

THE HO`OLA LAHAINA FOUNDATION POOLED TRUST

THIS TRUST AGREEMENT is established this date of March 3, 2026, by the HO`OLA LAHAINA FOUNDATION, a non-profit corporation (hereinafter referred to as the "Establisher"). The Trustee of this Trust shall be the HO`OLA LAHAINA FOUNDATION, a Hawaii nonprofit corporation (hereinafter referred to as the "Trustee"). By execution of and in consideration of accepting this Agreement, the Establisher grants, conveys, and transfers to the Trustee the property described in Schedule A and 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. The Manager shall have the ultimate managerial control of this Trust and the Trustee.

This trust is made of three parts and Schedules A. PART ONE governs the disposition of the Trust Estate, including instructions to the Trustee regarding the allocation of pooled trust assets, the establishment of individual accounts, and disbursements for individual beneficiaries. PART TWO relates to the Manager of the Trust, the trusteeship and the powers for the Manager and Trustee. PART THREE contains definitions and other formal provisions.

PART ONE: ADMINISTRATION AND DISPOSITION OF TRUST

ARTICLE 1-1: NAME AND PURPOSE OF TRUST

1-1.1 NAME: This Trust Agreement shall be known as the HO`OLA LAHAINA FOUNDATION POOLED TRUST (hereinafter "Trust" or "Trust Agreement" as the context may imply).

1-1.2 PURPOSE: The purpose of this Trust Agreement is to establish a pooled trust to provide convenient and efficient financial management of funds for individuals, including individuals with special needs, individuals planning for long-term care and elder law purposes, individuals planning following catastrophic injury, minors, and others who may have need and/or desire to join this Trust.

This trust is specifically NOT intended as a pooled trust within the meaning of 42 U.S.C. § 1396p(d)(4)(C), as the intent is that NONE of the pooled trust funds shall be used to reimburse any State Medicaid program that may have provided services for the benefit of any Beneficiary of this Trust.

This Trust is intended to meet other needs of the community that are not specifically addressed by 42 U.S.C. § 1396p(d)(4)(C), including but not limited to the following:

(A) THIRD-PARTY FUNDING: Contributions may be made to this Trust by third-parties for the benefit of a designated individual beneficiary. Third-Party Funding shall consist of resources of third-parties, and NOT the resources of the designated individual beneficiary, but shall be administered for the sole benefit of the individual

designated by the third-party making the contribution(s) for the lifetime of the individual beneficiary. Funds contributed for this purpose shall be administered as set forth in Article 1-6.

(B) **MEDICAID SET-ASIDE FUNDING:** Contributions may be made to this trust by individuals who wish to make gifts for purposes of planning for their own long-term care needs. Funds contributed for this purpose shall be administered as set forth in Article 1-7.

(C) **MEDICARE SET-ASIDE FUNDING.** Contributions may be made by any party for the purposes of satisfying an individual's duty to protect Medicare's future interests pursuant to the Medicare Secondary Payer Act. Funds contributed for this purpose shall be administered as set forth in Article 1-8.

(D) **ESTATE PLANNING:** Contributions may be made by any party for purposes of estate planning and management. Funds contributed for this purpose shall be administered as set forth in Article 1-9.

(E) **FUNDING DUE TO MINORITY:** Contributions of funds received by minors, including but not limited to funds a minor may receive through inheritance, gifting, or the resolution of a litigation, may be made to this trust. Funds contributed for this purpose shall be administered as set forth in Article 1-10.

ARTICLE 1-2: PARTIES TO THE POOLED TRUST

1-2.1 **ESTABLISHER:** The Establisher is HO'OLA LAHAINA FOUNDATION, a non-profit corporation (hereinafter "Establisher"). The Establisher shall include the Establisher's successors, successors in Trust and successors in any other interests. The Chief Executive Officer of the HO'OLA LAHAINA FOUNDATION may sign and take any action on behalf of the HO'OLA LAHAINA FOUNDATION as set forth in this Trust Agreement and as shall be necessary to carry out the purposes of this Trust.

1-2.2 **TRUSTEE:** The Trustee of this Trust shall be the HO'OLA LAHAINA FOUNDATION, a Hawaii nonprofit corporation, (hereinafter referred to as the "Trustee") shall be the initial Trustee. Part Two of this Trust Agreement governs and clarifies the general duties and powers of the Trustee and sets forth the Trustee succession and provides for a Trust Protector.

1-2.3 **BENEFICIARY:** One of the primary purposes and the governing intent of this Trust is to allow multiple beneficiaries to join and benefit from the pooled administration of funds contributed by the multiple beneficiaries. The terms "Beneficiary" or "Beneficiaries" may be interchangeable based on the circumstances and context in which the terms are used. Each individual Beneficiary shall have a separate account (referred to as an "Individual Account") and shall be the sole beneficiary of the Individual Account. The funds contributed to the Trust by or for the benefit of all Beneficiaries may be pooled for management and investment purposes. Beneficiaries shall join this Trust by following the procedure set forth in Article 1-3.

ARTICLE 1-3: JOINING THE POOLED TRUST

1-3.1 APPLICATION: Any party wishing to join the Trust shall submit an application to the Trustee. The Application is intended to enable the Trustee to determine the suitability of the Trust for the Applicant. The Trustee shall have sole and absolute power to approve or deny applications, and to establish further requirements that an applicant must meet in order to be approved to join the Trust.

1-3.2 JOINDER: Upon approval of an Application, the applicant shall execute a Joinder Agreement, setting forth the mutual obligations of the Applicant and Trust to each other and the Beneficiary. The Joinder Agreement shall be irrevocable.

1-3.3 INDIVIDUAL ACCOUNT: Upon receipt of an applicant's Joinder, the Trustee shall set up an Individual Account for the beneficiary, which shall designate the Beneficiary for whom the Trustee will administer the funds and the sub-trust which shall govern administration. The funds shall be pooled with all other trust assets and invested and re-invested, as the Trustee shall determine in the Trustee's sole and absolute discretion. The Individual Account shall be held in the name of and for the benefit of the individual Beneficiary. Any income attributed to a Beneficiary's Individual Account that is not distributed shall be added annually to the principal of the Individual Account for the Beneficiary.

1-3.4 CONTRIBUTION: Upon the establishment of an Individual Account, the Trustee shall coordinate the funding of the Individual Account with the establisher of the Individual Account and shall be authorized to determine the value of the contributed assets. The Trustee may discount the value of such contribution to reflect the risks to the Trust or anticipated costs in management and disposition of such assets. The Trustee's determination of value shall be binding and the exclusive remedy for an Individual Beneficiary who is dissatisfied with the determination is return of the property, net of any expenses incurred by the Trust with respect to the property or the Individual Account and of expenditures to or for the Beneficiary. The Manager may decline to accept any property by reason of its unsuitability for Trust management, in the Manager's sole and absolute discretion.

ARTICLE 1-4: ADMINISTRATION OF INDIVIDUAL ACCOUNTS

Each and every Individual Account established under the Trust Agreement shall be governed as directed by the Joinder Agreement and the specific trust provisions of the sub-trust designated in the Joinder Agreement. For administrative purposes, each Individual Account may be identified with reference to the Beneficiary.

ARTICLE 1-5: SUB-TRUST IDENTIFICATION AND ESTABLISHMENT

1-5.1 IDENTIFYING SUB-TRUST: There shall be five (5) separate sub-trusts governed by this Trust Agreement. Individuals may join multiple sub-trusts, upon separate application to and approval by the Manager. The five (5) separate sub-trusts shall be identified as follows:

(A) THIRD-PARTY SPECIAL NEEDS TRUST: The Third-Party Special Needs Trust shall be governed by Article 1-6. Individual Accounts established under the

Third-Party Special Needs Trust shall be identified by referencing the specific sub-trust and the name of the beneficiary. For example, proper identification of an Individual Account shall be styled “Individual Account FBO John/Jane Doe established under THE HO`OLA LAHAINA FOUNDATION THIRD-PARTY SPECIAL NEEDS TRUST”.

(B) MEDICAID SET-ASIDE TRUST: The Medicaid Set-Aside Trust shall be governed by Article 1-7. Individual Accounts established under the Medicaid Set-Aside Trust shall be identified by referencing the specific sub-trust and the name of the beneficiary. For example, proper identification of an Individual Account shall be styled “Individual Account FBO John/Jane Doe established under THE HO`OLA LAHAINA FOUNDATION MEDICAID SET-ASIDE TRUST”.

(C) MEDICARE SET-ASIDE TRUST: The Medicare Set-Aside Trust shall be governed by Article 1-8. Individual Accounts established under the Medicare Set-Aside Trust shall be identified by referencing the specific sub-trust and the name of the beneficiary. For example, proper identification of an Individual Account shall be styled “Individual Account FBO John/Jane Doe established under THE HO`OLA LAHAINA FOUNDATION MEDICARE SET-ASIDE TRUST”.

(D) LIVING TRUST: The Living Trust shall be governed by Article 1-9. Individual Accounts established under the Living Trust shall be identified by referencing the specific sub-trust and the name of the beneficiary. For example, proper identification of an Individual Account shall be styled “Individual Account FBO John/Jane Doe established under THE HO`OLA LAHAINA FOUNDATION LIVING TRUST”.

(E) PRESERVATION TRUST: The Preservation Trust shall be governed by Article 1-10. Individual Accounts established under the Preservation Trust shall be identified by referencing the specific sub-trust and the name of the beneficiary. For example, proper identification of an Individual Account shall be styled “Individual Account FBO John/Jane Doe established under THE HO`OLA LAHAINA FOUNDATION PRESERVATION TRUST”.

ARTICLE 1-6: THIRD-PARTY SPECIAL NEEDS TRUST

The income and principal of each and every Individual Account established under the Third-Party Special Needs Trust shall be governed by the provisions set forth in this Article 1-6.

1-6.1 INTENT AND RULES OF CONSTRUCTION: The intent of the Third-Party Special Needs Trust is to provide a good quality of life for the Beneficiary and to satisfy and address the Beneficiary’s special needs. All interpretations and actions taken by the Trustee pursuant to this trust shall be done for and with the purpose of accomplishing this intention and provisions herein shall be construed in such manner as would cause it to comply with the provisions of the Social Security Act, which would allow the Beneficiary to be eligible for SSI, Medicaid or any other means-tested government benefit without regard to the existence of this Trust.

1-6.2 **SOLE BENEFIT:** The principal and net income arising under the Individual Account is intended for the sole and individual benefit of the Beneficiary, subject to the provisions herein. The trustee may use up to all of the principal and net income arising under this trust to provide a good quality of life for said Beneficiary, taking into consideration the special needs of the Beneficiary and other public and private benefits that the Beneficiary may be eligible or entitled to receive, even to the exclusion of future potential interests, and even to the exhaustion of the existing trust funds.

1-6.3 **TRUSTEE'S DISCRETION AND AUTHORITY:** The Trustee, and not the Beneficiary, shall have continuing, sole, absolute and discretionary power to deal with the funds of this Trust, with the unfettered ability to expend funds for the benefit of the Beneficiary, as the Trustee deems appropriate and necessary. The Beneficiary shall have no authority to revoke or terminate the trust or direct the Trustee's use of trust assets in any way.

In the exercise of the Trustee's discretionary authority, the Trustee shall have the authority to administer the Trust in a manner that makes it possible for said Beneficiary to qualify and/or to maintain eligibility for benefits from private and public sources, including benefits from any state or federal agency, including but not limited to the State of Hawaii Department of Human Services (DHS) or its successor agencies, and the United States Social Security Administration. Although it shall be an appropriate exercise of discretion to do so, the Trustee shall have no obligation or duty to maximize all such public benefits available to said Beneficiary. It shall also be an appropriate exercise of discretion for the Trustee to provide the Beneficiary with an enhanced quality of life when, in the sole and absolute discretion of the Trustee, the quality of goods or services provided by such public benefits are not in said Beneficiary's best interests. Expenditures under such circumstances shall be appropriate, even if they limit or reduce the total value of public benefits the Beneficiary may receive.

1-6.4 **NO STANDARD OF SUPPORT:** This trust is intended to be a discretionary trust and not a basic support trust. The Trustee shall not be governed by any standard of support; rather, the Trustee shall have sole and absolute discretionary powers to administer and apply the income and principal of this Trust to provide a good quality of life for the Beneficiary. The Beneficiary shall have no right to mandatory periodic payments and cannot anticipate any distribution from the Trust, despite any record of expenditures made by the Trustee.

1-6.5 **SUPPLEMENTAL BENEFITS:** The income and principal of this Trust shall be used to enhance the quality of life of the Beneficiary above and beyond what public benefits could provide, and may be applied to supplement other services, benefits and/or medical care that said Beneficiary may be entitled to receive through any governmental, public or certain private sources. Although there shall be no specific standard of support or required distributions, the Settlor intends that the Trustee administer the Trust in a manner consistent with the following guidelines:

(A) In administering the Trust, the Trustee may, in the Trustee's sole and absolute discretion, and always in the capacity as Trustee and not as an agent of the Beneficiary, apply such amounts of the net income or principal, or both, of the trust estate as the Trustee determines to be necessary or advisable for the special needs of said

Beneficiary considering other sources, including, but not limited to, all governmental financial and/or medical assistance benefits available to said Beneficiary.

(B) The Trustee shall carefully consider the impact that making any distributions would have on said Beneficiary (*e.g.* weigh the effects that a potential loss or reduction in public benefits may have for said Beneficiary against the effect of exercising the discretionary power to distribute income or principal for the Beneficiary's basic living needs) and shall exercise this discretionary power in the best interests of said Beneficiary. Notwithstanding any provisions herein to the contrary, the Trustee may, from time to time, in the Trustee's sole and absolute discretion, make distributions the Trustee deems to be in the Beneficiary's best interest in ways that may reduce or eliminate public benefits, if the Trustee deems it to be advisable, after taking into account the effect of such distribution on continuing public benefits and the Beneficiary's situation. In exercising the discretion granted under this Trust Agreement, the Trustee shall always be guided by what is in the Beneficiary's best interest.

(C) The Trustee may, in the Trustee's sole and absolute discretion, purchase items that would be considered "exempt" assets for purposes of public benefit law, such as personal household items, clothing, transportation devices, medical equipment, or a home. The Trustee may, in the Trustee's sole and absolute discretion, distribute such exempt items to the Beneficiary. Once distributed, such items are free of trust and the Trustee need not further account for the distributed items; the Trustee should report such in-kind distributions as required by any applicable benefit program or service.

(D) In making distributions as provided herein, the Trustee, in the Trustee's sole and absolute discretion, may:

(1) Make payments to the legally appointed guardian, conservator or other fiduciary of the Beneficiary, if any, including a Trustee of any trust for the benefit of the Beneficiary, or to any person with whom the Beneficiary resides that is providing care for the Beneficiary, but limited to amounts that will not disqualify the Beneficiary from any governmental benefits.

(2) Make payments directly to any person or organization supplying either goods or services for the Beneficiary on the Beneficiary's behalf.

(3) Subject to the provisions of this Trust, make expenditures directly on behalf of the Beneficiary, including, without limitation, the purchase of real or personal property for the Beneficiary that could qualify as an exempt resource under applicable governmental programs from which the Beneficiary is receiving assistance.

(4) Purchase items as assets of the Trust Estate to be used by the Beneficiary.

(5) Contribute, up to the maximum funding limitations, to an ABLE Act Account as governed by 26 U.S.C. § 529A, as it may be amended, if the Trustee

determines, in the Trustee's sole discretion, that contributing to such an account would be appropriate.

(6) The Trustee shall add all surplus net income to the principal of the trust estate to be administered in accordance with the terms herein.

1-6.6 SPECIAL NEEDS AND SUPPLEMENTAL NEEDS: The phrases "special needs" and "supplemental needs" shall be interchangeable and refer to those expenditures advisable for the Beneficiary to enhance and maximize the Beneficiary's development and happiness and may include, but are not limited to: medical, dental, psychological/psychiatric and related treatment not otherwise provided, or a higher quality of such care; transportation; educational tutoring; computer, telephone, Internet and television services; rehabilitation; comfort; special equipment; training programs; social services expenses; personal care aide; physical, occupational, speech and behavioral therapy; eye glasses; bathing equipment and accessories; respite care; required improvements to the residence for the Beneficiary's benefit; case management; prepaid funeral and burial arrangements; trips for medical treatment and vacations (including expenses for up to two (2) traveling companions if reasonably medically necessary); provided, however, that the provision of any such need which would cause this trust to disqualify said Beneficiary from government financial assistance benefits which said Beneficiary would otherwise be entitled to receive shall be disallowed.

The Trustee shall have the discretion to purchase a life insurance policy on the life, or a disability insurance policy on the health, of an individual essential to the care and maintenance of said Beneficiary. Such an essential individual shall be one who spends a substantial portion of uncompensated time or compensation at substantially below market rates in caring for said Beneficiary, which care contributes to the quality of life of said Beneficiary. The Trustee shall be the owner of any such policy, and this Trust shall be the beneficiary of such policy. The amount of the benefit of any such insurance policy shall be at the sole discretion of the Trustees. The Trust shall terminate payment of premiums on the policy at such time as the essential person terminates substantial services to said Beneficiary, except the Trust at that time may transfer the ownership of the policy to the essential person or other designate so long as the policy has no cash value other than a death benefit.

1-6.7 PUBLIC BENEFITS: For purposes herein, the term "public benefits" shall include, but not be limited to, any benefits from any governmental, state or federal agency, office, department or bureau, *etc.* In particular, but without limitation, public benefits would include programs and benefits administered through the State of Hawaii Department of Human Services (DHS), the United States Social Security Administration (SSA), and the United States Centers for Medicare and Medicaid Services (CMS).

1-6.8 SPENDTHRIFT PROVISION: No part of the Trust estate shall be construed to be subject to the voluntary or involuntary creditors of said Beneficiary. The Beneficiary shall have no right to direct the use of the trust principal, access trust assets, sell any beneficial interest in this Trust, or have the right to any mandatory periodic payments. Beneficiary shall in no event have any authority to voluntarily or involuntarily transfer, sell, assign, convey, transfer, pledge, hypothecate, anticipate, or otherwise encumber the Beneficiary's interest under this Trust, nor shall

the principal of the Trust Estate hereunder or the income arising therefrom be liable for any debt of said Beneficiary, or subject to any judgment rendered against said Beneficiary, or to the process of any court in aid or execution of any judgment so rendered.

1-6.9 NO DISCHARGE OF THIRD-PARTY OBLIGATIONS: No portion of the trust estate will be used to satisfy any parties' legal obligations, including without limitation, an obligation to support the Beneficiary under the laws of the State of Hawaii or any other state in which said Beneficiary may reside. If any third-party has an obligation to provide for, support, reimburse or otherwise pay to or for the benefit of the Beneficiary, the existence of this Trust shall not affect or discharge such obligation and may not be used to justify any offset or reduction in said obligation.

Should the Beneficiary have a beneficial interest in another trust that shall be considered "countable" for purposes of public benefit eligibility, the Settlor intends that the Trustee should use the income and/or principal of such other Trust prior to diminishing assets owned by this Trust. Should the Beneficiary have a beneficial interest in another trust that shall be considered "exempt", but subject to a pay-back provision, the Settlor intends that the assets of such other trust be used prior to diminishing assets owned by this Trust. The Trustee shall deny any request by any public or private entity to disburse trust funds for support or other care that such entity has the obligation to provide to said Beneficiary.

1-6.10 EMPLOYMENT OF SPECIALISTS AND ADVOCATES: The Trustee may employ specialist(s) and/or advocate(s) to review periodically the benefits to which said Beneficiary may be entitled from any governmental agency or program, including, but not limited to: Social Security, SSI, SSDI, Veterans Administration Benefits, Medicaid, Medicare and DHS programs. Such specialist(s) and/or advocate(s) or the Trustee, in his/her/its individual capacity, may take all reasonable steps to assist said Beneficiary in obtaining said benefits, and may collect, expend, and account separately for all such governmental financial assistance benefits, or may, to the extent required by law, deposit such government benefits into this Trust.

1-6.11 TAX FREE INVESTMENTS: The Settlor suggests that the Trustee consider investing such portion or all of the trust estate in tax-free municipal bonds or other investments that shall not be subject to income tax for the purpose of minimizing complications with public benefit eligibility or in making distributions of income to or for the benefit of said Beneficiary.

1-6.12 EMERGENCY DISCRETIONARY AUTHORITY: In the occurrence of an event beyond the control of the Trustee which temporarily or permanently disqualifies the Beneficiary from any governmental benefit contemplated herein, or in the event of an emergency or other condition which the Trustee reasonably believes threatens the life, safety or security of the Beneficiary, or in the event of any material change of circumstances (e.g., upon the Beneficiary's securing full-time, competitive employment or in a change in the laws or regulations affecting the Beneficiary's eligibility), the Trustee may, in the Trustee's exercise of sole and absolute discretion, administer this Trust so as to alleviate the condition and address changes of circumstances.

1-6.13 MODIFICATION TO COMPLY WITH FEDERAL OR STATE RULES: HO'OLA LAHAINA FOUNDATION, may amend and/or reform the trust if necessary due to

judicial decisions or interpretations or other changes in any laws or rules, to conform the trust provisions to operate and fully comply with the expressly stated intentions, purposes and goals in establishing this trust. Therefore, HO`OLA LAHAINA FOUNDATION, may amend and/or reform the trust instrument so that it conforms with any regulations that are approved by any governing body or agency relating to public benefit eligibility; provided, however, that such amendment may not change the provisions designating Beneficiary as the sole lifetime beneficiary or the contingent or remainder beneficiaries of the Trust.

1-6.14 DEATH OF BENEFICIARY: Upon the death of said Beneficiary, all of the rest, residue and remainder of the trust assets and undistributed income, as then constituted, shall be distributed in accordance with the provisions set forth in the Joinder Agreement establishing the Individual Account. In the event that there is no taker qualified or eligible to receive the final distribution from the Individual Account upon the death of the Beneficiary, all of the rest, residue and remainder of said Individual Account shall be distributed to or held in continued trust for those individuals who are determined to be the beneficiaries of the Beneficiary's will in a probate proceeding or a proceeding brought under Hawaii Probate Rule 93 or similar law in another jurisdiction, or if the Beneficiary leaves no will, to those persons determined to be the heirs at law of the Beneficiary. In the event that any funds should otherwise escheat, said funds shall be retained by this Trust and allocated proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 1-7: MEDICAID SET-ASIDE TRUST

The Joinder Agreement establishing an Individual Account administered pursuant to this Medicaid Set-Aside Trust shall designate the subject Medicaid Applicant and all intended Beneficiaries. Each and every Individual Account established under the Medicaid Set-Aside Trust shall be governed by the provisions set forth in this Article 1-7.

1-7.1 INTENT AND RULES OF CONSTRUCTION: The intent of this Medicaid Set-Aside Trust is to enable the Beneficiaries to amicably pool resources to effectively and efficiently have funds they may use for the Medicaid Applicant. The Medicaid Applicant is ONLY and EXCLUSIVELY a measuring reference to guide the Trustee for distribution purposes. Nothing herein shall be interpreted to give the Medicaid Applicant a beneficial interest in this Trust and the Medicaid Applicant shall have no rights under the terms of this Trust Agreement as a beneficiary, including but not limited to, the right to compel the Trustee to act.

1-7.2 DISTRIBUTIONS DURING THE LIFETIME OF THE MEDICAID APPLICANT: Until the death of the Medicaid Applicant, the Trustee, in the Trustee's sole and absolute discretion, shall determine the amount of out-of-pocket expenses any Beneficiary shall have expended towards the well-being of the Medicaid Applicant and shall distribute the same amount to such Beneficiary. Such distributions may include (but are not necessarily limited to or conclusive or binding on the Trustee): travel expenses necessary to visit the Medicaid Applicant, supplies, healthcare products or services for the Medicaid Applicant, and expenses directly related and/or necessary for the quality of life of the Medicaid Applicant. No Beneficiary shall have any obligation to provide for the Medicaid Applicant. The Trustee may seek proper receipts as evidence that such expenditures have been made. The Trustee shall have no duty to equalize the payments made from time to time hereunder for any of the Beneficiaries. The Trustee shall retain

all of the remaining income and/or principal in the Trust, provided that the Trustee shall be authorized to pay administrative expenses relating to this Trust.

1-7.3 **DISTRIBUTIONS UPON THE DEATH OF THE MEDICAID APPLICANT:** Upon the death of the Medicaid Applicant, the Trustee may pay for expenses related to the final memorial services for the Medicaid Applicant, if and only if no other provisions have been made and if and only if requested by any of the then-current beneficiaries of the Individual Account. The Trustee shall also pay any remaining expenses and administrative costs of the Individual Account. All of the rest, residue and remainder of the Trust estate, as then constituted, shall be distributed as set forth in the Joinder Agreement establishing the Individual Account. In the event that there is no taker qualified or eligible to receive the final distribution from the Individual Account upon the death of the Beneficiary, all of the rest, residue and remainder of said Individual Account shall be distributed to or held in continued trust for those individuals who are determined to be the beneficiaries of the Beneficiary's will in a probate proceeding or a proceeding brought under Hawaii Probate Rule 93 or similar law in another jurisdiction, or if the Beneficiary leaves no will, to those persons determined to be the heirs at law of the Beneficiary. In the event that any funds should otherwise escheat, said funds shall be retained by this Trust and allocated proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 1-8: MEDICARE SET-ASIDE TRUST

The income and principal of each and every Individual Account established under the Medicare Set-Aside Trust shall be governed by the provisions set forth in this Article 1-8.

1-8.1 **ADMINISTRATIVE ACCOUNT:** The Trustee shall allocate an amount as set forth in the Joinder Agreement for purposes of covering the administrative costs of the Medicare Set-Aside Trust attributed to the Individual Account. All administrative fees, costs, expenses, taxes and any and all obligations relating the administration of the Individual Account shall be paid from the Administrative Account. Should the balance of the Administrative Account become insufficient to cover such expenditures, the Beneficiary or other party to the Joinder Agreement shall replenish the Administrative Account at the request of the Trustee. Upon the death of the Beneficiary, the Administrative Account shall be distributed in accordance with the provisions set forth in Article 1-8.4.

1-8.2 **INTENT AND VALUATION:** The intent of the Medicare Set-Aside Trust is to help the Beneficiary comply with the Medicare Secondary Payer Act (42 U.S.C. § 1395y *et seq.*). The Trustee shall administer the Individual Account exclusively for such purposes. It shall be the Beneficiary's (or the Beneficiary's duly authorized agent or other fiduciary) obligation to determine the amount of funds required to be set-aside for purposes of complying with the Medicare Secondary Payer Act and the Trustee shall be authorized to exclusively rely on that determination and shall have no obligation to independently affirm the proper valuation of the Beneficiary's future medical obligation.

1-8.3 **MEDICARE SET-ASIDE ACCOUNT:** The Trustee shall allocate an amount as set forth in the Joinder Agreement for purposes of administering the Set-Aside Amount, and all income

thereon, as a Medicare Set Aside Arrangement under the terms herein stated. All of the principal and net income of this account shall be administered as follows:

(A) During the lifetime of the Beneficiary, both the principal and the income from the MEDICARE SET-ASIDE ACCOUNT shall remain segregated and may be expended for the Beneficiary's sole benefit, in the absolute discretion of the trustee, subject, however, to the following limitations:

(1) During the lifetime of the Beneficiary, both the principal and the income from the MEDICARE SET-ASIDE ACCOUNT shall be paid for medical services and supplies that would otherwise be reimbursable under Medicare, if but only if (a) such payments are necessary to entitle the Beneficiary to Medicare coverage under the Medicare Secondary Payor Act, and (b) such payments shall be prudent and in the discretion of the Trustee after considering all other benefits to which the Beneficiary shall be entitled. Such medical services and supplies are herein referred to as "eligible injury-related medical expenses".

(2) Trustee may engage the services of experts, including but not limited to a Medicare claims and payments administrator, to advise and counsel the Trustee with respect to eligible injury-related medical expenses. The Trustee may rely upon the written instructions and advice of such experts regarding disposition of the Trust as to eligible injury-related medical expenses, and payments and distributions from the Trust, made in accord with such instructions and advice of such experts, shall be conclusively deemed authorized and proper. The fees, costs and expenses of such experts and consultants, if any, shall be borne by the Administrative Account and not the Medicare Set-Aside Account.

(3) Administrative fees, costs and expenses related to the MEDICARE SET-ASIDE ACCOUNT shall not be paid from the funds segregated to the MEDICARE SET ASIDE ACCOUNT or its income. Any such fees, costs and expenses associated with the maintenance, management and administration of the MEDICARE SET-ASIDE ACCOUNT, including but not limited to charges for fiduciary services of the Trustee or advisors or any Medicare claims payments administrator, shall be paid or reimbursed from the ADMINISTRATIVE ACCOUNT.

(4) Absolutely no part of the principal or income of the MEDICARE SET ASIDE ACCOUNT shall be subject to the control, hypothecation, direction, assignment or alienation of the Beneficiary, and absolutely no part of the principal or income of the MEDICARE SET ASIDE ACCOUNT shall be considered available to the Beneficiary for any purpose.

(5) Notwithstanding the foregoing exclusion of beneficial or other control of the MEDICARE SET ASIDE ACCOUNT, the Trustee shall have unlimited discretion with respect to any part or all of the MEDICARE SET ASIDE ACCOUNT as follows:

(a) The Trustee may distribute or allocate any part or all of the MEDICARE SET ASIDE ACCOUNT, as initially constituted and as may be augmented by additional funds received in the future, to the Beneficiary if such distribution or allocation shall be in the best interests of the Beneficiary.

(b) This discretionary authority granted herein shall be exercisable at any time and from time to time only by the Trustee, if and only if such exercise would be in the best interests of the Beneficiary. Prior to exercising such discretionary power, the Trustee shall obtain a statement from the Beneficiary (or the Beneficiary's duly appointed agent or legal guardian) evidencing that the Beneficiary understands the implications of such discretionary authority and must include the following statement verbatim:

“I acknowledge that the exercise of this discretionary power to distribute or allocate assets in the MEDICARE SET ASIDE ACCOUNT to me or as I direct, and the use of the funds so distributed or allocated may result in my disqualification from Medicare services”.

(6) Upon the death of the Beneficiary, the Trustee shall continue to administer the MEDICARE SET ASIDE TRUST for a reasonable period of time as determined in the reasonable discretion of the Trustee, for the purposes of paying any outstanding eligible injury-related medical expenses and/or other expenses otherwise payable by Medicare for the Beneficiary. The Trustee shall have no liability to make any payment from the MEDICARE SET ASIDE ACCOUNT as to any bill or account which has not been submitted in writing to the Trustee within sixty (60) days of the death of the Beneficiary. The Trustee shall, after making all payments as required herein, distribute all of the rest, residue and remainder of the MEDICARE SET ASIDE ACCOUNT in accordance with the provisions set forth in Article 1-8.4.

1-8.4 DISTRIBUTIONS UPON THE DEATH OF THE BENEFICIARY: Upon the death of the Beneficiary, and following the payment of administrative expenses and distributions vested prior to the Beneficiary's death subject to the administration of the Medicare Set-Aside Trust, the Trustee shall distribute all of the rest, residue and remainder of the Individual Account, as then constituted, as set forth in the Joinder Agreement establishing the Individual Account. In the event that there is no taker qualified or eligible to receive the final distribution from the Individual Account upon the death of the Beneficiary, all of the rest, residue and remainder of said Individual Account shall be distributed to or held in continued trust for those individuals who are determined to be the beneficiaries of the Beneficiary's will in a probate proceeding or a proceeding brought under Hawaii Probate Rule 93 or similar law in another jurisdiction, or if the Beneficiary leaves no will, to those persons determined to be the heirs at law of the Beneficiary. In the event that any funds should otherwise escheat, said funds shall be retained by this Trust and allocated

proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 1-9 LIVING TRUST

The income and principal of each and every Individual Account established under the Living Trust shall be governed by the provisions set forth in this Article 1-9.

1-9.1 INCOME AND PRINCIPAL DISTRIBUTIONS DURING THE LIFETIME OF THE BENEFICIARY: While the Beneficiary is living, the net income and the principal of the Individual Account shall be disposed of as the Beneficiary (or the Beneficiary's agent) may direct the Trustee from time to time, or in the absence of the direction, as the Trustee in the Trustee's sole and absolute discretion shall determine to be in the best interests of the Beneficiary. The Trustee shall follow the direction of the attorney-in-fact designated by the Beneficiary in a durable power of attorney, or by order of a court, for the purposes of transferring assets into or out of the Individual Account. The Beneficiary shall be the sole intended beneficiary during the Beneficiary's lifetime and the Trustee shall be authorized to expend as little or as much of the income and/or principal of the Individual Account for the Beneficiary, even to the exclusion of future potential interests, and even to the exhaustion of the existing trust funds. The Trustee may administer the Individual Account to consider the future Medicaid eligibility of the Beneficiary, in the Trustee's sole and absolute discretion.

1-9.2 DEATH OF BENEFICIARY: Upon the death of the Beneficiary, all of the rest, residue and remainder of the assets and undistributed income of the Individual Account, as then constituted, shall be distributed in accordance with the provisions set forth in the Joinder Agreement establishing the Individual Account. In the event that there is no taker qualified or eligible to receive the final distribution from the Individual Account upon the death of the Beneficiary, all of the rest, residue and remainder of said Individual Account shall be distributed to or held in continued trust for those individuals who are determined to be the beneficiaries of the Beneficiary's will in a probate proceeding or a proceeding brought under Hawaii Probate Rule 93 or similar law in another jurisdiction, or if the Beneficiary leaves no will, to those persons determined to be the heirs at law of the Beneficiary. In the event that any funds should otherwise escheat, said funds shall be retained by this Trust and allocated proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 1-10: PRESERVATION TRUST

The income and principal of each and every Individual Account established under the Preservation Trust shall be governed by the provisions set forth in this Article 1-10.

1-10.1 DISTRIBUTIONS DURING BENEFICIARY'S MINORITY: While the Beneficiary shall be under the age of EIGHTEEN (18) years, the Trust funds shall be disposed of as follows:

(A) NO DISCHARGE OF THIRD-PARTY OBLIGATIONS: No portion of the trust estate will be used to satisfy any party's legal obligations, including without limitation, an obligation to support the Beneficiary under the laws of the State of Hawaii or any other

state in which said Beneficiary may reside. If any third-party has an obligation to provide for, support, reimburse or otherwise pay to or for the benefit of the Beneficiary, the existence of this Trust shall not affect or discharge such obligation and may not be used to justify any offset or reduction in said obligation.

(B) INCOME DISTRIBUTIONS: The Trustee shall use so much of the income of this Trust as the Trustee determines to be necessary, in addition to the Beneficiary's income from all other sources known to the Trustee, for the Beneficiary's health, education, maintenance, and support, in the Beneficiary's accustomed manner of living. Any excess income shall be added to the principal of the Trust.

(C) PRINCIPAL DISTRIBUTIONS: The Trustee shall use so much of the principal of this Trust as the Trustee determines to be necessary, after the application of income from all other sources known to the Trustee, for the Beneficiary's health, education, maintenance, and support, in the Beneficiary's accustomed manner of living.

(D) DISCRETIONARY USE OF INCOME AND PRINCIPAL: In exercising the discretionary authority to make distributions from this Trust, the Trustee shall consider all of the Beneficiary's income from all other sources known to the Trustee, including the Beneficiary's parents. When such sources of income shall be insufficient to adequately provide for the needs of the Beneficiary, the Trustee shall be authorized to make distributions needed to meet those needs.

It is the intention of this Trust that the Beneficiary shall have an opportunity to obtain an education commensurate with the Beneficiary's abilities and interests and to pursue endeavors that are rewarding and fulfilling. Accordingly, the Trustee, in exercising the Trustee's discretion to make distributions under this Trust, shall make reasonable efforts to provide for the Beneficiary's pursuit of the Beneficiary's education and interests, including but not limited to, making distributions for the purposes of the reasonable costs of tuition, books, supplies, board, room, transportation, and other living expenses at a suitable educational institution (including secondary, college, graduate, or specialized training). The Trustee may also distribute such reasonable amount or amounts of the principal of the trust to or for the Beneficiary as the Trustee determines, in the Trustee's sole and absolute discretion, to be necessary or advisable to provide for the entry of the Beneficiary into a business or profession, the purchase or improvement or basic furnishing of a home, expenses incident to marriage or childbirth, or reasonable educational travel. The Trustee shall have discretion to pay all or any part of the expenses of any final illness and of the funeral of the Beneficiary.

(E) SPENDTHRIFT PROVISION: 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, provided that this Article shall neither prevent any Beneficiary from exercising any power of appointment granted in this Trust agreement.

(F) After the Beneficiary shall reach the age of EIGHTEEN (18) years, all remaining and undistributed income and/or principal shall be distributed in accordance with the provisions set forth in Article 1-10.2. Should the Beneficiary die prior to reaching the age of EIGHTEEN (18) years, said remaining and undistributed income and/or principal shall be distributed in accordance with the provisions set forth in Article 1-10.3.

1-10.2 DISTRIBUTIONS UPON AND AFTER THE BENEFICIARY'S REACHING THE AGE OF EIGHTEEN (18) YEARS: Upon the Beneficiary reaching the age of EIGHTEEN (18) years, and while the Beneficiary shall be under the age of TWENTY FIVE (25) years, the trust assets shall be disposed of as follows:

(A) In each and every calendar year beginning in the year the Beneficiary shall reach the age of EIGHTEEN (18) years, and continuing through the year in which the Beneficiary shall reach the age of TWENTY FIVE (25) years, the Trustee shall notify the Beneficiary in writing that the Beneficiary shall have the right to direct the Trustee in writing to make a distribution of any amount of income and/or principal of the Trust funds. The Trustee shall distribute the Trust income and/or principal as such Beneficiary so directs.

(B) If or to the extent that the Beneficiary does not direct the Trustee as to distribution, the trust assets shall be disposed of as follows:

(1) NO DISCHARGE OF THIRD-PARTY OBLIGATIONS: No portion of the trust estate will be used to satisfy any party's legal obligations, including without limitation, an obligation to support the Beneficiary under the laws of the State of Hawaii or any other state in which said Beneficiary may reside. If any third-party has an obligation to provide for, support, reimburse or otherwise pay to or for the benefit of the Beneficiary, the existence of this Trust shall not affect or discharge such obligation and may not be used to justify any offset or reduction in said obligation.

(2) INCOME DISTRIBUTIONS: The Trustee shall use so much of the income of this Trust as the Trustee determines to be necessary, in addition to the Beneficiary's income from all other sources known to the Trustee, for the Beneficiary's health, education, maintenance, and support, in the Beneficiary's accustomed manner of living. Any excess income shall be added to the principal of the Trust.

(3) PRINCIPAL DISTRIBUTIONS: The Trustee shall use so much of the principal of this Trust as the Trustee determines to be necessary, after the application of income from all other sources known to the Trustee, for the Beneficiary's health, education, maintenance, and support, in the Beneficiary's accustomed manner of living.

(4) DISCRETIONARY USE OF INCOME AND PRINCIPAL: In exercising the discretionary authority to make distributions from this Trust, the

Trustee shall consider all of the Beneficiary's income from all other sources known to the Trustee, including the Beneficiary's parents. When such sources of income shall be insufficient to adequately provide for the needs of the Beneficiary, the Trustee shall be authorized to make distributions needed to meet those needs.

It is the intention of this Trust that the Beneficiary shall have an opportunity to obtain an education commensurate with the Beneficiary's abilities and interests and to pursue endeavors that are rewarding and fulfilling. Accordingly, the Trustee, in exercising the Trustee's discretion to make distributions under this Trust, shall make reasonable efforts to provide for the Beneficiary's pursuit of the Beneficiary's education and interests, including but not limited to, making distributions for the purposes of the reasonable costs of tuition, books, supplies, board, room, transportation, and other living expenses at a suitable educational institution (including secondary, college, graduate, or specialized training). The Trustee may also distribute such reasonable amount or amounts of the principal of the trust to or for the Beneficiary as the Trustee determines, in the Trustee's sole and absolute discretion, to be necessary or advisable to provide for the entry of the Beneficiary into a business or profession, the purchase or improvement or basic furnishing of a home, expenses incident to marriage or childbirth, or reasonable educational travel. The Trustee shall have discretion to pay all or any part of the expenses of any final illness and of the funeral of the Beneficiary.

(5) SPENDTHRIFT PROVISION: 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 the Beneficiary's debts or obligations (including alimony) or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process, provided that this Article shall neither prevent any Beneficiary from exercising any power of appointment granted in this Trust agreement.

(6) After the Beneficiary shall reach the age of TWENTY FIVE (25) years, or upon the death of the Beneficiary, whichever shall first occur, all remaining and undistributed principal allocated to such Beneficiary shall be distributed in accordance with the provisions set forth in Article 1-10.3.

1-10.3: DISPOSITION UPON TERMINATION: Upon the Beneficiary reaching the age of TWENTY FIVE (25) years, all of the rest, residue and remainder of the Individual Account as then constituted, shall be distributed outright and free of any trust, to the Beneficiary, if the Beneficiary shall be then surviving. If the Beneficiary shall die before reaching the age of TWENTY FIVE (25) years, upon the death of the Beneficiary, all of the rest, residue and remainder of the assets and undistributed income of the Individual Account, as then constituted, shall be distributed in accordance with the provisions set forth in the Joinder Agreement establishing the Individual Account. In the event that there is no taker qualified or eligible to receive the final distribution from the Individual Account upon the death of the Beneficiary, all of the rest, residue and remainder of said Individual Account shall be distributed to or held in continued trust for those individuals who are determined to be the beneficiaries of the Beneficiary's will in a probate

proceeding or a proceeding brought under Hawaii Probate Rule 93 or similar law in another jurisdiction, or if the Beneficiary leaves no will, to those persons determined to be the heirs at law of the Beneficiary. In the event that any funds should otherwise escheat, said funds shall be retained by this Trust and allocated proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 1-11: ADMINISTRATIVE PROVISIONS

1-11.1 CONTRIBUTIONS: The Trustee shall have sole and absolute discretion to accept or decline any and all contributions to be made to this Trust to be governed in accordance with any Individual Account and Joinder Agreement. The Trustee shall have the ultimate authority to determine the valuation of any contribution.

1-11.2 TRUST ESTABLISHMENT AND MAINTENANCE EXPENSES: Trustee shall pay all fees and expenses incurred during the establishment of this trust, and all fees, expenses, income taxes, levies, and other charges arising from the existence and operation of this Trust. The Trustee may establish a separate account to dedicate to maintenance expenses and may fund said account proportionately by each individual account.

1-11.3 SURVIVORSHIP: Any contingent or remainder beneficiary who shall not be living TWENTY FIVE (25) days after a Beneficiary's death shall be deemed to have died before the Beneficiary.

ARTICLE 1-12: NO CONTEST

Should any person, singly or in conjunction with any other person or persons, contest in any court the validity of this Trust or the provisions relating to a specific Individual Account, or seek to obtain an adjudication in any proceeding in any court that this Trust or any of its provisions is void, or seek otherwise to void, nullify or set aside this Trust or any of its provisions, such person and any other person who initiates or assists any such action shall forfeit any and all rights or interest he or she might otherwise have under this trust or in the trust estate. On such forfeiture, the share or interest that person would have been entitled to hereunder shall be held, administered and distributed as if such person had died prior to the execution of this trust. The Trustee is hereby authorized to defend, at the expense of the trust estate, any contest or other attack of any nature on this Trust or any of its provisions.

PART TWO: TRUSTEESHIP

ARTICLE 2-1: 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 PART ONE. All decisions regarding the administration of this Trust shall be made in the sole and absolute discretion of the Trustee.

ARTICLE 2-2: RESIGNATION

Any Trustee may resign at any time by an instrument in writing, signed by the Trustee and delivered, prior to the date and time stated therein as to when the resignation is to become effective, to the Establisher.

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 2-3: REMOVAL

The Establisher shall have the right to remove any Trustee. Such removal shall become effective at such date as the Establisher shall specify.

ARTICLE 2-4: LIABILITY AND INDEMNIFICATION

The Establisher shall have no liability under the terms of this trust, whatsoever, and the Trust Estate shall be used to indemnify the Establisher, its agents, employees, successors and assigns from and against all claims, liabilities, fines, penalties, costs and expenses (including attorney's fees, disbursements, the costs of reasonable settlements and taxes). 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 his or her own. The successor Trustee shall be responsible only for 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.

ARTICLE 2-5: VACANCY IN INDIVIDUAL TRUSTEESHIP

The initial Trustee shall be the HO'OLA LAHAINA FOUNDATION, a Hawaii nonprofit corporation. A vacancy in the Trusteeship shall be filled by the Trustees that HO'OLA LAHAINA FOUNDATION shall designate in a notarized document.

Because it may become necessary to determine if a Trustee hereunder is disabled, by accepting appointment as Trustee, the Trustee shall authorize and consent to the release or disclosure to the next successor Trustee of any individually identifiable health information or other medical records that may be governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) pursuant to 42 U.S.C. § 1320d and 45 CFR §§ 160-164, as may be amended from time to time, for the purposes of determining the disability of the Trustee.

ARTICLE 2-6: PROVISIONS RELATING TO THE TRUSTEE

2-6.1 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. Such fees may be set forth in the trustee's published fee schedules and may be amended from time to time; provided that advance written notice of any amendment to the fee schedule is

provided to the beneficiaries who are vested at the time of the notice. The Trustee shall also be entitled to reimbursement for expenses necessarily incurred in the administration of the trust estate.

2-6.2 BOND: No bond or surety on bond shall be required from any Trustee.

2-6.3 WAIVER OF ACCOUNTING: No Trustee need examine the accounts, records and acts of any previous Trustee.

2-6.4 NO ACTIVE COURT SUPERVISION: Unless in conflict with applicable local law, the trust shall be administered free from the active supervision of any court. If, when, or to the extent that a court of competent jurisdiction requires an accounting or other supervision for any Individual Account, only the accounting and administration of that specific Individual Account shall be the subject of the court supervision, leaving the administration of all other Individual Account's confidential.

2-6.5 EXERCISE OF DISCRETION: The Trustee shall have sole, absolute, unfettered and unquestionable discretion in administering the Trust.

2-6.6 ONE SIGNATURE REQUIRED: If at any time there shall be two (2) or more acting Trustees, for all purposes of this trust, the signature of only one Trustee shall be needed to bind the trust and the trust estate, and the signature of only one Trustee to any document shall have the same force and effect as though all Trustees signed.

2-6.7 DISPUTES BETWEEN TRUSTEES: If two (2) or more Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between co-Trustees, the Establisher directs:

- (A) A simple majority decision shall be binding, if a majority exists; and/or
- (B) In the absence of a majority, the decision of the co-Trustee with the higher priority of appointment (i.e. the co-Trustee who shall have been named first) shall be binding upon the other co-Trustees; or
- (C) Any the dissenting Trustee shall bear no liability or accountability for any act or transaction entered into as a result of the enforcement of the privilege of the majority and final decision, provided, however, that the dissenting Trustee shall dissent in writing.

ARTICLE 2-7: POWERS OF THE TRUSTEE

2-7.1 GRANT: The Establisher grants to the Trustee 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, the Hawaii Uniform Trust Code, as the same may be amended from time to time), such grant shall include without limitation the following powers:

2-7.2 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;

2-7.3 **RETAIN INITIAL ASSETS:** To retain the initial assets of the trust (including stock or obligations of the corporate Trustee), 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;

2-7.4 **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;

2-7.5 **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;

2-7.6 **DEAL WITH REAL AND PERSONAL PROPERTY:** With respect to real and personal property or any interest in real and personal property owned by the trust:

(A) To grant options to sell and to sell the same at public or private sale, for cash or on credit, upon such terms as the Trustee deems advisable;

(B) To lease the same, even for a term extending beyond the duration of the administration of the trust, and in any case to include the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements;

(C) To encumber the same;

(D) To make repairs to the same; to make repairs or alterations in buildings or other structures; to improve or demolish any improvements; to raze existing party walls or buildings and erect new party walls or buildings together with owners of adjoining or adjacent property or to enter into agreements with respect to the same; to subdivide, develop and dedicate to public use; to make or obtain the vacation of public plats; to adjust boundaries; to adjust differences in valuation on exchange or partition by giving or receiving money or money's worth; and to dedicate and grant easements to public use without consideration;

(E) To execute and deliver oil, gas and other mineral leases containing such unitization or pooling agreements and other provisions as the Trustee shall deem advisable; to execute mineral and royalty conveyances and assignments of leases; to purchase leases,

royalties and any type of mineral interest; to execute and deliver drilling and other contracts, options, and other instruments necessary or desirable in engaging actively in the oil, gas, or other mining business, all of the foregoing to be done with such terms, conditions, agreements, covenants, provisions, or undertakings as the Trustee shall deem appropriate;

(F) To store, safeguard and insure any tangible personal property distributable to or for the benefit of any minor or disabled person and to pay the charges so incurred out of any funds the Trustee is authorized to distribute for such beneficiary under this Agreement;

2-7.7 ADMINISTER RECEIVABLES: With respect to any indebtedness owed to the trust, secured or unsecured:

(A) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as the Trustee deems advisable;

(B) To foreclose any security for such indebtedness, to purchase any property securing such indebtedness and to acquire any property by conveyance from the debtor in lieu of foreclosure;

2-7.8 EXECUTE CONTRACTS: To enter into contracts that are reasonably incident to the administration of the trust;

2-7.9 PERFORM AGREEMENTS: To carry out the terms of any valid agreement concerning property owned by the trust;

2-7.10 CONDUCT BUSINESS: To conduct business in partnership or in a joint venture with other persons, partnership or corporations; to continue and operate any business, ranch or farm transferred to the trust by the Establisher, and to do any and all things deemed appropriate by the Trustee, including the incorporation of such business, ranch or farm and the investment of additional capital, for such time as the Trustee shall deem advisable, without liability for any loss resulting from the continuance or operation of the business, ranch or farm, except for the Trustee's own negligence, and to close out, liquidate or sell the business, ranch or farm at such time and upon such terms as the Trustee deems advisable;

2-7.11 EXECUTE INSTRUMENTS: To execute, acknowledge, and deliver all instruments necessary or appropriate for the administration of the trust;

2-7.12 INSURE: To carry 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;

2-7.13 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;

2-7.14 DEPOSIT: To deposit funds of the trust in one or more banks, including the banking department of a corporate Trustee;

2-7.15 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;

2-7.16 BUY, BORROW AND SELL: To buy assets, including but not limited to real property, personal property, intellectual property, and/or other property in the Trustee's sole and absolute discretion and to hold such property in accordance with the provisions set forth herein and to sell the same; To borrow money from any source, including an individual Trustee or the commercial department of a corporate Trustee, with any such indebtedness being repayable solely from the trust estate, or a part of it, and to pledge or encumber the trust estate, or a part of it, as security for such loans;

2-7.17 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. The Trustee may delegate ALL of the Trustee power and authority to an agent and/or agents as to the entire trust and/or to any specific Individual Account;

2-7.18 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;

2-7.19 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.

- 2-7.20 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;
- 2-7.21 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;
- 2-7.22 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;
- 2-7.23 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;
- 2-7.24 VOTE STOCK: To vote in person or by proxy shares of stock or other securities that are part of the trust estate (including stock of the corporate Trustee) or to refrain from voting the same;
- 2-7.25 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;
- 2-7.26 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;
- 2-7.27 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;
- 2-7.28 RELEASE POWERS: To release by an instrument in writing any power expressly or impliedly conferred in this Agreement;
- 2-7.29 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;
- 2-7.30 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;

2-7.31 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

2-7.32 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;

2-7.33 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;

2-7.34 DECANT TRUST INCOME AND/OR PRINCIPAL: To decant up to any and all income and/or principal of any Individual Account established herein into another trust or different sub-trust, provided that doing so does not significantly disrupt or displace the intent of the Joinder Agreement establishing the Individual Account. This provision is intended to allow the Trustee broad discretion in administering this Trust Estate and any Individual Account, especially in light of the potential future need to update outdated provisions or changes in circumstance, to correct drafting oversights, and even to accommodate the needs of beneficiaries. Decanting shall be considered a proper exercise of discretion. The Trustee shall give notice of the decanting to the beneficiary effected thereby, but decanting may be done with or without the consent of any beneficiary and the consent of a beneficiary shall not be deemed as a taxable gift to the consenting beneficiary, but merely the exercise of the Trustee's discretion. To the extent possible, the extent necessary, and only if in the best interest of an affected beneficiary, the trust or trusts into which income and/or principal shall be decanted may be considered a continuation of this Trust Agreement; PROVIDED, HOWEVER, that the Trustee shall not be authorized to exercise the power to decant trust assets in such a way that would defeat or circumvent the intent of the Trust, Individual Account and/or Joinder Agreement;

2-7.35 LOAN PRINCIPAL: To make loans of principal to beneficiaries and/or third parties upon such terms as the Trustee may deem appropriate, in the Trustee's sole and absolute discretion; and

2-7.36 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.

ARTICLE 2-8: TRUST PROTECTOR

2-8.1 APPOINTMENT: The Establisher shall have the authority to appoint a Trust Protector at any time or times, to serve at the direction of the Establisher, and for such time as the Establisher shall designate in a notarized document.

2-8.2 REMOVAL OF TRUST PROTECTOR: The Establisher shall have the authority to remove a Trust Protector, or otherwise terminate the appointment of the Trust Protector by notarized document delivered to the Trust Protector being removed.

2-8.3 COMPENSATION OF TRUST PROTECTOR: The Trust Protector shall not be entitled to any compensation for services performed herein, but the Trustee shall reimburse all expenses the Trust Protector incurs while fulfilling the responsibilities of the office of Trust Protector.

2-8.4 LIABILITY OF TRUST PROTECTOR: The Trust Protector shall have no responsibility or duty to act, nor liability for actions taken or omitted, unless such actions or omissions amount to fraud or willful misconduct. Although the Trust Protector will have certain authority to act, the Trust Protector cannot be forced to exercise any authority and is not required to consider whether the authority could or should be exercised.

2-8.6 AUTHORITY OF THE TRUST PROTECTOR: The Trust Protector shall have the following authority, which the Trust Protector shall exercise in a non-fiduciary capacity and shall have no duty to exercise any such authority, but may do so in order to effectuate the efficient administration of this Trust:

- (A) To remove a Trustee and appoint a successor trustee, provided that the Trust Protector may not serve as a Trustee;
- (B) To review and approve the Trustee's accountings;
- (C) To guide the Trustee in making distributions hereunder;

(D) To modify and/or reform the provisions of this Trust if necessary, to better carry out the intended purposes of this trust. This may include, but not be limited to, amendments needed due to judicial decisions or interpretations, policy development or revisions, or any other changes in any laws, rules, regulations or interpretation of the same, to conform the trust provisions to operate and fully comply with the expressly stated intentions, purposes and goals in establishing this trust and the administration of Individual Accounts. The Trust Protector may modify and/or reform the trust instrument so that it conforms with any regulations that are approved by any governing body or agency, including state statutes that are consistent with the provisions and purposes of the Trust; provided, however, that no such amendment may change the provisions designating the Beneficiary of any Individual Account.

(E) To direct the Trustee to terminate the Trust.

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 Establisher; "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 seed money contributed by the Beneficiary's parent, as described in Schedule A, and any other property that may be added at any time to the trust estate by the Establisher or by any other person.

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" for any person other than the Beneficiary herein, means any physical or mental disability or incapacity that has been brought to the Trustee's attention (or that of a potential successor Trustee) by the submission of a statement of the individual's attending physician (or if no such physician is immediately available, by two independent, unrelated, and regularly licensed and practicing physicians) 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(s) (or if the same physician(s) is unavailable, of two other physicians) that the disability has been removed.

In the alternative, if an individual's attending physician is not immediately available, the Trustee may accept the statements of a physician and a licensed clinical psychologist.

"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.

For purposes of determining the Trusteeship, an acting Trustee who has a disability or is disabled as described herein, shall be considered unable to serve as Trustee and the next successor Trustee shall become the Trustee pursuant to the provisions set forth in Article 2-5.

ARTICLE 3-2: IRREVOCABILITY

This Agreement and the trust hereby created are irrevocable. The Establisher may modify the Trust only as necessitated by changes in laws, rules, regulations or other legal means, or as advisable to modernize or improve the Trust or correct for typographical errors.

ARTICLE 3-3: DISTRIBUTIONS TO MINORS AND DISABLED PERSONS AFTER DEATH OF BENEFICIARY

3-3.1 GRANT OF PERMISSIVE AUTHORITY: After the death of the Beneficiary, if any property of the trust ever vests outright under the provisions of this Agreement in minors or persons who in the opinion of the Trustee are under any disability or unable to administer distributions properly, then the Trustee, in its discretion, in any jurisdiction without giving or requiring bond, without intervention of a guardian, conservator or other representative and without supervision of

any court, may hold or distribute such property (subsequently referred to in this Article as the protected property) in accordance with 3-3.2, 3-3.3 and 3-3.4.

3-3.2 IN TRUST: The Trustee may hold any protected property in a separate trust for such beneficiary, including, but not limited to, disabled adult beneficiaries, designated by the name of the beneficiary and the word trust, exercising as Trustee of such trust all the administrative powers conferred in this Agreement. The Trustee may accumulate or distribute to or for such beneficiary in accordance with 3-3.3 or 3-3.4 such amount or amounts of income or principal of the trust as the Trustee determines from time to time during the term of the trust. The trust shall terminate and vest absolutely when the beneficiary attains the age of forty (40) years of age if not disabled, dies, overcomes the disability, or when the trust assets are exhausted by discretionary distribution or otherwise, or twenty-one years after the death of the last survivor of any beneficiaries with any kind of an interest under this Agreement who are living at the date of execution of this Agreement. At such termination, the Trustee shall distribute the trust estate then on hand to the beneficiary or to the beneficiary's estate if the trust terminates at the beneficiary's death.

3-3.3 DISTRIBUTION: The Trustee may distribute any protected property, except as provided herein, to or for the benefit of such beneficiary (1) directly to the beneficiary, (2) on behalf of the beneficiary for the beneficiary's exclusive benefit, (3) to any account in a bank or savings institution either in the name of such beneficiary or in a form reserving title, management and custody of such account to a suitable person for the use of such beneficiary, (4) to an individual or corporation as custodian for a minor under the Hawaii (or another state's) Uniform Transfers to Minors Act, (5) in any form of annuity, (6) in all ways provided by laws dealing with gifts or distributions to or for minors or persons under disability, including, but not limited to, a trust created to meet the requirements of 42 U.S.C. § 1396p(d)(4)(A), as amended by 13611 of the Omnibus Budget Reconciliation Act of 1993, and (7) to any suitable person with whom the beneficiary resides or who has the care or control of the beneficiary, without obligation to see to the further application of such distribution, and the receipt for distributions by any such persons shall fully discharge the Trustee.

3-3.4 TRUST(S) FOR MINOR OR OTHER ADULT BENEFICIARIES: The separate shares set aside for each minor or disabled beneficiary determined by the Trustee to be unable to handle outright distributions from this Trust, may be held and disposed of as follows:

(A) The trust assets set aside for any beneficiary who shall then be under a disability, as determined in the sole and absolute discretion of the Trustee shall be held as an Individual Account and administered in accordance with the Third-Party Special Needs Trust as set forth in Article 1-6 herein.

(B) The trust assets set aside for any beneficiary (referred to herein as "Beneficiary") who shall then be under the age of thirty (30) years shall be held and disposed of as follows:

(1) While the Beneficiary shall be under the age of thirty (30) years, the Trustee shall use so much of the income of the trust estate as the Trustee determines to be required for the Beneficiary's health, education, maintenance, and support, taking into consideration the Beneficiary's income from all other sources known to the Trustee. The Trustee shall add any excess income to the principal.

(2) Whenever the Trustee determines that the Beneficiary's income from all sources known to the Trustee is not sufficient for the Beneficiary's health, education, maintenance, and support, the Trustee may pay to or use for the benefit of the Beneficiary so much of the principal of this trust share as the Trustee determines to be required for those purposes. The term "education" as used in this paragraph and in the above paragraph shall include, but not be limited to, undergraduate, graduate, post-graduate, college, university, technical or trade schools, and private lessons in musical instruments and the arts, whether or not directed toward the attainment of a specific degree.

(3) Upon the Beneficiary attaining the age of thirty (30) years, the Trustee shall distribute all of the rest, residue and remainder of the trust assets and undistributed income thereon, outright and free of any trust, to the Beneficiary.

(4) The Beneficiary shall have no 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 the Beneficiary's debts or obligations (including alimony) or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process.

(C) Should any beneficiary die before becoming entitled to receive distribution of the entire trust share set aside for said beneficiary, the undistributed remainder of such trust assets, including all accumulated undistributed income, shall be held for and/or distributed to said beneficiary's then living descendants, per stirpes. In the event that there is no taker qualified or eligible to receive the final distribution all of the rest, residue and remainder of said undistributed remainder shall be retained by this Trust and allocated proportionately among the Individual Accounts administered under the terms of the Trust Agreement.

ARTICLE 3-4: MINOR/DISABLED BENEFICIARY

If any beneficiary is a minor or under a disability, irrespective of whether legally so adjudicated, then the duly appointed guardian or agent of the beneficiary shall act for the beneficiary for all purposes required in this Agreement.

ARTICLE 3-5: REPORTS

The Trustee shall maintain records for this trust in the name of Beneficiary, and showing the property contributed for the Beneficiary. The Trustee shall provide at least annually to the Beneficiary and the Beneficiary's guardian(s), if any, a report setting forth all of the receipts, disbursements, and distributions to or from the trust during the reporting period.

The records of the Trustee shall be available and open at all reasonable times for inspection by the Beneficiary and the Beneficiary's guardian(s), if any. The Trustee shall not be required to furnish trust records or documentation to any individual, corporation or other entity without the expressed written approval of the Beneficiary or the Beneficiary's guardian(s), if any.

ARTICLE 3-6: PARTIAL INVALIDITY

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

ARTICLE 3-7: JURISDICTION

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

ARTICLE 3-8: 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, provided that this Article shall neither prevent any beneficiary from exercising any power of appointment granted in this Agreement.

In the event that any beneficiary of any trust established hereunder or spouse of such beneficiary is entitled to Medicaid or other governmental assistance (or would be if the existence of such trust were ignored) because of physical or mental infirmity (including, but not limited to, being a patient in a long-term health related facility), then the Trustee shall not, under such circumstances, make any discretionary distributions of principal or income to or for the benefit of such beneficiary, other than for the purpose of providing for such expenses incurred by the beneficiary that are not otherwise covered by such governmental assistance.

ARTICLE 3-9: DISTRIBUTION BEFORE NOTICE

Until the Trustee shall have received a certified copy of the official record of any birth, marriage, death, divorce, adoption, or any other event upon which any interest hereunder may depend, the Trustee shall not be liable for any distribution or other action that would have been proper except for such event, unless made in bad faith.

ARTICLE 3-10: DISCLAIMER

After the death of the Beneficiary, 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; and thereupon the property, interest or power disclaimed or renounced shall be treated as if that person had predeceased the Beneficiary or had died immediately preceding such other event after the death of the Beneficiary that made said person entitled to the benefit or to exercise the power involved.

ARTICLE 3-11: RULES OF CONSTRUCTION

This Trust shall be interpreted by the Trustee, in the Trustee's sole and absolute discretion, as shall be required to best carry out the intentions of the Trust or any Individual Account, as may be applicable.

ARTICLE 3-12: TAX PROVISIONS

3-12.1 It is the belief and intent of the Establisher, the Beneficiary and the Trustee that this trust be taxable as a "grantor" trust of the Beneficiary of each Individual Account under Sections 671,

673, 674, and 676 *et seq.* of the Internal Revenue Code of 1986, as amended from time to time. The parties agree that all provisions of this trust shall be interpreted consistent with such general intention. For income tax purposes, there shall be included in computing the Beneficiary's taxable income, deductions and credits, all of the items of income, deductions and credits against the tax attributable to this Trust.

ARTICLE 3-13: ACCEPTANCE OF TRUST

The Trustee, by joining in the execution of this Agreement, acknowledges receipt of the property described in Schedule A, signifies the acceptance of THE HO`OLA LAHAINA FOUNDATION POOLED TRUST, and covenants that the trust will be executed with all due fidelity.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURES TO FOLLOW]


The undersigned Establisher and the Trustee have executed this Agreement for the purpose of evidencing their acceptance of the trust created by this Agreement. The undersigned hereby confirm that THE HO`OLA LAHAINA FOUNDATION POOLED TRUST is effective this date of February 19, 2026.

HO`OLA LAHAINA FOUNDATION
A Hawaii nonprofit corporation:

By:  _____
GARRICK GOO
Its CEO

ESTABLISHER

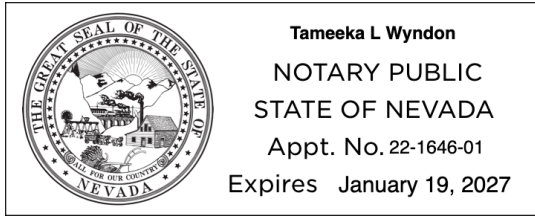
HO`OLA LAHAINA FOUNDATION
A Hawaii nonprofit corporation:


By:  _____
GARRICK GOO
Its CEO

TRUSTEE

STATE of Nevada)
CLARK County) SS.

On this date of 03/03/2026, before me personally appeared GARRICK GOO, to me personally known / proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, who, being by me duly sworn or affirmed, did say that he is the Chief Executive Officer of the HO'OLA LAHAINA FOUNDATION, a Hawaii nonprofit corporation, and that the instrument was signed on behalf of the corporation by authority of its Board of Directors, and said GARRICK GOO acknowledged said instrument to be the free act and deed of said corporation.

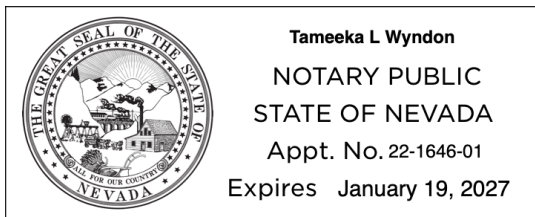




Print Name: Tameeka L Wyndon
Notary Public, State of Nevada

My Commission expires: 01/19/2027

STATE of Nevada)
CLARK County) SS.

On this date of 03/03/2026, before me personally appeared GARRICK GOO, to me personally known / proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, who, being by me duly sworn or affirmed, did say that he is the Chief Executive Officer of the HO'OLA LAHAINA FOUNDATION, a Hawaii nonprofit corporation, and that the instrument was signed on behalf of the corporation by authority of its Board of Directors, and said GARRICK GOO acknowledged said instrument to be the free act and deed of said corporation, as Trustee of THE HO'OLA LAHAINA FOUNDATION POOLED TRUST dated February 19, 2026.




Print Name: Tameeka L Wyndon
Notary Public, State of Nevada

My Commission expires: 01/19/2027

Notarized remotely using audio-video communication technology via Proof.


Schedule A

The following is a description of the original assets of THE HO'OLA LAHAINA FOUNDATION POOLED TRUST.

Seed Money in the Amount of Ten Dollars and No Cents (\$10.00)

Dated: Honolulu, Hawaii, 03/03/2026.

HO'OLA LAHAINA FOUNDATION
A Hawaii nonprofit corporation:

By: 

GARRICK GOO
Its CEO

ESTABLISHER