

**KOHE MĀLAMALAMA O KANALOA – PROTECT KAHO‘OLAWE FUND AND PROTECT
KAHO‘OLAWE ‘OHANA**

**ASSUMPTION AND ACKNOWLEDGEMENT OF RISK AND RELEASE OF LIABILITY
AGREEMENT**

IT IS THE INTENTION OF AND BY THIS INSTRUMENT, TO EXEMPT AND RELEASE THE KOHE MĀLAMALAMA O KANALOA – PROTECT KAHO‘OLAWE FUND; PROTECT KAHO‘OLAWE ‘OHANA, PUALELE, PUALELE IKI, ROBERT KALEI LU‘UWAI, PAUL KA‘UHANE LU‘UWAI AND CREW, CYNNAMON, EUGENE CHO AND CREW, DESIGNATED KUA, OFFICERS, AGENTS AND EMPLOYEES (HERE THERE IN REFERRED TO AS "RELEASED PARTIES") AND FROM ALL LIABILITY OR RESPONSIBILITY WHATSOEVER FOR PERSONAL INJURY, PROPERTY DAMAGE OR WRONGFUL DEATH HOWEVER CAUSED, OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, INCLUDING, BUT NOT LIMITED TO, THE NEGLIGENCE OF THE RELEASED PARTIES, WHETHER PASSIVE OR ACTIVE.

I HAVE FULLY INFORMED MYSELF OF THE CONTENTS OF THIS LIABILITY RELEASE AND EXPRESS ASSUMPTION OF RISK BY READING IT BEFORE SIGNING IT ON BEHALF OF MYSELF AND MY HEIRS.

I HAVE PARTICIPATED IN AN ORIENTATION AND FULLY RECOGNIZE AND APPRECIATE THE DANGERS AND HAZARDS IDENTIFIED AND INHERENT IN PARTICIPATING IN A HUAKA‘I/ FIELD TRIP IN THE KAHO‘OLAWE ISLAND RESERVE, TO WHICH I OR MY CHILD MAY BE EXPOSED WHILE ON A HUAKA‘I/FIELD TRIP WITH THE RELEASED PARTIES.

THIS WAIVER AND RELEASE DOCUMENT CONSISTS OF FOUR PAGES IN TOTAL AND REQUIRES MY INITIALS TO EACH SECTION AS WELL AS THE TRUTHFUL DISCLOSURE OF ANY DISQUALIFYING PHYSICAL OR MEDICAL CONDITION. IT ALSO REQUIRES ME TO PRINT MY LEGAL NAME ON PAGE TWO AS WELL AS EXECUTING MY SIGNATURE ON PAGE TWO, AND THAT AN ADULT WITNESS IS ALSO REQUIRED TO AFFIRM MY SIGNING ON PAGE FOUR.

I HAVE BEEN ADVISED TO SEEK THE COUNSEL OF MY PERSONAL ATTORNEY PRIOR TO EXECUTING THIS DOCUMENT. I HAVE ALSO BEEN ADVISED TO DISCUSS THIS WITH ANY HEIRS OR POTENTIAL FAMILY DEPENDENTS AS THEIR RIGHTS TO SUE ARE WAIVED AS WELL.

I, THE UNDERSIGNED, IN CONSIDERATION OF BEING PERMITTED TO PARTICIPATE IN A HUAKA‘I/FIELD TRIP AND IN FULL RECOGNITION AND APPRECIATION OF THE DANGERS AND HAZARDS INHERENT IN PARTICIPATING IN A HUAKA‘I/FIELD TRIP IN THE KAHO‘OLAWE ISLAND RESERVE, INCLUDING TRANSPORTATION TO AND FROM THE ISLAND, TO WHICH I OR MY CHILD MAY BE EXPOSED WHILE ON A HUAKA‘I/FIELD TRIP OR BEING TRANSPORTED TO OR FROM KAHO‘OLAWE WITH THE RELEASED PARTIES DO HEREBY AGREE TO ASSUME ALL THE RISKS AND RESPONSIBILITIES SURROUNDING MY OR MY CHILD’S PARTICIPATION TO AND FROM AND PRESENCE IN THE KAHO‘OLAWE ISLAND RESERVE. AND FURTHER, I DO FOR MYSELF, MY HEIRS, PERSONAL REPRESENTATIVES, EXECUTORS, AND ADMINISTRATORS HEREBY AGREE TO DEFEND, HOLD HARMLESS, INDEMNIFY, RELEASE AND FOREVER DISCHARGE THE RELEASED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, AND ACTIONS, OR CAUSE OF ACTION, ON ACCOUNT OF DAMAGE TO PERSONAL PROPERTY, OR PERSONAL INJURY, OR DEATH WHICH MAY RESULT FROM MY OR MY CHILDS PARTICIPATION OR PRESENCE, AND WHICH RESULT FROM CAUSES BEYOND THE CONTROL OF, AND

WITHOUT THE FAULT OR NEGLIGENCE OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, INCLUDING, BUT NOT LIMITED TO, THE NEGLIGENCE OF THE RELEASED PARTIES, WHETHER PASSIVE OR ACTIVE OF THE RELEASED PARTIES DURING THE PERIOD OF MY PARTICIPATION AND PRESENCE AS AFORESAID.

IN THE EVENT THAT ANY LEGAL ACTION IS FILED BY MYSELF, MY HEIRS, MY EXECUTORS OR ADMINISTRATORS, I OR MY ESTATE SHALL BE FULLY RESPONSIBLE FOR PAYING FOR ALL ATTORNEYS FEES AND COSTS INCURRED IN DEFENDING THE RELEASED PARTIES FROM EACH LEGAL ACTION.

I HAVE CAUSED THIS RELEASE TO BE EXECUTED THIS _____ day of _____, 2021.

Signature

Print Legal Name

E-mail address

Signature of Parent or Legal Guardian

Date

Read carefully, fill in all blanks, and initial each paragraph before signing on page four with witness.

I, _____, hereby affirm that I have been advised and thoroughly informed of the identified and inherent hazards of huaka'i/field trip in the Kaho'olawe Island Reserve and boating activities and participation in a vessel voyaging in the State of Hawai'i, and its surrounding waters.

_____ Further, I understand that boating in either confined water or open ocean involves certain inherent risks including slips and falls, impacts to neck, spine, legs, arms, and head due to sudden and unstable motion generated by ocean swells, waves, wakes, rebounding surf, lightning, torrential rain or ocean spray, sun burn, hyperthermia, heat exhaustion, dehydration, sea sickness, nausea, loss of bladder and bowel control, and a variety of injuries associated or caused by instability in the pitch, roll, fall, and surge of the vessel in a seaway. Such injuries can occur that require treatment in a medical facility. I further understand that the areas chosen to operate may be remote sites, and isolated by time and distance, from such a medical facility. I still choose to proceed with such boating activities in spite of the absence of a medical facility in or near proximity.

_____ Further, I understand that during the huaka'i/field trip I will be exposed to hazardous conditions on the island and in the ocean such as slips, trips, falls, rodents, vermin, feral cats, insect bites, heat exhaustion and dehydration.

_____ Further, I understand that the island of Kaho‘olawe was used from 1941 to 1990 as a live ordnance military training complex; that the island and its waters were used by the United States and its allies as a live ordnance impact training area; that the ENTIRE ISLAND IS DANGEROUS AND UNSAFE due to the presence of surface and subsurface UNEXPLODED ORDNANCE; that there may be hazardous conditions and ordnance on and under the surface of the island and in the waters surrounding the island; and that unexploded ordnance may explode near me or my child which could cause serious bodily harm, injury or death.

_____ I also understand that recreational swimming may take place at the beach areas of Kaho‘olawe Island and that unexploded explosives may be present in the waters and also that sharks or other natural dangers may be present. I further understand the risks presented by the currents, surf, and shoreline conditions. Additionally, I understand that certified lifeguards are not present and swimming is at the swimmer’s risk.

_____ I understand and agree that neither Kohe Mālamalama O Kanaloa-Protect Kaho‘olawe Fund; Protect Kaho‘olawe ‘Ohana, Pualele, Pualele Iki, Robert Kalei Lu‘uwai, Paul Ka‘uhane Lu‘uwai and crew, Cynnamon, Eugene Cho and crew, designated kua, officers, agents and employees (here in after referred to as "Released Parties") may be held liable or responsible in any way for any injury, death, or other damages to me or my family, heirs, or assigns that may occur as a result of my participation in this boating activity or as a result of the negligence of any party, including the Released Parties, whether passive or active.

_____ In consideration of being allowed to enroll in this trip I hereby personally assume all risks in connection with said trip, for any harm, injury, or damage that may befall me while I am a participant or passenger including all risks connected therewith, whether foreseen or unforeseen.

_____ I further agree to save, defend, indemnify, and hold harmless said vessel operators, the Released Parties from any claim or lawsuit by me, anyone purporting to act on my behalf, my family, estate, heirs or assigns, arising directly or indirectly out of my participation and activities on this trip including claims arising during the trip even if such claims may be groundless, false or fraudulent.

_____ I also understand that boating and huaka‘i/field trip activities are physically strenuous and that I will be exerting myself during this huaka‘i/field trip and boating trip and if I am injured as a result of a heart attack, panic, hyperventilation, stroke, induced anxiety, physical trauma and bodily injuries, drowning, etc. that I expressly assume the risk of said injuries and that I will not hold the above listed individuals or companies responsible for the same, and I agree to defend, indemnify, and hold harmless the Released Parties for any such injuries incurred by me.

_____ I further state that I am of lawful age and legally competent to sign this liability release. I also confirm that I am in good physical condition and fully cleared by my physician to participate in huaka‘i/field trip and boating activities. It is my own responsibility to independently discuss any health issues I may have with my doctor and abide by his decision with regard to huaka‘i/field trip, boating and other strenuous activities that may choose to participate in on this trip. I am unaware of any limitations that would preclude me from huaka‘i/field trip and boating activities and have fully disclosed any medical or health issue that might disqualify me in any way from

participation.

_____ I understand that the terms herein are contractual and not a mere recital, and that I have signed this document of my own free act. Further, I understand and agree that in the event that one or more of the provisions of this agreement, for any reason, is held by a court of competent jurisdiction to be invalid or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions have never been contained herein.

_____ I understand that this document lays out the most foreseeable hazards that may be encountered, but there may be others that are not included. I am aware that a myriad of other potential hazards may manifest, including sudden changes in weather and sea conditions, currents, visibility, marine life, animal attacks, venomous ocean organisms, etc. I still intend to make a conscious decision to participate in this huaka'i/field trip, despite the potential that these noted and other unspecified hazards of any kind that could happen.

_____ The novel coronavirus, COVID-19, was declared a global pandemic by the World Health Organization. COVID-19, including all strains and mutations, both known and unknown, is extremely contagious. The virus is believed to spread primarily from person-to-person contact. As a result, federal, state, and local governments and federal and state health agencies recommend social distancing and have, in many locations, prohibited the congregation of groups of people. The Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa has implemented preventative measures to reduce the spread of COVID-19. However, the Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa cannot guarantee that you or your child(ren) will not be exposed to and/or become infected with COVID-19, including all strains and mutations, both known and unknown. Further, attending and participating in Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa programming, camping, volunteer days and huaka'i to Kaho'olawe could increase your risk and your child(ren)'s risk of contracting COVID-19, including all strains and mutations, both known and unknown.

I acknowledge the contagious nature of COVID-19, including all strains and mutations, both known and unknown. I voluntarily assume the risk that I and/or my child(ren) and I may be exposed to and/or infected by COVID-19, including all strains and mutations, both known and unknown, by attending and participating in Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa programming, camping, and/or volunteer days and/or huaka'i to Kaho'olawe. I acknowledge that such exposure or infection may result in personal injury, illness, permanent disability, and death. I understand that the risk of becoming exposed to or infected by COVID-19, including all strains and mutations, both known and unknown, at Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa activities may result from the actions, omissions, or negligence of myself and others, including, but not limited to, Protect Kaho'olawe 'Ohana/Kohe Mālamalama O Kanaloa volunteer Kua, volunteer participants, and their families.

I understand that this form shall relate to, include, and cover, all huaka'i to Kaho'olawe, in which I will participate during the entire year of 2021.

SIGNATURE OF WITNESS

DATE