCUIT
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PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased, CAROLINE BRIGHT,
DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**FIRST AMENDED JOINT ORDER
APPROVING PROBATE PLAN AND
QUALIFIED SETTLEMENT TRUST;
EXHIBIT "A"**

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

CHIEF ADMINISTRATIVE AND
PROBATE COURT JUDGE:
HON. R. MARK BROWNING

**FIRST AMENDED JOINT ORDER APPROVING
PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST**

On May 22, 2023, the Probate Special Master submitted *Findings and Recommendations for a Joint Order Approving Probate Plan and Qualified Settlement Trust* [Dkt. 1653] to this Court and to the Honorable R. Mark Browning Chief Administrative and Probate Judge. The Court, having reviewed the *Findings and Recommendations for a Joint Order Approving Probate Plan and Qualified Settlement Trust* and accompanying exhibits and good cause appearing therefore,

EXHIBIT "A"

THE COURT FINDS AS FOLLOWS:

FINDINGS

1. The parties have entered into a settlement intended to achieve a full and final resolution on a class-wide basis of all claims that have been asserted and could have been asserted in this matter (the “Settlement”) and have executed a Settlement Agreement to effectuate those terms (the “Settlement Agreement”).
2. The Hawai'i State Legislature has approved the appropriation of \$328,000,000.00 to fund the Settlement, which appropriation was signed into law by Governor David Ige on July 11, 2022.
3. The Settlement Agreement provides that costs necessary to implement the Settlement may include, but are not limited to, costs for a Probate Special Master, costs for a Probate Claims Administrator, costs to implement the Court's approved Probate Plan, and costs to implement the Probate Claims Administration Process (Settlement Agreement Exhibit 1 at 1).
4. The Settlement Agreement provides that the Settlement Special Master may expend all reasonable and necessary funds in fulfillment of his/her responsibilities including to coordinate with the Probate Special Master and Probate Special Administrator to implement a probate plan if one is developed and approved by the Court (Settlement Agreement ¶ VII.B.1 at 14).
5. On June 9, 2022, the Court entered its *Order Granting Plaintiffs' Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing* (the “Preliminary Approval Order”)[Dkt. 1496].

6. On March 3, 2023, the Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Master*. [Dkt. 1617].

7. On March 24, 2023, the Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Counsel*. [Dkt. 1632].

8. The Preliminary Approval Order authorizes the Settlement Special Master to coordinate with the Probate Special Master and Probate Special Administrator to implement a Probate Plan approved by the Court that will supervise and coordinate issuance of settlement payments to deceased Settlement Class Members' estates (Preliminary Approval Order, ¶ 5 at 5).

9. The Preliminary Approval Order directs Class Counsel, in consultation with the Probate Court and Probate Special Master and Probate Special Administrator, to formulate and propose a Probate Plan to the Court (Preliminary Approval Order, ¶ 7(d) at 7).

10. The Court has reviewed the Probate Plan attached hereto as Exhibit "A" to this Joint Order.

11. The Court has reviewed the Qualified Settlement Trust ("QST"), which is attached to the Probate Plan as its Exhibit "1."

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Probate Plan and Qualified Settlement Trust, attached as Exhibit "A" to this Joint Order are approved. The Court hereby establishes the Kalima Class Action Settlement Trust and orders that the settlement funds be transferred to "Sylvius H. Von Saucken, General Manager – Mass Torts, EPIQ Class Action & Claims Solutions, Inc., Trustee of the Kalima Class Action Settlement Trust," which trust shall be dated as of the

date of the entry of this Order;

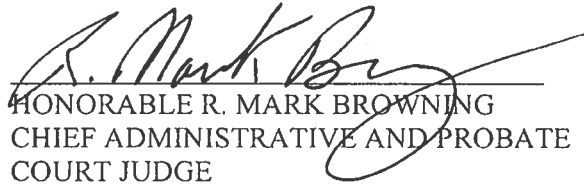
2. This Court and Probate Court shall retain joint jurisdiction over the execution of the Probate Plan and any amendments thereto.

DATED: Honolulu, Hawai'i, June 23, 2023.

RECOMMENDED FOR APPROVAL:

/s/ EMILY H. KAWASHIMA
EMILY H. KAWASHIMA, ESQ.
PROBATE SPECIAL MASTER

APPROVED AND SO ORDERED:


HONORABLE R. MARK BROWNING
CHIEF ADMINISTRATIVE AND PROBATE
COURT JUDGE

APPROVED AND SO ORDERED:

/s/ Lisa W. Cataldo



HONORABLE LISA W. CATALDO
JUDGE OF THE ABOVE-ENTITLED
COURT

EXHIBIT "A"

EMILY H. KAWASHIMA, 6498-0
AAL, LLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813
Telephone No.: (808)744-4688
Facsimile No.: (888)777-5405
E-mail: emily@kawashimalaw.com

PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased,
Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,
Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**PROBATE PLAN; EXHIBIT "1";
CERTIFICATE OF SERVICE**

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

PROBATE JUDGE: HON. R. MARK
BROWNING

PROBATE PLAN

Pursuant to the June 9, 2022, *Order Granting Plaintiffs' Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing*, ("Preliminary Approval Order") [Dkt. 1496] and the March 3, 2023, *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special*

EXHIBIT "A"

Master (the “Appointment Order”) [Dkt. 1617], appointing the Probate Special Master in the instant case for the purposes set forth in the Appointment Order, your Probate Special Master Emily H. Kawashima hereby provides to the Court the Probate Plan as follows:

I. INTRODUCTION

The purpose of the Probate Plan is to provide a process in which the rightful heirs and devisees of the Deceased Class Members are identified and funded accurately and efficiently.

To date, there are approximately 1,200 known Deceased Class Members. It is believed that the majority of these members died intestate. This Probate Plan seeks to avoid the necessity of initiating individual probate proceedings which would incur extraordinary fees and costs and would heavily burden the Probate Court’s calendar and exhaust judicial resources.

A. Definitions

“Class Administrator” means the Epiq Class Action and Claims Solutions, Inc. (“Epiq”) responsible for implementing the Notice Plan and Claims Administration Process, subject to supervision by the Settlement Special Master, the Probate Special Master, and the Court.

“Class Counsel” means Carl M. Varady, Esq. and Thomas R. Grande, Esq.

“Class Member” means all persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.¹

¹ The following persons will not receive a Settlement Payment under the terms of the Settlement Agreement:

- (1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- (2) Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- (3) Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- (4) Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
- (5) Individuals who filed a timely claim with the Panel but settled their claim.
- (6) Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- (7) Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- (8) Individuals who opt-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

“Child” includes an individual entitled to take as a child under this chapter by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant. H.R.S. §560:1-201.

“Deceased Class Members” means all members of the certified class who died on or after August 31, 1995, except for members who have opted out of this litigation as set forth under the definition of “Class Members,” above.

“Descendant” of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this chapter. H.R.S. § 560:1-201.

“Devise”, when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will. H.R.S. § 560:1-201.

“Devisee” means a person designated in a will to receive a devise. For the purposes of article II, in the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees. H.R.S. § 560:1-201.

“Heir,” except as controlled by H.R.S. § 560:2-711, means persons, including the surviving spouse or reciprocal beneficiary and the State, who are entitled under the statutes of intestate succession to the property of a decedent.² H.R.S. §560:1-201.

² **§560:2-711 Interest in "heirs" and like.** If an applicable statute or a governing instrument calls for a present or future distribution to or creates a present or future interest in a designated individual's "heirs", "heirs at law", "next of kin", "relatives", or "family", or language of similar import, the property passes to those persons, including the State, and in such shares as would succeed to the designated individual's intestate estate under the intestate succession law of the designated individual's domicile if the designated individual died when the disposition is to take effect in possession or enjoyment. If the designated individual's surviving spouse or reciprocal beneficiary is living but is remarried or has terminated the reciprocal beneficiary relationship at the time the disposition is to take effect in possession or enjoyment, the surviving spouse or reciprocal beneficiary is not an heir of the designated individual.

“Informal proceedings” means those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative. H.R.S. § 560:1-201.

“Interested persons” includes beneficiaries and any others having a property right in or claim against a trust estate that may be affected by a judicial proceeding and fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.” H.R.S. § 554D-103.

“Interested person” includes heirs, devisees, children, spouses or reciprocal beneficiaries, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. H.R.S. § 560:1-201.

“Issue” of a person means descendant as defined in this section. H.R.S. § 560:1-201

“Kalima Class Action” means the litigation *Kalima, et al., v. State of Hawai‘i, et al.*, Civ. No. 99-4771-12 LWC.

“Kalima Website” means the website located at www.kalima-lawsuit.com.

“Letters” includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship. Unless otherwise provided by order of the court or registrar, letters testamentary and letters of administration shall only be effective for three years unless

renewed for good cause, and such limitation shall be stated on the face of the letters. H.R.S. § 560:1-201.

“Personal representative” includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. “General personal representative” excludes special administrator. H.R.S. § 560:1-201.

“Probate Special Master” means Emily H. Kawashima, Esq., 700 Bishop Street, Suite 1700, Honolulu, Hawaii 96813, who serves by appointment of the Court.

“Probate Special Counsel” means Scott Suzuki, Esq, 1013 Poha Lane, Honolulu, Hawaii 96826, and serves by appointment of the Court.

“QST” means the “KALIMA CLASS ACTION QUALIFIED SETTLEMENT FUND TRUST.”

“QST Beneficiary” means a person who is Class Member, the Estate of Class Member or the appropriate heirs and devisees of a deceased Class Member in the Kalima Class Action case and would be entitled to a distribution from the QST. *See also* H.R.S. § 554D-103.

“Special administrator” means a personal representative as described by H.R.S. §§ 560:3-614 through 560:3-618 and H.R.S. § 1-201.

“Settlement Agreement” means the settlement agreement executed in this case, dated April 14, 2022.

“Settlement fund” means the qualified settlement fund established pursuant to Treasury Regulation Section 1.468B-1.

“Settlement Special Master” means Judge Michael Broderick (Ret.), 1164 Bishop Street, Suite 924, Honolulu, Hawaii 96813, who serves by appointment of the Court.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. “State” includes an Indian tribe or band recognized by federal law or formally acknowledged by a state. H.R.S. § 554D-103.

“Trust instrument” means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto. H.R.S. § 554D-103.

“Trustee” includes an original, additional, and successor trustee, and a co-trustee. H.R.S. § 554D-103.

II. JURISDICTION and VENUE

The Probate Court of the First Circuit, State of Hawai‘i has jurisdiction over this Probate Plan in accordance with the Uniform Trust Code (“UTC”) and the Uniform Probate Code (“UPC”), respectively. See H.R.S. § 554D-202 and H.R.S. § 560:1-302. Venue is also appropriate under H.R.S. § 554D-204 and H.R.S. § 560:1-303.

III. PARTIES INVOLVED

This Probate Plan addresses the payment of settlement funds to all Deceased Class Members whose death occurs prior to the disbursement of settlement funds. Defendant is State of Hawai‘i.

IV. ATTORNEY REFERRALS

Probate Special Master and Probate Special Counsel along with Class Counsel conducted an outreach to members of the Hawai‘i State Bar Association, encouraging them to assist Deceased Class Member families. Potential heirs and family members of deceased Class Members are referred to contact the Lawyer Referral and Information Service of the Hawai‘i State Bar Association which has a subcategory for Kalima probates. Any privately retained counsel are asked to notify Epiq by December 2023, that they have been retained to assist with

the administration of a deceased Class Member's Estate. These represented estates will receive a distribution from the QST upon presentation of appropriate documentation to the Probate Special Counsel and by order of the Probate Court. All remaining unrepresented Deceased Class Members' settlement distributions will be administered by the QST.

There may be instances in which the Probate Special Counsel and Probate Special Master have existing or potential clients who will be included within this Probate Plan and QST. Probate Special Counsel and Probate Special Master will advise their clients on any potential conflicts and have them execute conflict waivers or advise them to seek other counsel. Because neither Probate Special Counsel nor Probate Special Master shall have any ability or authority to calculate or modify the value of settlement proceeds allocated to a deceased Class Member, nothing herein shall constitute a conflict of interest that cannot be waived by existing or potential clients of Probate Special Counsel or Probate Special Master.

V. QUALIFIED SETTLEMENT TRUST

Attached as Exhibit "1," is the Trust document being submitted herewith to the Probate Court for approval. Once approved, it will be published on the Kalima website and incorporated into the Court's order granting Final Approval of the Settlement Agreement.

VI. TRUST PROCEEDING

The QST, will be the mechanism to present the Court with the information it needs to determine who the proper payees are for each Deceased Class Member. Upon Court approval, payments shall be made payable to the estate of the deceased beneficiary and delivered to the personal representative, administrator or executor of the estate of that beneficiary, where known, or payable to the heirs and/or devisees of the deceased beneficiary. Where there is no known personal representative, administrator or executor of the estate of a deceased beneficiary and no

available final probate order from another court, the deceased beneficiary's payment shall not be distributed until further order of the Court.

The Probate Special Counsel will file a series of Petitions for Instructions, each of which will address groups of Deceased Class Members, seeking the Court's determination of the proper heirs and devisees and the appropriate percentage of settlement distribution for each heir or devisee.

The Probate Special Counsel and Probate Special Master may use information either may receive from the Department of Hawaiian Home Lands and Office of Hawaiian Affairs as well as other State of Hawai'i agencies and offices without being considered a violation of any confidentiality agreement or requirement otherwise in effect with the State of Hawai'i. This information may be used in the documents which will be filed in court, and which will become available to the public.

A. Hawai'i Probated Estates

The Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally appointed personal representative of an estate of a Deceased Class Member or pursuant to the terms of a will of a Deceased Class Member that addresses, including through a residuary clause, the distribution of the settlement funds, where that will has been accepted for probate in accordance with H.R.S. § 560:3-101 *et seq.* and § 560:3-401. The Court shall make this determination based on the documentation provided which may include, but is not limited to: Certified Letters Testamentary or Letters of Administration. See Article 1-5.1(B)(1) of the QST.

B. Closed Probates

The Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally adjudicated heirs and/or devisees of an estate of a Deceased Class Member which has since been closed or in which the personal representative's Letters Testamentary or Letters of Administration have expired. See Article 1-5.1(B)(2) of the QST.

C. Special Administration

If a valid special administration has been opened and granted by a Court of competent jurisdiction, pursuant to the requirements under H.R.S. §§ 560:3-614-618, the Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the Special Administrator for the estate, or in a manner consistent with the order appointing said Special Administrator, where appropriate.

D. Affidavit of Collection

Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the individual(s) holding a validly executed affidavit of collection, pursuant to H.R.S. § 560:3-1205.

E. Ancillary Probates

Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally appointed personal representative of an estate of a Deceased Class Member or pursuant to the laws of intestacy or terms of a will of a Deceased Class Member that addresses, including through a residuary clause, the distribution of the settlement funds, where another state has previously adjudicated intestacy or accepted a will for probate, or based on other appropriate documentation provided. See H.R.S. §560:4-301

F. Intestacy

In the event that a Deceased Class Member died without a will, and there have been no prior probate proceedings, Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the rightful heirs in accordance with H.R.S. § 560:2-101. These Deceased Class Members payments, unless represented privately, shall be included in and administered according to the terms the QST.

All of the Petitions must comply with all requirements established by statute or case law, unless waived by the Court, including but not limited to, acceptable means of proof of death, proof of familial relationship, percentage of settlement funds. The same means of proof will be required for those estates with multiple generations of decedents.

VII. SERVICE

Service on all known interested persons shall be effected pursuant to H.R.S. § 560:1-401, to the extent possible, unless waived pursuant to H.R.S. § 560:1-402. In order to manage costs, service shall be effected via electronic mail whenever possible. The filed Petitions and related documents will be posted on the Kalima website as well.

VIII. NOTICE

Under the UTC, notice may be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message. H.R.S § 554D-109.

Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and

not reasonably ascertainable by the trustee. Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

In addition to the methods of notice described above, the Probate Special Counsel shall publish in a newspaper or newspapers of general circulation, notice of any hearings on the petitions filed. Notice will also be published on the Kalima Website. Joinders and receipts will be requested from the known heirs and devisees.

Specifically, below is a sample of the language that will be included in published notices of hearings for Petitions for Instructions as to the Deceased Class Members:

FIRST CIRCUIT COURT NOTICE

T. No. _____

IN THE MATTER OF THE KALIMA CLASS ACTION
QUALIFIED SETTLEMENT FUND TRUST DATED

FILED, a Petition by Scott C. Suzuki, Esq., Probate Special Counsel, whose address is 1013 Poha Lane, Honolulu, Hawaii 96826 (808) 983-3850, seeking instructions relating to the administration of the Kalima Class Action Qualified Settlement Fund Trust dated _____, a copy of which is available to view at www.kalima-lawsuit.com, specifically relating to the following estates:

FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased

The date, time and place for hearing said Petition shall be Thursday, _____, at 10:00 a.m. in the courtroom of the Judge of the above-entitled

Court who shall be sitting in probate, in Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawaii 96813.

The outcome of this hearing may determine how the above-named Decedents' settlement proceeds in, Kalima et al. v. Hawaii, Civil No. 99-4771-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, will be distributed. Parties interested in this Petition have the right to be represented by a private attorney, at said party's own expense.

DATED: Honolulu, Hawaii, _____.

Clerk of the Above-Entitled Court

SCOTT C. SUZUKI
Probate Special Counsel
(808) 983-3850

IX. REVIEW BY MASTER

The Probate Special Master will review each filed Petition and shall report to the Court within 30 days from the date each Petition is filed. This report will also be published on the Kalima website. The report will make findings and recommendations to the Court.

X. HEARING ON PETITION AND ORDERS

All QST petitions are to be heard on the Probate Court's Trust calendar which is 10:00 a.m. on every Thursday, unless the Court special sets these hearings. The hearings shall be open to the public and the call-in number shall be published on the Kalima website on the day prior to the hearing. This information will be noted in each Petition.

Upon the Court's ruling, an Order shall issue with regard to all or some of the named Deceased Class Members. A copy of each filed Order shall be available for viewing on the Kalima website.

XI. AFFIDAVIT IN SUPPORT OF FEES AND COSTS

Prior to the Court's ruling on each Petition for Instructions, the Probate Special Counsel and Probate Special Master shall submit an affidavit or declaration in support of their attorneys' fees and costs incurred. Subject to the Court's approval, these fees and costs will be assessed to the Deceased Class Members in an equitable and proportionate method. See "Budget" section below for additional information regarding the allocation of fees and costs.

XII. PAYMENT OF SETTLEMENT FUNDS

Thirty-one days after the Final Order Approving Settlement and Judgment are filed, if no appeal is taken, the Probate Special Counsel shall provide a certified copy of the Order to Epiq for further handling and administration of the settlement distributions. The Probate Special Counsel will serve the heirs and devisees as described above, and informing them to contact Epiq to receive their settlement funds, if so ordered by the Court.

XIII. RECEIPT OF FUNDS

Epiq will periodically provide Probate Special Counsel and Probate Special Master with a list of all negotiated checks from the settlement payments.

XIV. NON-NEGOTIATED PAYMENTS

Once it has been determined that all known heirs and devisees have been identified, to the best of Probate Special Counsel's ability, those heirs and devisees who were awarded but did not negotiate their settlement checks will be identified. Probate Special Counsel will make best efforts to locate and inquire about the payment.

In situations when an heir or devisee is identified, but Probate Special Counsel cannot locate them or they do not claim/deposit their check, the funds would remain in the QST.

Probate Special Counsel will file a subsequent petition to distribute the funds pursuant to the Settlement Agreement and Payment Distribution Plan, or as otherwise instructed by the Court.

XV. DISPUTED SITUATIONS

If any Deceased Class Members' heirs or devisees dispute who is entitled to receive settlement funds or in what percentage, they will be referred to mediation. If they are unable to resolve their dispute, they will be advised to retain private counsel. Distributions from the QST will be made in a manner consistent with the resolution of the dispute, upon order of the Probate Court.

XVI. AMENDMENTS TO TRUST

As issues arise, the Probate Special Counsel may petition the Court to amend the QST or this Plan as necessary, in accordance with H.R.S. § 554D-410.

XVII. CLOSING

Once all of the distributions have been completed or adjudicated, the Special Probate Master shall file a petition for approval of final accounting, requesting termination of the QST and discharge of the Trustee, Probate Special Master and Probate Special Counsel.

XVIII. BUDGETING

Class Counsel, Settlement Special Master, Probate Special Counsel and Probate Special Master have a working Probate Budget in progress. It will be adjusted once the Petition process is underway and there is more clarity on the time and resources involved.

The Probate Budget will include the following:

1. Epiq Projected Probate Costs
2. Fees and In-House Costs for Probate Special Counsel and Probate Special Master, based on complexity of case groupings

3. Probate Special Counsel and Probate Special Master will submit their declaration or affidavit for fees and costs in conjunction with each Petition for Instructions and request Court approval. Once approved by the Court, Epiq will prorate those fees and costs to each Estate that is addressed in the particular Petition and deduct that amount from the Estate's settlement amount.

4. Probate Special Counsel and Probate Special Master will also submit their invoices to the settlement accountant for direct payment.

XIX. STATE BENEFITS/ PUBLIC ASSISTANCE

Heirs or devisees who are currently receiving public assistance may be affected by the receipt of Settlement. Probate Special Counsel and Epiq will provide the following or similar notice to those receiving settlement funds:

The Settlement Payment May Affect Certain Public Benefits You Receive.

Certain public assistance programs, including but not limited to the Supplemental Nutrition Assistance Program (sometimes called "SNAP" or "food stamps"), subsidized housing/housing assistance (sometimes called "Section 8"), some state-issued health insurance policies, some college tuition/grant programs, some Medicaid programs (sometimes known as "Quest" or "Med-Quest"), some VA benefits, Social Security Disability Insurance, or Supplemental Security Income, may be affected by your receipt of a Settlement Payment .

Each of these programs have complicated rules. Advice about your specific circumstances and public benefits are beyond the scope of our services and we cannot advise you about these issues. You should be sure to comply with all program rules and requirements for these programs, especially including any rule or requirement that you disclose changes in financial status to the relevant public assistance program. Certain program agencies may provide additional information about their unique rules. The loss or limitation of certain benefits can sometimes be avoided by having payment made into a special type of trust. You may want to hire your own private lawyer (at your own cost) to counsel you about these complicated programs and/or a special type of trust.

You should be sure that your private lawyer is familiar with the public benefit programs and Special Needs Trusts.

If you would like to have your settlement payment held for you and managed in a “Special Needs Trust”, please contact the Kalima Claims Administrator at PO Box 135035, Honolulu, HI 96801 (808) 650-5551 OR 1-833-639-1308 via e-mail to info@kalima-lawsuit.com to request more information about the Special Needs Trust. The Claims Administrator will then send you information about the Special Needs Trusts, including contact information for a Hawai‘i-based trustee . You must notify the Claims Administrator by August 21, 2023, that you want information about the Special Needs Trusts. If you do, your settlement payment will be held by the Claims Administrator until the time set by the Court for you to decide whether you want your settlement payment to be held for you and managed in a Special Needs Trust.

Private Attorney for Special Needs Trust

If you want to hire a private attorney (at your own cost) to counsel you about the Special Needs Trust, you should make sure that the attorney is familiar with the public benefit programs and Special Needs Trusts. You can contact the Hawai‘i State Bar Association Lawyer Referral and Information Service at (808) 537-9140 or via e-mail to LRIS@hsba.org to seek assistance from an attorney for this purpose.

XX. CONCLUSION

While this Probate Plan seeks to address all foreseeable issues, others will inevitably arise in which case the Probate Special Counsel and Probate Special Master will seek Court approval for any adjustments to the Probate Plan or amendments to the QST, as necessary.

DATED: Honolulu, Hawai‘i, May 22, 2023.

RESPECTFULLY SUBMITTED,

/s/ Emily H. Kawashima
EMILY H. KAWASHIMA
PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

A copy of the foregoing document was served all parties and counsel of record registered to this case through the Court's JEFS system on the date indicated below:

DATED: Honolulu, Hawai'i, May 22, 2023.

/s/ Emily H. Kawashima

EMILY H. KAWASHIMA
PROBATE SPECIAL MASTER

EXHIBIT “1”

KALIMA CLASS ACTION SETTLEMENT TRUST

THIS TRUST AGREEMENT is established this date of _____, by order of the Circuit Court of the First Circuit, State of Hawaii, pursuant to its ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered in *Kalima et al. v. State of Hawaii et al.*, (Civil No. 99-4771-12 LWC) on or about _____, which Order is hereby incorporated by reference and attached hereto as Schedule B and referred to herein as the "Order". The initial Trustee is SYLVIOUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. (hereinafter referred to as the "Trustee"). By said Order, the initial Trust corpus shall consist of the property described in Schedule A. The Trustee accepts such property as the initial trust estate. The Trustee shall hold and dispose of the trust estate upon the terms of the trust set forth in this Agreement.

This trust is made of three parts and Schedules A and B. PART ONE disposes of the trust estate. PART TWO relates to the trusteeship and the powers for the Trustee. PART THREE contains definitions and other formal provisions.

PART ONE: DISPOSITION OF TRUST ESTATE

ARTICLE 1-1: NAME AND PURPOSE OF TRUST

1-1.1 NAME: This trust shall be known as the KALIMA CLASS ACTION SETTLEMENT TRUST (the "Trust")

1-1.2 PURPOSE: In addition to the other purposes more specifically defined herein, the purpose of this trust is to establish and govern the administration of a Qualified Settlement Fund as described in Treasury Regulation Section 1.468B-1 and the Order.

Kalima et al. v. State of Hawaii et al., (Civil No. 99-4771-12 LWC) (sometimes referred to herein as the "Civil Matter") is a civil matter filed in the Circuit Court of the First Circuit State of Hawaii. The Civil Matter was filed in 1999 when the State of Hawaii eliminated the Hawaiian Claims Office that reviewed breaches of trust by the State of Hawaii regarding the Hawaiian Home Lands Trust that occurred between 1959 and 1988.

The Civil Matter is a class action lawsuit. The plaintiffs are members of a defined Settlement Class (sometimes referred to herein as the "Class Members"). The Class Members are beneficiaries of this Trust, as more specifically detailed herein.

EXHIBIT "1"

The Defendants in the Civil Matter are the State of Hawaii, and others (sometimes collectively referred to herein as the "Defendant"). Claims against Defendant were extinguished upon execution of a settlement agreement. Settlement funds pursuant to the settlement agreement were transferred to this Trust to permit the release of all claims as to the Defendant and to authorize the Trustee to resolve other issues regarding settlement funds as to the Plaintiff and other entities claiming an interest in the trust assets to be deposited into the KALIMA CLASS ACTION SETTLEMENT TRUST. The Trustee shall administer all funds of the Trust in accordance with the provisions set forth herein and as required by the Order, and as otherwise ordered by a court.

Specific purposes of this Trust include, but are not limited to, (i) the proper financial management of settlement proceeds, (ii) determining the true beneficiaries and parties entitled to settlement proceeds, (iii) and appropriately distributing to the true beneficiaries the correct amounts of settlement proceeds to which such true beneficiaries are entitled.

ARTICLE 1-2: TRUST BENEFICIARIES

1-2.1 TRUST BENEFICIARIES: The Beneficiaries of the Trust are those parties who have a valid claim and/or interest in the proceeds of the settlement funds derived from the Civil Matter, including parties who are entitled to the estates of deceased Class Members. The Trustee shall distribute Trust assets to or for the benefit of the Beneficiaries pursuant to the terms of this Trust and appropriate orders of a court. No settlement funds or Trust assets shall be set apart for or distributed to any Class Member or any other individual or entity claiming an interest in Trust assets except as ordered by a court. Neither Class Member, nor any other individual or entity claiming an interest in Trust assets shall have access to the Trust assets, and may not draw upon or otherwise control any of the assets of this Trust. The Trustee shall take all such actions as shall be necessary or advisable to resolve creditor claims, expenses related to the Civil Matter, including but not limited establishing an administrative fee reserve, the payment of attorney fees, consultant fees, costs, taxes, and any statutory claims of subrogation. Once the Trustee has been presented with an appropriate court order that resolves all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

1-2.2 RESTRICTIONS ON BENEFICIAL INTERESTS: No Beneficiary shall have any authority to process any rights to demand or receive any portion of the Trust assets or to mortgage, pledge, or encumber the same in any manner. To the extent possible, no Beneficiary shall be deemed to have been in constructive receipt, as determined under federal income tax principles, of any amounts held by the Trust prior to the distribution from the trust to the Beneficiary.

ARTICLE 1-3: TRUSTEE'S BASIC DUTIES

During the term of this trust, the Trustee shall hold, manage, invest, and reinvest the trust estate, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this PART ONE and the Order. All decisions regarding distributions from this Trust shall be made at the sole and absolute discretion of the Trustee, acting exclusively in the capacity as Trustee and not as an agent of any Beneficiary.

ARTICLE 1-4: ADMINISTRATION OF THE QUALIFIED SETTLEMENT FUND

1-4.1 TOTAL SETTLEMENT PROCEEDS: Pursuant to the ORDER GRANTING PETITION TO ESTABLISH A QUALIFIED SETTLEMENT FUND, the total settlement proceeds are the sole property of this Trust. No portion of the total settlement proceeds shall be made available to any beneficiary or any other individual or entity claiming any interest in the settlement funds absent a valid court order. The purpose of the Trust is limited to the matters set forth in Article 1-1.2 hereinabove. The Trust shall not be construed to confer upon a Trustee any authority to carry on any business or activity for profit (except the holding and investment of the Trust assets and distributions pursuant to this Trust Agreement).

Upon receipt of the total settlement proceeds, the Trustee shall hold and administer the Trust estate prudently. The beneficial interests of each Beneficiary shall be calculated in accordance with the court orders in the Civil Matter. The Trustee shall have no duty to segregate the beneficial interests by the respective Class Member, but may pool all Trust assets, including Total Settlement Proceeds, for managerial and administrative purposes. Distributions of beneficial interest of the Trust estate shall be governed in accordance with the provisions set forth in Article 1-5.

1-4.2 DURATION: The Trust shall remain in operation and effect until all matters relating to the Civil Matter have been fully resolved, including but not limited to the payment of attorney fees and costs, and administrative expenses. Upon full resolution, the Trust shall terminate in accordance with an appropriate Court Order.

1-4.3 TRUST ADMINISTRATION: For the duration of the administration of the Trust, the Trustee shall have the full authority and power to administer the Trust as consistent with law.

1-4.3 INDEMNIFICATION: The Trustee shall be indemnified and held harmless by Class Members, their successors and their estates, from any claims made by any alleged lienholder, or other person or entity that attempts to assert a right of payment, reimbursement or garnishment against this Trust. Should the Trustee be named as a party to, or threatened to be made a party to, any threatened pending or completed action, suit or proceeding of any kind, whether civil, administrative or arbitrators, and whether brought by or against or otherwise involving the Trust, the Trustee shall be indemnified and held harmless by the Class Members, their successors and their Estates against reasonable expenses, costs and fees (including attorney fees), judgments, awards, costs, amounts paid in settlement, and liabilities of all kinds incurred by the Trustee in connection with or resulting from such actual or threatened action, suit or proceeding; except to the extent that it is finally determined by a court of competent jurisdiction that the Trustee was negligent or acted with willful misconduct in connection with the administration of this Trust.

1-4.4 INVESTMENTS: During the administration of this Trust, the Trustee shall be authorized to deposit and invest any and all funds as the Trustee shall deem to be appropriate and prudent under the circumstances. Any income, interest, dividends, or other increase to the value of the funds shall be retained in the Trust until final distribution and shall be apportioned among all of

the undistributed shares of the Trust as of the date the receipt of the same, unless otherwise provided by court order.

The Trustee may, in the Trustee's sole and absolute discretion, purchase and assign any structured settlements created under any court order or Fund Agreement, provided that any structured settlement annuities shall be issued by a life insurance company that is rated A+ or better by A.M. Best Company. The Trustee may also distribute to, and establish, appropriate trusts, separate and apart from this Trust, for the benefit of any beneficiary, pursuant to any court order. Examples of appropriate trusts may include, but not be limited to "special needs trusts" or "settlement preservation trusts" for beneficiaries who may then be eligible for means-tested public benefits or who may need additional assistance with financial management.

1-4.5 ADMINISTRATIVE DISBURSEMENTS: The Trustee shall be authorized to distribute all attorney fees and litigation expenses to counsel, consistent with existing contingency fee contracts and/or court orders approving fees prior, or subsequent to the establishment of this Trust. The Trustee shall obtain a court order to obligate the Trust to pay for legal fees and costs relating to the establishment of this Trust. The Trustee shall be authorized to pay all expenses incurred in the establishment and administration of this Trust, including, but not limited to, fees related to the preparation of this instrument, other trust-administrative documentation, trustee fees, accounting expenses, taxes, investment advisor expenses, fees and costs to any "Master" or other court-appointed position, and the fees of the Trustee. All taxes on the income of the Trust and expenses and costs incurred in connection with the taxation of the Fund (including, without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, for each year, incurred in preparing and filing of the Trust's annual income taxes) shall be (i) paid out of the Trust, (ii) considered to be a cost of administration of the settlement, and (iii) timely paid by the Trustee without prior order of the Court. All administrative disbursements made pursuant to this Article 1-4.5 shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the disbursement, unless otherwise provided by court order or Fund Agreement.

1-4.6 TAXES AND EXPENSES: The Trustee shall obtain a Federal Taxpayer Identification Number for this Trust. It is the intent of this Trust that all steps be taken by the Trustee and Beneficiaries to ensure that the Trust established by the Court will qualify as, and remain, a "Designated" or "Qualified" settlement fund within the meaning of IRC § 468B, and the Treasury Regulations promulgated pursuant thereto and codified at 26 C.F.R. §1.468B-1. The Trustee will elect to apply settlement fund rules, if appropriate, by filing a "Section 1.468B-5(b)(2) Election."

It is further intended that the transfers to the Trust will satisfy the "all events test" and the "economic performance" requirement of IRC § 461(h)(1), and Treas. Reg. § 1.461-1(a)(2).

All taxes on the income of this trust and expenses and costs incurred in connection with the taxation of this trust, including without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, shall be paid out of the trust, considered to be a cost of administration, and timely paid by the fund administrator without prior order of any court. All expenses incurred in the settlement of claims, including, but not limited to, fees related to the establishment of this agreement, the administration of this trust, accounting, investment, and other professional services related to the administration of this trust, may be paid by the trustee as

accrued. Both the taxes and expenses paid shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the payment, unless otherwise provided by court order or Fund Agreement.

1-4.7 ACCOUNTS AND REPORTS: Upon request, and at least once per calendar year, the Trustee will prepare and deliver an accounting or other report to the known “qualified beneficiaries” of the Trust, or to their respective known agents, representatives, and/or estate, as the circumstances may provide. Prior to termination of this Trust, the Trustee shall seek Court approval of a Final Accounting. These documents will be made available online at www.kalima-lawsuit.com.

1-4.8 RELIANCE: The Trustee shall have the right to rely upon any affidavit, government document, certificate, letter, notice, electronic mail or other documentation believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient, which may be provided to the Trustee.

1-4.9 TERMINATION: Upon full resolution of all matters relating to the settlement of the Civil Matter, the Trust shall terminate and all of the rest, residue and remainder of the funds shall be administered in accordance with the provisions set forth in Article 1-5.

ARTICLE 1-5: DISTRIBUTION THROUGH TERMINATION OF THE QUALIFIED SETTLEMENT FUND

1-5.1 The Trustee shall distribute the net value of each separate share allocated to each Class Member as follows:

(A) SHARE FOR LIVING CLASS MEMBER: The Trustee shall distribute the share for each living Class Member outright and free of any trust to such living Class Member. If such living Class Member shall be incapacitated, the Trustee shall distribute such share to the duly appointed Conservator, Guardian of the Property/Estate, or duly designated agent under a power of attorney for such incapacitated Class Member. Upon receipt of the share by such Class Member, such Class Member’s interest in and to this Trust shall be considered fully satisfied and terminated.

(B) SHARE FOR DECEASED CLASS MEMBER: The Trustee shall administer the share of any deceased Class Member as follows:

(1) If the Estate of the deceased Class Member shall be the subject of an open probate proceeding, the Trustee shall distribute the share of the deceased Class Member to the duly appointed and currently acting Personal Representative (or similar person acting as legal representative of the decedent pursuant to state distribution and/or probate laws) of such deceased Class Member’s probate estate. Upon receipt of the share by such Personal Representative of such deceased Class Member’s estate, such deceased Class Member’s interest in and to this Trust shall be considered fully satisfied and terminated.

(2) If the Estate of the deceased Class Member has previously been subject to a probate proceeding, the Trustee shall distribute the share of such deceased Class Member

to the heirs/devisees in the proportions as adjudicated in such deceased Class Member's probate proceeding. Upon receipt by the heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(3) If the Estate of the deceased Class Member has not previously been probated and is not currently subject to probate administration, the Trustee shall distribute the share of such deceased Class Member to the heirs/devisees of the deceased Class Member as established by clear and convincing evidence as ordered by the Probate Court, First Circuit, State of Hawaii, and following service of appropriate notice to the heirs and purported devisees. Should any of the heirs and/or purported devisees wish to contest the proposed distribution, the Trustee shall abstain from making the distribution until the heirs and purported devisees have fully resolved their differences and upon such resolution, the Trustee shall distribute said share in accordance with the agreement of such resolution. Upon receipt by such heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(4) In the event that any distributee eligible to receive a distribution pursuant to Article 1-5.1(B)(1) through (3) hereinabove shall be (a) under the age of majority, (b) the subject of a current guardianship or conservatorship proceeding, and/or (c) eligible for means-tested public benefits including but not limited to Supplemental Security Income and/or Medicaid, the Trustee shall be authorized to complete the distribution to such distributee by making the distribution instead to the minor distributee's legal parent as custodian, or to an appropriate trust (or similar account) for the benefit of such distributee, and as ordered by the Probate Court of the First Circuit, State of Hawaii.

(5) In the event that an appropriate distributee cannot be located, and the Probate Court of the First Circuit, State of Hawaii, is satisfied that all reasonable means to locate such distributee have been exhausted, the allocable share for such distributee shall be distributed in a manner as Ordered by the Court.

(C) PROBATE SPECIAL COUNSEL AND PROBATE SPECIAL MASTER: The Probate Special Counsel and Probate Special Master have been appointed by the Probate Court of the First Circuit, State of Hawaii (hereinafter the "Probate Court"). The Probate Special Counsel shall initiate a Trust Proceeding in the Probate Court and shall file petition(s) seeking an order or orders of said Probate Court instructing the Trustee to make the disbursements outlined herein above at Article 1-5.1(B)(1) through (5). In seeking such instructions, the Probate Special Counsel shall set forth the name(s) and address(es) of the proposed distributee(s), cause notice to be provided to parties interested in the subject share allocated to the deceased Class Member, and set forth the basis for the calculation of any distribution to any distributee, as well as any additional relief that may be appropriate under the circumstances. The Probate Special Master shall report and make recommendations to the Probate Court regarding the petition(s) of the Probate Special Counsel. The Trustee shall make disbursements as outlined hereinabove at Article 1-5.1(B)(1) through (5) only pursuant to the order(s) of the Probate Court.

1-5.3 TERMINATION: Once the Trustee has obtained necessary court orders, as appropriate and in the sole discretion of the Trustee, resolving all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

PART TWO: TRUSTEESHIP

ARTICLE 2-1: RESIGNATION

The Probate Court of the First Circuit, State of Hawaii, shall approve any resignation of any Trustee, and the resignation shall become effective as the Probate Court of the First Circuit, State of Hawaii shall order.

The resigning Trustee shall transfer and deliver to the successor Trustee all of the Trust estate and shall thereupon be discharged as Trustee hereunder.

ARTICLE 2-2: REMOVAL

The Probate Court of the First Circuit, State of Hawaii, , shall have the right to remove any Trustee. Such removal shall become effective at such date as the Court may order or the parties shall agree. Any Trustee may be removed by the Court for reasonable cause upon application by any interested party.

ARTICLE 2-3: LIABILITY OF TRUSTEES

No Trustee shall be responsible or liable for the manner in which any discretion is exercised pursuant thereto, or for any misinterpretation of this Agreement, or, unless the Trustee's own conduct amounts to fraud or willful misconduct, for any act or omission of its, his or her own. The successor Trustee shall be responsible only for its, his or her acts or omissions in bad faith and shall in no event be responsible for any action in which the successor Trustee shall not be pecuniarily interested and which shall be taken upon the advice of competent legal, accounting or other counsel concerning the construction or interpretation of this instrument or the administration of the trust estate. The Trustee shall retain such competent legal, accounting, investment or other counsel at the expense of the trust estate, as the Trustee shall deem necessary or desirable in the best interest of the trust estate.

ARTICLE 2-4: VACANCY IN TRUSTEESHIP

The initial Trustee is SYLVIUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. A vacancy in the Trusteeship due to the death, disability, dissolution, bankruptcy, removal or resignation of an acting trustee shall be filled by a successor Trustee appointed by the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 2-5: PROVISIONS RELATING TO THE TRUSTEE

2-5.1 COMPENSATION: The Trustee shall be entitled to reasonable compensation for the Trustee's services, plus the then current rate of applicable sales or excise tax imposed on such services. Fees shall not exceed the amount permitted by statute to be charged by Trustees under HRS Section 607-18. The Trustee shall also be entitled to reimbursement for expenses necessarily incurred in the administration of the trust estate.

2-5.2 BOND: No bond or surety on bond shall be required from any Trustee.

2-5.3 WAIVER OF ACCOUNTING: No Trustee need examine the accounts, records and acts of any previous Trustee.

2-5.5 EXERCISE OF DISCRETION: The Trustee (or successor Trustee, as the case may be) should carefully consider the income tax effects, if any, when the Trustee makes any discretionary distribution to any beneficiary that would discharge that Trustee's individual legal obligations, including the obligation of support, toward such beneficiary. The Trustee shall also consider the special or supplemental needs of the Beneficiary in making any discretionary distribution.

2-5.6 TAX IDENTIFICATION NUMBER: The Trustee shall have the authority to obtain a Federal Employer Tax Identification Number for the Kalima Class Action Settlement Trust upon establishment of the Trust.

ARTICLE 2-6: POWERS OF THE TRUSTEE

2-6.1 GRANT: The Trustee shall have discretion and complete power to administer the Trust estate. In addition to those statutory powers now or subsequently conferred by law (including, but not limited to, Hawaii Revised Statutes Chapter 554A and the Hawaii Uniform Trust Code, as the same may be amended from time to time), such grant shall include without limitation the following powers:

2-6.2 RECEIVE ASSETS: To receive, take possession of, sue for, recover and preserve the assets of the Trust estate, both real and personal, coming to the Trustee's attention or knowledge, and the rents, issues and profits arising from such assets;

2-6.3 RETAIN INITIAL ASSETS: To retain the initial assets of the Trust (including the Total Settlement Proceeds), without liability for loss or depreciation or diminution in value of any residential property or closely-held stock resulting from such retention until the Trustee decides to dispose of such assets;

2-6.4 ABANDON ASSETS: To abandon, charge off or otherwise dispose of any part of the trust estate that is of no value or of insufficient value to justify collection, care, administration or protection;

2-6.5 INVEST: To invest, reinvest and, to the extent deemed advisable by the Trustee, to keep invested, the assets of the trust estate, however derived, in stocks (common and preferred,

and including shares in investment companies, investment trusts or mutual funds as well as stock or obligations of any corporate Trustee), bonds, debentures, notes, or any other type of securities, interests, assets or property, whether real or personal or in shares or units of participation in common trust funds, or to participate in making investments with others, all without regard to diversification or to whether or not the security, interest, asset or property so purchased or acquired is legal for trust fund investment under the constitution, statutes or laws of the state in which the trust shall have its principal situs of administration or elsewhere; provided, further, that the Trustee shall have the power to invest in non-income producing property for the satisfaction of the Beneficiary's supplemental needs;

2-6.6 EXECUTE CONTRACTS: To enter into contracts that are reasonably incident to the administration of the Trust;

2-6.7 PERFORM AGREEMENTS: To carry out the terms of any valid agreement concerning property owned by the Trust;

2-6.8 EXECUTE INSTRUMENTS: To execute, acknowledge, and deliver all instruments necessary or appropriate for the administration of the Trust;

2-6.9 INSURE: To carry insurance for fiduciaries including Directors and Operators policies, Errors and Omissions policies, and insurance against such hazards, including public liability, in either stock or mutual companies and to purchase annuity policies or life insurance (of whatever form) on the life of any beneficiary or other person in whom any of the beneficiaries have an insurable interest, naming as beneficiary of any such policy either the trust itself or the beneficiary on whom or with respect to whom the policy was taken out; to pay premiums, assessments and proper charges on any such policy as beneficial distributions, charging the same to income or principal as permitted by the distributive provisions of this Agreement relating to the beneficiary on whom or with respect to whom the policy was taken out; and to exercise all or any rights granted under such policy;

2-6.10 DEAL WITH FIDUCIARIES: To purchase from, borrow from, sell to, and generally to deal with the Trustee, individually and as a fiduciary, or with partnerships, corporations, and financial or business organizations in which the Trustee may have an interest;

2-6.11 DEPOSIT: To deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.12 ACCOUNTS: To open or close checking, savings, stock, bond and any other type of accounts, to deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.13 EMPLOY AGENTS AND DELEGATE: To employ and compensate out of the principal or income, or both, of the Trust estate, agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, investment counsel and other assistants and advisors, and to delegate powers and duties to other persons, partnerships or corporations, and to employ and

delegate as so provided without liability for any neglect, omission, misconduct or default of any such agent, provided such agent was selected and retained with reasonable care;

2-6.14 TAKE LEGAL ACTION: To prosecute or defend judicial and administrative proceedings for the protection of the trust estate, or of the Trustee in the performance of the Trustee's duties;

2-6.15 DETERMINE ACCOUNTING PRACTICES: To determine all matters of trust accounting in accordance with generally accepted principles of trust accounting as established by controlling law or customary practices, provided, that:

(A) Dividends, interest, rents and other similar payments received in cash by the Trustee shall normally be dealt with as income, whether ordinary or extraordinary and whether or not in the nature of liquidating dividends or payments or dividends or payments on mining, oil, timber or other stocks or assets of a wasting nature, or a return of capital, or a distribution of realized capital gains, or a distribution from depletion reserves (and irrespective of any statement the corporation, association or person declaring such dividends or making such payments may make with reference thereto) and irrespective of the character of the assets or account out of which they are paid or the time when they shall have accrued or accumulated or shall have been earned, declared or payable or the time for the determination of the persons entitled thereto, but the Trustee shall have full power and authority in the absolute discretion of the Trustee, to allocate to principal the whole or any part of any dividend or payment which in the Trustee's opinion is extraordinary, in the nature of a liquidating dividend or payment, a wasting asset dividend or payment, a return of capital, a distribution of realized capital gains, or a distribution from depletion reserves. All determinations with respect to the allocation of such dividends or payments in whole or in part to principal, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

(B) Dividends paid in, and rights to subscribe to, property other than cash, including securities, whether or not of the same corporation, and shares of stock received as the result of any stock split, shall normally be dealt with as principal, but the Trustee shall have full power and authority, in the Trustee's absolute discretion, to allocate the whole or any part of any such dividend, right or shares of stock received as the result of such stock split to income if in the Trustee's opinion such dividend, right, or shares of stock should be considered as a distribution of current earnings by the corporation declaring or issuing the same. All determinations with respect to the allocation of such dividends or rights or shares of stock so received in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate;

(C) The Trustee shall determine the provision, if any, to be made in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, for the amortization out of income of any premium paid on the purchase or other acquisition of any security, and shall credit the same to principal. The Trustee shall also determine the amount of depreciation, cost recovery, and depletion chargeable against the tangible assets of the trust estate during each year, in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, and shall charge

against income and credit to principal the sum so determined; provided that the Trustee shall not be required to charge depreciation, cost recovery, or depletion with respect to any improvement constructed on trust property by a lessee. All determinations with respect to amortization, depreciation, cost recovery, and depletion made in good faith by the Trustee shall be final and binding on all persons interested in the Trust estate; and

(D) The proceeds from the sale, redemption or other disposition, whether at a profit or loss, of any property constituting principal, including mortgages and real estate, no matter how acquired, shall normally be dealt with as principal, even if the property shall have produced no income, but the Trustee shall have full power and authority, in the absolute discretion of the Trustee, to allocate the whole or any part of any such proceeds to income if the property disposed of produced no income or in the Trustee's opinion substantially less than the current rate of return on trust investments. All determinations with respect to the allocation of such proceeds in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

2-6.16 ESTABLISH RESERVES: To establish reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation and cost recovery, depletion, obsolescence, and general maintenance of buildings, and other property, and for the equalization of payments to or for beneficiaries entitled to receive income, out of the rents, profits, or other income received;

2-6.17 SETTLE CLAIMS: To pay, contest, or otherwise settle claims by or against the trust, including taxes, assessments, and expenses, by litigation, compromise, arbitration, or otherwise;

2-6.18 EMPLOY CUSTODIAN: With respect only to an individual Trustee, to employ a custodian of any trust property, the cost of which shall be a proper charge against the Trust estate;

2-6.19 USE NOMINEE: To hold title to a trust asset in the Trustee's name, in registered form or in the name of nominee, without disclosure of the Trust's interest in such asset;

2-6.20 PROTECT SECURITIES: To pay calls, assessments and any other sums chargeable to or accruing against or on account of shares of stock or other securities that are part of the Trust estate;

2-6.21 EXERCISE RIGHTS: To sell or exercise stock subscription rights, participate in foreclosures, reorganizations, recapitalizations, consolidations, mergers, liquidations, or other corporate adjustments, to enter into voting trust agreements or other similar arrangements, and to consent to corporate sales, leases or encumbrances; to deposit stocks or other securities that are part of the trust estate with any protective or other similar committee, or with voting Trustees;

2-6.22 DISTRIBUTE IN KIND: To make distributions in kind, in money, or partly in each, without requiring pro rata distribution of specific assets, at fair market value as determined by the Trustee on the effective date of distribution;

2-6.23 RELEASE POWERS: To release by an instrument in writing any power expressly or impliedly conferred in this Agreement;

2-6.24 APPOINT TRUSTEE IN OTHER JURISDICTIONS: If at any time any Trust property is situated in a jurisdiction in which any Trustee is unable or unwilling to act, to appoint in an instrument signed by the Trustee a person or corporation to act as special Trustee with respect to that property in that jurisdiction, and such special Trustee and every successor special Trustee so appointed shall have all the title, powers and discretion with respect to that property that is given to the special Trustee by the Trustee. The net income from that property in the other jurisdiction and any net proceeds of its sale shall be paid over to the Trustee;

2-6.25 INVESTMENT IN SECURITIES: With respect to any investments owned by the Trust:

(A) To buy, sell and deal in stocks, bonds, commodities, futures, options, and other securities of any kind and in any amount, including short sales;

(B) To write or purchase call or put options, or other derivative securities;

(C) To carry stock certificates and other property in the form of street certificates, or in any other form, without disclosing the existence of any trust. The Trustee may permit Trust property to be held in the custody of a banking institution or brokerage firm;

(D) To maintain margin accounts with brokerage firms and to pledge securities to secure loans and advances made to the Trustee or to (or for the benefit of) a beneficiary hereunder;

2-6.26 RENT SAFE DEPOSIT BOXES: To open, have access to, add to, and remove the contents from one or more safe deposit boxes in the name of the trust; to allow fewer than all Trustees to enter and remove contents from a safe deposit box if there is more than one Trustee; and to appoint one or more agents by a writing signed by all acting Trustees to enter and remove the contents of a safe deposit box; and

2-6.27 TRANSFER SITUS: To transfer the administrative situs of the Trust from its original jurisdiction to any other jurisdiction and to take all necessary actions to submit to and gain the protection of the laws of the new situs, subject to the approval of the Probate Court of the First Circuit, State of Hawaii;

2-6.28 ACCUMULATE: To accumulate and add to Trust principal or to keep segregated for later distribution any net income of any trust in any trust accounting year that is not disposed of by the terms of such trust;

2-6.29 EXERCISE POWERS: To exercise all powers expressly or impliedly conferred in this Agreement without seeking the aid, authorization, order, or approval of any court. All powers shall:

(A) be exercisable by the Trustee in any jurisdiction;

(B) be exercisable in respect of all assets of the Trust estate held by the Trustee or under the Trustee's control;

(C) remain exercisable as fiduciary powers of administration only, and without affecting the vesting of any interests, until final distribution of all of the Trust estate; and

(D) be exercisable without any duty on any person dealing with the Trustee to inquire into the Trustee's authority.

In the event that the relevant federal or State agencies change the laws, rules or policies concerning irrevocable supplemental or special needs trusts, the Trustee is hereby instructed to handle the trust assets and income according to the revised laws, rules, and policies, and according to the Hawaii Uniform Trustees' Powers Act, as in effect and as amended from time to time.

1-6.30 RELIANCE ON DOCUMENTATION: to rely upon any affidavit, certificate, letter, notice, government document, electronic mail, or other document believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient.

PART THREE: FORMAL PROVISIONS

ARTICLE 3-1: DEFINITIONS APPLYING TO THIS AGREEMENT

3-1.1 TRUSTEE, PRONOUNS, SINGULAR AND PLURAL: Unless a contrary meaning or reference shall be expressly indicated or clearly implied from the context, the word "Trustee" and the pronoun "it" in reference to the Trustee always refer interchangeably to the male or female person or persons or to the institution or to any combination of them then holding the trusteeship. Any pronoun used in the masculine, feminine or neuter shall be interpreted as the context requires; and words used in the singular shall denote the plural and words used in the plural shall denote the singular when the context so requires. "Trustee" also refers to any successor or alternate trustee or co-trustees, including corporations that succeed another corporation by merger, consolidation, change of name or otherwise, and the appointment of a corporate trustee shall be deemed to include appointment of its corporate successor. Any corporate trustee shall be a corporation organized under the laws of any state or of the United States, authorized by law to administer trusts and maintaining a full time trust department. All successor or alternate trustees or co-trustees shall have the same powers, authorities, obligations and limitations as the original Trustee unless other provisions specifically provide to the contrary.

3-1.2 CHILDREN, ADOPTED CHILDREN, DESCENDANTS AND PER STIRPES: The words "child," "children," "descendant," and "issue" include persons who are legally adopted; "child" and "children" do not include grandchildren or more remote descendants of the applicable ancestor; "issue" and "descendants" include lineal descendants of whatever degree.

The words "per stirpes" means a division into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child, if any shall be allocated one share. The share of each deceased child with surviving descendants shall be divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

3-1.3 CHILD IN BEING: A child in gestation who is later born alive shall be considered as a child in being throughout the period of gestation.

3-1.4 TRUST ESTATE: The Trust estate shall consist of the Total Settlement Proceeds, as described in Schedule A, and any other property that may be added at any time to the trust estate.

3-1.5 AGREEMENT: "Agreement" refers to this Agreement as it exists as amended from time to time.

3-1.6 DISABILITY: As used herein, "disability" means any physical or mental disability or capacity that has been brought to the Trustee's attention (or that of a potential successor Trustee) by the submission of a statement of a licensed physician or licensed clinical psychologist, that the individual is unable to attend to or effectively administer the individual's financial affairs. Such individual shall be determined to have recovered from any such disability upon the submission to the Trustee of a statement of the same physician that the disability has been removed.

"Disability" and/or "disabled" shall be synonymous with the appropriate tenses of the terms "incapacitated" or "incompetent" and shall also include any period of time during which the person has been missing and unaccounted for more than thirty (30) days and such disappearance is supported by police or other governmental record.

ARTICLE 3-2: MODIFICATION

This Agreement and the Trust hereby created may only be amended by order of a court.

ARTICLE 3-3: REPORTS

Upon request, the Trustee shall provide to the Probate Court of the First Circuit, State of Hawaii, a report setting forth all of the receipts, disbursements, and distributions to or from the trust.

ARTICLE 3-4: PARTIAL INVALIDITY

If any provision is unenforceable or invalid for any reason, the remainder of this Agreement shall continue in effect.

ARTICLE 3-5: JURISDICTION

The laws of the State of Hawaii shall govern this Agreement and the construction of any of its terms.

ARTICLE 3-6: SITUS

The initial situs of this trust shall be the State of Hawaii. Consistent with Article 2-6.27, the Trustee shall have authority to transfer the situs of the Trust within the United States, subject to the approval of the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 3-7: PROTECTIVE PROVISIONS

No beneficiary shall have any right to anticipate, transfer or encumber any part of any interest in the Trust estate nor shall any part of the beneficiary's interest be liable for that beneficiary's debts or obligations (including alimony) or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process..

ARTICLE 3-8: DISTRIBUTION BEFORE NOTICE

The Trustee shall not be liable for any distribution or other action that is made upon order of a court, or which would have been proper, unless made in bad faith, or unless made after receiving notice of a court proceeding that would modify a prior order of a court.

ARTICLE 3-9: DISCLAIMER

Any person competent to act may disclaim or renounce any part or all of any property, interest or power hereunder by any one or more written instruments which shall be delivered to the Trustee; and thereupon the property, interest or power disclaimed or renounced shall be treated as if that person had died immediately preceding such event that made said person entitled to the benefit involved.

ARTICLE 3-10: RULES OF CONSTRUCTION

No provision of this trust shall be interpreted in such manner as would cause it to not comply with the provisions of Treasury Regulation Section 1.468B-1.

ARTICLE 3-11: ACCEPTANCE OF TRUST

The Trustee, by joining in the execution of this Agreement, acknowledges receipt of the property described in Schedule A, acknowledges that the Trust will be administered in accordance with Schedule B, and signifies the acceptance of the KALIMA CLASS ACTION SETTLEMENT TRUST, and covenants that the Trust will be executed with all due fidelity.

The parties hereto agree that this instrument may be executed in counterparts, whether electronic or otherwise, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument,

duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

The Trust is established pursuant to that certain ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about _____ and the Trustee have executed this Agreement for the purpose of evidencing its acceptance of the trust created by this Agreement, all to be made effective this date of _____, 2023.

Established pursuant to that certain ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about _____

SYLVIVUS H. VON SAUCKEN
GENERAL MANAGER – MASS TORTS|
EPIQ CLASS ACTION & CLAIMS
SOLUTIONS, INC.

TRUSTEE

STATE OF _____)
)
) SS.
_____)

On this date of _____, 2023, before me personally appeared SYLVIUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC., as a Trustee of the KALIMA CLASS ACTION SETTLEMENT TRUST dated _____, 2023, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed as Trustee.

Print Name: _____

Notary Public, State of _____

My Commission expires: _____

Schedule A

The following is a description of the original assets of KALIMA CLASS ACTION SETTLEMENT TRUST.

All of the Consideration in the settlement of Kalima et al. v. State of Hawaii et al., Civil No. 99-4471-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, in the gross amount of _____ AND NO/100 DOLLARS (\$_____.00)

Dated: Honolulu, Hawaii, _____.

As ordered by that certain ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about _____

Schedule B

ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered in
Kalima et al. v. State of Hawaii et al., Civil No. 99-4471-12 LWC, filed in the Circuit Court of the
First Circuit, State of Hawaii, on or about _____

EXHIBIT "B"

KALIMA CLASS ACTION SETTLEMENT TRUST

THIS TRUST AGREEMENT is established this date of June 23, 2023, by order of the Circuit Court of the First Circuit, State of Hawaii, pursuant to its FIRST AMENDED JOINT ORDER APPROVING PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST entered in *Kalima et al. v. State of Hawaii et al.*, (Civil No. 99-4771-12 LWC) on or about June 23, 2023, which Order is hereby incorporated by reference and attached hereto as Schedule B and referred to herein as the "Order". The initial Trustee is SYLVIOUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. (hereinafter referred to as the "Trustee"). By said Order, the initial Trust corpus shall consist of the property described in Schedule A. The Trustee accepts such property as the initial trust estate. The Trustee shall hold and dispose of the trust estate upon the terms of the trust set forth in this Agreement.

This trust is made of three parts and Schedules A and B. PART ONE disposes of the trust estate. PART TWO relates to the trusteeship and the powers for the Trustee. PART THREE contains definitions and other formal provisions.

PART ONE: DISPOSITION OF TRUST ESTATE

ARTICLE 1-1: NAME AND PURPOSE OF TRUST

1-1.1 NAME: This trust shall be known as the KALIMA CLASS ACTION SETTLEMENT TRUST (the "Trust")

1-1.2 PURPOSE: In addition to the other purposes more specifically defined herein, the purpose of this trust is to establish and govern the administration of a Qualified Settlement Fund as described in Treasury Regulation Section 1.468B-1 and the Order.

Kalima et al. v. State of Hawaii et al., (Civil No. 99-4771-12 LWC) (sometimes referred to herein as the "Civil Matter") is a civil matter filed in the Circuit Court of the First Circuit State of Hawaii. The Civil Matter was filed in 1999 when the State of Hawaii eliminated the Hawaiian Claims Office that reviewed breaches of trust by the State of Hawaii regarding the Hawaiian Home Lands Trust that occurred between 1959 and 1988.

The Civil Matter is a class action lawsuit. The plaintiffs are members of a defined Settlement Class (sometimes referred to herein as the "Class Members"). The Class Members are beneficiaries of this Trust, as more specifically detailed herein.

EXHIBIT "B"

The Defendants in the Civil Matter are the State of Hawaii, and others (sometimes collectively referred to herein as the "Defendant"). Claims against Defendant were extinguished upon execution of a settlement agreement. Settlement funds pursuant to the settlement agreement were transferred to this Trust to permit the release of all claims as to the Defendant and to authorize the Trustee to resolve other issues regarding settlement funds as to the Plaintiff and other entities claiming an interest in the trust assets to be deposited into the KALIMA CLASS ACTION SETTLEMENT TRUST. The Trustee shall administer all funds of the Trust in accordance with the provisions set forth herein and as required by the Order, and as otherwise ordered by a court.

Specific purposes of this Trust include, but are not limited to, (i) the proper financial management of settlement proceeds, (ii) determining the true beneficiaries and parties entitled to settlement proceeds, (iii) and appropriately distributing to the true beneficiaries the correct amounts of settlement proceeds to which such true beneficiaries are entitled.

ARTICLE 1-2: TRUST BENEFICIARIES

1-2.1 TRUST BENEFICIARIES: The Beneficiaries of the Trust are those parties who have a valid claim and/or interest in the proceeds of the settlement funds derived from the Civil Matter, including parties who are entitled to the estates of deceased Class Members. The Trustee shall distribute Trust assets to or for the benefit of the Beneficiaries pursuant to the terms of this Trust and appropriate orders of a court. No settlement funds or Trust assets shall be set apart for or distributed to any Class Member or any other individual or entity claiming an interest in Trust assets except as ordered by a court. Neither Class Member, nor any other individual or entity claiming an interest in Trust assets shall have access to the Trust assets, and may not draw upon or otherwise control any of the assets of this Trust. The Trustee shall take all such actions as shall be necessary or advisable to resolve creditor claims, expenses related to the Civil Matter, including but not limited establishing an administrative fee reserve, the payment of attorney fees, consultant fees, costs, taxes, and any statutory claims of subrogation. Once the Trustee has been presented with an appropriate court order that resolves all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

1-2.2 RESTRICTIONS ON BENEFICIAL INTERESTS: No Beneficiary shall have any authority to process any rights to demand or receive any portion of the Trust assets or to mortgage, pledge, or encumber the same in any manner. To the extent possible, no Beneficiary shall be deemed to have been in constructive receipt, as determined under federal income tax principles, of any amounts held by the Trust prior to the distribution from the trust to the Beneficiary.

ARTICLE 1-3: TRUSTEE'S BASIC DUTIES

During the term of this trust, the Trustee shall hold, manage, invest, and reinvest the trust estate, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this PART ONE and the Order. All decisions regarding distributions from this Trust shall be made at the sole and absolute discretion of the Trustee, acting exclusively in the capacity as Trustee and not as an agent of any Beneficiary.

ARTICLE 1-4: ADMINISTRATION OF THE QUALIFIED SETTLEMENT FUND

1-4.1 TOTAL SETTLEMENT PROCEEDS: Pursuant to the ORDER GRANTING PETITION TO ESTABLISH A QUALIFIED SETTLEMENT FUND, the total settlement proceeds are the sole property of this Trust. No portion of the total settlement proceeds shall be made available to any beneficiary or any other individual or entity claiming any interest in the settlement funds absent a valid court order. The purpose of the Trust is limited to the matters set forth in Article 1-1.2 hereinabove. The Trust shall not be construed to confer upon a Trustee any authority to carry on any business or activity for profit (except the holding and investment of the Trust assets and distributions pursuant to this Trust Agreement).

Upon receipt of the total settlement proceeds, the Trustee shall hold and administer the Trust estate prudently. The beneficial interests of each Beneficiary shall be calculated in accordance with the court orders in the Civil Matter. The Trustee shall have no duty to segregate the beneficial interests by the respective Class Member, but may pool all Trust assets, including Total Settlement Proceeds, for managerial and administrative purposes. Distributions of beneficial interest of the Trust estate shall be governed in accordance with the provisions set forth in Article 1-5.

1-4.2 DURATION: The Trust shall remain in operation and effect until all matters relating to the Civil Matter have been fully resolved, including but not limited to the payment of attorney fees and costs, and administrative expenses. Upon full resolution, the Trust shall terminate in accordance with an appropriate Court Order.

1-4.3 TRUST ADMINISTRATION: For the duration of the administration of the Trust, the Trustee shall have the full authority and power to administer the Trust as consistent with law.

1-4.3 INDEMNIFICATION: The Trustee shall be indemnified and held harmless by Class Members, their successors and their estates, from any claims made by any alleged lienholder, or other person or entity that attempts to assert a right of payment, reimbursement or garnishment against this Trust. Should the Trustee be named as a party to, or threatened to be made a party to, any threatened pending or completed action, suit or proceeding of any kind, whether civil, administrative or arbitrators, and whether brought by or against or otherwise involving the Trust, the Trustee shall be indemnified and held harmless by the Class Members, their successors and their Estates against reasonable expenses, costs and fees (including attorney fees), judgments, awards, costs, amounts paid in settlement, and liabilities of all kinds incurred by the Trustee in connection with or resulting from such actual or threatened action, suit or proceeding; except to the extent that it is finally determined by a court of competent jurisdiction that the Trustee was negligent or acted with willful misconduct in connection with the administration of this Trust.

1-4.4 INVESTMENTS: During the administration of this Trust, the Trustee shall be authorized to deposit and invest any and all funds as the Trustee shall deem to be appropriate and prudent under the circumstances. Any income, interest, dividends, or other increase to the value of the funds shall be retained in the Trust until final distribution and shall be apportioned among all of

the undistributed shares of the Trust as of the date the receipt of the same, unless otherwise provided by court order.

The Trustee may, in the Trustee's sole and absolute discretion, purchase and assign any structured settlements created under any court order or Fund Agreement, provided that any structured settlement annuities shall be issued by a life insurance company that is rated A+ or better by A.M. Best Company. The Trustee may also distribute to, and establish, appropriate trusts, separate and apart from this Trust, for the benefit of any beneficiary, pursuant to any court order. Examples of appropriate trusts may include, but not be limited to "special needs trusts" or "settlement preservation trusts" for beneficiaries who may then be eligible for means-tested public benefits or who may need additional assistance with financial management.

1-4.5 ADMINISTRATIVE DISBURSEMENTS: The Trustee shall be authorized to distribute all attorney fees and litigation expenses to counsel, consistent with existing contingency fee contracts and/or court orders approving fees prior, or subsequent to the establishment of this Trust. The Trustee shall obtain a court order to obligate the Trust to pay for legal fees and costs relating to the establishment of this Trust. The Trustee shall be authorized to pay all expenses incurred in the establishment and administration of this Trust, including, but not limited to, fees related to the preparation of this instrument, other trust-administrative documentation, trustee fees, accounting expenses, taxes, investment advisor expenses, fees and costs to any "Master" or other court-appointed position, and the fees of the Trustee. All taxes on the income of the Trust and expenses and costs incurred in connection with the taxation of the Fund (including, without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, for each year, incurred in preparing and filing of the Trust's annual income taxes) shall be (i) paid out of the Trust, (ii) considered to be a cost of administration of the settlement, and (iii) timely paid by the Trustee without prior order of the Court. All administrative disbursements made pursuant to this Article 1-4.5 shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the disbursement, unless otherwise provided by court order or Fund Agreement.

1-4.6 TAXES AND EXPENSES: The Trustee shall obtain a Federal Taxpayer Identification Number for this Trust. It is the intent of this Trust that all steps be taken by the Trustee and Beneficiaries to ensure that the Trust established by the Court will qualify as, and remain, a "Designated" or "Qualified" settlement fund within the meaning of IRC § 468B, and the Treasury Regulations promulgated pursuant thereto and codified at 26 C.F.R. § 1.468B-1. The Trustee will elect to apply settlement fund rules, if appropriate, by filing a "Section 1.468B-5(b)(2) Election."

It is further intended that the transfers to the Trust will satisfy the "all events test" and the "economic performance" requirement of IRC § 461(h)(1), and Treas. Reg. § 1.461-1(a)(2).

All taxes on the income of this trust and expenses and costs incurred in connection with the taxation of this trust, including without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, shall be paid out of the trust, considered to be a cost of administration, and timely paid by the fund administrator without prior order of any court. All expenses incurred in the settlement of claims, including, but not limited to, fees related to the establishment of this agreement, the administration of this trust, accounting, investment, and other professional services related to the administration of this trust, may be paid by the trustee as

accrued. Both the taxes and expenses paid shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the payment, unless otherwise provided by court order or Fund Agreement.

1-4.7 ACCOUNTS AND REPORTS: Upon request, and at least once per calendar year, the Trustee will prepare and deliver an accounting or other report to the known "qualified beneficiaries" of the Trust, or to their respective known agents, representatives, and/or estate, as the circumstances may provide. Prior to termination of this Trust, the Trustee shall seek Court approval of a Final Accounting. These documents will be made available online at www.kalima-lawsuit.com.

1-4.8 RELIANCE: The Trustee shall have the right to rely upon any affidavit, government document, certificate, letter, notice, electronic mail or other documentation believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient, which may be provided to the Trustee.

1-4.9 TERMINATION: Upon full resolution of all matters relating to the settlement of the Civil Matter, the Trust shall terminate and all of the rest, residue and remainder of the funds shall be administered in accordance with the provisions set forth in Article 1-5.

ARTICLE 1-5: DISTRIBUTION THROUGH TERMINATION OF THE QUALIFIED SETTLEMENT FUND

1-5.1 The Trustee shall distribute the net value of each separate share allocated to each Class Member as follows:

(A) SHARE FOR LIVING CLASS MEMBER: The Trustee shall distribute the share for each living Class Member outright and free of any trust to such living Class Member. If such living Class Member shall be incapacitated, the Trustee shall distribute such share to the duly appointed Conservator, Guardian of the Property/Estate, or duly designated agent under a power of attorney for such incapacitated Class Member. Upon receipt of the share by such Class Member, such Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(B) SHARE FOR DECEASED CLASS MEMBER: The Trustee shall administer the share of any deceased Class Member as follows:

(1) If the Estate of the deceased Class Member shall be the subject of an open probate proceeding, the Trustee shall distribute the share of the deceased Class Member to the duly appointed and currently acting Personal Representative (or similar person acting as legal representative of the decedent pursuant to state distribution and/or probate laws) of such deceased Class Member's probate estate. Upon receipt of the share by such Personal Representative of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(2) If the Estate of the deceased Class Member has previously been subject to a probate proceeding, the Trustee shall distribute the share of such deceased Class Member

to the heirs/devisees in the proportions as adjudicated in such deceased Class Member's probate proceeding. Upon receipt by the heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(3) If the Estate of the deceased Class Member has not previously been probated and is not currently subject to probate administration, the Trustee shall distribute the share of such deceased Class Member to the heirs/devisees of the deceased Class Member as established by clear and convincing evidence as ordered by the Probate Court, First Circuit, State of Hawaii, and following service of appropriate notice to the heirs and purported devisees. Should any of the heirs and/or purported devisees wish to contest the proposed distribution, the Trustee shall abstain from making the distribution until the heirs and purported devisees have fully resolved their differences and upon such resolution, the Trustee shall distribute said share in accordance with the agreement of such resolution. Upon receipt by such heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(4) In the event that any distributee eligible to receive a distribution pursuant to Article 1-5.1(B)(1) through (3) hereinabove shall be (a) under the age of majority, (b) the subject of a current guardianship or conservatorship proceeding, and/or (c) eligible for means-tested public benefits including but not limited to Supplemental Security Income and/or Medicaid, the Trustee shall be authorized to complete the distribution to such distributee by making the distribution instead to the minor distributee's legal parent as custodian, or to an appropriate trust (or similar account) for the benefit of such distributee, and as ordered by the Probate Court of the First Circuit, State of Hawaii.

(5) In the event that an appropriate distributee cannot be located, and the Probate Court of the First Circuit, State of Hawaii, is satisfied that all reasonable means to locate such distributee have been exhausted, the allocable share for such distributee shall be distributed in a manner as Ordered by the Court.

(C) PROBATE SPECIAL COUNSEL AND PROBATE SPECIAL MASTER: The Probate Special Counsel and Probate Special Master have been appointed by the Probate Court of the First Circuit, State of Hawaii (hereinafter the "Probate Court"). The Probate Special Counsel shall initiate a Trust Proceeding in the Probate Court and shall file petition(s) seeking an order or orders of said Probate Court instructing the Trustee to make the disbursements outlined herein above at Article 1-5.1(B)(1) through (5). In seeking such instructions, the Probate Special Counsel shall set forth the name(s) and address(es) of the proposed distributee(s), cause notice to be provided to parties interested in the subject share allocated to the deceased Class Member, and set forth the basis for the calculation of any distribution to any distributee, as well as any additional relief that may be appropriate under the circumstances. The Probate Special Master shall report and make recommendations to the Probate Court regarding the petition(s) of the Probate Special Counsel. The Trustee shall make disbursements as outlined hereinabove at Article 1-5.1(B)(1) through (5) only pursuant to the order(s) of the Probate Court.

1-5.3 TERMINATION: Once the Trustee has obtained necessary court orders, as appropriate and in the sole discretion of the Trustee, resolving all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

PART TWO: TRUSTEESHIP

ARTICLE 2-1: RESIGNATION

The Probate Court of the First Circuit, State of Hawaii, shall approve any resignation of any Trustee, and the resignation shall become effective as the Probate Court of the First Circuit, State of Hawaii shall order.

The resigning Trustee shall transfer and deliver to the successor Trustee all of the Trust estate and shall thereupon be discharged as Trustee hereunder.

ARTICLE 2-2: REMOVAL

The Probate Court of the First Circuit, State of Hawaii, , shall have the right to remove any Trustee. Such removal shall become effective at such date as the Court may order or the parties shall agree. Any Trustee may be removed by the Court for reasonable cause upon application by any interested party.

ARTICLE 2-3: LIABILITY OF TRUSTEES

No Trustee shall be responsible or liable for the manner in which any discretion is exercised pursuant thereto, or for any misinterpretation of this Agreement, or, unless the Trustee's own conduct amounts to fraud or willful misconduct, for any act or omission of its, his or her own. The successor Trustee shall be responsible only for its, his or her acts or omissions in bad faith and shall in no event be responsible for any action in which the successor Trustee shall not be pecuniarily interested and which shall be taken upon the advice of competent legal, accounting or other counsel concerning the construction or interpretation of this instrument or the administration of the trust estate. The Trustee shall retain such competent legal, accounting, investment or other counsel at the expense of the trust estate, as the Trustee shall deem necessary or desirable in the best interest of the trust estate.

ARTICLE 2-4: VACANCY IN TRUSTEESHIP

The initial Trustee is SYLVIOUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. A vacancy in the Trusteeship due to the death, disability, dissolution, bankruptcy, removal or resignation of an acting trustee shall be filled by a successor Trustee appointed by the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 2-5: PROVISIONS RELATING TO THE TRUSTEE

2-5.1 **COMPENSATION:** The Trustee shall be entitled to reasonable compensation for the Trustee's services, plus the then current rate of applicable sales or excise tax imposed on such services. Fees shall not exceed the amount permitted by statute to be charged by Trustees under HRS Section 607-18. The Trustee shall also be entitled to reimbursement for expenses necessarily incurred in the administration of the trust estate.

2-5.2 **BOND:** No bond or surety on bond shall be required from any Trustee.

2-5.3 **WAIVER OF ACCOUNTING:** No Trustee need examine the accounts, records and acts of any previous Trustee.

2-5.5 **EXERCISE OF DISCRETION:** The Trustee (or successor Trustee, as the case may be) should carefully consider the income tax effects, if any, when the Trustee makes any discretionary distribution to any beneficiary that would discharge that Trustee's individual legal obligations, including the obligation of support, toward such beneficiary. The Trustee shall also consider the special or supplemental needs of the Beneficiary in making any discretionary distribution.

2-5.6 **TAX IDENTIFICATION NUMBER:** The Trustee shall have the authority to obtain a Federal Employer Tax Identification Number for the Kalima Class Action Settlement Trust upon establishment of the Trust.

ARTICLE 2-6: POWERS OF THE TRUSTEE

2-6.1 **GRANT:** The Trustee shall have discretion and complete power to administer the Trust estate. In addition to those statutory powers now or subsequently conferred by law (including, but not limited to, Hawaii Revised Statutes Chapter 554A and the Hawaii Uniform Trust Code, as the same may be amended from time to time), such grant shall include without limitation the following powers:

2-6.2 **RECEIVE ASSETS:** To receive, take possession of, sue for, recover and preserve the assets of the Trust estate, both real and personal, coming to the Trustee's attention or knowledge, and the rents, issues and profits arising from such assets;

2-6.3 **RETAIN INITIAL ASSETS:** To retain the initial assets of the Trust (including the Total Settlement Proceeds), without liability for loss or depreciation or diminution in value of any residential property or closely-held stock resulting from such retention until the Trustee decides to dispose of such assets;

2-6.4 **ABANDON ASSETS:** To abandon, charge off or otherwise dispose of any part of the trust estate that is of no value or of insufficient value to justify collection, care, administration or protection;

2-6.5 **INVEST:** To invest, reinvest and, to the extent deemed advisable by the Trustee, to keep invested, the assets of the trust estate, however derived, in stocks (common and preferred,

and including shares in investment companies, investment trusts or mutual funds as well as stock or obligations of any corporate Trustee), bonds, debentures, notes, or any other type of securities, interests, assets or property, whether real or personal or in shares or units of participation in common trust funds, or to participate in making investments with others, all without regard to diversification or to whether or not the security, interest, asset or property so purchased or acquired is legal for trust fund investment under the constitution, statutes or laws of the state in which the trust shall have its principal situs of administration or elsewhere; provided, further, that the Trustee shall have the power to invest in non-income producing property for the satisfaction of the Beneficiary's supplemental needs;

2-6.6 **EXECUTE CONTRACTS:** To enter into contracts that are reasonably incident to the administration of the Trust;

2-6.7 **PERFORM AGREEMENTS:** To carry out the terms of any valid agreement concerning property owned by the Trust;

2-6.8 **EXECUTE INSTRUMENTS:** To execute, acknowledge, and deliver all instruments necessary or appropriate for the administration of the Trust;

2-6.9 **INSURE:** To carry insurance for fiduciaries including Directors and Operators policies, Errors and Omissions policies, and insurance against such hazards, including public liability, in either stock or mutual companies and to purchase annuity policies or life insurance (of whatever form) on the life of any beneficiary or other person in whom any of the beneficiaries have an insurable interest, naming as beneficiary of any such policy either the trust itself or the beneficiary on whom or with respect to whom the policy was taken out; to pay premiums, assessments and proper charges on any such policy as beneficial distributions, charging the same to income or principal as permitted by the distributive provisions of this Agreement relating to the beneficiary on whom or with respect to whom the policy was taken out; and to exercise all or any rights granted under such policy;

2-6.10 **DEAL WITH FIDUCIARIES:** To purchase from, borrow from, sell to, and generally to deal with the Trustee, individually and as a fiduciary, or with partnerships, corporations, and financial or business organizations in which the Trustee may have an interest;

2-6.11 **DEPOSIT:** To deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.12 **ACCOUNTS:** To open or close checking, savings, stock, bond and any other type of accounts, to deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.13 **EMPLOY AGENTS AND DELEGATE:** To employ and compensate out of the principal or income, or both, of the Trust estate, agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, investment counsel and other assistants and advisors, and to delegate powers and duties to other persons, partnerships or corporations, and to employ and

delegate as so provided without liability for any neglect, omission, misconduct or default of any such agent, provided such agent was selected and retained with reasonable care;

2-6.14 TAKE LEGAL ACTION: To prosecute or defend judicial and administrative proceedings for the protection of the trust estate, or of the Trustee in the performance of the Trustee's duties;

2-6.15 DETERMINE ACCOUNTING PRACTICES: To determine all matters of trust accounting in accordance with generally accepted principles of trust accounting as established by controlling law or customary practices, provided, that:

(A) Dividends, interest, rents and other similar payments received in cash by the Trustee shall normally be dealt with as income, whether ordinary or extraordinary and whether or not in the nature of liquidating dividends or payments or dividends or payments on mining, oil, timber or other stocks or assets of a wasting nature, or a return of capital, or a distribution of realized capital gains, or a distribution from depletion reserves (and irrespective of any statement the corporation, association or person declaring such dividends or making such payments may make with reference thereto) and irrespective of the character of the assets or account out of which they are paid or the time when they shall have accrued or accumulated or shall have been earned, declared or payable or the time for the determination of the persons entitled thereto, but the Trustee shall have full power and authority in the absolute discretion of the Trustee, to allocate to principal the whole or any part of any dividend or payment which in the Trustee's opinion is extraordinary, in the nature of a liquidating dividend or payment, a wasting asset dividend or payment, a return of capital, a distribution of realized capital gains, or a distribution from depletion reserves. All determinations with respect to the allocation of such dividends or payments in whole or in part to principal, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

(B) Dividends paid in, and rights to subscribe to, property other than cash, including securities, whether or not of the same corporation, and shares of stock received as the result of any stock split, shall normally be dealt with as principal, but the Trustee shall have full power and authority, in the Trustee's absolute discretion, to allocate the whole or any part of any such dividend, right or shares of stock received as the result of such stock split to income if in the Trustee's opinion such dividend, right, or shares of stock should be considered as a distribution of current earnings by the corporation declaring or issuing the same. All determinations with respect to the allocation of such dividends or rights or shares of stock so received in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate;

(C) The Trustee shall determine the provision, if any, to be made in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, for the amortization out of income of any premium paid on the purchase or other acquisition of any security, and shall credit the same to principal. The Trustee shall also determine the amount of depreciation, cost recovery, and depletion chargeable against the tangible assets of the trust estate during each year, in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, and shall charge

against income and credit to principal the sum so determined; provided that the Trustee shall not be required to charge depreciation, cost recovery, or depletion with respect to any improvement constructed on trust property by a lessee. All determinations with respect to amortization, depreciation, cost recovery, and depletion made in good faith by the Trustee shall be final and binding on all persons interested in the Trust estate; and

(D) The proceeds from the sale, redemption or other disposition, whether at a profit or loss, of any property constituting principal, including mortgages and real estate, no matter how acquired, shall normally be dealt with as principal, even if the property shall have produced no income, but the Trustee shall have full power and authority, in the absolute discretion of the Trustee, to allocate the whole or any part of any such proceeds to income if the property disposed of produced no income or in the Trustee's opinion substantially less than the current rate of return on trust investments. All determinations with respect to the allocation of such proceeds in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

2-6.16 **ESTABLISH RESERVES:** To establish reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation and cost recovery, depletion, obsolescence, and general maintenance of buildings, and other property, and for the equalization of payments to or for beneficiaries entitled to receive income, out of the rents, profits, or other income received;

2-6.17 **SETTLE CLAIMS:** To pay, contest, or otherwise settle claims by or against the trust, including taxes, assessments, and expenses, by litigation, compromise, arbitration, or otherwise;

2-6.18 **EMPLOY CUSTODIAN:** With respect only to an individual Trustee, to employ a custodian of any trust property, the cost of which shall be a proper charge against the Trust estate;

2-6.19 **USE NOMINEE:** To hold title to a trust asset in the Trustee's name, in registered form or in the name of nominee, without disclosure of the Trust's interest in such asset;

2-6.20 **PROTECT SECURITIES:** To pay calls, assessments and any other sums chargeable to or accruing against or on account of shares of stock or other securities that are part of the Trust estate;

2-6.21 **EXERCISE RIGHTS:** To sell or exercise stock subscription rights, participate in foreclosures, reorganizations, recapitalizations, consolidations, mergers, liquidations, or other corporate adjustments, to enter into voting trust agreements or other similar arrangements, and to consent to corporate sales, leases or encumbrances; to deposit stocks or other securities that are part of the trust estate with any protective or other similar committee, or with voting Trustees;

2-6.22 **DISTRIBUTE IN KIND:** To make distributions in kind, in money, or partly in each, without requiring pro rata distribution of specific assets, at fair market value as determined by the Trustee on the effective date of distribution;

2-6.23 **RELEASE POWERS:** To release by an instrument in writing any power expressly or impliedly conferred in this Agreement;

2-6.24 APPOINT TRUSTEE IN OTHER JURISDICTIONS: If at any time any Trust property is situated in a jurisdiction in which any Trustee is unable or unwilling to act, to appoint in an instrument signed by the Trustee a person or corporation to act as special Trustee with respect to that property in that jurisdiction, and such special Trustee and every successor special Trustee so appointed shall have all the title, powers and discretion with respect to that property that is given to the special Trustee by the Trustee. The net income from that property in the other jurisdiction and any net proceeds of its sale shall be paid over to the Trustee;

2-6.25 INVESTMENT IN SECURITIES: With respect to any investments owned by the Trust:

(A) To buy, sell and deal in stocks, bonds, commodities, futures, options, and other securities of any kind and in any amount, including short sales;

(B) To write or purchase call or put options, or other derivative securities;

(C) To carry stock certificates and other property in the form of street certificates, or in any other form, without disclosing the existence of any trust. The Trustee may permit Trust property to be held in the custody of a banking institution or brokerage firm;

(D) To maintain margin accounts with brokerage firms and to pledge securities to secure loans and advances made to the Trustee or to (or for the benefit of) a beneficiary hereunder;

2-6.26 RENT SAFE DEPOSIT BOXES: To open, have access to, add to, and remove the contents from one or more safe deposit boxes in the name of the trust; to allow fewer than all Trustees to enter and remove contents from a safe deposit box if there is more than one Trustee; and to appoint one or more agents by a writing signed by all acting Trustees to enter and remove the contents of a safe deposit box; and

2-6.27 TRANSFER SITUS: To transfer the administrative situs of the Trust from its original jurisdiction to any other jurisdiction and to take all necessary actions to submit to and gain the protection of the laws of the new situs, subject to the approval of the Probate Court of the First Circuit, State of Hawaii;

2-6.28 ACCUMULATE: To accumulate and add to Trust principal or to keep segregated for later distribution any net income of any trust in any trust accounting year that is not disposed of by the terms of such trust;

2-6.29 EXERCISE POWERS: To exercise all powers expressly or impliedly conferred in this Agreement without seeking the aid, authorization, order, or approval of any court. All powers shall:

(A) be exercisable by the Trustee in any jurisdiction;

(B) be exercisable in respect of all assets of the Trust estate held by the Trustee or under the Trustee's control;

(C) remain exercisable as fiduciary powers of administration only, and without affecting the vesting of any interests, until final distribution of all of the Trust estate; and

(D) be exercisable without any duty on any person dealing with the Trustee to inquire into the Trustee's authority.

In the event that the relevant federal or State agencies change the laws, rules or policies concerning irrevocable supplemental or special needs trusts, the Trustee is hereby instructed to handle the trust assets and income according to the revised laws, rules, and policies, and according to the Hawaii Uniform Trustees' Powers Act, as in effect and as amended from time to time.

1-6.30 RELIANCE ON DOCUMENTATION: to rely upon any affidavit, certificate, letter, notice, government document, electronic mail, or other document believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient.

PART THREE: FORMAL PROVISIONS

ARTICLE 3-1: DEFINITIONS APPLYING TO THIS AGREEMENT

3-1.1 TRUSTEE, PRONOUNS, SINGULAR AND PLURAL: Unless a contrary meaning or reference shall be expressly indicated or clearly implied from the context, the word "Trustee" and the pronoun "it" in reference to the Trustee always refer interchangeably to the male or female person or persons or to the institution or to any combination of them then holding the trusteeship. Any pronoun used in the masculine, feminine or neuter shall be interpreted as the context requires; and words used in the singular shall denote the plural and words used in the plural shall denote the singular when the context so requires. "Trustee" also refers to any successor or alternate trustee or co-trustees, including corporations that succeed another corporation by merger, consolidation, change of name or otherwise, and the appointment of a corporate trustee shall be deemed to include appointment of its corporate successor. Any corporate trustee shall be a corporation organized under the laws of any state or of the United States, authorized by law to administer trusts and maintaining a full time trust department. All successor or alternate trustees or co-trustees shall have the same powers, authorities, obligations and limitations as the original Trustee unless other provisions specifically provide to the contrary.

3-1.2 CHILDREN, ADOPTED CHILDREN, DESCENDANTS AND PER STIRPES: The words "child," "children," "descendant," and "issue" include persons who are legally adopted; "child" and "children" do not include grandchildren or more remote descendants of the applicable ancestor; "issue" and "descendants" include lineal descendants of whatever degree.

The words "per stirpes" means a division into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child, if any shall be allocated one share. The share of each deceased child with surviving descendants shall be divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

3-1.3 CHILD IN BEING: A child in gestation who is later born alive shall be considered as a child in being throughout the period of gestation.

3-1.4 TRUST ESTATE: The Trust estate shall consist of the Total Settlement Proceeds, as described in Schedule A, and any other property that may be added at any time to the trust estate.

3-1.5 AGREEMENT: "Agreement" refers to this Agreement as it exists as amended from time to time.

3-1.6 DISABILITY: As used herein, "disability" means any physical or mental disability or capacity that has been brought to the Trustee's attention (or that of a potential successor Trustee) by the submission of a statement of a licensed physician or licensed clinical psychologist, that the individual is unable to attend to or effectively administer the individual's financial affairs. Such individual shall be determined to have recovered from any such disability upon the submission to the Trustee of a statement of the same physician that the disability has been removed.

"Disability" and/or "disabled" shall be synonymous with the appropriate tenses of the terms "incapacitated" or "incompetent" and shall also include any period of time during which the person has been missing and unaccounted for more than thirty (30) days and such disappearance is supported by police or other governmental record.

ARTICLE 3-2: MODIFICATION

This Agreement and the Trust hereby created may only be amended by order of a court.

ARTICLE 3-3: REPORTS

Upon request, the Trustee shall provide to the Probate Court of the First Circuit, State of Hawaii, a report setting forth all of the receipts, disbursements, and distributions to or from the trust.

ARTICLE 3-4: PARTIAL INVALIDITY

If any provision is unenforceable or invalid for any reason, the remainder of this Agreement shall continue in effect.

ARTICLE 3-5: JURISDICTION

The laws of the State of Hawaii shall govern this Agreement and the construction of any of its terms.

ARTICLE 3-6: SITUS

The initial situs of this trust shall be the State of Hawaii. Consistent with Article 2-6.27, the Trustee shall have authority to transfer the situs of the Trust within the United States, subject to the approval of the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 3-7: PROTECTIVE PROVISIONS

No beneficiary shall have any right to anticipate, transfer or encumber any part of any interest in the Trust estate nor shall any part of the beneficiary's interest be liable for that beneficiary's debts or obligations (including alimony) or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process..

ARTICLE 3-8: DISTRIBUTION BEFORE NOTICE

The Trustee shall not be liable for any distribution or other action that is made upon order of a court, or which would have been proper, unless made in bad faith, or unless made after receiving notice of a court proceeding that would modify a prior order of a court.

ARTICLE 3-9: DISCLAIMER

Any person competent to act may disclaim or renounce any part or all of any property, interest or power hereunder by any one or more written instruments which shall be delivered to the Trustee; and thereupon the property, interest or power disclaimed or renounced shall be treated as if that person had died immediately preceding such event that made said person entitled to the benefit involved.

ARTICLE 3-10: RULES OF CONSTRUCTION

No provision of this trust shall be interpreted in such manner as would cause it to not comply with the provisions of Treasury Regulation Section 1.468B-1.

ARTICLE 3-11: ACCEPTANCE OF TRUST

The Trustee, by joining in the execution of this Agreement, acknowledges receipt of the property described in Schedule A, acknowledges that the Trust will be administered in accordance with Schedule B, and signifies the acceptance of the KALIMA CLASS ACTION SETTLEMENT TRUST, and covenants that the Trust will be executed with all due fidelity.

The parties hereto agree that this instrument may be executed in counterparts, whether electronic or otherwise, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument,

duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

The Trust is established pursuant to that certain FIRST AMENDED JOINT ORDER APPROVING PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about June 23, 2023. The Trustee is signing below to acknowledge its acceptance of the trust created by this Agreement.

Established pursuant to that certain FIRST AMENDED JOINT ORDER APPROVING PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about June 23, 2023

DocuSigned by:
Sylvius von Saucken
18A143D06D4544E...

SYLVIVS H. VON SAUCKEN
GENERAL MANAGER – MASS TORTS|
EPIQ CLASS ACTION & CLAIMS
SOLUTIONS, INC.

TRUSTEE

STATE OF Kansas

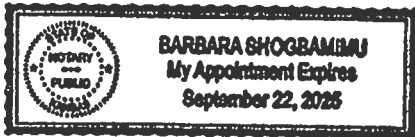
)

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SS.

)

On this date of June 23rd, 2023, before me personally appeared SYLVIVUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC., as a Trustee of the KALIMA CLASS ACTION SETTLEMENT TRUST dated June 23, 2023, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed as Trustee.



A handwritten signature in dark ink, appearing to read "Barbara Shogbamimu", written over a horizontal line.

Print Name: Barbara Shogbamimu
Notary Public, State of Kansas

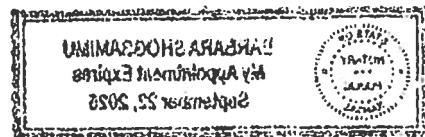
My Commission expires: 9/22/2025

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Schedule A

The following is a description of the original assets of KALIMA CLASS ACTION SETTLEMENT TRUST.

All of the Consideration in the settlement of Kalima et al. v. State of Hawaii et al., Civil No. 99-4471-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, in the gross amount of _____ AND NO/100 DOLLARS_(\$_____.00)

Dated: Honolulu, Hawaii, _____.

As ordered by that certain FIRST AMENDED
JOINT ORDER APPROVING PROBATE
PLAN AND QUALIFIED SETTLEMENT
TRUST entered by the Circuit Court of the First
Circuit, State of Hawaii on or about

Schedule B

FIRST AMENDED JOINT ORDER APPROVING PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST entered in *Kalima et al. v. State of Hawaii et al.*, Civil No. 99-4471-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, on or about June 23, 2023.

EMILY H. KAWASHIMA, 6498-0
AAL, LLLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813
Telephone No.: (808)744-4688
Facsimile No.: (888)777-5405
E-mail: emily@kawashimalaw.com

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PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased, CAROLINE BRIGHT,
DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**FIRST AMENDED JOINT ORDER
APPROVING PROBATE PLAN AND
QUALIFIED SETTLEMENT TRUST;
EXHIBIT "A"**

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

CHIEF ADMINISTRATIVE AND
PROBATE COURT JUDGE:
HON. R. MARK BROWNING

**FIRST AMENDED JOINT ORDER APPROVING
PROBATE PLAN AND QUALIFIED SETTLEMENT TRUST**

On May 22, 2023, the Probate Special Master submitted *Findings and Recommendations for a Joint Order Approving Probate Plan and Qualified Settlement Trust* [Dkt. 1653] to this Court and to the Honorable R. Mark Browning Chief Administrative and Probate Judge. The Court, having reviewed the *Findings and Recommendations for a Joint Order Approving Probate Plan and Qualified Settlement Trust* and accompanying exhibits and good cause appearing therefore,

THE COURT FINDS AS FOLLOWS:

FINDINGS

1. The parties have entered into a settlement intended to achieve a full and final resolution on a class-wide basis of all claims that have been asserted and could have been asserted in this matter (the “Settlement”) and have executed a Settlement Agreement to effectuate those terms (the “Settlement Agreement”).
2. The Hawai'i State Legislature has approved the appropriation of \$328,000,000.00 to fund the Settlement, which appropriation was signed into law by Governor David Ige on July 11, 2022.
3. The Settlement Agreement provides that costs necessary to implement the Settlement may include, but are not limited to, costs for a Probate Special Master, costs for a Probate Claims Administrator, costs to implement the Court's approved Probate Plan, and costs to implement the Probate Claims Administration Process (Settlement Agreement Exhibit 1 at 1).
4. The Settlement Agreement provides that the Settlement Special Master may expend all reasonable and necessary funds in fulfillment of his/her responsibilities including to coordinate with the Probate Special Master and Probate Special Administrator to implement a probate plan if one is developed and approved by the Court (Settlement Agreement ¶ VII.B.1 at 14).
5. On June 9, 2022, the Court entered its *Order Granting Plaintiffs' Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing* (the “Preliminary Approval Order”)[Dkt. 1496].

6. On March 3, 2023, the Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Master*. [Dkt. 1617].

7. On March 24, 2023, the Court entered its *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special Counsel*. [Dkt. 1632].

8. The Preliminary Approval Order authorizes the Settlement Special Master to coordinate with the Probate Special Master and Probate Special Administrator to implement a Probate Plan approved by the Court that will supervise and coordinate issuance of settlement payments to deceased Settlement Class Members' estates (Preliminary Approval Order, ¶ 5 at 5).

9. The Preliminary Approval Order directs Class Counsel, in consultation with the Probate Court and Probate Special Master and Probate Special Administrator, to formulate and propose a Probate Plan to the Court (Preliminary Approval Order, ¶ 7(d) at 7).

10. The Court has reviewed the Probate Plan attached hereto as Exhibit "A" to this Joint Order.

11. The Court has reviewed the Qualified Settlement Trust ("QST"), which is attached to the Probate Plan as its Exhibit "1."

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Probate Plan and Qualified Settlement Trust, attached as Exhibit "A" to this Joint Order are approved. The Court hereby establishes the Kalima Class Action Settlement Trust and orders that the settlement funds be transferred to "Sylvius H. Von Saucken, General Manager – Mass Torts, EPIQ Class Action & Claims Solutions, Inc., Trustee of the Kalima Class Action Settlement Trust," which trust shall be dated as of the

date of the entry of this Order;

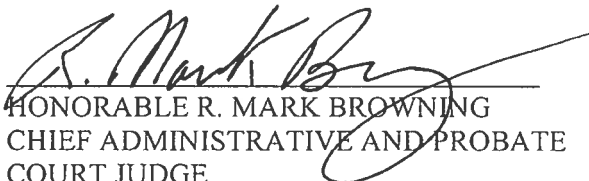
2. This Court and Probate Court shall retain joint jurisdiction over the execution of the Probate Plan and any amendments thereto.

DATED: Honolulu, Hawai'i, June 23, 2023.

RECOMMENDED FOR APPROVAL:

/s/ EMILY H. KAWASHIMA
EMILY H. KAWASHIMA, ESQ.
PROBATE SPECIAL MASTER

APPROVED AND SO ORDERED:


HONORABLE R. MARK BROWNING
CHIEF ADMINISTRATIVE AND PROBATE
COURT JUDGE

APPROVED AND SO ORDERED:

/s/ Lisa W. Cataldo



HONORABLE LISA W. CATALDO
JUDGE OF THE ABOVE-ENTITLED
COURT

EXHIBIT "A"

EMILY H. KAWASHIMA, 6498-0
AAL, LLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813
Telephone No.: (808)744-4688
Facsimile No.: (888)777-5405
E-mail: emily@kawashimalaw.com

PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased,
Plaintiffs,

vs.

STATE OF HAWAII, STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,
Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**PROBATE PLAN; EXHIBIT "1";
CERTIFICATE OF SERVICE**

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

PROBATE JUDGE: HON. R. MARK
BROWNING

PROBATE PLAN

Pursuant to the June 9, 2022, *Order Granting Plaintiffs' Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing*, ("Preliminary Approval Order") [Dkt. 1496] and the March 3, 2023, *Joint Order Adopting Settlement Special Master's Findings and Recommendations and Appointing Probate Special*

EXHIBIT "A"

Master (the “Appointment Order”) [Dkt. 1617], appointing the Probate Special Master in the instant case for the purposes set forth in the Appointment Order, your Probate Special Master Emily H. Kawashima hereby provides to the Court the Probate Plan as follows:

I. INTRODUCTION

The purpose of the Probate Plan is to provide a process in which the rightful heirs and devisees of the Deceased Class Members are identified and funded accurately and efficiently.

To date, there are approximately 1,200 known Deceased Class Members. It is believed that the majority of these members died intestate. This Probate Plan seeks to avoid the necessity of initiating individual probate proceedings which would incur extraordinary fees and costs and would heavily burden the Probate Court’s calendar and exhaust judicial resources.

A. Definitions

“Class Administrator” means the Epiq Class Action and Claims Solutions, Inc. (“Epiq”) responsible for implementing the Notice Plan and Claims Administration Process, subject to supervision by the Settlement Special Master, the Probate Special Master, and the Court.

“Class Counsel” means Carl M. Varady, Esq. and Thomas R. Grande, Esq.

“Class Member” means all persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.¹

¹ The following persons will not receive a Settlement Payment under the terms of the Settlement Agreement:

- (1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- (2) Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- (3) Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- (4) Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
- (5) Individuals who filed a timely claim with the Panel but settled their claim.
- (6) Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- (7) Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- (8) Individuals who opt-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

“Child” includes an individual entitled to take as a child under this chapter by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant. H.R.S. §5 60:1-201.

“Deceased Class Members” means all members of the certified class who died on or after August 31, 1995, except for members who have opted out of this litigation as set forth under the definition of “Class Members,” above.

“Descendant” of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this chapter. H.R.S. § 560:1-201.

“Devise”, when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will. H.R.S. § 560:1-201.

“Devisee” means a person designated in a will to receive a devise. For the purposes of article II, in the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees. H.R.S. § 560:1-201.

“Heir,” except as controlled by H.R.S. § 560:2-711, means persons, including the surviving spouse or reciprocal beneficiary and the State, who are entitled under the statutes of intestate succession to the property of a decedent.² H.R.S. §560:1-201.

² **§560:2-711 Interest in "heirs" and like.** If an applicable statute or a governing instrument calls for a present or future distribution to or creates a present or future interest in a designated individual's "heirs", "heirs at law", "next of kin", "relatives", or "family", or language of similar import, the property passes to those persons, including the State, and in such shares as would succeed to the designated individual's intestate estate under the intestate succession law of the designated individual's domicile if the designated individual died when the disposition is to take effect in possession or enjoyment. If the designated individual's surviving spouse or reciprocal beneficiary is living but is remarried or has terminated the reciprocal beneficiary relationship at the time the disposition is to take effect in possession or enjoyment, the surviving spouse or reciprocal beneficiary is not an heir of the designated individual.

“Informal proceedings” means those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative. H.R.S. § 560:1-201.

“Interested persons” includes beneficiaries and any others having a property right in or claim against a trust estate that may be affected by a judicial proceeding and fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.” H.R.S. § 554D-103.

“Interested person” includes heirs, devisees, children, spouses or reciprocal beneficiaries, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. H.R.S. § 560:1-201.

“Issue” of a person means descendant as defined in this section. H.R.S. § 560:1-201

“Kalima Class Action” means the litigation *Kalima, et al., v. State of Hawai‘i, et al.*, Civ. No. 99-4771-12 LWC.

“Kalima Website” means the website located at www.kalima-lawsuit.com.

“Letters” includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship. Unless otherwise provided by order of the court or registrar, letters testamentary and letters of administration shall only be effective for three years unless

renewed for good cause, and such limitation shall be stated on the face of the letters. H.R.S. § 560:1-201.

“Personal representative” includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. “General personal representative” excludes special administrator. H.R.S. § 560:1-201.

“Probate Special Master” means Emily H. Kawashima, Esq., 700 Bishop Street, Suite 1700, Honolulu, Hawaii 96813, who serves by appointment of the Court.

“Probate Special Counsel” means Scott Suzuki, Esq, 1013 Poha Lane, Honolulu, Hawaii 96826, and serves by appointment of the Court.

“QST” means the “KALIMA CLASS ACTION QUALIFIED SETTLEMENT FUND TRUST.”

“QST Beneficiary” means a person who is Class Member, the Estate of Class Member or the appropriate heirs and devisees of a deceased Class Member in the Kalima Class Action case and would be entitled to a distribution from the QST. *See also* H.R.S. § 554D-103.

“Special administrator” means a personal representative as described by H.R.S. §§ 560:3-614 through 560:3-618 and H.R.S. § 1-201.

“Settlement Agreement” means the settlement agreement executed in this case, dated April 14, 2022.

“Settlement fund” means the qualified settlement fund established pursuant to Treasury Regulation Section 1.468B-1.

“Settlement Special Master” means Judge Michael Broderick (Ret.), 1164 Bishop Street, Suite 924, Honolulu, Hawaii 96813, who serves by appointment of the Court.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. “State” includes an Indian tribe or band recognized by federal law or formally acknowledged by a state. H.R.S. § 554D-103.

“Trust instrument” means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto. H.R.S. § 554D-103.

“Trustee” includes an original, additional, and successor trustee, and a co-trustee. H.R.S. § 554D-103.

II. JURISDICTION and VENUE

The Probate Court of the First Circuit, State of Hawai‘i has jurisdiction over this Probate Plan in accordance with the Uniform Trust Code (“UTC”) and the Uniform Probate Code (“UPC”), respectively. See H.R.S. § 554D-202 and H.R.S. § 560:1-302. Venue is also appropriate under H.R.S. § 554D-204 and H.R.S. § 560:1-303.

III. PARTIES INVOLVED

This Probate Plan addresses the payment of settlement funds to all Deceased Class Members whose death occurs prior to the disbursement of settlement funds. Defendant is State of Hawai‘i.

IV. ATTORNEY REFERRALS

Probate Special Master and Probate Special Counsel along with Class Counsel conducted an outreach to members of the Hawai‘i State Bar Association, encouraging them to assist Deceased Class Member families. Potential heirs and family members of deceased Class Members are referred to contact the Lawyer Referral and Information Service of the Hawai‘i State Bar Association which has a subcategory for Kalima probates. Any privately retained counsel are asked to notify Epiq by December 2023, that they have been retained to assist with

the administration of a deceased Class Member's Estate. These represented estates will receive a distribution from the QST upon presentation of appropriate documentation to the Probate Special Counsel and by order of the Probate Court. All remaining unrepresented Deceased Class Members' settlement distributions will be administered by the QST.

There may be instances in which the Probate Special Counsel and Probate Special Master have existing or potential clients who will be included within this Probate Plan and QST. Probate Special Counsel and Probate Special Master will advise their clients on any potential conflicts and have them execute conflict waivers or advise them to seek other counsel. Because neither Probate Special Counsel nor Probate Special Master shall have any ability or authority to calculate or modify the value of settlement proceeds allocated to a deceased Class Member, nothing herein shall constitute a conflict of interest that cannot be waived by existing or potential clients of Probate Special Counsel or Probate Special Master.

V. QUALIFIED SETTLEMENT TRUST

Attached as Exhibit "1," is the Trust document being submitted herewith to the Probate Court for approval. Once approved, it will be published on the Kalima website and incorporated into the Court's order granting Final Approval of the Settlement Agreement.

VI. TRUST PROCEEDING

The QST, will be the mechanism to present the Court with the information it needs to determine who the proper payees are for each Deceased Class Member. Upon Court approval, payments shall be made payable to the estate of the deceased beneficiary and delivered to the personal representative, administrator or executor of the estate of that beneficiary, where known, or payable to the heirs and/or devisees of the deceased beneficiary. Where there is no known personal representative, administrator or executor of the estate of a deceased beneficiary and no

available final probate order from another court, the deceased beneficiary's payment shall not be distributed until further order of the Court.

The Probate Special Counsel will file a series of Petitions for Instructions, each of which will address groups of Deceased Class Members, seeking the Court's determination of the proper heirs and devisees and the appropriate percentage of settlement distribution for each heir or devisee.

The Probate Special Counsel and Probate Special Master may use information either may receive from the Department of Hawaiian Home Lands and Office of Hawaiian Affairs as well as other State of Hawai'i agencies and offices without being considered a violation of any confidentiality agreement or requirement otherwise in effect with the State of Hawai'i. This information may be used in the documents which will be filed in court, and which will become available to the public.

A. Hawai'i Probated Estates

The Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally appointed personal representative of an estate of a Deceased Class Member or pursuant to the terms of a will of a Deceased Class Member that addresses, including through a residuary clause, the distribution of the settlement funds, where that will has been accepted for probate in accordance with H.R.S. § 560:3-101 *et seq.* and § 560:3-401. The Court shall make this determination based on the documentation provided which may include, but is not limited to: Certified Letters Testamentary or Letters of Administration. See Article 1-5.1(B)(1) of the QST.

B. Closed Probates

The Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally adjudicated heirs and/or devisees of an estate of a Deceased Class Member which has since been closed or in which the personal representative's Letters Testamentary or Letters of Administration have expired. See Article 1-5.1(B)(2) of the QST.

C. Special Administration

If a valid special administration has been opened and granted by a Court of competent jurisdiction, pursuant to the requirements under H.R.S. §§ 560:3-614-618, the Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the Special Administrator for the estate, or in a manner consistent with the order appointing said Special Administrator, where appropriate.

D. Affidavit of Collection

Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the individual(s) holding a validly executed affidavit of collection, pursuant to H.R.S. § 560:3-1205.

E. Ancillary Probates

Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the legally appointed personal representative of an estate of a Deceased Class Member or pursuant to the laws of intestacy or terms of a will of a Deceased Class Member that addresses, including through a residuary clause, the distribution of the settlement funds, where another state has previously adjudicated intestacy or accepted a will for probate, or based on other appropriate documentation provided. See H.R.S. §560:4-301

F. Intestacy

In the event that a Deceased Class Member died without a will, and there have been no prior probate proceedings, Probate Special Counsel shall seek the Court's authorization and direction to distribute settlement proceeds to the rightful heirs in accordance with H.R.S. § 560:2-101. These Deceased Class Members payments, unless represented privately, shall be included in and administered according to the terms the QST.

All of the Petitions must comply with all requirements established by statute or case law, unless waived by the Court, including but not limited to, acceptable means of proof of death, proof of familial relationship, percentage of settlement funds. The same means of proof will be required for those estates with multiple generations of decedents.

VII. SERVICE

Service on all known interested persons shall be effected pursuant to H.R.S. § 560:1-401, to the extent possible, unless waived pursuant to H.R.S. § 560:1-402. In order to manage costs, service shall be effected via electronic mail whenever possible. The filed Petitions and related documents will be posted on the Kalima website as well.

VIII. NOTICE

Under the UTC, notice may be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message. H.R.S § 554D-109.

Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and

not reasonably ascertainable by the trustee. Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

In addition to the methods of notice described above, the Probate Special Counsel shall publish in a newspaper or newspapers of general circulation, notice of any hearings on the petitions filed. Notice will also be published on the Kalima Website. Joinders and receipts will be requested from the known heirs and devisees.

Specifically, below is a sample of the language that will be included in published notices of hearings for Petitions for Instructions as to the Deceased Class Members:

FIRST CIRCUIT COURT NOTICE

T. No. _____

IN THE MATTER OF THE KALIMA CLASS ACTION
QUALIFIED SETTLEMENT FUND TRUST DATED

FILED, a Petition by Scott C. Suzuki, Esq., Probate Special Counsel, whose address is 1013 Poha Lane, Honolulu, Hawaii 96826 (808) 983-3850, seeking instructions relating to the administration of the Kalima Class Action Qualified Settlement Fund Trust dated _____, a copy of which is available to view at www.kalima-lawsuit.com, specifically relating to the following estates:

FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased
FIRST MIDDLE LAST, Deceased

The date, time and place for hearing said Petition shall be Thursday, _____, at 10:00 a.m. in the courtroom of the Judge of the above-entitled

Court who shall be sitting in probate, in Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawaii 96813.

The outcome of this hearing may determine how the above-named Decedents' settlement proceeds in, Kalima et al. v. Hawaii, Civil No. 99-4771-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, will be distributed. Parties interested in this Petition have the right to be represented by a private attorney, at said party's own expense.

DATED: Honolulu, Hawaii, _____.

Clerk of the Above-Entitled Court

SCOTT C. SUZUKI
Probate Special Counsel
(808) 983-3850

IX. REVIEW BY MASTER

The Probate Special Master will review each filed Petition and shall report to the Court within 30 days from the date each Petition is filed. This report will also be published on the Kalima website. The report will make findings and recommendations to the Court.

X. HEARING ON PETITION AND ORDERS

All QST petitions are to be heard on the Probate Court's Trust calendar which is 10:00 a.m. on every Thursday, unless the Court special sets these hearings. The hearings shall be open to the public and the call-in number shall be published on the Kalima website on the day prior to the hearing. This information will be noted in each Petition.

Upon the Court's ruling, an Order shall issue with regard to all or some of the named Deceased Class Members. A copy of each filed Order shall be available for viewing on the Kalima website.

XI. AFFIDAVIT IN SUPPORT OF FEES AND COSTS

Prior to the Court's ruling on each Petition for Instructions, the Probate Special Counsel and Probate Special Master shall submit an affidavit or declaration in support of their attorneys' fees and costs incurred. Subject to the Court's approval, these fees and costs will be assessed to the Deceased Class Members in an equitable and proportionate method. See "Budget" section below for additional information regarding the allocation of fees and costs.

XII. PAYMENT OF SETTLEMENT FUNDS

Thirty-one days after the Final Order Approving Settlement and Judgment are filed, if no appeal is taken, the Probate Special Counsel shall provide a certified copy of the Order to Epiq for further handling and administration of the settlement distributions. The Probate Special Counsel will serve the heirs and devisees as described above, and informing them to contact Epiq to receive their settlement funds, if so ordered by the Court.

XIII. RECEIPT OF FUNDS

Epiq will periodically provide Probate Special Counsel and Probate Special Master with a list of all negotiated checks from the settlement payments.

XIV. NON-NEGOTIATED PAYMENTS

Once it has been determined that all known heirs and devisees have been identified, to the best of Probate Special Counsel's ability, those heirs and devisees who were awarded but did not negotiate their settlement checks will be identified. Probate Special Counsel will make best efforts to locate and inquire about the payment.

In situations when an heir or devisee is identified, but Probate Special Counsel cannot locate them or they do not claim/deposit their check, the funds would remain in the QST.

Probate Special Counsel will file a subsequent petition to distribute the funds pursuant to the Settlement Agreement and Payment Distribution Plan, or as otherwise instructed by the Court.

XV. DISPUTED SITUATIONS

If any Deceased Class Members' heirs or devisees dispute who is entitled to receive settlement funds or in what percentage, they will be referred to mediation. If they are unable to resolve their dispute, they will be advised to retain private counsel. Distributions from the QST will be made in a manner consistent with the resolution of the dispute, upon order of the Probate Court.

XVI. AMENDMENTS TO TRUST

As issues arise, the Probate Special Counsel may petition the Court to amend the QST or this Plan as necessary, in accordance with H.R.S. § 554D-410.

XVII. CLOSING

Once all of the distributions have been completed or adjudicated, the Special Probate Master shall file a petition for approval of final accounting, requesting termination of the QST and discharge of the Trustee, Probate Special Master and Probate Special Counsel.

XVIII. BUDGETING

Class Counsel, Settlement Special Master, Probate Special Counsel and Probate Special Master have a working Probate Budget in progress. It will be adjusted once the Petition process is underway and there is more clarity on the time and resources involved.

The Probate Budget will include the following:

1. Epiq Projected Probate Costs
2. Fees and In-House Costs for Probate Special Counsel and Probate Special Master, based on complexity of case groupings

3. Probate Special Counsel and Probate Special Master will submit their declaration or affidavit for fees and costs in conjunction with each Petition for Instructions and request Court approval. Once approved by the Court, Epiq will prorate those fees and costs to each Estate that is addressed in the particular Petition and deduct that amount from the Estate's settlement amount.

4. Probate Special Counsel and Probate Special Master will also submit their invoices to the settlement accountant for direct payment.

XIX. STATE BENEFITS/ PUBLIC ASSISTANCE

Heirs or devisees who are currently receiving public assistance may be affected by the receipt of Settlement. Probate Special Counsel and Epiq will provide the following or similar notice to those receiving settlement funds:

The Settlement Payment May Affect Certain Public Benefits You Receive.

Certain public assistance programs, including but not limited to the Supplemental Nutrition Assistance Program (sometimes called "SNAP" or "food stamps"), subsidized housing/housing assistance (sometimes called "Section 8"), some state-issued health insurance policies, some college tuition/grant programs, some Medicaid programs (sometimes known as "Quest" or "Med-Quest"), some VA benefits, Social Security Disability Insurance, or Supplemental Security Income, may be affected by your receipt of a Settlement Payment .

Each of these programs have complicated rules. Advice about your specific circumstances and public benefits are beyond the scope of our services and we cannot advise you about these issues. You should be sure to comply with all program rules and requirements for these programs, especially including any rule or requirement that you disclose changes in financial status to the relevant public assistance program. Certain program agencies may provide additional information about their unique rules. The loss or limitation of certain benefits can sometimes be avoided by having payment made into a special type of trust. You may want to hire your own private lawyer (at your own cost) to counsel you about these complicated programs and/or a special type of trust.

You should be sure that your private lawyer is familiar with the public benefit programs and Special Needs Trusts.

If you would like to have your settlement payment held for you and managed in a “Special Needs Trust”, please contact the Kalima Claims Administrator at PO Box 135035, Honolulu, HI 96801 (808) 650-5551 OR 1-833-639-1308 via e-mail to info@kalima-lawsuit.com to request more information about the Special Needs Trust. The Claims Administrator will then send you information about the Special Needs Trusts, including contact information for a Hawai‘i-based trustee . You must notify the Claims Administrator by August 21, 2023, that you want information about the Special Needs Trusts. If you do, your settlement payment will be held by the Claims Administrator until the time set by the Court for you to decide whether you want your settlement payment to be held for you and managed in a Special Needs Trust.

Private Attorney for Special Needs Trust

If you want to hire a private attorney (at your own cost) to counsel you about the Special Needs Trust, you should make sure that the attorney is familiar with the public benefit programs and Special Needs Trusts. You can contact the Hawai‘i State Bar Association Lawyer Referral and Information Service at (808) 537-9140 or via e-mail to LRIS@hsba.org to seek assistance from an attorney for this purpose.

XX. CONCLUSION

While this Probate Plan seeks to address all foreseeable issues, others will inevitably arise in which case the Probate Special Counsel and Probate Special Master will seek Court approval for any adjustments to the Probate Plan or amendments to the QST, as necessary.

DATED: Honolulu, Hawai‘i, May 22, 2023.

RESPECTFULLY SUBMITTED,

/s/ Emily H. Kawashima

EMILY H. KAWASHIMA
PROBATE SPECIAL MASTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

A copy of the foregoing document was served all parties and counsel of record registered to this case through the Court's JEFS system on the date indicated below:

DATED: Honolulu, Hawai'i, May 22, 2023.

/s/ Emily H. Kawashima

EMILY H. KAWASHIMA
PROBATE SPECIAL MASTER

EXHIBIT "1"

KALIMA CLASS ACTION SETTLEMENT TRUST

THIS TRUST AGREEMENT is established this date of _____, by order of the Circuit Court of the First Circuit, State of Hawaii, pursuant to its ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered in *Kalima et al. v. State of Hawaii et al.*, (Civil No. 99-4771-12 LWC) on or about _____, which Order is hereby incorporated by reference and attached hereto as Schedule B and referred to herein as the "Order". The initial Trustee is SYLVIOUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. (hereinafter referred to as the "Trustee"). By said Order, the initial Trust corpus shall consist of the property described in Schedule A. The Trustee accepts such property as the initial trust estate. The Trustee shall hold and dispose of the trust estate upon the terms of the trust set forth in this Agreement.

This trust is made of three parts and Schedules A and B. PART ONE disposes of the trust estate. PART TWO relates to the trusteeship and the powers for the Trustee. PART THREE contains definitions and other formal provisions.

PART ONE: DISPOSITION OF TRUST ESTATE

ARTICLE 1-1: NAME AND PURPOSE OF TRUST

1-1.1 NAME: This trust shall be known as the KALIMA CLASS ACTION SETTLEMENT TRUST (the "Trust")

1-1.2 PURPOSE: In addition to the other purposes more specifically defined herein, the purpose of this trust is to establish and govern the administration of a Qualified Settlement Fund as described in Treasury Regulation Section 1.468B-1 and the Order.

Kalima et al. v. State of Hawaii et al., (Civil No. 99-4771-12 LWC) (sometimes referred to herein as the "Civil Matter") is a civil matter filed in the Circuit Court of the First Circuit State of Hawaii. The Civil Matter was filed in 1999 when the State of Hawaii eliminated the Hawaiian Claims Office that reviewed breaches of trust by the State of Hawaii regarding the Hawaiian Home Lands Trust that occurred between 1959 and 1988.

The Civil Matter is a class action lawsuit. The plaintiffs are members of a defined Settlement Class (sometimes referred to herein as the "Class Members"). The Class Members are beneficiaries of this Trust, as more specifically detailed herein.

EXHIBIT "1"

The Defendants in the Civil Matter are the State of Hawaii, and others (sometimes collectively referred to herein as the "Defendant"). Claims against Defendant were extinguished upon execution of a settlement agreement. Settlement funds pursuant to the settlement agreement were transferred to this Trust to permit the release of all claims as to the Defendant and to authorize the Trustee to resolve other issues regarding settlement funds as to the Plaintiff and other entities claiming an interest in the trust assets to be deposited into the KALIMA CLASS ACTION SETTLEMENT TRUST. The Trustee shall administer all funds of the Trust in accordance with the provisions set forth herein and as required by the Order, and as otherwise ordered by a court.

Specific purposes of this Trust include, but are not limited to, (i) the proper financial management of settlement proceeds, (ii) determining the true beneficiaries and parties entitled to settlement proceeds, (iii) and appropriately distributing to the true beneficiaries the correct amounts of settlement proceeds to which such true beneficiaries are entitled.

ARTICLE 1-2: TRUST BENEFICIARIES

1-2.1 TRUST BENEFICIARIES: The Beneficiaries of the Trust are those parties who have a valid claim and/or interest in the proceeds of the settlement funds derived from the Civil Matter, including parties who are entitled to the estates of deceased Class Members. The Trustee shall distribute Trust assets to or for the benefit of the Beneficiaries pursuant to the terms of this Trust and appropriate orders of a court. No settlement funds or Trust assets shall be set apart for or distributed to any Class Member or any other individual or entity claiming an interest in Trust assets except as ordered by a court. Neither Class Member, nor any other individual or entity claiming an interest in Trust assets shall have access to the Trust assets, and may not draw upon or otherwise control any of the assets of this Trust. The Trustee shall take all such actions as shall be necessary or advisable to resolve creditor claims, expenses related to the Civil Matter, including but not limited establishing an administrative fee reserve, the payment of attorney fees, consultant fees, costs, taxes, and any statutory claims of subrogation. Once the Trustee has been presented with an appropriate court order that resolves all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

1-2.2 RESTRICTIONS ON BENEFICIAL INTERESTS: No Beneficiary shall have any authority to process any rights to demand or receive any portion of the Trust assets or to mortgage, pledge, or encumber the same in any manner. To the extent possible, no Beneficiary shall be deemed to have been in constructive receipt, as determined under federal income tax principles, of any amounts held by the Trust prior to the distribution from the trust to the Beneficiary.

ARTICLE 1-3: TRUSTEE'S BASIC DUTIES

During the term of this trust, the Trustee shall hold, manage, invest, and reinvest the trust estate, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this PART ONE and the Order. All decisions regarding distributions from this Trust shall be made at the sole and absolute discretion of the Trustee, acting exclusively in the capacity as Trustee and not as an agent of any Beneficiary.

ARTICLE 1-4: ADMINISTRATION OF THE QUALIFIED SETTLEMENT FUND

1-4.1 TOTAL SETTLEMENT PROCEEDS: Pursuant to the ORDER GRANTING PETITION TO ESTABLISH A QUALIFIED SETTLEMENT FUND, the total settlement proceeds are the sole property of this Trust. No portion of the total settlement proceeds shall be made available to any beneficiary or any other individual or entity claiming any interest in the settlement funds absent a valid court order. The purpose of the Trust is limited to the matters set forth in Article 1-1.2 hereinabove. The Trust shall not be construed to confer upon a Trustee any authority to carry on any business or activity for profit (except the holding and investment of the Trust assets and distributions pursuant to this Trust Agreement).

Upon receipt of the total settlement proceeds, the Trustee shall hold and administer the Trust estate prudently. The beneficial interests of each Beneficiary shall be calculated in accordance with the court orders in the Civil Matter. The Trustee shall have no duty to segregate the beneficial interests by the respective Class Member, but may pool all Trust assets, including Total Settlement Proceeds, for managerial and administrative purposes. Distributions of beneficial interest of the Trust estate shall be governed in accordance with the provisions set forth in Article 1-5.

1-4.2 DURATION: The Trust shall remain in operation and effect until all matters relating to the Civil Matter have been fully resolved, including but not limited to the payment of attorney fees and costs, and administrative expenses. Upon full resolution, the Trust shall terminate in accordance with an appropriate Court Order.

1-4.3 TRUST ADMINISTRATION: For the duration of the administration of the Trust, the Trustee shall have the full authority and power to administer the Trust as consistent with law.

1-4.3 INDEMNIFICATION: The Trustee shall be indemnified and held harmless by Class Members, their successors and their estates, from any claims made by any alleged lienholder, or other person or entity that attempts to assert a right of payment, reimbursement or garnishment against this Trust. Should the Trustee be named as a party to, or threatened to be made a party to, any threatened pending or completed action, suit or proceeding of any kind, whether civil, administrative or arbitrators, and whether brought by or against or otherwise involving the Trust, the Trustee shall be indemnified and held harmless by the Class Members, their successors and their Estates against reasonable expenses, costs and fees (including attorney fees), judgments, awards, costs, amounts paid in settlement, and liabilities of all kinds incurred by the Trustee in connection with or resulting from such actual or threatened action, suit or proceeding; except to the extent that it is finally determined by a court of competent jurisdiction that the Trustee was negligent or acted with willful misconduct in connection with the administration of this Trust.

1-4.4 INVESTMENTS: During the administration of this Trust, the Trustee shall be authorized to deposit and invest any and all funds as the Trustee shall deem to be appropriate and prudent under the circumstances. Any income, interest, dividends, or other increase to the value of the funds shall be retained in the Trust until final distribution and shall be apportioned among all of

the undistributed shares of the Trust as of the date the receipt of the same, unless otherwise provided by court order.

The Trustee may, in the Trustee's sole and absolute discretion, purchase and assign any structured settlements created under any court order or Fund Agreement, provided that any structured settlement annuities shall be issued by a life insurance company that is rated A+ or better by A.M. Best Company. The Trustee may also distribute to, and establish, appropriate trusts, separate and apart from this Trust, for the benefit of any beneficiary, pursuant to any court order. Examples of appropriate trusts may include, but not be limited to "special needs trusts" or "settlement preservation trusts" for beneficiaries who may then be eligible for means-tested public benefits or who may need additional assistance with financial management.

1-4.5 ADMINISTRATIVE DISBURSEMENTS: The Trustee shall be authorized to distribute all attorney fees and litigation expenses to counsel, consistent with existing contingency fee contracts and/or court orders approving fees prior, or subsequent to the establishment of this Trust. The Trustee shall obtain a court order to obligate the Trust to pay for legal fees and costs relating to the establishment of this Trust. The Trustee shall be authorized to pay all expenses incurred in the establishment and administration of this Trust, including, but not limited to, fees related to the preparation of this instrument, other trust-administrative documentation, trustee fees, accounting expenses, taxes, investment advisor expenses, fees and costs to any "Master" or other court-appointed position, and the fees of the Trustee. All taxes on the income of the Trust and expenses and costs incurred in connection with the taxation of the Fund (including, without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, for each year, incurred in preparing and filing of the Trust's annual income taxes) shall be (i) paid out of the Trust, (ii) considered to be a cost of administration of the settlement, and (iii) timely paid by the Trustee without prior order of the Court. All administrative disbursements made pursuant to this Article 1-4.5 shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the disbursement, unless otherwise provided by court order or Fund Agreement.

1-4.6 TAXES AND EXPENSES: The Trustee shall obtain a Federal Taxpayer Identification Number for this Trust. It is the intent of this Trust that all steps be taken by the Trustee and Beneficiaries to ensure that the Trust established by the Court will qualify as, and remain, a "Designated" or "Qualified" settlement fund within the meaning of IRC § 468B, and the Treasury Regulations promulgated pursuant thereto and codified at 26 C.F.R. § 1.468B-1. The Trustee will elect to apply settlement fund rules, if appropriate, by filing a "Section 1.468B-5(b)(2) Election."

It is further intended that the transfers to the Trust will satisfy the "all events test" and the "economic performance" requirement of IRC § 461(h)(1), and Treas. Reg. § 1.461-1(a)(2).

All taxes on the income of this trust and expenses and costs incurred in connection with the taxation of this trust, including without limitation, the expenses of tax attorneys and accountants, for reasonable and ordinary services, shall be paid out of the trust, considered to be a cost of administration, and timely paid by the fund administrator without prior order of any court. All expenses incurred in the settlement of claims, including, but not limited to, fees related to the establishment of this agreement, the administration of this trust, accounting, investment, and other professional services related to the administration of this trust, may be paid by the trustee as

accrued. Both the taxes and expenses paid shall be apportioned equally among the undistributed shares remaining in the Trust as of the time of the payment, unless otherwise provided by court order or Fund Agreement.

1-4.7 ACCOUNTS AND REPORTS: Upon request, and at least once per calendar year, the Trustee will prepare and deliver an accounting or other report to the known “qualified beneficiaries” of the Trust, or to their respective known agents, representatives, and/or estate, as the circumstances may provide. Prior to termination of this Trust, the Trustee shall seek Court approval of a Final Accounting. These documents will be made available online at www.kalima-lawsuit.com.

1-4.8 RELIANCE: The Trustee shall have the right to rely upon any affidavit, government document, certificate, letter, notice, electronic mail or other documentation believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient, which may be provided to the Trustee.

1-4.9 TERMINATION: Upon full resolution of all matters relating to the settlement of the Civil Matter, the Trust shall terminate and all of the rest, residue and remainder of the funds shall be administered in accordance with the provisions set forth in Article 1-5.

ARTICLE 1-5: DISTRIBUTION THROUGH TERMINATION OF THE QUALIFIED SETTLEMENT FUND

1-5.1 The Trustee shall distribute the net value of each separate share allocated to each Class Member as follows:

(A) SHARE FOR LIVING CLASS MEMBER: The Trustee shall distribute the share for each living Class Member outright and free of any trust to such living Class Member. If such living Class Member shall be incapacitated, the Trustee shall distribute such share to the duly appointed Conservator, Guardian of the Property/Estate, or duly designated agent under a power of attorney for such incapacitated Class Member. Upon receipt of the share by such Class Member, such Class Member’s interest in and to this Trust shall be considered fully satisfied and terminated.

(B) SHARE FOR DECEASED CLASS MEMBER: The Trustee shall administer the share of any deceased Class Member as follows:

(1) If the Estate of the deceased Class Member shall be the subject of an open probate proceeding, the Trustee shall distribute the share of the deceased Class Member to the duly appointed and currently acting Personal Representative (or similar person acting as legal representative of the decedent pursuant to state distribution and/or probate laws) of such deceased Class Member’s probate estate. Upon receipt of the share by such Personal Representative of such deceased Class Member’s estate, such deceased Class Member’s interest in and to this Trust shall be considered fully satisfied and terminated.

(2) If the Estate of the deceased Class Member has previously been subject to a probate proceeding, the Trustee shall distribute the share of such deceased Class Member

to the heirs/devisees in the proportions as adjudicated in such deceased Class Member's probate proceeding. Upon receipt by the heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(3) If the Estate of the deceased Class Member has not previously been probated and is not currently subject to probate administration, the Trustee shall distribute the share of such deceased Class Member to the heirs/devisees of the deceased Class Member as established by clear and convincing evidence as ordered by the Probate Court, First Circuit, State of Hawaii, and following service of appropriate notice to the heirs and purported devisees. Should any of the heirs and/or purported devisees wish to contest the proposed distribution, the Trustee shall abstain from making the distribution until the heirs and purported devisees have fully resolved their differences and upon such resolution, the Trustee shall distribute said share in accordance with the agreement of such resolution. Upon receipt by such heirs/devisees of such deceased Class Member's estate, such deceased Class Member's interest in and to this Trust shall be considered fully satisfied and terminated.

(4) In the event that any distributee eligible to receive a distribution pursuant to Article 1-5.1(B)(1) through (3) hereinabove shall be (a) under the age of majority, (b) the subject of a current guardianship or conservatorship proceeding, and/or (c) eligible for means-tested public benefits including but not limited to Supplemental Security Income and/or Medicaid, the Trustee shall be authorized to complete the distribution to such distributee by making the distribution instead to the minor distributee's legal parent as custodian, or to an appropriate trust (or similar account) for the benefit of such distributee, and as ordered by the Probate Court of the First Circuit, State of Hawaii.

(5) In the event that an appropriate distributee cannot be located, and the Probate Court of the First Circuit, State of Hawaii, is satisfied that all reasonable means to locate such distributee have been exhausted, the allocable share for such distributee shall be distributed in a manner as Ordered by the Court.

(C) PROBATE SPECIAL COUNSEL AND PROBATE SPECIAL MASTER: The Probate Special Counsel and Probate Special Master have been appointed by the Probate Court of the First Circuit, State of Hawaii (hereinafter the "Probate Court"). The Probate Special Counsel shall initiate a Trust Proceeding in the Probate Court and shall file petition(s) seeking an order or orders of said Probate Court instructing the Trustee to make the disbursements outlined herein above at Article 1-5.1(B)(1) through (5). In seeking such instructions, the Probate Special Counsel shall set forth the name(s) and address(es) of the proposed distributee(s), cause notice to be provided to parties interested in the subject share allocated to the deceased Class Member, and set forth the basis for the calculation of any distribution to any distributee, as well as any additional relief that may be appropriate under the circumstances. The Probate Special Master shall report and make recommendations to the Probate Court regarding the petition(s) of the Probate Special Counsel. The Trustee shall make disbursements as outlined hereinabove at Article 1-5.1(B)(1) through (5) only pursuant to the order(s) of the Probate Court.

1-5.3 TERMINATION: Once the Trustee has obtained necessary court orders, as appropriate and in the sole discretion of the Trustee, resolving all interests of all parties claiming an interest in the Trust, the Trustee shall have the authority to wind down and terminate the Trust without further court approval.

PART TWO: TRUSTEESHIP

ARTICLE 2-1: RESIGNATION

The Probate Court of the First Circuit, State of Hawaii, shall approve any resignation of any Trustee, and the resignation shall become effective as the Probate Court of the First Circuit, State of Hawaii shall order.

The resigning Trustee shall transfer and deliver to the successor Trustee all of the Trust estate and shall thereupon be discharged as Trustee hereunder.

ARTICLE 2-2: REMOVAL

The Probate Court of the First Circuit, State of Hawaii, , shall have the right to remove any Trustee. Such removal shall become effective at such date as the Court may order or the parties shall agree. Any Trustee may be removed by the Court for reasonable cause upon application by any interested party.

ARTICLE 2-3: LIABILITY OF TRUSTEES

No Trustee shall be responsible or liable for the manner in which any discretion is exercised pursuant thereto, or for any misinterpretation of this Agreement, or, unless the Trustee's own conduct amounts to fraud or willful misconduct, for any act or omission of its, his or her own. The successor Trustee shall be responsible only for its, his or her acts or omissions in bad faith and shall in no event be responsible for any action in which the successor Trustee shall not be pecuniarily interested and which shall be taken upon the advice of competent legal, accounting or other counsel concerning the construction or interpretation of this instrument or the administration of the trust estate. The Trustee shall retain such competent legal, accounting, investment or other counsel at the expense of the trust estate, as the Trustee shall deem necessary or desirable in the best interest of the trust estate.

ARTICLE 2-4: VACANCY IN TRUSTEESHIP

The initial Trustee is SYLVIOUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. A vacancy in the Trusteeship due to the death, disability, dissolution, bankruptcy, removal or resignation of an acting trustee shall be filled by a successor Trustee appointed by the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 2-5: PROVISIONS RELATING TO THE TRUSTEE

2-5.1 COMPENSATION: The Trustee shall be entitled to reasonable compensation for the Trustee's services, plus the then current rate of applicable sales or excise tax imposed on such services. Fees shall not exceed the amount permitted by statute to be charged by Trustees under HRS Section 607-18. The Trustee shall also be entitled to reimbursement for expenses necessarily incurred in the administration of the trust estate.

2-5.2 BOND: No bond or surety on bond shall be required from any Trustee.

2-5.3 WAIVER OF ACCOUNTING: No Trustee need examine the accounts, records and acts of any previous Trustee.

2-5.5 EXERCISE OF DISCRETION: The Trustee (or successor Trustee, as the case may be) should carefully consider the income tax effects, if any, when the Trustee makes any discretionary distribution to any beneficiary that would discharge that Trustee's individual legal obligations, including the obligation of support, toward such beneficiary. The Trustee shall also consider the special or supplemental needs of the Beneficiary in making any discretionary distribution.

2-5.6 TAX IDENTIFICATION NUMBER: The Trustee shall have the authority to obtain a Federal Employer Tax Identification Number for the Kalima Class Action Settlement Trust upon establishment of the Trust.

ARTICLE 2-6: POWERS OF THE TRUSTEE

2-6.1 GRANT: The Trustee shall have discretion and complete power to administer the Trust estate. In addition to those statutory powers now or subsequently conferred by law (including, but not limited to, Hawaii Revised Statutes Chapter 554A and the Hawaii Uniform Trust Code, as the same may be amended from time to time), such grant shall include without limitation the following powers:

2-6.2 RECEIVE ASSETS: To receive, take possession of, sue for, recover and preserve the assets of the Trust estate, both real and personal, coming to the Trustee's attention or knowledge, and the rents, issues and profits arising from such assets;

2-6.3 RETAIN INITIAL ASSETS: To retain the initial assets of the Trust (including the Total Settlement Proceeds), without liability for loss or depreciation or diminution in value of any residential property or closely-held stock resulting from such retention until the Trustee decides to dispose of such assets;

2-6.4 ABANDON ASSETS: To abandon, charge off or otherwise dispose of any part of the trust estate that is of no value or of insufficient value to justify collection, care, administration or protection;

2-6.5 INVEST: To invest, reinvest and, to the extent deemed advisable by the Trustee, to keep invested, the assets of the trust estate, however derived, in stocks (common and preferred,

and including shares in investment companies, investment trusts or mutual funds as well as stock or obligations of any corporate Trustee), bonds, debentures, notes, or any other type of securities, interests, assets or property, whether real or personal or in shares or units of participation in common trust funds, or to participate in making investments with others, all without regard to diversification or to whether or not the security, interest, asset or property so purchased or acquired is legal for trust fund investment under the constitution, statutes or laws of the state in which the trust shall have its principal situs of administration or elsewhere; provided, further, that the Trustee shall have the power to invest in non-income producing property for the satisfaction of the Beneficiary's supplemental needs;

2-6.6 EXECUTE CONTRACTS: To enter into contracts that are reasonably incident to the administration of the Trust;

2-6.7 PERFORM AGREEMENTS: To carry out the terms of any valid agreement concerning property owned by the Trust;

2-6.8 EXECUTE INSTRUMENTS: To execute, acknowledge, and deliver all instruments necessary or appropriate for the administration of the Trust;

2-6.9 INSURE: To carry insurance for fiduciaries including Directors and Operators policies, Errors and Omissions policies, and insurance against such hazards, including public liability, in either stock or mutual companies and to purchase annuity policies or life insurance (of whatever form) on the life of any beneficiary or other person in whom any of the beneficiaries have an insurable interest, naming as beneficiary of any such policy either the trust itself or the beneficiary on whom or with respect to whom the policy was taken out; to pay premiums, assessments and proper charges on any such policy as beneficial distributions, charging the same to income or principal as permitted by the distributive provisions of this Agreement relating to the beneficiary on whom or with respect to whom the policy was taken out; and to exercise all or any rights granted under such policy;

2-6.10 DEAL WITH FIDUCIARIES: To purchase from, borrow from, sell to, and generally to deal with the Trustee, individually and as a fiduciary, or with partnerships, corporations, and financial or business organizations in which the Trustee may have an interest;

2-6.11 DEPOSIT: To deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.12 ACCOUNTS: To open or close checking, savings, stock, bond and any other type of accounts, to deposit funds of the Trust in one or more banks, including the banking department of a corporate trustee;

2-6.13 EMPLOY AGENTS AND DELEGATE: To employ and compensate out of the principal or income, or both, of the Trust estate, agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, investment counsel and other assistants and advisors, and to delegate powers and duties to other persons, partnerships or corporations, and to employ and

delegate as so provided without liability for any neglect, omission, misconduct or default of any such agent, provided such agent was selected and retained with reasonable care;

2-6.14 TAKE LEGAL ACTION: To prosecute or defend judicial and administrative proceedings for the protection of the trust estate, or of the Trustee in the performance of the Trustee's duties;

2-6.15 DETERMINE ACCOUNTING PRACTICES: To determine all matters of trust accounting in accordance with generally accepted principles of trust accounting as established by controlling law or customary practices, provided, that:

(A) Dividends, interest, rents and other similar payments received in cash by the Trustee shall normally be dealt with as income, whether ordinary or extraordinary and whether or not in the nature of liquidating dividends or payments or dividends or payments on mining, oil, timber or other stocks or assets of a wasting nature, or a return of capital, or a distribution of realized capital gains, or a distribution from depletion reserves (and irrespective of any statement the corporation, association or person declaring such dividends or making such payments may make with reference thereto) and irrespective of the character of the assets or account out of which they are paid or the time when they shall have accrued or accumulated or shall have been earned, declared or payable or the time for the determination of the persons entitled thereto, but the Trustee shall have full power and authority in the absolute discretion of the Trustee, to allocate to principal the whole or any part of any dividend or payment which in the Trustee's opinion is extraordinary, in the nature of a liquidating dividend or payment, a wasting asset dividend or payment, a return of capital, a distribution of realized capital gains, or a distribution from depletion reserves. All determinations with respect to the allocation of such dividends or payments in whole or in part to principal, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

(B) Dividends paid in, and rights to subscribe to, property other than cash, including securities, whether or not of the same corporation, and shares of stock received as the result of any stock split, shall normally be dealt with as principal, but the Trustee shall have full power and authority, in the Trustee's absolute discretion, to allocate the whole or any part of any such dividend, right or shares of stock received as the result of such stock split to income if in the Trustee's opinion such dividend, right, or shares of stock should be considered as a distribution of current earnings by the corporation declaring or issuing the same. All determinations with respect to the allocation of such dividends or rights or shares of stock so received in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate;

(C) The Trustee shall determine the provision, if any, to be made in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, for the amortization out of income of any premium paid on the purchase or other acquisition of any security, and shall credit the same to principal. The Trustee shall also determine the amount of depreciation, cost recovery, and depletion chargeable against the tangible assets of the trust estate during each year, in accordance with accounting principles, methods and formulas determined by the Trustee to be generally accepted and applicable, and shall charge

against income and credit to principal the sum so determined; provided that the Trustee shall not be required to charge depreciation, cost recovery, or depletion with respect to any improvement constructed on trust property by a lessee. All determinations with respect to amortization, depreciation, cost recovery, and depletion made in good faith by the Trustee shall be final and binding on all persons interested in the Trust estate; and

(D) The proceeds from the sale, redemption or other disposition, whether at a profit or loss, of any property constituting principal, including mortgages and real estate, no matter how acquired, shall normally be dealt with as principal, even if the property shall have produced no income, but the Trustee shall have full power and authority, in the absolute discretion of the Trustee, to allocate the whole or any part of any such proceeds to income if the property disposed of produced no income or in the Trustee's opinion substantially less than the current rate of return on trust investments. All determinations with respect to the allocation of such proceeds in whole or in part to income, made in good faith by the Trustee, shall be final and binding on all persons interested in the Trust estate.

2-6.16 ESTABLISH RESERVES: To establish reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation and cost recovery, depletion, obsolescence, and general maintenance of buildings, and other property, and for the equalization of payments to or for beneficiaries entitled to receive income, out of the rents, profits, or other income received;

2-6.17 SETTLE CLAIMS: To pay, contest, or otherwise settle claims by or against the trust, including taxes, assessments, and expenses, by litigation, compromise, arbitration, or otherwise;

2-6.18 EMPLOY CUSTODIAN: With respect only to an individual Trustee, to employ a custodian of any trust property, the cost of which shall be a proper charge against the Trust estate;

2-6.19 USE NOMINEE: To hold title to a trust asset in the Trustee's name, in registered form or in the name of nominee, without disclosure of the Trust's interest in such asset;

2-6.20 PROTECT SECURITIES: To pay calls, assessments and any other sums chargeable to or accruing against or on account of shares of stock or other securities that are part of the Trust estate;

2-6.21 EXERCISE RIGHTS: To sell or exercise stock subscription rights, participate in foreclosures, reorganizations, recapitalizations, consolidations, mergers, liquidations, or other corporate adjustments, to enter into voting trust agreements or other similar arrangements, and to consent to corporate sales, leases or encumbrances; to deposit stocks or other securities that are part of the trust estate with any protective or other similar committee, or with voting Trustees;

2-6.22 DISTRIBUTE IN KIND: To make distributions in kind, in money, or partly in each, without requiring pro rata distribution of specific assets, at fair market value as determined by the Trustee on the effective date of distribution;

2-6.23 RELEASE POWERS: To release by an instrument in writing any power expressly or impliedly conferred in this Agreement;

2-6.24 APPOINT TRUSTEE IN OTHER JURISDICTIONS: If at any time any Trust property is situated in a jurisdiction in which any Trustee is unable or unwilling to act, to appoint in an instrument signed by the Trustee a person or corporation to act as special Trustee with respect to that property in that jurisdiction, and such special Trustee and every successor special Trustee so appointed shall have all the title, powers and discretion with respect to that property that is given to the special Trustee by the Trustee. The net income from that property in the other jurisdiction and any net proceeds of its sale shall be paid over to the Trustee;

2-6.25 INVESTMENT IN SECURITIES: With respect to any investments owned by the Trust:

(A) To buy, sell and deal in stocks, bonds, commodities, futures, options, and other securities of any kind and in any amount, including short sales;

(B) To write or purchase call or put options, or other derivative securities;

(C) To carry stock certificates and other property in the form of street certificates, or in any other form, without disclosing the existence of any trust. The Trustee may permit Trust property to be held in the custody of a banking institution or brokerage firm;

(D) To maintain margin accounts with brokerage firms and to pledge securities to secure loans and advances made to the Trustee or to (or for the benefit of) a beneficiary hereunder;

2-6.26 RENT SAFE DEPOSIT BOXES: To open, have access to, add to, and remove the contents from one or more safe deposit boxes in the name of the trust; to allow fewer than all Trustees to enter and remove contents from a safe deposit box if there is more than one Trustee; and to appoint one or more agents by a writing signed by all acting Trustees to enter and remove the contents of a safe deposit box; and

2-6.27 TRANSFER SITUS: To transfer the administrative situs of the Trust from its original jurisdiction to any other jurisdiction and to take all necessary actions to submit to and gain the protection of the laws of the new situs, subject to the approval of the Probate Court of the First Circuit, State of Hawaii;

2-6.28 ACCUMULATE: To accumulate and add to Trust principal or to keep segregated for later distribution any net income of any trust in any trust accounting year that is not disposed of by the terms of such trust;

2-6.29 EXERCISE POWERS: To exercise all powers expressly or impliedly conferred in this Agreement without seeking the aid, authorization, order, or approval of any court. All powers shall:

(A) be exercisable by the Trustee in any jurisdiction;

(B) be exercisable in respect of all assets of the Trust estate held by the Trustee or under the Trustee's control;

(C) remain exercisable as fiduciary powers of administration only, and without affecting the vesting of any interests, until final distribution of all of the Trust estate; and

(D) be exercisable without any duty on any person dealing with the Trustee to inquire into the Trustee's authority.

In the event that the relevant federal or State agencies change the laws, rules or policies concerning irrevocable supplemental or special needs trusts, the Trustee is hereby instructed to handle the trust assets and income according to the revised laws, rules, and policies, and according to the Hawaii Uniform Trustees' Powers Act, as in effect and as amended from time to time.

1-6.30 RELIANCE ON DOCUMENTATION: to rely upon any affidavit, certificate, letter, notice, government document, electronic mail, or other document believed by the Trustee to be genuine and sufficient, and upon any other evidence believed by the Trustee, in its reasonable judgment, to be genuine and sufficient.

PART THREE: FORMAL PROVISIONS

ARTICLE 3-1: DEFINITIONS APPLYING TO THIS AGREEMENT

3-1.1 TRUSTEE, PRONOUNS, SINGULAR AND PLURAL: Unless a contrary meaning or reference shall be expressly indicated or clearly implied from the context, the word "Trustee" and the pronoun "it" in reference to the Trustee always refer interchangeably to the male or female person or persons or to the institution or to any combination of them then holding the trusteeship. Any pronoun used in the masculine, feminine or neuter shall be interpreted as the context requires; and words used in the singular shall denote the plural and words used in the plural shall denote the singular when the context so requires. "Trustee" also refers to any successor or alternate trustee or co-trustees, including corporations that succeed another corporation by merger, consolidation, change of name or otherwise, and the appointment of a corporate trustee shall be deemed to include appointment of its corporate successor. Any corporate trustee shall be a corporation organized under the laws of any state or of the United States, authorized by law to administer trusts and maintaining a full time trust department. All successor or alternate trustees or co-trustees shall have the same powers, authorities, obligations and limitations as the original Trustee unless other provisions specifically provide to the contrary.

3-1.2 CHILDREN, ADOPTED CHILDREN, DESCENDANTS AND PER STIRPES: The words "child," "children," "descendant," and "issue" include persons who are legally adopted; "child" and "children" do not include grandchildren or more remote descendants of the applicable ancestor; "issue" and "descendants" include lineal descendants of whatever degree.

The words "per stirpes" means a division into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child, if any shall be allocated one share. The share of each deceased child with surviving descendants shall be divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

3-1.3 CHILD IN BEING: A child in gestation who is later born alive shall be considered as a child in being throughout the period of gestation.

3-1.4 TRUST ESTATE: The Trust estate shall consist of the Total Settlement Proceeds, as described in Schedule A, and any other property that may be added at any time to the trust estate.

3-1.5 AGREEMENT: "Agreement" refers to this Agreement as it exists as amended from time to time.

3-1.6 DISABILITY: As used herein, "disability" means any physical or mental disability or capacity that has been brought to the Trustee's attention (or that of a potential successor Trustee) by the submission of a statement of a licensed physician or licensed clinical psychologist, that the individual is unable to attend to or effectively administer the individual's financial affairs. Such individual shall be determined to have recovered from any such disability upon the submission to the Trustee of a statement of the same physician that the disability has been removed.

"Disability" and/or "disabled" shall be synonymous with the appropriate tenses of the terms "incapacitated" or "incompetent" and shall also include any period of time during which the person has been missing and unaccounted for more than thirty (30) days and such disappearance is supported by police or other governmental record.

ARTICLE 3-2: MODIFICATION

This Agreement and the Trust hereby created may only be amended by order of a court.

ARTICLE 3-3: REPORTS

Upon request, the Trustee shall provide to the Probate Court of the First Circuit, State of Hawaii, a report setting forth all of the receipts, disbursements, and distributions to or from the trust.

ARTICLE 3-4: PARTIAL INVALIDITY

If any provision is unenforceable or invalid for any reason, the remainder of this Agreement shall continue in effect.

ARTICLE 3-5: JURISDICTION

The laws of the State of Hawaii shall govern this Agreement and the construction of any of its terms.

ARTICLE 3-6: SITUS

The initial situs of this trust shall be the State of Hawaii. Consistent with Article 2-6.27, the Trustee shall have authority to transfer the situs of the Trust within the United States, subject to the approval of the Probate Court of the First Circuit, State of Hawaii.

ARTICLE 3-7: PROTECTIVE PROVISIONS

No beneficiary shall have any right to anticipate, transfer or encumber any part of any interest in the Trust estate nor shall any part of the beneficiary's interest be liable for that beneficiary's debts or obligations (including alimony) or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process..

ARTICLE 3-8: DISTRIBUTION BEFORE NOTICE

The Trustee shall not be liable for any distribution or other action that is made upon order of a court, or which would have been proper, unless made in bad faith, or unless made after receiving notice of a court proceeding that would modify a prior order of a court.

ARTICLE 3-9: DISCLAIMER

Any person competent to act may disclaim or renounce any part or all of any property, interest or power hereunder by any one or more written instruments which shall be delivered to the Trustee; and thereupon the property, interest or power disclaimed or renounced shall be treated as if that person had died immediately preceding such event that made said person entitled to the benefit involved.

ARTICLE 3-10: RULES OF CONSTRUCTION

No provision of this trust shall be interpreted in such manner as would cause it to not comply with the provisions of Treasury Regulation Section 1.468B-1.

ARTICLE 3-11: ACCEPTANCE OF TRUST

The Trustee, by joining in the execution of this Agreement, acknowledges receipt of the property described in Schedule A, acknowledges that the Trust will be administered in accordance with Schedule B, and signifies the acceptance of the KALIMA CLASS ACTION SETTLEMENT TRUST, and covenants that the Trust will be executed with all due fidelity.

The parties hereto agree that this instrument may be executed in counterparts, whether electronic or otherwise, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument,

duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

The Trust is established pursuant to that certain ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about _____ and the Trustee have executed this Agreement for the purpose of evidencing its acceptance of the trust created by this Agreement, all to be made effective this date of _____, 2023.

Established pursuant to that certain ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered by the Circuit Court of the First Circuit, State of Hawaii on or about _____

SYLVIVUS H. VON SAUCKEN
GENERAL MANAGER – MASS TORTS|
EPIQ CLASS ACTION & CLAIMS
SOLUTIONS, INC.

TRUSTEE

STATE OF _____)
)
) SS.
_____)

On this date of _____, 2023, before me personally appeared SYLVIUS H. VON SAUCKEN, GENERAL MANAGER – MASS TORTS, EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC., as a Trustee of the KALIMA CLASS ACTION SETTLEMENT TRUST dated _____, 2023, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed as Trustee.

Print Name: _____
Notary Public, State of _____

My Commission expires: _____

Schedule A

The following is a description of the original assets of KALIMA CLASS ACTION SETTLEMENT TRUST.

All of the Consideration in the settlement of *Kalima et al. v. State of Hawaii et al.*, Civil No. 99-4471-12 LWC, filed in the Circuit Court of the First Circuit, State of Hawaii, in the gross amount of _____ AND NO/100 DOLLARS (\$_____.00)

Dated: Honolulu, Hawaii, _____.

As ordered by that certain ORDER
ESTABLISHING KALIMA CLASS ACTION
SETTLEMENT TRUST entered by the Circuit
Court of the First Circuit, State of Hawaii on or
about _____

Schedule B

ORDER ESTABLISHING KALIMA CLASS ACTION SETTLEMENT TRUST entered in
Kalima et al. v. State of Hawaii et al., Civil No. 99-4471-12 LWC, filed in the Circuit Court of the
First Circuit, State of Hawaii, on or about _____

EXHIBIT "C"

KALIMA CLASS ACTION SETTLEMENT

FIRST NOTICE TO HEIRS AND DEVISEES OF DECEASED CLASS MEMBERS IN *KALIMA et al. v. STATE OF HAWAII, et al.*, Civil No. 99-4771-12 LWC WHO MAY BE ENTITLED TO A SETTLEMENT PAYMENT.

This is an official communication of the First Circuit Court, State of Hawai'i and is not a solicitation.

This notice is intended for the rightful heirs and devisees of Deceased Class Members in *Kalima et al. v. State of Hawai'i, et al.*, Civil No. 99-4771-12 LWC. An "heir" is a spouse, child or other person who may share in the estate of a Deceased Class Member as defined by H.R.S. §§560:1-201, 560:2-101, 560:2-102 and 560:2-701, and who may be entitled to receive Settlement Payment in this case. A "devisee" means a person designated in a will to receive a share in the estate of a Deceased Class Member, including a trustee, and as defined by H.R.S. §560:1-201. This notice is being sent to potential heirs and devisees of Deceased Class Members' estates where the estate is eligible to receive a Settlement Payment. The fact that you are receiving this notice does not mean that you will receive a payment. This notice provides important information for you to participate in the process by which eligibility to receive payments will be determined by the Court.

If you are not a family member or devisee of a Deceased Class Member and received this mailing in error, but know the family of the Deceased Class Member to whom it is addressed, please forward this notice to the family. Mahalo.

If you are or believe you are an heir or devisee of a Deceased Class Member, please review this notice carefully and follow the instructions.

OVERVIEW OF THE STATUS OF THE SETTLEMENT AND PROBATE PROCESS

On July 21, 2023, First Circuit Court Judge Lisa W. Cataldo orally granted final approval of the Kalima Class Action Settlement. On August 1, 2023, the Order Granting Final Approval and Judgment were filed. One class member filed an appeal, temporarily pausing the payment process.

On October 26, 2023, the Hawai'i Supreme Court dismissed the appeal and ruled that the appellant had no claim. The case was sent back to the circuit court. This was the only appeal and the payment process can now begin.

In order to distribute the Settlement Payments to the rightful heirs and devisees of a Deceased Class Member, the Court has approved a "Probate Plan" and appointed a Probate Special Master and Probate Special Counsel. The Probate Plan outlines the process for distributing the Settlement Payments to the proper parties. The Probate Plan is available online at www.kalima-lawsuit.com/important-documents listed under the "Probate Documents" heading.

The Probate Special Master and Probate Special Counsel will work with the Claims Administrator and family members to collect the required information and documentation to identify the rightful heirs and devisees of Deceased Class Members. Once identified, the Probate Special Counsel will petition the Court for approval to disburse the Settlement Payment to the rightful heirs and devisees. The Probate Special Master will review these petitions and make recommendations to the Court.

You do not have to pay any money out of pocket to be included in the Probate Plan - that includes fees and costs for the Probate Special Counsel to petition the Court on behalf of your Deceased Class Member and the fees and costs for the Probate Special Master's services. Any fees and costs associated with the Probate Plan will be taken out of the Settlement Payment. You may choose to use a private attorney to obtain the documentation required under the Probate Plan for distribution of the Settlement Payment, but you will be responsible for payment of the privately retained attorney's fees and costs. The Probate Plan is a very cost-effective process to ensure the proper heirs and devisees receive the Settlement Payment.

STEPS TO TAKE

In order to deliver Settlement Payments to the proper heirs and devisees of Deceased Class Members, and to help expedite this process, we must receive complete information about the Deceased Class Members' family members. It is best if ONE person for each Deceased Class Member's family be designated as the point of contact to provide and receive information. Probate Special Counsel and Probate Special Master may contact this person in order to gather additional information, as needed.

EXHIBIT "C"

Not all family members will receive Settlement Payments. However, you must complete and submit the following two forms to be considered for a share of a Deceased Class Member's Settlement Payment.

1. Deceased Class Member Information Request Form.

If you have already submitted a Deceased Class Member Information Request Form, thank you. If you have not, please submit one as soon as possible.

2. Detailed Family Information Form.

This is a new form that requests additional detailed information regarding the families of Deceased Class Members. It requests some of the same information as the Deceased Class Member Information Form but requests additional details and is submitted under penalty of perjury.

Both forms will be used by the Probate Special Master and Probate Special Counsel to identify the heirs and devisees as well as petition the Court for approval to disburse a Deceased Class Member's Settlement Payment. If additional information is required after submission of the forms, you will be contacted. **BOTH FORMS MUST BE COMPLETED.**

These forms are included with this Notice and also available online at www.kalima-lawsuit.com. You may also email info@kalima-lawsuit.com or call 1-808-650-5551 or 1-833-639-1308 to ask to have the forms mailed or emailed to you.

Please use the enclosed Checklist to make sure that the forms are as complete as possible and all documentation is submitted. Failure to provide complete information and documentation will delay the probate process and the distribution of the Settlement Payment.

FREQUENTLY ASKED QUESTIONS

The following are Frequently Asked Questions regarding the probate process. Please refer to www.kalima-lawsuit.com for updates.

1. Who are the family members who can share in the Settlement Payment?

In accordance with the Probate Plan, the Probate Special Master and Probate Special Counsel will work with the Claims Administrator and family members to collect the required information and documentation to identify the rightful heirs and devisees. The Probate Court will make the final decision on how the Settlement Payment will be divided based on Hawai'i law. All spouses, children and step-children should be listed on the Deceased Class Member Information Request Form and the Detailed Family Information Form. Please be aware that step-children and *hanai* children may not be recognized as an heir under the Hawai'i laws of intestacy. Step-children may impact the amount due to a surviving spouse, so information relating to step-children is important.

Please note that the Probate Plan will ONLY determine how the Settlement Payment is distributed to the rightful heirs and devisees. The Probate Plan will NOT determine who is entitled to other assets or property of the Deceased Class Member.

2. How will the Settlement Payment Be Made to Heirs and Devisees?

If a Deceased Class Member qualifies to receive a Settlement Payment, the Settlement Payment may be distributed pursuant to an order of the Probate Court of the First Circuit, State of Hawai'i as detailed in the Probate Plan, as follows:

- A. Distributions will be made to the Personal Representative (or Legal Representative) of Deceased Class Members' Estates upon the presentation of appropriate court documents establishing the appointment of the Estate's Personal Representative (or Legal Representative). The Personal Representative will be responsible for distributing the Settlement Payment to any Heirs and Devisees.
- B. Distributions will be made to the Trustee of a Deceased Class Member's validly executed Trust upon the presentation of appropriate documents establishing the Trust, the appointment of a Trustee, and verification that the Trust is entitled to the Settlement Payment. The Trustee will be responsible for distributing the Settlement Payment to the appropriate beneficiaries of that Trust.
- C. Distributions will be made to the heirs and devisees of Deceased Class Members who do not have Personal Representatives (or Legal Representatives), as ordered by the Probate Court of the First Circuit, State of Hawaii.

3. What Is the Probate Plan?

In order to distribute the Settlement Payments to the rightful heirs and devisees of a Deceased Class Member, the Court has approved a Probate Plan and appointed a Probate Special Master and Probate Special Counsel. The Probate Plan outlines the process for distributing the Settlement Payments to the proper parties. The Probate Plan is available online at www.kalima-lawsuit.com/important-documents under the “Probate Documents” heading.

In accordance with the Probate Plan, the Probate Special Master and Probate Special Counsel will work with the Claims Administrator and family members to collect the required information and documentation to identify the rightful heirs and devisees. Once identified, the Probate Special Master and Probate Special Counsel will petition the Court to authorize distribution of the Settlement Payment to the appropriate heirs or devisees of each Deceased Class Member.

4. Is There A Cost For The Probate Plan?

All of the fees and costs associated with the Probate Plan, which will include attorney fees, administrative fees and related costs will be divided on a *pro rata* basis among all the Deceased Class Members and deducted from each Settlement Payment. This is expected to be a very cost-effective process. Families who retain private counsel will be personally responsible for their own attorneys’ fees and costs.

5. Who Will Represent Deceased Class Members in Probate Court?

The Court has appointed a Probate Special Counsel to petition the Probate Court for instructions regarding the distribution of the Settlement Payments to the rightful heirs and devisees. Pursuant to the Probate Plan, the Probate Special Counsel will petition the Probate Court for orders detailing the heirs and devisees that should receive the Settlement Payments.

6. Can we hire our own attorney?

You may retain your own attorney, at your own personal expense, to assist you with a probate proceeding for the Estate of a Deceased Class Member. Please note that the Probate Special Master and Probate Special Counsel will be involved to a certain extent in all disbursements for Settlement Payments allocated for Deceased Class Members.

If you do hire your own attorney, please advise the Claims Administrator as soon as possible and no later than December 1, 2023 and ask your private attorney to reference the Kalima settlement in any documents that they file with the Court.

7. How do we find an attorney?

You can contact the Hawai’i State Bar Association Lawyer Referral and Information Service and request a referral to attorneys who are willing to work on the “Kalima Probate” claims:

Hawai’i State Bar Association
Lawyer Referral and Information Service
Monday – Friday 8:30 a.m. – 4:30 p.m.
Phone: 1-808-537-9140
Email: LRIS@hsba.org
www.hawaiilawyerreferral.com

You may also contact community legal service providers that may (but also may not) be able to provide free or low-cost legal services, depending on their availability and other factors. These service providers include the following:

Volunteer Legal Services of Hawai’i: 1-808-528-7046
Legal Aid Society of Hawai’i: 1-808-696-6322
University of Hawai’i Elder Law Program: 1-808-956-6544

Please note that this is not an endorsement of any services or attorneys.

8. We want to designate a family member to be the Personal Representative or Legal Representative. What do we do?

Please note that a Personal Representative (or Legal Representative) is not necessarily the person that is on record as the point of contact. A Personal Representative is officially appointed by a probate court. If you want to have a

family member be appointed as the Personal Representative, you **must obtain a probate court order appointing the Personal Representative**. You may wish to consult with an attorney about obtaining appointment as personal representative. The cost for your own attorney will be your own responsibility. Initiating probate proceedings independently for the distribution of the Settlement Award is NOT required.

The following types of documents are NOT sufficient to establish a person as a Personal or Legal Representative:

- Documents such as a funeral program, an obituary, or statements from family members are NOT sufficient.
- Documents showing that you inherited property from the deceased (such as a will) or which establish your family relationship (such as birth certificates or death certificates) are NOT sufficient.
- Documents indicating the decedent's desire that you be appointed legal representative or executor of his or her estate (such as a will or Power of Attorney) are NOT sufficient.
- Documents designating you as the successor to Hawaiian Home Lands Homestead Lease or other real estate holdings.

9. My relative had a will and/or trust.

If the Deceased Class Member had a will or trust, please provide a copy to the documentation to the Claims Administrator. This will assist the Probate Special Master and Probate Special Counsel in identifying the proper heirs and devisees. Please make sure that you copy or scan both sides of the documentation so that any certification, seal, or stamp on the front or back of it is clear and visible. **Do not send the original copy.**

10. We have documentation establishing the Legal Representative, Personal Representative, an Affidavit of Collection, Small Estate Affidavit or other relevant documentation.

Please send a copy of the documentation to the Claims Administrator. Please make sure that you copy or scan both sides of the documentation so that any certification, seal, or stamp on the front or back of it is clear and visible. **Do not send the original copy.** Once you submit documentation that you or your attorney believe are acceptable, the Claims Administrator with the Probate Special Master and the Probate Special Counsel will review the documentation to ensure that it conforms with the requirements in the Probate Plan. If additional information is required, we will reach out to you or your attorney. If no additional information is needed, the Probate Special Counsel will petition the Probate Court for final approval to issue the Settlement Payment according to the submitted documentation.

11. Will an Affidavit of Collection (or Small Estate Affidavit) be sufficient?

If the value of the Deceased Class Member's Settlement Payment PLUS all of the Deceased Class Member's other personal assets (*i.e.*, assets that were not transferred to a successor, beneficiary or joint owner upon death) is under \$100,000 (note that this amount does not include the value of motor vehicles, but would include the value of boats), and the Deceased Class Member owned no real property (*i.e.*, no real estate, time shares etc.), then an Affidavit of Collection may be appropriate but also may not be sufficient, depending on each case.

Please note that the amount and requirements may vary depending on if the Deceased Class Member lived out of state. You may not use an Affidavit of Collection if probate has already been opened for the Deceased Class Member. You may wish to check with an attorney, legal aid providers or other estate/probate professional as to whether it can be used for your Deceased Class Member. An Affidavit of Collection is NOT required and may not expedite processing any payments. Please note that submission of multiple Affidavits of Collection for one Deceased Class Member will DELAY the processing of the Settlement Payment.

12. My relative who is the Deceased Class Member lived out of state. How do we proceed?

If the Deceased Class Member lived out of state, you must send a certified death certificate to the Claims Administrator. You may submit a paper copy by mail or an electronic copy by email to info@kalima-lawsuit.com. Please also complete both (1) the Deceased Class Member Information Request Form and (2) the Detailed Family Information Form. If the Deceased Class Member's Estate was previously probated or there was a will or trust, please submit a copy of such documentation. Please contact a local attorney if you have questions about the state's laws.

13. One or more of the family members suffers from a disability, is incapacitated and/or cannot make their own decisions. What should we do?

Please provide copies of powers of attorney, guardianship and/or conservatorship documentation for the family member to the Claims Administrator. This documentation will assist the Probate Special Master and Probate Special Counsel in ensuring that the rightful heirs and devisees are identified, and that any Settlement Payments are sent to the appropriate parties.

14. One of more of the family members receives public benefits. What should we do?

Contact the program's administrator regarding the family member's benefits immediately.

Certain public assistance programs, including, but not limited to, the Supplemental Nutrition Assistance Program (sometimes called "SNAP" or "food stamps"), subsidized housing/housing assistance (such as public housing or a voucher program sometimes called "Section 8"), some state-issued health insurance policies, some college tuition/grant programs, some Medicaid programs (sometimes known in Hawai'i as "Quest" or "Med-Quest"), some VA benefits, Social Security Disability Insurance, or Supplemental Security Income, may be affected by receipt of a Settlement Payment.

Each of these programs has complicated rules. Advice about your specific circumstances and public benefits are beyond the scope of this Settlement. We cannot advise you about these issues. You may also want to contact an attorney or community legal service provider for guidance. Please comply with all program rules and requirements for these programs, especially any rule or requirement that you must disclose changes in financial status to the relevant public assistance program. Certain program agencies may provide additional information about their unique rules. The loss or limitation of certain benefits can sometimes be avoided by directing payment into a special type of trust called a "Special Needs Trust." Please contact the Claims Administrator for more information regarding a Special Needs Trust.

15. We have a dispute among family members about the Settlement Payment, process or other issue impacting this Settlement. What should we do?

If there is a dispute among family members, the case will be referred for resolution by mediation. Please advise the Claims Administrator and the claim will be put on hold until the dispute is resolved. If there is still a disagreement after mediation, you must hire your own attorney to resolve any disputes regarding distribution of the Settlement Payment.

16. How long until Settlement Payments are distributed for Deceased Class Members?

You will receive additional mailings in the future. Please promptly comply with any requests for information and keep copies of these mailings for your reference. Because the Probate Plan requires separate proceedings with multiple petitions and multiple hearings, payments will likely not be processed until after January 1, 2024. We hope to complete the process by December 31, 2025, but it may take longer. This will be a lengthy process as there are now over 1,000 Deceased Class Members and your *kōkua* and patience are appreciated.

Questions? Email info@kalima-lawsuit.com or call 1-808-650-5551 or 1-833-639-1308.

THIS IS AN OFFICIAL COMMUNICATION OF THE FIRST CIRCUIT COURT. PLEASE DO NOT CONTACT THE COURT.

CHECKLIST FOR FAMILIES OF DECEASED CLASS MEMBERS

- ☐ Complete the (1) Information Request Form as well as the (2) Detailed Family Information Form and send both to the Claims Administrator. You must fill these out completely and promptly. Failure to complete these forms will result in significant delays for payments for all Deceased Class Members. Be sure to include the following when completing the forms:
 - ☐ Names, addresses and contact information for all family members of the Deceased Class Member.
 - ☐ Are any of these family members deceased? If so, please provide a copy of the deceased family members, heirs' and devisees' Death Certificates and contact information for their legal successors/representatives.
 - ☐ Are any of the family members, heirs or devisees minors? If so, please provide their birth certificates.
- ☐ Does the Deceased Class Member have a will or a trust? If yes, please send copies to the Claims Administrator.
- ☐ Was the Deceased Class Member's Estate previously probated? If yes, please send copies of the documentation to the Claims Administrator.
- ☐ Does the family have a private attorney? If yes, please advise the Claims Administrator before December 1, 2023.
- ☐ Did the Deceased Class Member reside outside of Hawai'i? If yes, please also send the Death Certificate to the Claims Administrator.
- ☐ Are any of the family members listed on the Information Request Form receiving public benefits? If so, please contact the Claims Administrator to request information about special needs trusts.
- ☐ Are any family members listed on the Information Request Form under a disability that makes it difficult for them to act without assistance? If so, please provide copies of powers of attorney, guardianship and/or conservatorship documentation.

Questions? Email info@kalima-lawsuit.com or call 1-808-650-5551 or 1-833-639-1308.

THIS IS AN OFFICIAL COMMUNICATION OF THE FIRST CIRCUIT COURT. PLEASE DO NOT CONTACT THE COURT.

Emily H. Kawashima

ATTORNEY AT LAW LLC

Topa Financial Center
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813

TEL 808.744.4688

FAX 888.777.5405

EM emily@kawashimalaw.com

TRANSMITTAL

TO: KRISTIN
The Honorable R. Mark Browning
Circuit Court of the First Circuit

FROM: Emily H. Kawashima, Esq./Cheryl Kitazaki

DATE: December 27, 2023

RE: **The Kalima Class Action Settlement Trust**
T. No. 1CTR-23-0000142

THE FOLLOWING DOCUMENT(S) IS/ARE ENCLOSED HEREWITH:

ORIGINAL DOCUMENT(S) FOR YOUR REVIEW AND APPROVAL:

1. [PROPOSED] Omnibus Order Re: Kalima Class Qualified Settlement Trust Proceedings;
Exhibits "A" – "C"

Transmitting to:

<input type="checkbox"/> 2 e-filed copies for your files	<input type="checkbox"/> Per your request
<input checked="" type="checkbox"/> For your review, approval & filing	<input type="checkbox"/> Per our conversation
<input type="checkbox"/> Set hearing date	<input type="checkbox"/> For your approval
<input checked="" type="checkbox"/> For further necessary action	<input type="checkbox"/> See remarks below

Remarks: Thank you.