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## BUSINESS MEMBERSHIP AND ACCOUNT AGREEMENT

This Business Membership and Account Agreement ("Agreement") covers the rights and responsibilities concerning accounts owned by a business or organization account owner ("Account Owner") and HFS Federal Credit Union ("HFSFCU" or "Credit Union"). In this Agreement, the words "you" and "yours" mean the Account Owner and each person signing a Business Account Card for Organization or Business Account Card for Sole Proprietorship, or other account opening document as applicable ("Account Card"), or for whom membership and/or service requests are otherwise approved through the Credit Union's online application and authentication process. The words "we," "us," and "our" mean the Credit Union. The word "account" means any one or more share, deposit or other accounts you have with the Credit Union.

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT** – To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

**What this means for you:** When you open an account, we will ask for your name, address, date of birth, if applicable, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

**1. CONTRACT; BUSINESS ACCOUNTS; NON-APPLICABILITY OF CONSUMER PROTECTION PROVISIONS.** Your account type(s) is(are) designated by you on your Account Card or through the Credit Union's online application and authentication process. Your account shall be held as a single account in the name of the Account Owner. By signing an Account Card, you agree to the terms and conditions in this Agreement and Account Card, the Funds Availability Policy Disclosure, Business Account Disclosure, Business Account Schedule of Fees and Charges, any Account Receipt, the Credit Union's Bylaws or Code of Regulations (Bylaws), Credit Union policies, any amendments or other documents which from time to time collectively govern your membership, accounts and services. You also agree that your accounts and services are governed by applicable present and future federal and state laws and regulations, local banking customs, and the rules of any clearing house association with whom we may deal.

This Agreement applies to accounts for business, commercial, organizational, or non-profit purposes ("Business Accounts"). NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, PROTECTIONS AFFORDED PURSUANT TO LAWS APPLICABLE TO CONSUMER ACCOUNTS DO NOT APPLY TO BUSINESS ACCOUNTS. For example, the limitations of your liability do not apply to Business Accounts except as otherwise required by law. For Business Accounts, you agree to hold us harmless and to indemnify us for any loss, costs or expenses incurred as a result of your use of the Business Account and the services we offer to the business. For the purpose of this Agreement, a Business Account is any account that is not established and used primarily for personal, family or household purposes. For example, Business Accounts include sole proprietor accounts, accounts held by any type of organization (partnership, limited liability partnership, corporation, limited liability company, nonprofit corporation, association, apartment owner or homeowner association, unincorporated association, religious, educational or charitable organization, club, etc.), and accounts used for an individual's business or any other non-consumer purpose.

**2. MEMBERSHIP ELIGIBILITY.** To join the Credit Union the Account Owner must meet the membership requirements including, as applicable, the purchase and maintenance of the minimum required share(s) (hereinafter "membership share"), as set forth in the Credit Union's Bylaws or established from time to time by the Credit Union's Board of Directors. You authorize us to check your account, credit and employment history, and obtain reports from third parties, including credit reporting agencies, to verify your eligibility for the accounts and services you request and for other accounts, products, or services we may offer you or for which you may qualify.

### 3. ACCOUNT OWNERSHIP.

**a. General.** The business account may be owned by a natural person (sole proprietorship), corporation, partnership, trust, or other organization which is qualified for credit union membership. If the account owner is a natural person, upon death, the interest passes to the Account Owner's estate or Payable on Death (POD) payee, subject to other provisions of this Agreement governing our protection for honoring transfer and withdrawal requests of an owner or owner's agent prior to notice of an owner's death; any offset, security interest or pledge granted by the Account Owner; our statutory lien rights; and applicable law. We may, but are not obligated to, notify any payee of the existence of any account and the vesting of the payee's interest in any account, except as otherwise provided by law. POD payee designation shall not apply to Individual Retirement Accounts (IRAs).

**b. POD Account Designations.** A natural person who owns a business account may designate one or more Payable on Death (POD) payees. The POD designation is an instruction to the Credit Union to pay the account to the Account Owner during the Account Owner's lifetime and to pay the account to one or more surviving POD payees upon the Account Owner's death. If there are two or more POD payees, the surviving POD payee(s) will receive payment on the death of the Account Owner. We are not obligated to notify any payee of the existence of the account nor the vesting of the payee's interest in any account, except as otherwise provided by law. This paragraph does not apply to an account held on behalf of or in the name of a trust.

### 4. ACCOUNT ACCESS.

**a. Authorized Person.** An "Authorized Person" is authorized by the Account Owner to conduct any of the transactions that may be performed by an Authorized Signer, and any Authorized Person is deemed to be an Authorized Signer. In addition, the Authorized Person may authorize account change of address instructions, instructions to open and close accounts, and add or delete Authorized Signers.

**b. Authorized Signer.** An "Authorized Signer" is authorized by the Account Owner to transact the following actions with respect to the account:

- Depositing, withdrawing and transferring funds into, out of and between one or more accounts;
- Signing drafts, checks and other orders for payment or withdrawal;
- Issuing instructions regarding orders for payment or withdrawal;
- Endorsing any check, draft, share certificate and any other instrument or order for payment owned or held by the Account Owner; and
- Receiving information of any nature about the account.

**c. Limitations of Credit Union's Duties.** We have no obligation to inquire as to the use of any funds or the purpose of any transaction made on your account by an Authorized Person or Authorized Signer, and we are not responsible for any unauthorized transaction by an Authorized Person or Authorized Signer, even if such person exceeds the scope of authority specified in the Agreement or given by the Account Owner.

We may effect any transaction or accept any instruction, without further inquiry, that appears to be authorized by any Authorized Person or Authorized Signer. We may rely on any actual, apparent or facsimile signature that reasonably resembles the facsimile or specimen signature, passwords, access devices or instructions of an Authorized Person or Authorized Signer.

The authority given to the Authorized Persons and Authorized Signers shall remain in full force until we receive written notice of revocation and have reasonable time to act upon and process the revocation. Any revocation shall not affect any items in process at the time notice is processed.

We have the right, but not the duty, to inquire as to the powers and duties of any Authorized Person or Authorized Signer. Processing may be delayed depending upon the circumstances.

We shall not be held liable for declining to process any transaction or instruction. For example, we may decline a transaction if we believe the signature may not be genuine, or if we believe there may be a dispute regarding ownership or control of the account. In the event of a dispute, we may freeze any or all transactions of the account.

**d. Indemnification of Credit Union.** The Account Owner agrees to indemnify, defend and hold HFSFCU harmless against all claims, demands, losses, costs, damages or expenses including reasonable attorney's fees suffered or incurred by HFSFCU resulting from payments and disbursements made or any other actions HFSFCU takes in good faith in reliance on the actual, apparent or facsimile signature, password, access device or instruction of an Authorized Person or Authorized Signer, or resulting from HFSFCU declining to process any transaction or instruction. The Account Owner and each Authorized Person and Authorized Signer agree to indemnify, defend and hold HFSFCU harmless against any claim or liability as a result of any act by any such person, whether or not such person exceeds his or her actual authority, and HFSFCU shall have no liability therefore.

**e. Multiple Authorizations Not Required.** You agree that only one signature or authentication code (such as a user ID, password, passcode, personal identification number (PIN), or other access code) is required to conduct any transaction, to give any instruction with respect to the account, or to obtain any information regarding the account, even if the constituent or other documents of the Account Owner provides that multiple signatories are required. You agree that we are not liable for any forgery by any Authorized Person or Authorized Signer. If you have authorized the use of a facsimile signature of any Authorized Person or Authorized Signer, we may honor any document that appears to bear such a facsimile signature.

**f. Access Options.** You may access your account in any manner we permit (e.g., in person or by automated teller machine, point of sale device, automatic transfer or other available electronic means, mail or telephone). An Authorized Person or Authorized Signer may execute additional agreements and documents we require to access, transact business on and otherwise exercise authority over your account. We may return as unpaid any draft drawn on a form we do not provide. Any losses, expenses, or fees resulting from or imposed due to handling such a draft will be charged to your account.

**g. Access to Family of Accounts.** Your primary share account may have multiple subaccounts attached to it, such as draft (checking) accounts, share certificates, credit cards, loans, and lines of credit. Your primary share account and all subaccounts attached to it are referred to as a "family of accounts." Any person with access to the account or any subaccount has access to all information in the entire "family of accounts," even if that person does not have authority to make transactions in those other account or subaccounts. The information may include, for example, transactions, account history, balances, delinquencies, loans, applications, disbursements of funds, deposits, withdrawals, debits, draws, charges, transfers, payments, security, account statements, payable on death (POD) payees, and any other information concerning any account or subaccounts in the "family of accounts."

**h. Authentication Code.** If you or any other Authorized Person permits a third party to use an account authentication code (such as a User ID, password, passcode, personal identification number (PIN), or other access code), you and all other owners of the Account are responsible for all transactions that the third party authorizes or conducts, even if the third party exceeds the permission given to the third party. This means that the third party may make transactions in all accounts and subaccounts that can be accessed with the authentication code, whether or not the third party would otherwise have authority to make transactions in those accounts and subaccounts. Access includes all accounts and subaccounts, whether or not they are in the same "family of accounts." See section 4(g) for the definition of Family of Accounts. By giving the third party the authentication code, the third party is authorized to conduct any transaction (and receive any information) that the Account Owner could conduct (or receive) with the authentication code. If you do not want this to occur, change your authentication code, and do not give your authentication code to others.

You agree to indemnify, defend, and hold HFS Federal Credit Union harmless against all claims regarding information given to any joint owner or any third party to whom you or any other Authorized Person has given access. The Credit Union may require you to execute a separate form of consent and indemnification as a condition of providing access.

**i. Credit Union Examination.** We may disregard information on any draft or check, other than the signature of the drawer, the amount and any magnetic encoding. You agree we do not fail to exercise ordinary care in paying an item solely because our procedures do not provide for sight examination of items.

**j. Restrictive Legends and Other Limitations Not Binding on Credit Union.** Some check, drafts or other items may contain restrictive legends or similar limitations on the front of the item or for a transaction. Examples of restrictive legends include "two signatures required," "void after 60 days," and "not valid over \$500.00." You agree that any such restrictive legend or other limitation is for our internal purpose only. We do not assume any obligation to support or enforce such legends or limitations. We are not liable for payment of any check, draft, item or other transaction contrary to a restrictive legend or other limitation contained in or on the item unless you have specifically notified us of the individual item or transaction, and we have specifically agreed in writing to the restriction or limitation for that individual item or transaction, and you have paid a special handling fee for that individual item or transaction.

**k. Your Promises to Us.** The Account Owner and each Authorized Person and Authorized Signer warrant and agree at all times while the Account is open, that (1) all information provided to HFSFCU in connection with the opening and maintenance of the Account is complete and accurate; (2) the Account Owner (other than a natural person sole proprietorship, or unincorporated organization, association or club) has been duly formed and is in good standing with the Hawaii Department of Commerce & Consumer Affairs (DCCA) (or such other jurisdiction as may be specified in the Account Card); (3) all trade or dba names belong to Account Owner, and are registered with the Hawaii DCCA to Account Owner; (4) you will notify HFSFCU if there is any change in the authority of an Authorized Person or Authorized Signer, and will provide such evidence of authority as HFSFCU may request at any time; (5) the Governing Documents (articles, bylaws, operating agreements, partnership agreements, etc.) that have been provided to HFSFCU, are complete and accurate as of this date, and any future amendments will be provided to HFSFCU; and (6) the Account is for business purposes and is not primarily for the consumer, personal, family or household purposes.

**l. Power of Attorney.** We may refuse to honor a power of attorney if our refusal is conducted in accordance with applicable state law.

**m. Remotely Created Checks or Drafts.** For purposes of this paragraph, "account" means a transaction account, credit account, or any other account on which checks or drafts may be drawn. A remotely created check or draft is a check or draft created by someone other than the person on whose account the check or draft is drawn. A remotely created check or draft is generally created by a third party payee as authorized by the owner of the account on which the check or draft is drawn. Authorization is usually made over the telephone or through online communication. The owner of the account does not sign a remotely created check or draft. In place of the owner's signature, the remotely created check or draft usually bears a statement that the owner authorized the check or draft or bears the owner's printed or typed name. If you authorize a third party to draw a remotely created check or draft against your account, you may not later revoke or change your authorization. It is your responsibility to resolve any authorization issues directly with the third party. We are not required to credit your account and may charge against your account any remotely created check or draft for which the third party has proof of your authorization.

**n. Special Account Instructions.** You may request that we facilitate certain trust, will, or court-ordered account arrangements. However, because we do not give legal advice, we cannot counsel you as to which account arrangement most appropriately meets the specific requirements of your trust, will, or court order. If you ask us to follow any instructions that we believe might expose us to claims, lawsuits, expenses, liabilities, or damages, whether directly or indirectly, we may refuse to follow your instructions or may require you to indemnify us or post a bond or provide us with other protection. We may require that account changes requested by you, any Account Owner, or any Authorized Person, such as adding or closing an account or service, be evidenced by a signed Business Account Card for Organizations or Business Account Card for Sole Proprietorship and accepted by us.

**5. DEPOSIT OF FUNDS REQUIREMENTS.** Funds may be deposited to accounts, in any manner approved by the Credit Union in accordance with the requirements set forth on our Business Account Disclosure. We have the right to refuse any deposit, limit the amount that may be offered for deposit, and return all or any part of a deposit. Deposits made by mail, at night depositories or at unstaffed facilities are not our responsibility until we receive them.

**a. Endorsements.** We may accept transfers, checks, drafts, and other items for deposit into any of your accounts if they are made payable to, or to the order, of the Account Owner even if they are not endorsed. If a check, draft or other item that is payable to two or more persons is ambiguous as to whether it is payable to either or both, we may process the check, draft or item as though it is payable to either person. If an insurance, government, or other check or draft requires an endorsement as set forth on the back of the check or draft, we may require endorsement as set forth on the item. We may, but are not required, to accept whether for cash or other value, checks, drafts, or items made payable to the Account Owner provided such items are endorsed with an original or facsimile signature of an Authorized Person or Authorized Signer. Endorsements must be made on the back of the share draft or check within 1½ inches from the top edge, although we may accept endorsements outside this space. However, any loss we incur due to a delay or processing error resulting from an irregular endorsement or other markings by you or any prior endorser will be your responsibility. If we offer a remote deposit capture service and you have been approved to use the service to make deposits to your account, you agree that, prior to transmitting check or draft images, you will restrictively endorse each original check or draft in accordance with any other agreement with us that governs this service. If a check, draft or other item that is payable to two or more persons is ambiguous as to whether it is payable to either or both, we may process the check, draft or item as though it is payable to either person.

**b. Collection of Items.** We act only as your agent and we are not responsible for handling items for deposit or collection beyond the exercise of ordinary care. Deposits made by mail or at unstaffed facilities are not our responsibility until we receive them. We are not liable for the negligence of any correspondent or for loss in transit, and each correspondent will only be liable for its own negligence. We may send any item for collection. Items drawn on an institution located outside the United States are handled on a collection basis only. You waive any notice of nonpayment, dishonor, or protest regarding items we purchase or receive for credit or collection to your account. We reserve the right to pursue collection of previously dishonored items at any time, including giving a payor financial institution extra time beyond any midnight deadline limits.

**c. Final Payment.** All items credited to your account are provisional until we receive final payment. If final payment is not received, we may charge your account for the amount of such items and impose a return item fee on your account, even if we made funds available to you prior to receipt of final payment. Any collection fees we incur may be charged to your account. We reserve the right to refuse or return any item or fund transfer.

**d. Direct Deposits.** We may offer direct deposit services, including preauthorized deposits (e.g., payroll checks, Social Security or retirement checks, or other government checks) or preauthorized transfers from other accounts. You must authorize direct deposits and preauthorized transfers by filling out a separate authorization document. You must notify us at least thirty (30) days in advance if you wish to cancel or change a direct deposit or preauthorized transfer option. Any cancellation or change will become effective once we receive notice from you and have a reasonable period of time to act on your request. If we are required to reimburse a government agency for any benefit payment directly deposited into your account, we may deduct the amount returned from any of your accounts, unless prohibited by law. If your account is overdrawn, you authorize us to deduct the amount your account is overdrawn from any deposit, including deposits of government payments or benefits as permitted under applicable law.

**e. Crediting of Deposits.** Deposits will be credited to your account on the day we consider them received as stated in our Funds Availability Policy Disclosure.

**f. Bankruptcy.** Upon a bankruptcy filing, unless you cancel the authorization, or as otherwise provided by law, we may continue making payments to third parties in accordance with your authorization on file with us. This applies, for example, to payments through any of our bill payer services, Pre-Authorized Electronic Fund Transfer, etc.

## **6. FUND TRANSFERS.**

**a. Uniform Commercial Code Article 4A and Other Agreements.** Except as amended by this Agreement, fund transfers we permit that are subject to Article 4A of Uniform Commercial Code, including Automated Clearinghouse (ACH) credit transactions and wire transfers, will be subject to such provisions of the Uniform Commercial Code as enacted by the state where the main office of the Credit Union is located, except as otherwise provided in this Agreement. ACH transfers are subject to rules of the National Automated Clearinghouse Association (Nacha). You may be provided with a separate document providing details about certain types of fund transfer transactions available on your account. Any provisions in such documents purporting to limit your liability for unauthorized transactions, imposing liability on us for failing to stop a preauthorized electronic funds payment and imposing duties on us in the case of billing errors are not applicable to your account.

**b. Fedwire Transactions.** We may execute certain requests for fund transfers by Fedwire. Fedwire transactions are subject to the Federal Reserve Board's Regulation J.

**c. Authorization for Transfers/Debiting of Accounts.** Any Authorized Person or Authorized Signer is authorized to make or order funds transfers to or from your account. We will debit your account for the amount of a funds transfer and will charge your account for any fees related to the transfer.

**d. Right to Refuse to Make Transfer/Limitation of Liability.** Unless we agree otherwise in writing, we reserve the right to refuse to execute any order to transfer funds to or from your account. We are not obligated to execute any order to transfer funds out of your account if the amount of the requested transfer plus applicable fees exceeds the available funds in your account. We are not liable for errors, delays, interruptions or transmission failures caused by third parties or circumstances beyond our control including mechanical, electronic or equipment failure. In addition, we will not be liable for consequential, special, punitive or indirect loss or damage you may incur in connection with funds transfers to or from your account.

e. **No Notice Required.** We will not provide you with next day notice of an automated clearinghouse (ACH), wire transfers and other electronic payments credited to your account. You will receive notice of such credits on your account statements. You may contact us to determine whether a payment has been received.

f. **Interest Payments.** If we fail to properly execute a payment order and such action results in a delay in payment to you, applicable law requires that we pay you interest for the period of delay. Based on your account type, we will pay you such interest in the form of dividend or interest payments, whichever applies. You agree that the dividend or interest rate paid to you will be based on the lowest nominal dividend or interest rate we were paying on any account during that period.

g. **Provisional Credit for ACH Transactions.** We may provisionally credit your account for an ACH transfer before we receive final settlement. If we do not receive final settlement, we may reverse the provisional credit or require you to refund us the amount provisionally credited to your account, and the party originating the transfer will not be considered to have paid you.

h. **Payment Order Processing and Cut-off Times.** Payment orders we accept will be executed within a reasonable time of receipt. Unless we have agreed otherwise in writing, a payment order may not necessarily be executed on the date it is received or on a particular date you specify. Cut-off times may apply to the receipt, execution and processing of fund transfers, payment orders, cancellations, and amendments. Fund transfers, payment orders, cancellations, and amendments received after a cut-off time may be treated as having been received on the next following funds transfer business day. Information about any cut-off times is available upon request. From time to time, we may need to temporarily suspend processing of a transaction for greater scrutiny of verification in accordance with applicable law. This action may affect settlement or availability of the transaction.

i. **Identifying Information.** If your payment order identifies the recipient and any financial institution by name and by account or other identifying number, the Credit Union and any other financial institutions facilitating the transfer may rely strictly on the account or other identifying number, even if the number identifies a different person or financial institution. In the event you provide us with an incorrect account number or institution identifier number, you could lose the entire amount of the transfer.

j. **Amendments and Cancellations of Payment Orders.** Any Authorized Person or Authorized Signer may amend or cancel a payment order regardless of whether that person initiated the order. We may refuse requests to amend or cancel a payment order that we believe will expose the Credit Union to liability or loss. Any request to amend or cancel a payment order that we accept will be processed within a reasonable time after it is received. You agree to hold us harmless from and indemnify us for all losses and expenses resulting from any actual or attempted amendment or cancellation of a payment order.

k. **Security Procedures.** We may require you to follow a security procedure to execute a payment order or certain fund transfer transactions. We will notify you of any such security procedures. Unless we permit you to establish a different security procedure, you agree that the security procedures contained in the Credit Union's policies are commercially reasonable verification of payment orders and other fund transfers. If we permit you to establish a different security procedure, you agree that procedure is a commercially reasonable method of verifying fund transfers.

l. **Duty to Report Unauthorized or Erroneous Funds Transfers.** You must exercise ordinary care to identify and report unauthorized or erroneous funds transfers on your account. You agree that you will review your account(s) and periodic statement(s). You further agree you will notify us of any unauthorized or erroneous transfers within the time frames described in the "Statements" section of this Agreement.

m. **Recording Telephone Requests.** You agree that we may record payment order, amendment and cancellation requests as permitted by applicable law.

**7. ACCOUNT RATES AND FEES.** We pay account earnings and assess fees against your account as set forth in our Business Account Schedule of Fees and Charges. We may change our fees and charges at any time and will notify you as required by law.

## **8. TRANSACTION LIMITATIONS.**

a. **Restrictions.** We reserve the right to restrict withdrawals, transfers and other transactions from your account and shall not be liable for any restrictive action we take regarding: 1) withdrawals, transfers or other transactions, or 2) the payment or non-payment of checks or drafts, except those damages which may arise solely as a result of the Credit Union's gross negligence.

We permit withdrawals only if your account has sufficient available funds to cover the full amount of the withdrawal, and may otherwise honor withdrawal requests in accordance with our overdraft policies or any overdraft protection plan you have established with us. Drafts or other transfers or payment orders which are drawn against insufficient available funds may be subject to a fee as set forth in our Business Account Schedule of Fees and Charges. If there are sufficient available funds to cover some, but not all, of your withdrawal request, we may otherwise allow you to make a withdrawal in an amount for which there are sufficient available funds.

We may limit or refuse a withdrawal or freeze an account in some situations, and will advise you accordingly; for example, if: (1) we believe a signature may not be genuine; or (2) we believe there may be a dispute regarding ownership or control of the account, or between Authorized Persons or Authorized Signers (unless a court has ordered the Credit Union to allow the withdrawal); (3) a legal garnishment or attachment is served; (4) the account secures any obligation to us; (5) required documentation has not been presented; (6) you fail to repay a Credit Union loan on time; (7) for non-corporate accounts, a depositor is deceased; or, for corporate accounts, the corporation is in bankruptcy proceedings, or (if an entity) has been dissolved and the required disposition of the account has not been made; (8) someone with authority to do so requests us not to permit the withdrawal; or (9) there are other circumstances which do not permit us to make the withdrawal. We also reserve the right to refuse any withdrawal which is attempted by any method not specifically permitted by us. We may require you to give written notice of seven (7) to sixty (60) days before any intended withdrawals. Although we are required by law to reserve the right to require seven (7) days advance notice prior to permitting withdrawals, we do not presently exercise this right.

b. **Transfer Limitations.** For accounts subject to transfer limitations, you may not make more than six (6) withdrawals and transfers to another credit union account of yours or to a third party during any month by means of a preauthorized, automatic or internet transfer, by telephonic order or instruction, or by check, draft, debit card, if applicable, or similar order. A preauthorized transfer includes any arrangement with us to pay a third party from your account upon oral or written orders, including orders received via ACH. When a transfer exceeds these limitations we may refuse or reverse it, assess fees against your account, suspend your account, or close your account and transfer the balance to an account without such transfer limitations. There is no limit on the number of transfers you may make to a Credit Union loan account, or on the number of withdrawals you may make if the withdrawal is made in person, by mail, messenger or at an ATM. There is also no limit on the number of telephone requests for withdrawals in the form of a check or draft which is then mailed directly to you, although we may impose a fee for such services.

**9. CERTIFICATE ACCOUNTS.** Any time deposit, term share, share certificate, or certificate of deposit account, whichever we offer as allowed by applicable federal or state law ("Certificate Account"), is subject to the terms of this Agreement, our Business Account Schedule of Fees and Charges, Account Receipt(s), if provided, and any other documents we provide for the account, the terms of which are incorporated herein by reference.

## 10. OVERDRAFTS AND DISHONORED ITEMS.

- a. **Payment of Overdrafts.** An overdraft of your account can occur if, on any day, the available funds in your share or deposit account are not sufficient or you do not have enough money in your account to pay the full amount of a check, draft, transaction, or other item (collectively referred to as "Item"), plus any applicable fee that is posted to your account. Should there be an overdraft of your account, we may return the Item or pay it, as described below, even if you have an overdraft protection plan or other overdraft service. We are not required to pay any Item that exceeds the available balance in your account. **THE CREDIT UNION USES YOUR AVAILABLE BALANCE TO CALCULATE WHETHER YOU HAVE SUFFICIENT FUNDS TO PAY ITEMS, INCLUDING CHECKS AND DRAFTS, AS WELL AS ACH, DEBIT CARD AND OTHER ELECTRONIC TRANSACTIONS.**

Your checking account has two kinds of balances: the "current balance" and the "available balance." Your current balance reflects the full amount of all settled deposits to your account as well as settled payment transactions that have been posted to your account. It does not reflect checks you have written and are still outstanding or transactions that have been authorized but are still pending.

Your available balance is the amount of money in your account that is available for you to use. An available balance is based on transactions that institutions have authorized (and therefore are obligated to pay) but not yet settled, along with settled transactions. The available balance for your account is determined according to our Funds Availability Policy Disclosure. **Pending transactions and holds placed on your account may reduce your available balance and may cause your account to become overdrawn regardless of your current balance.** You should assume that any Item which would overdraw your account based on your available balance may create an overdraft. You may check your available and current balance online at [www.hfsfcu.org](http://www.hfsfcu.org), at an ATM, by visiting a credit union branch or by calling us at (808) 930-1400 or toll free at (800) 216-2666.

The following illustrates the difference between current balance and available balance:

- If a member has a \$100.00 current balance but uses his/her debit card to buy dinner for \$40.00, then there is a pre-authorization hold on his/her account (at the request of the restaurant), and his/her available balance (the money he/she has left to use) is \$60.00. In other words, the \$40.00, which the member just spent, is no longer available for use. His/her current balance is still \$100.00 until the restaurant charge is submitted and posted to his/her account.
- On the deposit side, if the Credit Union chooses to put a hold on a check, for example, an out-of-state check in the amount of \$5,000.00, the hold will be placed on the entire amount of the check. In this example, his/her available balance is \$0.00 and his/her current balance is \$5,000.00.

The Credit Union's determination of an insufficient available account balance may be made at any time between presentation and the Credit Union's midnight deadline with only one review of the account required. We do not have to notify you if your account does not have sufficient available funds in order to pay an Item. Your account may be subject to a Non-Sufficient Fund fee or an Overdraft Fee for each Item. The following illustrates what type of fee will be applied:

- A **Non-Sufficient Fund Fee** will be charged if an Item is returned unpaid for having an insufficient available account balance. Currently set at \$25.00 pursuant to the Schedule of Fees and Charges. This fee may change in the future.
- An **Overdraft Fee** may be charged if an Item is paid even with an insufficient available account balance. Currently set at \$25.00 pursuant to the Schedule of Fees and Charges. This fee may change in the future.

We will charge a Non-Sufficient Fund fee each time an Item is submitted or resubmitted to the Credit Union for payment and returned (the number of times an Item can be resubmitted for payment is subject to the number of times the originating financial institution presents an Item to us); therefore, you may be assessed more than one fee as a result of a returned Item and resubmission(s) of the returned Item.

If we provide overdraft services, this service allows us to authorize payment for the following types of transactions regardless of whether your share or deposit account has sufficient funds: (1) share drafts/checks and other transactions made using your checking account, except as otherwise described below; (2) automatic bill payments; (3) ACH transactions. For one-time debit card transactions, you must affirmatively consent to overdraft service coverage. Without your consent, the Credit Union may not authorize and pay a one-time debit card transaction that will result in insufficient funds in your account. If you have established a service linking your share or deposit account with other individual or joint accounts, you authorize us to transfer funds from another account of yours to cover an insufficient Item, including transfers from a share or deposit account, an overdraft line-of-credit account, or other account you so designate. Services and fees for these transactions are shown in the document the Credit Union uses to capture your affirmative consent and the Business Account Schedule of Fees and Charges.

Except as otherwise agreed in writing, if we exercise our right to use our discretion to pay such Items that result in insufficiency of funds in your account, we do not agree to pay them in the future and may discontinue coverage at any time without notice. If we pay these Items or impose a fee that results in insufficient funds in your account, you agree to pay the insufficient amount, including the fee assessed by us, in accordance with our standard overdraft services or any other service you may have authorized with us, or if you do not have such protections with us, in accordance with any overdraft payment policy we have, as applicable.

- b. **How transactions are Posted to Your Account.** Basically, there are two types of transactions that affect your account: credits (deposits of money into your account) and debits (payments out of your account). It is important to understand how each is applied to your account so that you know how much money you have and how much is available to you at any given time. This section explains generally how and when we post transactions to your account.
- Credits.** Deposits are generally added to your account when we receive them. However, in some cases when you deposit a check, the full amount of the deposit may not be available to you at the time of deposit. Please refer to the Funds Availability Policy Disclosure for details regarding the timing and availability of funds from deposits.
  - Debits.** There are several types of debit transactions. Common debit transactions are generally described below. Keep in mind that there are many ways transactions are presented for payment by merchants, and we are not necessarily in control of when transactions are received.
  - Checks.** When you write a check it is processed through the Federal Reserve System. We receive data files of cashed checks from the Federal Reserve each day. The checks drawn on your account are compiled from these data files and paid each day. We process the payments in accordance with the Funds Availability Policy Disclosure.
  - ACH Payments.** We receive data files every day from the Federal Reserve with Automated Clearing House (ACH) transactions. These include, for example, automatic bill payments you have authorized. ACH transactions for your account are posted throughout the day.

- v. **PIN-Based Debit Card Purchase Transactions.** These are purchase transactions using your debit card for which a merchant may require you to enter your personal identification number (PIN) at the time of sale. They are processed through a PIN debit network. These transactions are similar to ATM withdrawal transactions because the money is usually deducted from your account immediately at the time of the transaction. However, depending on the merchant, a PIN-based transaction may not be immediately presented for payment. These payment requests are received throughout the day and are posted to your account when they are received.
- vi. **Signature-Based Debit Card Purchase Transactions.** These are purchase transactions using your debit card that are processed through a signature-based network. Rather than entering a PIN, you typically sign for the purchase; however, merchants may not require your signature for certain transactions. Merchants may seek authorization for these types of transactions. The authorization request places a hold on funds in your account when the authorization is completed. The "authorization hold" will reduce your available balance by the amount authorized but will not affect your current balance. The transaction is subsequently processed by the merchant and submitted to us for payment. This can happen hours or sometimes days after the transaction, depending on the merchant and its payment processor.

The amount of an authorization hold may differ from the actual payment because the final transaction amount may not yet be known to the merchant when you present your card for payment. For example, if you use your debit card at a restaurant, a hold will be placed in an amount equal to the bill presented to you; but when the transaction posts, it will include any tip that you may have added to the bill presented to you. This may also be the case where you present your debit card for payment at gas stations, hotels and certain other retail establishments. We cannot control how much a merchant asks us to authorize, or when a merchant submits a transaction for payment.

- c. **Order of Payments.** Checks, drafts, transactions, and other Items may not be processed in the order that you make them or in the order that we receive them. We may, at our discretion, pay a check, draft, or Item, and execute other transactions on your account in any order. The order in which we process checks, drafts, or Items, and execute other transactions on your account may affect the total amount of overdraft fees that may be charged to your account. Please contact us if you have questions about how we pay checks or drafts and process transfers and withdrawals.
  - d. **Dishonored Items.** We may redeposit Items taken for deposit, cash or other value, or we may return the Item to you and charge your account. If your account does not contain sufficient funds to reimburse us for the amount of the Item, you must repay us for the amount we are unable to collect from your account. If we choose to redeposit an Item, we are not required to notify you that the Item was returned unpaid. We may charge your account and/or seek recovery directly from you for any Item that is returned due to your breach of warranty under the Uniform Commercial Code as adopted in the state where our main office is located.
- 11. CHECKS OR DRAFTS PRESENTED FOR PAYMENT IN PERSON.** We may refuse to accept any check or draft drawn on your account that is presented for payment in person. Such refusal shall not constitute a wrongful dishonor of the check or draft, and we shall have no liability for refusing payment. If we agree to cash a check or draft that is presented for payment in person, we may require the presenter to pay a fee. Any applicable fees for cashing checks or drafts are stated in our Business Account Schedule of Fees and Charges.

**12. POSTDATED AND STALEDATED CHECKS OR DRAFTS.** You agree not to draw or issue any check or draft that is postdated. If you do draw or issue a check or draft that is payable on a future date, we will have no liability if we pay the check or draft before its payment date. You agree not to deposit drafts, checks, or other Items before they are properly payable. We are under no obligation to pay a check or draft drawn on your account that is presented more than six (6) months after the date it was written. If, however, the check or draft is paid against your account, the Credit Union shall have no liability for such payment.

**13. FOREIGN CURRENCY.** All checks or drafts drawn on your account shall be payable in currency of the United States of America. You agree not to draw a check or draft payable in any foreign currency. If you give us an order to pay a check or draft in a foreign currency, we shall have the right to return the check or draft unpaid. If, however, we should pay the check or draft we will not be responsible for the currency conversion or any fees assessed for collection, and you will be bound by our determination of the currency conversion rate, the data used and the manner in which we make the conversion.

**14. STOP PAYMENT ORDERS; LOST, DESTROYED OR STOLEN OFFICIAL CHECKS OR MONEY ORDERS.**

**a. Stop Payment Order of Checks or Drafts on Your Account.**

- (i) **Request.** Any Authorized Person or Authorized Signer may request a stop payment order on any check or draft drawn on your account. To be binding, the order must accurately describe the check or draft, including the exact account number, check or draft number, and amount of the check or draft. This exact information is necessary for the Credit Union to identify the check or draft. If we receive incorrect or incomplete information, we will not be responsible for failing to stop payment on the check or draft. In addition, we must receive sufficient advance notice of the stop payment order to allow us a reasonable opportunity to act on it. If we recredit your account after paying a check or draft over a valid and timely stop payment order, you agree to sign a statement describing the dispute with the payee, to transfer to us all of your rights against the payee or other holders of the check or draft, and to assist us in any legal action.
- (ii) **Duration of Order.** You may make an oral stop payment order which will lapse within fourteen (14) calendar days unless you confirm it in writing, or in a record if allowed by applicable law, within that time. A written stop payment order is effective for six (6) months and may be renewed from time to time, or in a record if allowed by applicable law. We do not have to notify you when a stop payment order expires.
- (iii) **Liability.** Fees for stop payment orders are set forth in our Business Account Schedule of Fees and Charges. Although payment of an item may be stopped, you may remain liable to any item holder, including us. You have the burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order. You agree to indemnify and hold the Credit Union harmless from all costs, including attorney's fees and all damages or claims related to our refusal to pay an item, as well as claims of any Account Owner or of any payee or endorsee for failing to stop payment of an item as a result of incorrect information provided by you.

**b. Claims for Lost, Destroyed or Stolen Official Checks or Money Orders.** If a Credit Union Official Check or Money Order is lost, destroyed or stolen, you may be able to assert a claim with respect to the Official Check or Money Order, if permitted under applicable law. You must provide us with exact information to identify the Official Check or Money Order. Timing of your claim must conform to applicable law; and we must receive sufficient advance notice to allow us a reasonable opportunity to act on your request. Our stop payment fee for checks also applies to a claim with respect to an Official Check or Money Order, whether or not your claim is enforceable. Although your claim may be enforced, you may remain liable to any item holder, including us. You agree to indemnify and hold the Credit Union harmless from all costs, including attorney's fees, damages or claims related to any action taken by the Credit Union because of a claim for a lost, destroyed or stolen Official Check or Money Order. Except as provided by law, you cannot place a stop payment order on an Official Check or Money Order. Contact the Credit Union for details.

**15. CREDIT UNION LIABILITY.** If we do not properly complete a transaction according to this Agreement, we will be liable for your losses or damages not to exceed the amount of the transaction, except as otherwise provided by law or elsewhere in this Agreement. We will not be liable if, for example: (1) your account contains insufficient available funds for the transaction; (2) circumstances beyond our control prevent the transaction; (3) your loss is caused by your or another financial institution's negligence; or (4) your account funds are subject to legal process or other claim. We are not liable if checks, drafts or other items were forged or altered so that the forgery or alteration could not be reasonably detected. We will not be liable for

consequential damages, except liability for wrongful dishonor. We are not responsible for a check or draft even if it is paid by us if we acted in a commercially reasonable manner and exercised ordinary care. We exercise ordinary care if our actions or nonactions are consistent with applicable state law, Federal Reserve regulations and operating letters, clearinghouse rules, and general banking practices followed in the area we serve. You grant us the right, in making payments of deposited funds, to rely exclusively on the form of the account and the terms of this Agreement. Any conflict between what you or our employees may say or write will be resolved by reference to this Agreement. The amount of our liability shall not exceed \$50, the amount of the transaction, or the amount of your loss, whichever is less, except as otherwise required by law.

**16. UNAUTHORIZED USE OF CHECK OR DRAFT WRITING AND FACSIMILE SIGNATURE EQUIPMENT.** You are responsible for maintaining the security of all facsimile signatures, check or draft writing equipment, and supplies. You must promptly notify us in writing of any checks or drafts that have been lost or stolen or the unauthorized use of facsimile signature equipment and the circumstances surrounding the loss, theft or unauthorized use. We are not liable for any unauthorized use of such facsimile signature.

**17. PLEDGE OF SHARES, RIGHT OF OFFSET AND STATUTORY LIEN.** Unless prohibited by law, you pledge and grant as security for all obligations you may have now or in the future, except obligations secured by your principal residence, all shares and dividends and, all deposits and interest, if any, in all accounts you have with us now and in the future. If you pledge a specific dollar amount in your account(s) for a loan, we will freeze the funds in your account(s) to the extent of the outstanding balance of the loan or, if greater, the amount of the pledge if the loan is a revolving loan. Otherwise, funds in your pledged account(s) may be withdrawn unless you are in default. You agree we have the right to offset funds in any of your accounts against any obligation owed to us. Federal or state law, depending on whether we have a federal or state charter, gives us a lien on all shares and dividends and all deposits and interest, if any, in accounts you have with us now and in the future. Except as limited by state or federal law, the statutory lien gives us the right to apply the balance of all your accounts to any obligation on which you are in default. After you are in default, we may exercise our statutory lien rights without further notice to you.

**Your pledge and our statutory lien rights will allow us to apply the funds in your account(s) to what you owe when you are in default, except as limited by state or federal law.** If we do not apply the funds in your account(s) to satisfy your obligation, we may place an administrative freeze on your account(s) in order to protect our statutory lien rights and may apply the funds in your account(s) to the amount you owe us at a later time. The statutory lien and your pledge do not apply to any Individual Retirement Account or any other account that would lose special tax treatment under state or federal law if given as security. By not enforcing our right to apply funds in your account(s) to your obligations that are in default, we do not waive our right to enforce these rights at a later time.

**18. TRANSFER OF ACCOUNT.** All accounts are nonassignable and nontransferable to third parties except by us.

**19. LEGAL PROCESS.** If any legal action is brought against your account, we may pay out funds according to the terms of the action or refuse any payout until the dispute is resolved, as permitted by law. Any expenses or attorney fees we incur responding to legal process may be charged against your account without notice, unless prohibited by law. Any legal process against your account is subject to our lien and security interest.

We may comply with any legal process including, but not limited to any order, garnishment, levy, subpoena, warrant, writ of attachment and execution, which we believe to be valid. We may charge a legal processing fee upon receipt of such legal process in addition to research, copying and all other applicable fees and costs. If we are not fully reimbursed for our fees and costs by the party which served the legal process, we may charge such fees and costs to your account in accordance with our Business Account Schedule of Fees and Charges.

We shall not be liable to you for honoring any legal process received by or served upon us. You agree to indemnify, defend and hold us harmless from all claims, actions, losses, damages, liabilities, attorneys' fees and costs resulting from or in any way related to our response to any legal process.

**20. ACCOUNT INFORMATION.** Upon request, we will give you the name and address of each agency from which we obtain a credit report regarding your account. We agree not to disclose account information to third parties except when: (1) it is necessary to complete a transaction; (2) the third party seeks to verify the existence or condition of your account in accordance with applicable law; (3) such disclosure is made to comply with the law or an order issued by a court or government agency; (4) you give us written permission; or (5) as otherwise permitted by applicable law. We may provide information to credit bureaus about an insolvency, delinquency, late payment or default on your account to include in your credit report. You agree that we may provide information about your account, including without limitation account histories and account documents, to any co-signer, obligor, guarantor, accommodation mortgagor, or owner or co-owner of any asset securing any obligation you owe to us.

## **21. NOTICES.**

**a. Name or Address Changes.** You are responsible for promptly notifying us of any address or name change. The Credit Union is only required to attempt to communicate with you at the most recent address you have provided to us. We may, if we choose, accept oral notices of a change in address and may require any other notice from you to us be provided in writing.

**b. Notice of Amendments.** Except as prohibited by applicable law, we may at any time change the terms of this Agreement. We will notify you in writing to your current mailing address or electronically if you opted to do so, of any changes in terms, rates, or fees as required by law.

**c. Effect of Notice.** Any written notice you give us is effective when we receive it and have sufficient time to act upon it. Any written notice we give to you is effective when it is deposited in the U.S. mail, postage prepaid and addressed to you at your statement mailing address, and will be effective whether or not received by you. If you have consented to receiving notices electronically, notice to you also will be effective when we notify you in accordance with that agreement.

**d. Electronic Notices.** If you have agreed to receive notices electronically, we may send you notices electronically and discontinue mailing paper notices to you until you notify us that you wish to reinstate receiving paper notices.

**e. How to Reach Us Quickly.** We may not immediately receive and review e-mail messages that we receive. We will not take action based on e-mail requests until a Credit Union employee actually reviews the message and has a reasonable opportunity to act. If your request requires immediate attention, you may notify us at (808) 930-1400 for the Island of Hawaii, (800) 216-2666 for Neighbor Islands and Continental USA, or write to us at: HFS Federal Credit Union, 632 Kinoole Street, Hilo HI 96720-3894, or visit any of our branch offices.

**f. Protect Your Information.** Please do not provide confidential information in e-mail. We will never contact you by e-mail, telephone, mail or other type of correspondence and request your PIN, password, passcode, user ID, or other authentication code. If you are contacted by anyone asking for your PIN, password, passcode, user ID, or other authentication code, you should refuse and immediately contact us. You may be the target of identity theft.

**g. Notify Us of Any Change in Your Information.** You agree to notify us of any change in your current contact information including your post office address, physical address, phone number, and, if you registered for online banking, your e-mail address, by visiting any of our branch offices, calling us at (808) 930-1400 for the Island of Hawaii, (800) 216-2666 for Neighbor Islands and Continental USA, sending us an e-mail at hfs\_operations@hfsfcu.org or by writing to us at: HFS Federal Credit Union, 632 Kinoole Street, Hilo HI 96720-3894. If you are enrolled in online banking, you may update your email address at any time by logging onto online banking and clicking on the menu option labeled "Manage Contact Info".

If you need information on how to update your e-mail address, request a paper copy or any other questions, please contact us during regular business hours.

**22. TAXPAYER IDENTIFICATION NUMBER AND BACKUP WITHHOLDING.** You agree that we may withhold taxes from any dividends or interest earned on your account as required by federal, state or local law or regulations. Your failure to furnish a correct Taxpayer Identification Number (TIN) or meet other requirements may result in backup withholding. If your account is subject to backup withholding, we must withhold and pay to the Internal Revenue Service a percentage of dividends, interest, and certain other payments. If you fail to provide your TIN within a reasonable time, we will close your account and return the balance to you, less any applicable service fees.

**23. STATEMENTS.**

**a. Contents.** If we provide a periodic statement for your account, you will receive a statement that shows the transactions and activity on your account during the statement period as required by applicable law. For share draft or checking accounts, you understand and agree that your original check or draft, when paid, becomes property of the Credit Union and may not be returned to you, but copies may be retained by us or payable through financial institutions and made available upon your request. You understand and agree that statements are made available to you on the date they are mailed to you or, if you have requested, on the date they are made available to you electronically. You also understand and agree that checks, drafts or copies thereof are made available to you on the date the statement is mailed to you or is provided to you electronically, even if the checks or drafts do not accompany the statement.

**b. Examination.** You are responsible for promptly examining each statement upon receiving it and reporting any irregularities to us. If you fail to report to us, any irregularities such as forged, altered, unauthorized, unsigned, or otherwise fraudulent items drawn on your account, erroneous payments or transactions, or other discrepancies that are reflected on your statement within a reasonable time of receiving your statement, we will not be responsible for your loss. In addition, we will not be responsible for any such items, payments, transactions, or other discrepancies reflected on your statement if you fail to notify us within sixty (60) days of the mailing date we sent or otherwise provided the statement to you. We also will not be liable for any items that are forged or altered in a manner not detectable by a reasonable person, including the unauthorized use of a facsimile signature machine.

**c. Notice to the Credit Union.** You agree that the Credit Union's retention of checks or drafts does not alter or waive your responsibility to examine your statements or the time limit for notifying us of any errors. The statement will be considered correct for all purposes, and we will not be liable for any payment made or charge to your account unless you notify us in writing within the above time limit for notifying us of any errors. The notice must specifically describe the transaction, include photocopies or other images of the relevant items, if returned to you, and:

- (i) Your account number
- (ii) The dollar amount
- (iii) Our transaction reference, if any.

If timely notice is given, we reserve the right to make a final reasonable determination regarding whether and in what amount any adjustment shall be made. If you fail to receive a periodic statement, you agree to notify us within fourteen (14) days of the time you regularly receive a statement.

**24. INACTIVE ACCOUNTS.** As allowed by applicable law, we may classify your account as inactive or dormant and assess a fee if you have not made any transactions in your account over a specified period of time. The period of inactivity, the fee for servicing an inactive or dormant account, and the minimum balance required to avoid the service fee, if any, are set forth in our Business Account Schedule of Fees and Charges. You authorize us to transfer funds from another account of yours to cover any service fees, if applicable. To the extent allowed by law, we reserve the right to transfer all funds in an inactive or dormant account to an account payable or reserve account and to suspend any further account statements. If a deposit or withdrawal has not been made on the account and we have had no other sufficient contact with you within the period specified by state law, the account will then be presumed to be abandoned. Funds in abandoned accounts will be reported and remitted in accordance with state law. Once funds have been turned over to the state, we have no further liability to you for such funds. If you choose to reclaim such funds, you must apply to the appropriate state agency. We will notify you as required by state law before paying the funds in your account to the state. To the extent allowed by law, we reserve the right to transfer the account funds to an account payable and to suspend any further account statements.

**25. TERMINATION OF ACCOUNT.** We may terminate your account at any time without prior notice to you or may require you to close your account and apply for a new account. We are not responsible for payment of any check, draft, transfer or item after your account is terminated; however, if we pay a check, draft, transfer or other item after termination, you agree to reimburse us for the amount of our payment as well as any applicable fees.

You may terminate this Agreement by closing all of your accounts. If your account is a dividend or interest-bearing account, any deposit or part of a deposit that we have returned or attempted to return to you upon termination of your account will no longer bear dividends or interest, as applicable. When the account is closed, you will receive the balance remaining in the account after we have made all appropriate deductions and charges. The termination of this Agreement and the account does not release you from the obligation for payment of accrued fees or liability for any checks or drafts in process.

**26. TERMINATION OF MEMBERSHIP; LIMITATION OF SERVICES.** You may terminate your membership by giving us written notice or by withdrawing your minimum required membership share, if any, and closing all of your accounts. You may be expelled from membership for any reason allowed by applicable law. We may restrict account access and services without notice to you when your account is being misused; you may have demonstrated conduct which is abusive in nature; as outlined in any policy we have adopted regarding restricting services; or as otherwise permitted by law. You may also be denied services for causing a loss to the Credit Union. Should we terminate your membership, the balance in your account shall be returned to you in accordance with Section 25 (Termination of Account) above.

**27. DEATH OF ACCOUNT OWNER.** You agree to notify us in writing upon the death of any owner or anyone authorized on the account. We may continue to honor all transfer orders, withdrawals, deposits and other transactions on an account after the death of an Authorized Person or Authorized Signer. If the account is in the name of a natural person or a business that is organized as a sole proprietorship, we may continue to honor all transfer orders, withdrawals, deposits and other transactions on an account until we are notified of the Account Owner's death. Once we are notified of an Account Owner's death, we may pay checks or drafts or honor other payments or transfer orders authorized by the Account Owner for a reasonable period of time unless we receive instructions from any person claiming an interest in the account to stop payment on the checks, drafts or other items. Anyone claiming account funds of a deceased Account Owner or as a transferee agrees to indemnify us for any losses resulting from our honoring that claim or those instructions. We may offset any obligation for which the decedent or transferor was liable prior to paying the net balance to any beneficiary, payee, joint owner, or transferee, provided that we will not offset funds in any Individual Retirement Account or any other account that would lose special tax treatment under state or federal law if given as security. This Agreement will be binding upon the Account Owner and the Account Owner's heirs, devisees, personal representatives, successors, successors-in-trust and assigns.

**28. UNLAWFUL INTERNET GAMBLING AND OTHER ILLEGAL ACTIVITIES.** You agree that you are not engaged in unlawful internet gambling or any other illegal activity. You agree that you will not use any of your accounts, access devices or services for unlawful internet gambling or other illegal activities. We may terminate your account relationship if you engage in unlawful internet gambling or other illegal activities.



**29. WAIVER OF RIGHTS.** We reserve the right to waive or delay the enforcement of any provision of this Agreement with respect to any transaction or series of transactions. A waiver or delay of our rights at any time shall not be deemed to be a waiver of any other rights or a waiver of the same rights at a future time.

**30. SEVERABILITY.** If a court holds any portion of this Agreement to be invalid or unenforceable, such portion shall be deemed amended and enforced to the maximum extent possible, and the remainder of this Agreement shall not be invalid or unenforceable and will continue in full force and effect. All headings are intended for reference only and are not to be construed as part of this Agreement.

**31. ENFORCEMENT; COSTS.** You are liable to us for any loss, cost or expense we incur resulting from your failure to follow this Agreement; for any action we take in response to a subpoena, garnishment or other proceeding; or any action we take if we believe there may be a dispute regarding ownership or control of the account. You authorize us to deduct any such losses, costs or expenses from your account without prior notice to you. If we bring a legal action to collect any amount due under or to enforce this Agreement, we shall be entitled, subject to applicable law, to payment of reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions.

**32. GOVERNING LAW.** This Agreement is governed by the Credit Union's Bylaws, federal laws and regulations, the laws, including applicable principles of contract law, and regulations of the state in which the Credit Union's main office is located (Hawaii), and local clearinghouse rules, as amended from time to time.

**33. WAIVER OF TRIAL BY JURY AND AGREEMENT AS TO LOCATION OF LEGAL PROCEEDINGS.** As permitted by applicable law, you agree that any legal action regarding this Agreement shall be brought in the county of the Credit Union office where you opened your account. Accounts that are not opened in person at a branch are deemed opened at our main branch. You and we agree to waive any right to trial by jury in any legal proceeding or lawsuit involving the account.

**34. NEGATIVE INFORMATION NOTICE.** We may report information about your loan and deposit accounts to credit bureaus. Late payments, missed payments, or other defaults on your accounts may be reflected in your credit report.

**35. CONSENT TO CONTACT.** By providing your telephone number (including cell phone number) to the Credit Union and filling out and submitting this application, you agree that the Credit Union and/or our third-party providers, including debt collectors, may contact you by telephone or text message at any telephone number associated with your account, including wireless telephone numbers (i.e. cell phone numbers). You acknowledge that the use of your wireless telephone number could result in additional charges to you and you consent to such charges and indemnify the Credit Union from any and all liabilities associated with such charges. The Credit Union's contact with you will be to service your account or collect any amounts owed to us, and is based upon your existing established business relationship with the Credit Union and a part of normal business communications between you and the Credit Union. You may withdraw the consent to be contacted on your telephone number(s) at any time by providing notice to us by any means, including orally or in writing that clearly expresses your desire not to receive further communication from the Credit Union to your telephone number. If you have provided a wireless telephone number(s) on or in connection with any account, you represent and agree they are the wireless subscriber or customary user with respect to the wireless telephone number(s) provided and have the authority to give this consent. Furthermore, you agree to notify us of any change to the wireless telephone number(s) which you have provided to us.

In order to help mitigate harm to you and your account, we may contact you on any telephone number associated with the account, including a wireless telephone number (i.e. cell phone number), to deliver any messages related to suspected or actual fraudulent activity on your account, data security breaches or identity theft following a data breach, money transfers or any other exigent messages permitted by applicable law. These contacts will not contain any telemarketing, cross-marketing, solicitation, advertising, or debt collection message of any kind. The contacts will be concise and limited in frequency as required by law. You will have an opportunity to opt-out of such communications at the time of delivery.

**36. FINGERPRINTING AND BIOMETRICS.** To protect your account, we may require the use of an inkless fingerprinting system or a biometric fingerprinting device to place fingerprints next to signatures on documents as part of the Credit Union's normal business operations. We may also require all non-members to be fingerprinted when negotiating a check drawn on us or a member account. The Credit Union may provide access to your accounts and account services through the use of biometrics. You agree to the use of biometric technology and will cooperate with the Credit Union implementing any new technology.