

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agreement") is made as of this 27<sup>th</sup> day of January, 2014 (the "Effective Date"), by and between Hawaii Medical Center, Hawaii Medical Center East, and Hawaii Medical Center West (collectively, the "Debtors"), as debtors and debtors in possession, and General Electric Capital Corporation, a Delaware Corporation, and GE Healthcare Financial Services, Inc., a division of General Electric Capital Corporation ("Defendant," and together with the Debtors, the "Settling Parties").

### RECITALS

WHEREAS, on June 21, 2011, (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under the Bankruptcy Code with the United States Bankruptcy Court for the District of Hawaii (the "Bankruptcy Court"), jointly administered and styled *In re Hawaii Medical Center, et al.*, Case No. 11-01746; and

WHEREAS, the Bankruptcy Court has approved the retention by the Debtors of Reid Collins & Tsai LLP ("RCT") as Special Litigation Counsel, with the authority to investigate, pursue, and, subject to court approval, settle claims on behalf of the Debtors.

WHEREAS, in the First Amended Complaint filed on June 24, 2013, in the matter styled *Hawaii Medical Center, et al. v. General Electric Capital Corporation d/b/a GE Healthcare Financial Services*, Adversary Proceeding No. 13-90031 (the "General Electric Avoidance Case"), the Debtors alleged that Defendant was the recipient of preferential and post-petition transfers (the "Transfers") from the Debtors that may be avoided and recovered on their behalf; and

WHEREAS, Defendant asserts that it has valid defenses to the allegations set forth in the General Electric Avoidance Case and deny any liability to the Debtors in connection with the Transfers; and

WHEREAS, the Debtors, by and through RCT, and the Defendant have negotiated at arm's length and in good faith to resolve the disputes among them, and now desire to fully and finally resolve and settle all such disputes as of the Effective Date.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by reference and made a substantive part of this Settlement Agreement, the mutual covenants, conditions and promises of the Settling Parties set forth herein below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Responsible Person, on behalf of the Debtors, and the Defendant hereby agree as follows:

### AGREEMENT

1. Settlement Payment. Within 10 days of the entry of the Approval Order by the Court, Defendant shall pay the amount of \$42,000.00 (the "Settlement Payment") via wire-transfer to RCT, as counsel for the Debtors, as follows: Plains Capital Bank, ABA No. 111322994, Credit Account No. 4200008136 *fbo* Reid Collins & Tsai LLP (IOLTA).

2. Releases: After payment of the Settlement Payment and upon the conditions set forth in paragraph 3 below being satisfied, the releases contained in this Section 2, including all subparagraphs, shall become binding and effective, provided that such releases shall have no effect upon any rights, duties, obligations or claims arising by virtue of this Agreement or expressly preserved under its terms:

(a) Release by the Debtors. The Debtors hereby release and forever discharge Defendant and any of its subsidiaries, agents, affiliates, predecessors, holding companies, divisions, unincorporated business units, joint ventures, partners, insurers, officers, directors, shareholders, managers, employees, servants, representatives, officials, attorneys, associates, trustees, subsidiaries and parent companies, and successors or assigns and all persons acting by, through, under or in concert with them, hereby irrevocably and unconditionally release, acquit and forever discharge the other and their respective affiliates, predecessors, holding companies, divisions, unincorporated business units, joint ventures, partners, insurers, officers, directors, shareholders, managers, employees, servants, representatives, officials, attorneys, associates, trustees, subsidiaries and parent companies, successors or assigns, and all persons acting by, through, under or in concert with them from any and all claims, debts, demands, actions, causes of action, suits, controversies, proceedings, accounts, covenants, agreements, promises, judgments, executions, damages and other liabilities of any nature whatsoever, including, without limitation, any claims or causes of action pursuant to the provisions of sections 544, 547, 548, 549, 550 and/or 553 of the Bankruptcy Code or any similar state law statutes.

(b) Release by Defendant. Defendant, on behalf of itself and any subsidiaries, hereby releases and forever discharges the Debtors and RCT of and from any and all claims, debts, demands, actions, causes of action, suits, controversies, proceedings, accounts, covenants, agreements, promises, judgments, executions, damages and other liabilities of any nature whatsoever relating to the account(s) at issue with respect to the Transfers only, including any claim or claims under 11 U.S.C. § 502(h). Any other claims asserted by Defendant against Debtors shall be unaffected by this release.

3. The releases set forth in paragraph 2 above shall become effective when an order by the Bankruptcy Court approving this Agreement (the “**Approval Order**”) becomes a Final Order. The term “**Final Order**” as used herein means (i) an Order of the Bankruptcy Court as to which the time to appeal, or move for re-argument or rehearing has expired, and as to which no appeal, or other proceedings for re-argument or rehearing shall then be pending; or (ii) in the event that an appeal, re-argument, or rehearing thereof has been sought, such order of the Bankruptcy Court has been affirmed in material respects by the highest court to which such order may be appealed, and the time to take any further appeal, move for re-argument, or rehearing shall have expired; provided however, notwithstanding the forgoing, an Order that is subject to appeal may be treated as a Final Order if no stay of the Order has been obtained and the Settling Parties consent to treating such Order as a Final Order.

4. The Debtors agree to file a motion for approval of this Agreement with the Bankruptcy Court. The Settling Parties agree to engage in a reasonable, good faith effort to: (a) seek entry and approval of the Approval Order such that it becomes a Final Order; and (b) support this Agreement in all material ways including in its application and enforcement against any and all persons or entities seeking to prohibit approval of this Agreement, entry of the Approval Order, or to avoid or limit the applicability or scope of the Agreement in any manner.

5. Within five (5) business days after the entry of the Approval Order by the Bankruptcy Court, the Debtors agree to file a stipulation to dismiss the General Electric Avoidance Case with prejudice.

6. This Agreement constitutes the entire agreement of the parties and supersedes any prior written and/or verbal agreements between Defendant and the Debtors related to the Transfers. Each of the Settling Parties represents and warrants that (i) it has read and understands the terms of this

Agreement and (ii) it has entered into this Agreement for reasons of its own and not based upon any representations of any other party hereto, except as expressly made herein. This Agreement is executed without reliance upon any representations by any person or entity concerning the nature, cause or extent of injuries, or legal liability therefore, or any other representations of any type or nature except as set forth herein. No contrary or supplementary oral agreement shall be admissible in a court to contradict, alter, supplement, or otherwise change the meaning of this Agreement. THE PARTIES ALSO ACKNOWLEDGE THE CONTESTED AND ADVERSARIAL NATURE OF THE CLAIMS AND UNDERLYING DISPUTES AND STIPULATE THAT IN EXECUTING THIS AGREEMENT THEY ARE NOT RELYING ON ANY REPRESENTATION BY ANY OTHER PARTY OR ITS/HIS AGENTS, REPRESENTATIVES OR ATTORNEYS, WITH REGARD TO (1) FACTS UNDERLYING THE LAWSUIT, (2) THE SUBJECT MATTER OR EFFECT OF THIS AGREEMENT, AND (3) ANY OTHER FACTS OR ISSUES WHICH MIGHT BE DEEMED MATERIAL TO THE DECISION TO ENTER INTO THIS AGREEMENT, OTHER THAN AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

7. Each of the Settling Parties shall bear its own respective costs and attorneys' fees incurred with respect to the dispute that led to this Agreement and in connection with the drafting of this Agreement, but the Settling Parties further agree that the successful party in any action to enforce the terms of this Agreement shall be entitled to recover its costs and attorney fees.

8. Each of the Settling Parties submits to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Hawaii for any action to enforce or interpret this Agreement.

9. This Agreement may be executed in counterparts and all such counterparts when so executed shall together constitute the final Agreement as if one document had been signed by all of the parties. This Agreement may be executed by facsimile copy and each signature thereto shall be and constitute an original signature, again as if all parties had executed a single original document. Each person signing this Agreement on behalf of a party hereto warrants that he or she has authority to sign this Agreement on behalf of such party and to thereby bind such party to the terms of this Agreement.

10. This Agreement shall be construed and interpreted in accordance with the laws of the State of Hawaii. The Bankruptcy Court shall retain exclusive jurisdiction over the interpretation and enforcement of this Agreement, as well as any disputes that may arise between the Settling Parties relating to this Agreement, and the Parties consent to the exclusive jurisdiction of the Bankruptcy Court for these purposes.

11. This Agreement is subject to approval by the Bankruptcy Court.

12. Each of the Settling Parties is the exclusive owner of each claim, debt, demand, action, cause of action, suit, controversy, proceeding, account, covenant, agreement, promise, judgment, execution, damage and other liability released by such party hereunder, and no portion of any such claim, debt, demand, action, cause of action, suit, controversy, proceeding, account, covenant, agreement, promise, judgment, execution, damage and/or other liability released herein, nor any portion of any recovery or settlement to which such party might be entitled, has been assigned or transferred to any other person or entity, either directly or by way of subrogation or operation of law.

13. This Agreement is entered into to avoid potentially difficult and protracted litigation and to resolve the pending disputes among the parties, and nothing contained herein is intended to constitute nor constitutes an admission of liability by any party.

14. Confidentiality. The terms and conditions of this Agreement are confidential between the

parties and shall not be disclosed to anyone else, except as may be necessary to effectuate its terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

HAWAII MEDICAL CENTER  
HAWAII MEDICAL CENTER EAST  
HAWAII MEDICAL CENTER WEST

By: Daniel Scouler  
Dan Scouler 1/27/14

Its: Responsible Person

GENERAL ELECTRIC CAPITAL CORP.

By: [Signature]  
Its: Workout Specialist

**EXHIBIT “B”**

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agreement") is made as of this 31<sup>st</sup> day of January, 2014 (the "Effective Date"), by and between Hawaii Medical Center, Hawaii Medical Center East, and Hawaii Medical Center West (collectively, the "Debtors"), as debtors and debtors in possession, and Otis Elevator Company (the "Defendant," and together with the Debtors, the "Settling Parties").

### RECITALS

WHEREAS, on June 21, 2011, (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under the Bankruptcy Code with the United States Bankruptcy Court for the District of Hawaii (the "Bankruptcy Court"), jointly administered and styled *In re Hawaii Medical Center, et al.*, Case No. 11-01746; and

WHEREAS, the Bankruptcy Court has approved the retention by the Debtors of Reid Collins & Tsai LLP ("RCT") as Special Litigation Counsel, with the authority to investigate, pursue, and, subject to court approval, settle claims on behalf of the Debtors.

WHEREAS, in an adversary proceeding filed on June 19, 2013, styled *Hawaii Medical Center, et al. v. Otis Elevator Company*, Adversary Proceeding No. 13-90029 (the "Otis Elevator Preference Case"), the Debtors alleged that Defendant was the recipient of a preferential transfer (the "Transfer") from the Debtors that may be avoided and recovered on their behalf; and

WHEREAS, Defendant asserts that they have valid defenses to the allegations set forth in the Otis Elevator Preference Case and deny any liability to the Debtors in connection with the Transfer; and

WHEREAS, RCT and the Defendant have negotiated at arm's length and in good faith to resolve the disputes among them, and now desire to fully and finally resolve and settle all such disputes as of the Effective Date.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by reference and made a substantive part of this Settlement Agreement, the mutual covenants, conditions and promises of the Settling Parties set forth herein below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Dan Scouler, as Responsible Person of the Debtors, and Otis Elevator Company hereby agree as follows:

### AGREEMENT

1. Settlement Payment. Within 10 days following entry of an order of the Bankruptcy Court approving this Agreement ("Approval Order"), Defendant shall pay by wire transfer the amount of \$16,250.00 (the "Settlement Payment") to RCT, as counsel for the Debtors, as follows: Plains Capital Bank, ABA No. 111322994, Credit Account No. 4200008136 *fbo* Reid Collins & Tsai LLP (IOLTA). In the event that the Approval Order is entered but does not become a Final Order as those terms are defined herein, the Settlement Payment shall be returned to Defendant.

2. Releases: After payment of the Settlement Payment and upon the conditions set forth in paragraph 3 below being satisfied, the releases contained in this Section 2, including all subparagraphs, shall become binding and effective, provided that such releases shall have no effect upon any rights, duties, obligations or claims arising by virtue of this Agreement or expressly preserved under its terms:

### EXHIBIT "B"



(a) Release by the Debtors. The Debtors hereby release and forever discharge Otis Elevator Company and any of its subsidiaries of and from any and all claims, debts, demands, actions, causes of action, suits, controversies, proceedings, accounts, covenants, agreements, promises, judgments, executions, damages and other liabilities of any nature whatsoever, including, without limitation, any claims or causes of action pursuant to the provisions of sections 544, 547, 548, 549, 550 and/or 553 of the Bankruptcy Code or any similar state law statutes.

(b) Release by Otis Elevator Company. Defendant, on behalf of itself and any subsidiaries, hereby releases and forever discharges the Debtors and RCT of and from any and all claims, debts, demands, actions, causes of action, suits, controversies, proceedings, accounts, covenants, agreements, promises, judgments, executions, damages and other liabilities of any nature whatsoever relating to the account(s) at issue with respect to the Transfer, expressly excepting any existing post-petition administrative claims held by Defendant.

3. The releases set forth in paragraph 2 above shall become effective when the Approval Order becomes a Final Order. The term "**Final Order**" as used herein means (i) an Order of the Bankruptcy Court as to which the time to appeal, or move for re-argument or rehearing has expired, and as to which no appeal, or other proceedings for re-argument or rehearing shall then be pending; or (ii) in the event that an appeal, re-argument, or rehearing thereof has been sought, such order of the Bankruptcy Court has been affirmed in material respects by the highest court to which such order may be appealed, and the time to take any further appeal, move for re-argument, or rehearing shall have expired; provided however, notwithstanding the foregoing, an Order that is subject to appeal may be treated as a Final Order if no stay of the Order has been obtained and the Settling Parties consent to treating such Order as a Final Order.

4. The Debtors agree to file a motion for approval of this Agreement with the Bankruptcy Court. The Settling Parties agree to engage in a reasonable, good faith effort to: (a) seek entry and approval of the Approval Order such that it becomes a Final Order; and (b) support this Agreement in all material ways including in its application and enforcement against any and all persons or entities seeking to prohibit approval of this Agreement, entry of the Approval Order, or to avoid or limit the applicability or scope of the Agreement in any manner.

5. Within ten (10) days following receipt of the Settlement Payment by the Debtors, the Debtors agree to file a stipulation to dismiss the Otis Elevator Preference Case with prejudice.

6. This Agreement constitutes the entire agreement of the parties and supersedes any prior written and/or verbal agreements between Defendant and the Debtors related to the Transfer. Each of the Settling Parties represents and warrants that (i) it has read and understands the terms of this Agreement and (ii) it has entered into this Agreement for reasons of its own and not based upon any representations of any other party hereto, except as expressly made herein. This Agreement is executed without reliance upon any representations by any person or entity concerning the nature, cause or extent of injuries, or legal liability therefore, or any other representations of any type or nature except as set forth herein. No contrary or supplementary oral agreement shall be admissible in a court to contradict, alter, supplement, or otherwise change the meaning of this Agreement. THE PARTIES ALSO ACKNOWLEDGE THE CONTESTED AND ADVERSARIAL NATURE OF THE CLAIMS AND UNDERLYING DISPUTES AND STIPULATE THAT IN EXECUTING THIS AGREEMENT THEY ARE NOT RELYING ON ANY REPRESENTATION BY ANY OTHER PARTY OR ITS/HIS AGENTS, REPRESENTATIVES OR ATTORNEYS, WITH REGARD TO (1) FACTS UNDERLYING THE LAWSUIT, (2) THE SUBJECT MATTER OR EFFECT OF THIS AGREEMENT, AND (3) ANY OTHER FACTS OR ISSUES WHICH

MIGHT BE DEEMED MATERIAL TO THE DECISION TO ENTER INTO THIS AGREEMENT, OTHER THAN AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

7. Each of the Settling Parties shall bear its own respective costs and attorneys' fees incurred with respect to the dispute that led to this Agreement and in connection with the drafting of this Agreement, but the Settling Parties further agree that the successful party in any action to enforce the terms of this Agreement shall be entitled to recover its costs and attorney fees.

8. Each of the Settling Parties submits to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Hawaii for any action to enforce or interpret this Agreement.

9. This Agreement may be executed in counterparts and all such counterparts when so executed shall together constitute the final Agreement as if one document had been signed by all of the parties. This Agreement may be executed by facsimile copy and each signature thereto shall be and constitute an original signature, again as if all parties had executed a single original document. Each person signing this Agreement on behalf of a party hereto warrants that he or she has authority to sign this Agreement on behalf of such party and to thereby bind such party to the terms of this Agreement.

10. This Agreement shall be construed and interpreted in accordance with the laws of the State of Hawaii. The Bankruptcy Court shall retain exclusive jurisdiction over the interpretation and enforcement of this Agreement, as well as any disputes that may arise between the Settling Parties relating to this Agreement, and the Parties consent to the exclusive jurisdiction of the Bankruptcy Court for these purposes.


11. This Agreement is subject to approval by the Bankruptcy Court.

12. Each of the Settling Parties is the exclusive owner of each claim, debt, demand, action, cause of action, suit, controversy, proceeding, account, covenant, agreement, promise, judgment, execution, damage and other liability released by such party hereunder, and no portion of any such claim, debt, demand, action, cause of action, suit, controversy, proceeding, account, covenant, agreement, promise, judgment, execution, damage and/or other liability released herein, nor any portion of any recovery or settlement to which such party might be entitled, has been assigned or transferred to any other person or entity, either directly or by way of subrogation or operation of law.

13. This Agreement is entered into to avoid potentially difficult and protracted litigation and to resolve the pending disputes among the parties, and nothing contained herein is intended to constitute nor constitutes an admission of liability by any party.

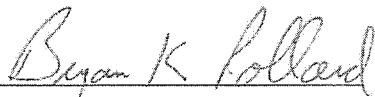


HAWAII MEDICAL CENTER  
HAWAII MEDICAL CENTER EAST  
HAWAII MEDICAL CENTER WEST

By:   
Dan Scouler

Its: Responsible Person

OTIS ELEVATOR COMPANY

By:   
Bryan K. Pollard

Its: Associate Counsel

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.