

SETTLEMENT TRUST

CALISTA CORPORATION, as Settlor (the “Settlor” or “Calista”), hereby creates the CALISTA CORPORATION SETTLEMENT TRUST (the “Trust”) effective as of _____, 2018. ANDREW GUY, SHARON LECHNER, NORMAN RESNICK, TISHA KUHN, and HELEN BUSH are the initial trustees of this Trust and, in that capacity, they and their successors are collectively referred to in this Trust as the “Trustees.” The Settlor is an Alaska Native corporation created under the Alaska Native Claims Settlement Act dated December 18, 1971, as amended (“ANCSA”). The Settlor creates this Trust as a Settlement Trust according to Section 39 of ANCSA and codified as 43 U.S.C. §1629e.

ARTICLE 1 IDENTIFICATION OF BENEFICIARIES

The beneficiaries of this Trust (each individually a “beneficiary” and collectively the “beneficiaries”) consist of the individuals who own shares of stock in Calista, but only while they own shares of Calista. If an individual received shares of stock in Calista in a manner not permitted by Section 7(h) of ANCSA, those shares will be ignored for purposes of that individual’s interest in this Trust.

ARTICLE 2 TRANSFERS TO TRUST

The Settlor hereby conveys \$10 to the Trustees, which together with any assets later added to this Trust are referred to as the “Trust Estate.” Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust. The Trustees acknowledge receipt of the current Trust assets and agree to hold the Trust Estate as set forth in this Trust.

ARTICLE 3 IRREVOCABLE PROVISION

The Settlor declares that it has no right to alter, amend, modify, or revoke this Trust; to withdraw assets from the Trust; or to require changes in the investments of the Trust.

ARTICLE 4 LIMITED POWER TO AMEND

The Trustees may appoint an “Independent Trustee” who is not a shareholder, director, employee, or officer of Calista, whose sole authority is to amend the terms of this Trust only to the extent necessary to permit the Trust to continue to

qualify as an Alaska Native Settlement Trust under ANCSA. All amendments will be made in writing and the Trustees shall notify the Beneficiaries of any amendments. The Independent Trustee shall cease to serve upon submitting the written amendments to the Trustees.

ARTICLE 5 DISTRIBUTIONS OF INCOME AND PRINCIPAL

The Trustees shall make distributions as provided in this article:

- 5.1 Payment of Income and Principal.** The Trustees, in their absolute discretion, may pay any income and principal of the Trust to the beneficiaries in accordance with the terms in this Article. Absent clear and convincing evidence of bad faith, the Trustees’ decisions as to amounts to be distributed will be final.
- 5.2 Distributions Per Capita.** The Trustees may make distributions equally among the beneficiaries, regardless of their equity interest in Calista. For example, the Trustees may distribute \$100 to each beneficiary, regardless of how many shares of Calista stock are owned by the beneficiary.
- 5.3 Distributions Pro Rata.** Distributions to the beneficiaries may be made pro rata according to their respective ownership of shares of Calista stock.
- 5.4 Establishment of Separate Funds.** The Trustees may establish separate funds with Trust Estate assets for specific purposes and for specific beneficiaries. For example, the Trustees may establish an “Elders’ Fund” within the Trust and make distributions to beneficiaries who have attained a given age. As another example, the Trustees may establish an “Education Fund” within the Trust and make distributions to those beneficiaries who are pursuing college or professional education. The Trustees have the absolute discretion as to how to create a fund, how to determine the specific purpose and specific beneficiaries, how to make distributions from the fund, and may create whatever rules and structures are necessary to carry out the purpose of the fund.



ARTICLE 6

CONTINUATION AND TERMINATION OF TRUST

- 6.1 Perpetual Trust Permitted.** The Trustees may continue the administration of this Trust in perpetuity, as expressly permitted by 43 U.S.C. §1629e(b)(4).
- 6.2 Termination of Trust Permitted.** Whenever the value of the Trust Estate is less than \$50,000, the Trustees may terminate the Trust and distribute the remaining income and principal as provided in Article 5.

ARTICLE 7

PROVISIONS GOVERNING TRUSTEES

The following provisions apply to all Trustees appointed under this Trust:

- 7.1 Appointment of Trustees.** The Calista Board of Directors (the “Board”), acting by majority once a quorum has been established, will appoint all successor Trustees. If a Trustee ceases to serve, the Board will determine whether or not to replace that Trustee.
- 7.2 Removal of Trustees.** The Board may, by majority once a quorum has been established, remove a Trustee for cause, as defined in Section 12.1(3).
- 7.3 Incapacity of Trustee.** If any Trustee becomes disabled (as defined in this Trust), he or she will immediately cease to act as Trustee.
- (a) Suspension.** For purposes of this Section 7.3, if a Trustee fails to sign a release of relevant medical information necessary to determine his or her capacity, that Trustee will be suspended 30 days after the request for such a release is delivered to him or her by the named successor Trustee, or if none, by the persons then entitled to appoint a successor Trustee.
- (b) Reinstatement.** If a Trustee who ceases to serve because of a disability, or who is suspended as provided above, thereafter recovers from that disability or consents to the release of relevant medical information, then if he or she at such time continues to serve on the Board, he or she may elect to become a Trustee again by giving written notice to the then-serving Trustees, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.
- 7.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustees.
- 7.5 Accountings to Beneficiaries.** Accountings will be given to the beneficiaries at least annually that show the assets held in trust and all receipts and disbursements. If a beneficiary fails to object to an accounting within six months of receiving it, his or her approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.
- 7.6 Information to Calista.** The Trustees shall furnish to and request from Calista whatever information is reasonable and necessary to make any necessary tax elections for the Trust, determine the tax attributes of the distributions to the beneficiaries, and to provide required notifications to beneficiaries.
- 7.7 Acts by Other Fiduciaries.** The Trustees shall take reasonable steps to compel a former Trustee or other person to deliver trust property to the Trustees, but otherwise are not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary’s acts or failures to act. The Trustees can require a beneficiary who requests an examination of another fiduciary’s actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustees may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.
- 7.8 Court Supervision.** The Settlor waives compliance by the Trustees with any law requiring bond, registration, qualification, or accounting to any court, unless otherwise required by ANCSA.
- 7.9 Compensation.** No Trustee shall be paid compensation for services as a Trustee.
- 7.10 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustees shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of his or her actions or omissions

while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustees or against any assets held in the Trust. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

7.11 Multiple Trustees.

- (a) **Authority.** If only two Trustees are serving, any power or discretion of the Trustees may be exercised only by their joint agreement. If more than two Trustees are serving, and unless unanimous agreement is specifically required by the terms of this Trust, any power or discretion of the Trustees may be exercised only by a majority of the Trustees. Despite the foregoing, if a Trustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary disability, and prompt action is necessary to achieve the purposes of the Trust or to avoid injury to Trust property, the remaining Co-Trustee if only one, or a majority of the remaining Trustees if more than one, may act for the Trust.
- (b) **Delegation.** The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions.
- (c) **Dissents.** A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE 8 PROTECTION OF INTERESTS

The interest of any beneficiary under this Trust, in both income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary and will not be subject to any legal process, bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

ARTICLE 9 FIDUCIARY POWERS

The Settlor grants to the Trustees full power to deal freely with any property in the Trust. The Trustees may exercise these powers independently and without the approval of any court. No person dealing with the Trustees need inquire into the propriety of any of their actions or into the application of any funds or assets. The Trustees however, shall exercise all powers in a fiduciary capacity in good faith, as a prudent person would using reasonable care, skill, and caution, for the best interest of the beneficiaries of any Fund created in this Trust. Without limiting the generality of the foregoing, the Trustees are given the following discretionary powers in addition to any other powers conferred by law, subject to the prohibitions in Article 10.

- 9.1 **Tax Elections.** To make any tax elections for the Trust as the Trustees deem appropriate.
- 9.2 **Receipt of Certain Revenues.** To receive, hold, and distribute natural resource revenues the Trustees receive under §7 of ANCSA.
- 9.3 **Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustees deem prudent, and to invest in any assets the Trustees deem advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustees act in good faith.
- 9.4 **Original Assets.** Except as otherwise provided to the contrary, to collect and retain the original assets they receive for as long as they deem best, and to dispose of those assets when they deem advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustees.



- 9.5 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustees or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.
- 9.6 Financial Accounts.** To deposit trust money in one or more accounts in regulated financial service institutions, including but not limited to banks, savings institutions, and brokerage houses, and to draw checks, drafts, or other forms of withdrawal, including electronic transfers, from those accounts.
- 9.7 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, whether obtained in domestic or foreign markets; and to invest in mutual or investment funds.
- 9.8 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions the Trustees deem advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to grant, acquire, or exercise options; to abandon or dispose of any real or personal property in the Trust that has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, including conservation easements, restrictions, and covenants as the Trustees see fit. An instrument described in this section will be valid and binding for its full term even if it extends beyond the full duration of the Trust.
- 9.9 Maintain Assets.** To expend whatever funds they deem proper for the preservation, maintenance, or improvement of assets.
- 9.10 Insurance.** To obtain property, casualty, liability or any other insurance for the Trust, including insurance for the Trustees and their agents against damage or liability arising from administration of the Trust.
- 9.11 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.
- 9.12 Distributions to Minors or to Disabled Individuals.** To make a distribution to any person under 18 or to any person the Trustees reasonably believes is disabled according to the terms of this Trust by (i) making the distribution to the guardian of that person's Calista stock under AS 13.46.085, if the distribution is being made because the beneficiary is a Shareholder of Calista; or (ii) making the distribution directly to that person, to the parent or guardian of that person, to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person, or to a custodial account established for that person under the Alaska Uniform Transfers to Minors Act. The receipt of the person to whom payment is made will constitute full discharge of the Trustees with respect to that payment.
- 9.13 Nominee.** Except as prohibited by law, to hold the property unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.
- 9.14 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustees but at the expense of the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustees may direct. While such securities are in the custody of the Custodian, the Trustees will be under no obligation to inspect or verify such securities nor will the Trustees be responsible for any loss by the Custodian.
- 9.15 Administer Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, including paying those claims in full; to agree to any rescission or modification of any contract or

agreement; and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

9.16 Corporate Rights. To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock, securities, or other property; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; as well as all related transactions.

9.17 Business Interests. To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all rights in connection with such interests as the Trustees deem appropriate, including any powers applicable to a non-admitted transferee of any such interest.

9.18 Self-Dealing. To exercise all their powers even though they may also be acting on behalf of Calista in the same matters. The Trustees, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. All power to make such distributions will be exercised solely by the remaining Trustees.

9.19 Expenses. To pay all expenses of administration for the Trust Estate, including all taxes, assessments, and legal and accounting fees.

9.20 Allocations to Income and Principal. To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary.

9.21 Use of Income. Except as otherwise provided in this Trust, and in addition to all other available sources, to exercise their discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust, without accountability to any beneficiary.

9.22 Consolidated Funds. Unless inconsistent with other provisions of this Trust, to hold two or more trusts or other funds in one or more consolidated funds, in which the separate trusts or funds have undivided interests, except an accounting must be rendered to each trust showing its undivided interests in those funds.

9.23 Valuations. In making distributions or allocations under the terms of this Trust to be valued as of a particular date, to use asset valuations obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustees' judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustees' judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

9.24 Incorporation. To incorporate any business or venture, and to continue any unincorporated business the Trustees determine to be not advisable to incorporate.

9.25 Investment Manager. To employ any investment management service, financial institution, or similar organization to advise the Trustees and to handle some or all of the Trust investments and to render all accountings of funds held on its behalf under custodial, agency, or other agreements.

9.26 Depreciation. To deduct depreciation expense, computed in accordance with generally accepted accounting principles.

9.27 Disclaim Assets or Powers. To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustees are to be held harmless for any decision to make or not make such a disclaimer.



9.28 Related Parties. To enter into any transaction on behalf of the Trust despite that another party to that transaction may be: (i) a business or trust controlled by the Trustees, or of which the Trustees, or any director, officer, or employee of the Corporate Trustees, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustees; or (iii) a beneficiary or Trustee under this Trust acting individually, or any relative of such a party.

9.29 Winding Up. On termination, to exercise the powers appropriate to wind up the administration of the Trust and distribute the remaining assets to the persons entitled to them, and to retain a reasonable reserve for the payment of debts, expenses, and taxes.

ARTICLE 10

PROHIBITION OF CERTAIN ACTIVITIES

Despite any provision of the Trust to the contrary, and as further specified in 43 U.S.C. §1629e(b)(1), the Trustees shall not:

- (a) Operate the Trust (or any Fund created by the Trust) as a business;
- (b) Hold as an asset of the Trust Estate a controlling interest in a corporation, partnership, or limited liability company that operates a business;
- (c) Lease, sell, or in any way transfer or convey any land or any interests in land received from Calista, except the Trustees may transfer such land (or interests in such land) back to Calista; or
- (d) Discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of Calista.

ARTICLE 11

APPLICABLE LAW; TRUST SITUS

All questions regarding the law to be applied or the appropriate situs of any trust will be governed by the terms of this Article as follows:

11.1 Validity; Construction; and Venue. All matters involving the validity, interpretation, construction, and meaning (or effect) of the Trust created under this instrument are to be governed by Alaska law. The venue for any dispute arising under this Trust shall be Anchorage, Alaska.

11.2 Principal Place of Administration. All matters involving the administration of the Trust created under this instrument are to be governed by Alaska law, which is the principal place of administration (the “situs”) of the Trust. The Trustees shall not change the situs of the Trust.

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 Definitions. As used in this Trust, the following terms have the meanings set forth below:

(1) **Disabled or under a disability** means

- (i) being under 18 years of age,
- (ii) having been adjudicated to be incapacitated,
- (iii) having been incarcerated for more than thirty consecutive days,
- (iv) being unaccountably absent for more than thirty days or being detained under duress, or
- (v) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual’s attending physician confirming that person’s impairment will be sufficient evidence of disability under item (v) above, and all persons may rely conclusively on such a certificate.

(2) The words **will** and **shall** are used interchangeably in this Trust and mean, unless the context clearly indicates otherwise, the Trustees must take the action indicated; as used in this Trust, the word **may** means the Trustees have the discretionary authority to take the action but are not automatically required to do so.

(3) **Removal of a Trustee for cause** includes, without limitation, the following: the willful or negligent mismanagement of Trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the Trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft, dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; excessive use of narcotics or alcohol by that individual Trustee; the cessation of that individual Trustee’s role as

an employee, director, or officer of Calista; or any other reason that is determined by the Board to constitute cause for the removal of a Trustee.

- (4) The terms **Native** or **Natives** have the same meaning as set forth in 43 U.S.C. §1602(b).
- (5) The term **Descendants of Natives** has the same meaning as set forth in 43 U.S.C. §1602(r).
- (6) The term **Calista Region** includes the 48 permanent communities and eight seasonally occupied villages located along the banks of the lower Yukon and the middle and lower Kuskokwim Rivers, Nunivak Island, and the Bering Sea coast from the mouth of the Yukon River, south to Cape Newenham, that are organized into 45 ANCSA village corporations.

12.2 Right to Information. The Trustees shall provide the Settlor with any information the Settlor requests concerning actions taken by the trustees and the operation of the Trust, including a full listing of its assets.

12.3 Notices. Any person entitled or required to give notice under this Trust shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

12.4 Certifications.

- (a) **Facts.** A certificate signed and acknowledged by the Trustees stating any fact affecting the Trust Estate or the trust agreement will be conclusive evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustees. The Trustees may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.
- (b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); or, if there are none of the above, by any then serving Trustee.

12.5 Gender and Number. Reference in this Trust to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires.

12.6 Headings. Use of descriptive titles for articles and paragraphs is for convenience only and is not intended to restrict the application of those provisions.

12.7 Further Instruments. The Settlor agrees to execute such further instruments as may be necessary to vest the Trustees with full legal title to the property transferred to this Trust.

12.8 Savings Clause. If any provision of this Trust is determined to violate ANCSA, that provision will be deemed void; the remaining provisions of this Trust will remain in full force and effect.

12.9 Acknowledgments. Acknowledgments of this trust agreement and matters affecting the administration of the Trust may be given for purposes of recording such instruments, but the absence of an acknowledgment does not affect the validity of those instruments.

12.10 Binding Effect. This trust agreement extends to and is binding upon the Settlor, successors, and assigns, and upon the Trustees.

Executed as of the effective date written above.



Witness

By:

Witness

Its:

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 by _____ of Calista Corporation, on behalf of the Corporation. _____ is personally known to me or has produced _____ as identification.

[SEAL]

Notary Public-State of Alaska
My Commission Expires: _____

TRUSTEES

Andrew Guy

Tisha Kuhns

Sharon Lechner

Helen Bush

Norman Resnick