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BANK OF HAWAII MOBILE AND ONLINE BANKING TERMS OF USE For Businesses

PLEASE PRINT AND SAVE

Please read this Bank of Hawaii Mobile and Online Banking Terms of Use (this “Agreement”). This Agreement serves as the agreement for and governs and contains important information about the Bank of Hawaii’s Mobile and Online Banking Services (the “Service(s)"). These Mobile and Online Banking Services are provided to you by Bank of Hawaii (“BOH”).

By accepting this Agreement or otherwise using, or allowing others to use, requesting or applying for any of the Services, you agree to be bound by this Agreement as well as any other agreement or document we may provide you from time to time in connection with the Services. You are also agreeing and warranting to us that the use of the Services shall be solely for business and commercial purposes, and that no consumer use of the Services shall be permitted under any circumstances and that any consumer use of the Services shall be immediate grounds for termination of this Agreement. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES WILL NOT BE TREATED AS A CONSUMER ACCESS DEVICE UNDER THE PROVISIONS OF THE ELECTRONIC FUNDS TRANSFER ACT OR ANY OTHER STATE OR FEDERAL LAW. THEREFORE, YOU WILL NOT HAVE THE BENEFIT OF ANY LIMITATION OF LIABILITY WITH RESPECT TO THE UNAUTHORIZED USE OF THE SERVICES. YOU AGREE TO ACCEPT ANY ADDITIONAL RISK ASSOCIATED WITH THE USE OF THE SERVICES AND AGREE TO ASSUME THE LIABILITY DESCRIBED IN THIS AGREEMENT. YOU ALSO AGREE TO ELECTRONICALLY ACCEPT DELIVERY OF THIS AGREEMENT AND ANY FUTURE AMENDMENT TO THIS AGREEMENT.

NOTE: THE TERMS OF THESE MOBILE AND ONLINE BANKING TERMS OF USE ARE SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTIONS AND YOUR RIGHT TO A JURY, SEE SECTION D.9 and D.10 BELOW.

SECTION A: HOW TO CONTACT US

You may contact us with any inquiries, notices, questions or concerns related to the Services by telephone or by mail. The best way to contact us is by calling us at the following numbers:

- **In Hawaii:** 808-643-3888
- **In U.S. Mainland and Canada:** 1-888-643-3888
- **In Guam and Saipan:** 1-877-553-2424
- **In Palau:** 1-680-488-3338
- **TTY/TDD:** 1-888-643-9888

Or write us at: Bank of Hawaii, Mobile and Online Banking #361, P.O. Box 2900, Honolulu, HI 96846-6000

SECTION B: ABOUT THIS AGREEMENT

1. WHAT IS COVERED.

This Agreement covers your use of all features of the Services including but not limited to any Transfers that you make or authorize us to make through the Services. The Services are designed to allow you to access Deposit Accounts and Credit Accounts owned by you, now or in the future. Not all features of the Services will be made available to all customers or available in all areas served by Bank of Hawaii and fees may vary depending on the features you are given access to or elect to receive.

The Services are designed to allow you to carry out a variety of banking functions using your mobile device or a computer. Depending on the function, the Services may be accessed through our mobile application (the “App”) or online platform. The features of the Services are available at our sole discretion but generally include account management services, transaction and payment services, and mobile deposit services.

2. WHAT IS NOT COVERED.

This Agreement does not cover: (a) Transfers to and from accounts which are primarily established for personal, family or household purposes; (b) Transfers you initiate by using a check, draft or other paper instrument, including a scanned check transfer; (c) Transfers sent through the Federal Reserve Communications System or other similar networks that are used primarily for transfers between financial institutions or between businesses (often called 'wire transfers'); (d) Transfers to purchase or sell securities or commodities; and (e) Transfer instructions we receive by telephone. Please contact us for the agreements which apply to these types of transfers. Transactions using Bank of Hawaii credit card products are covered by separate agreements. In addition, you may not transfer funds from your Deposit and Credit Accounts to your investment accounts maintained at Bankoh Investment Services, Inc., or use the Services to liquidate securities and/or mutual fund shares held in those investment accounts and transfer the proceeds to your Deposit and Credit Accounts.

In addition, the Services may contain links to third-party websites. These linked websites are not under our control, and we are not responsible for the contents of any such website. We provide these links as a convenience to you and the inclusion of a link does not imply our endorsement or sponsorship of, or our affiliation with, the linked website.

3. CONSENT TO DO BUSINESS ELECTRONICALLY.

In our sole discretion, the communications we provide to you, or that you sign or agree to at our request, may be Electronic Records. You agreed to this by accepting/signing the Bank of Hawaii Mobile and Online Banking e-Sign Agreement, which is incorporated herein by reference, prior to enrolling for the Services. We may always, in our sole discretion, provide you with any communication via paper, even if you have chosen to receive it electronically. Sometimes the law, or our agreement with you, requires you to give us a written notice. You must still provide these notices to us on paper, unless we specifically tell you in another communication how you may deliver that notice to us electronically.

There are certain communications that by law we are not permitted to deliver to you electronically, even with your consent. So long as required by law, we will continue to deliver those communications to you in writing. However, if the law changes in the future and permits any of those communications to be delivered as Electronic Records, this consent will automatically cover those communications as well.

We will continue to provide your tax statements on paper unless you separately elect to receive them electronically (if available).

4. PRIVACY POLICY AND INFORMATION AUTHORIZATION.

You authorize us to use your personal information to facilitate your access to and use of the Services. We handle your personal information in accordance with our Federal Privacy Notice (available at <https://www.boh.com/privacy-center>) and Mobile App Privacy Policy (<https://www.boh.com/privacy-center/mobile-application-privacy-policy>).

You authorize your wireless carrier to disclose information about your account, such as subscriber status, payment method and device details, if available, to support identity verification, fraud avoidance and other uses in support of transactions for the duration of your relationship with us. This information may also be shared with other companies to support your transactions with us and for identity verification and fraud avoidance purposes.

5. INFORMATION PROCESSING AND REPORTING.

The Services require us to receive, process and report information involving your accounts and transactions. We are not responsible for determining the accuracy, timeliness or completeness of any information that you or others provide to us. We will have no duty to interpret the content of any data transmitted to us, except to the limited extent set forth in this Agreement. Unless otherwise agreed to by us in writing, we will not be required (by means of any Security Procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or third parties.

- a. *Your Use of E-mail and the Internet.* If you send us an e-mail, we may not receive or review it immediately. You agree to afford us a reasonable time to act upon any email request or notice, and we reserve the right to reject any transaction instruction or other request received by e-mail. You acknowledge that, even though e-mail may be encrypted, we cannot ensure that it will not be intercepted or affected by the actions or omissions of others, such as third-party networks or persons with access to the internet. As such, we recommend that you not send account data or other sensitive information to us by e-mail. We reserve the right to monitor your e-mail or any other electronic communications with our employees and agents.
- b. *Information You Provide to Us.* You assume the sole responsibility for providing us with complete and accurate information in the form and format we may require. We are not responsible for confirming such information, detecting errors or omissions, or for monitoring or refusing to process (or delaying in processing or acting on) any duplicate Instructions (as defined below) by you or your agents. For example, if you give us an ACH Instruction that is incorrect in any way, you agree that we may charge your account for the payment whether or not the error could have been detected by us.

- c. *Your Instructions.* We are entitled to rely on and shall incur no liability for following any Instruction provided, if we believe in good faith that the Instruction is genuine and has been signed or otherwise authenticated by you. We are entitled to act on any incomplete Instruction, where, in our reasonable opinion, it contains sufficient information.

Transactions may not be executed by us immediately when an Instruction is received, and certain Instructions may only be processed during normal banking hours. We may refuse to follow or delay in following and shall incur no liability for refusing to follow or delaying in following, any Instruction in our sole discretion, including to comply with applicable law.

- d. *Your Beneficiaries.* You must accurately describe transaction beneficiaries, intermediary financial institutions, and the beneficiary's financial institution in transfer and payment Instructions. If you describe any beneficiary or institution inconsistently by name and number, we may process the transaction solely on the basis of the number, even if the number identifies a person or entity different from the named beneficiary or institution. You also understand that any other institution involved in processing your transaction (such as the beneficiary's bank) may do the same.
- e. *Your Review of Data and Information.* You acknowledge that it is not possible for us or the Services to be totally free from operator, programming or equipment error, and that errors in processing or compiling information and data may occasionally occur. For example, errors may occur due to the failure of others to provide accurate information to us, telecommunication failures, or a breakdown in an electronic data interchange. As such, you agree to review and verify all data and information we provide or display to you and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by law, our sole responsibility for any reporting or informational errors caused by us will be to reprocess the information for the period in question and to provide corrected reports at our own expense. You agree to maintain backup files of the data you submit to us for a reasonable period of time in order to facilitate any needed reconstruction of your transactions or other information (e.g., in the event of a telecommunication failure).

6. SECURITY PROCEDURES.

We require the use of various security procedures in connection with the Services to verify that transaction requests, requests for information or documentation, and other Instructions you provide or actions you take are issued and authorized by you (each, a "Security Procedure"). Security Procedures are based on your specific use of the Service or the method by which you access the Services and may include (but are not limited to) requiring the use of passwords, PINs, codes, security questions and authentication tools. Some of these Security Procedures are outlined in this Agreement. Others will be disclosed to you at the time you enroll in or use a particular Service. You agree to follow the Security Procedures. You agree that we may implement new Security Procedures, or modify existing Security Procedures, contained in this Agreement or other agreements you may have with us from time to time and may require you to use such new or modified Security Procedures as a condition to your continued access and use of the Services.

You acknowledge that you have reviewed the Security Procedures applicable to the Services before your use of the Services and agree that the Security Procedures used by BOH are commercially reasonable and appropriate for the Services and your relationship with us. If new Security Procedures are added or existing Security Procedures are modified, you agree to review the new or modified Security Procedures before attempting to use the relevant Services and that your continued use of such Services constitutes your acceptance of the Security Procedures and their commercial reasonableness and appropriateness. Except as required by applicable law, you agree to be bound by, and liable for, all transactions and actions initiated using the Security Procedures. To the extent you are permitted to choose between more than one Security Procedure in connection with a Service, or request that all or any part of a Security Procedure be curtailed, deactivated, or otherwise modified, you solely accept any resulting liability.

You also acknowledge that the Security Procedures are for the purpose of verifying the authenticity of your transaction requests and Instructions and are not intended to, and will not, detect errors. In addition, you agree that your use of the Security Procedures, whether or not modified at your request, do not diminish or otherwise affect your responsibility to implement and maintain procedures and safeguards against unauthorized access and activity in connection with the Services, including exercising appropriate supervision of others you permit to access the Services and taking reasonable steps to maintain the confidentiality of the Security Procedures and any associated access credentials, usernames, passwords, PINs, codes or similar authorization methods. Access to the Mobile and Online Banking Services will be blocked if incorrect Security Codes are repeatedly entered. If you need assistance should this occur, please telephone our Customer Service Center number listed in SECTION A.

- a. *Mobile App Security Procedures.* Access to the App requires, at a minimum, a username and password, and may also require use of a token, code, or similar security measure provided to you through multi-factor authentication. You may be given options for modifying the Security Procedures applicable to certain, but not all, uses of the App, such as the procedures for changing or resetting passwords, establishing or changing

transaction limits, restricting access to certain Authorized Accounts or Services, or requesting additional usernames, passwords, tokens, codes and other similar security measures.

Instructions will be provided to you, through the App or separate documentation, for setting up the initial security parameters for the App and the Services accessible through the App. You may be required to establish security questions and answers to be used when requesting a password reset or when making certain other changes through the App. Access to certain features within the App may also require similar Security Codes.

- b. *Other Security Procedures.* Your use of certain features may require the use of a Security Code. If you apply to enroll in those features and your Application is approved, we will send the requested Security Code to the e-mail address or mobile telephone number currently in our records. You may only use the Security Code for the purposes described in this Agreement and to the extent the law allows and to the extent the Transaction Service is able to perform the transaction.
- c. *Responsibility for Safeguarding Security Procedures and Related Information.* You are responsible for safeguarding all Security Procedures, as well as the credentials, usernames, passwords, PINs, codes or similar information associated with the Security Procedures or the Services. You agree to implement and maintain reasonable procedures and controls in addition to the Security Procedures to ensure such safeguarding, as well as instruct and exercise adequate supervision over any other persons you permit to access the Services with respect to such procedures, controls and Security Procedures.

You agree that you will immediately notify us of any loss, theft or compromise of Security Procedures, credentials, passwords, PINs, codes or similar, as well the loss, theft or compromise of any computer, mobile device, network, or system you use to access the Services. Such notice must be made to us by calling our Customer Service Center at the numbers provided in SECTION A above.

7. TERMS AND CONDITIONS SPECIFIC TO YOUR MOBILE DEVICE.

- a. *Your Wireless Carrier. Message and Data Rates May Apply.* Charges may be assessed by your wireless carrier for text messages sent to or received from Bank of Hawaii. You are responsible for any fees or other charges that your service or wireless carrier may charge for your Device or any related data or message services, including without limitation for short message service.

For text messages sent to or received from Bank of Hawaii, your mobile device needs a subscription to a mobile carrier. This service may not be available for all carriers. You are solely responsible for the cost of any network connection fees, communication lines and other charges payable to third parties. Aside from fees for maintenance of your Device, except as otherwise provided, there are currently no fees for any of the Mobile Banking Services.

- b. *App Sign On.* The Services can be accessed from the App. You can sign into the App using various features available on your Device. You agree that anyone whom you permit to access the App from your Device by providing them the ability to sign into the App.

8. DEFINITIONS.

To make this Agreement easier to read, we gave the following words and phrases specific meanings. **Although they are bolded in this section, usage of these words are not bolded throughout the Agreement.**

"Account" is your Deposit Accounts owned by you and Credit Accounts under your name, currently existing and opened in the future.

"App" is the mobile application downloaded software available for selected Devices to be used for access to the Mobile Banking Services.

"Application" is any oral, written or electronic request or application for Services (including replacement Security Codes) in order to perform Transfers to or from your Designated Accounts.

"Bill Pay Service" is a service that allows you to schedule and make bill payments from your checking Account(s) to us and your Payees.

"Business Day(s)" are Monday through Friday, except U.S. federal holidays.

"Credit Accounts" are your Bank of Hawaii business term loans, commercial revolving lines of credit, including but not limited to your business overdraft credit, and other business credit products that are issued to you.

"Credit Card Accounts" are your Bank of Hawaii branded credit cards whether issued by Bank of Hawaii or other financial institutions.

“Customer Technology” is equipment, software, applications, internet access, mobile devices, communications tools and other technology that is not provided by or controlled by us.

“Deposit Accounts” are your Bank of Hawaii checking, savings, and time deposit Accounts.

“Designated Accounts” are all of your Accounts for which you have or will have electronic access via the Services.

“Device” is a mobile device including a cellular phone or other mobile device that is web-enabled with a supportable browser that is capable of receiving text messages. For system requirements please see www.boh.com/ebankoh/system-requirements.asp. Please note that your wireless carrier may assess fees for web access and/or text messaging services. Consult your carrier for details.

“Electronic Records” are the communications BOH provides to you, or that you sign or agree to at our request, which are in electronic form.

“Enabled Accounts” are your Designated Accounts for which you have enabled to have transfer capabilities via specific Services.

“Instruction(s)” are any written notice, instruction, transaction request or other communication provided by you, including those delivered by facsimile or electronic mail.

“Licensor” is Fidelity Information Services, the provider of the software platform through which the Services are operated.

“Mobile Deposit Eligible Accounts” are Bank of Hawaii checking and savings accounts domiciled in the state of Hawaii, Guam, Saipan, and Palau that are Designated Accounts. We reserve the right to change the eligibility criteria from time to time without prior notice to you.

“Mobile Deposit Service” allows you to make deposits to your Mobile Deposit Eligible Accounts using your Device by scanning checks and electronically delivering the images and associated deposit information to us.

“Payment Account” is any of your checking Deposit Accounts which you select to use to make a payment with the Bill Pay Service.

“Post (-s, -ing, -ed)” occurs when a debit or a credit is applied to your Ledger Balance and the transaction is completed. When a check or other debit such as a debit card transaction or ATM withdrawal is presented for payment against your Deposit Account, it Posts during overnight processing along with credits, such as deposits and any other transactions that occurred since the last Posting. Posting occurs on all Business Days.

“Security Code(s)” are the BOH Mobile and Online Banking usernames and passwords and any other code issued by us in the future for use with the Services to access your Designated Account and initiate Transfers.

“Services” are our Mobile and Online Banking Services described in SECTION C. It also includes, to the extent applicable, any additional features which we offer through the Services in the future, including Services provided in any Supplement to this Agreement.

“Transfers” are electronic transfers, advances, payments and deposits made by use of a computer or Device through the Services that affect your Deposit Accounts that are savings and/or checking accounts located in the United States and its territories.

“Transaction Limits” are limits to the frequency and amount of Transfer transactions you may request through the Services.

“you” and/or “your” refers to everyone who owns or you authorize to do transactions on a Designated Account and anyone who has received or uses Security Codes to make Transfers.

“we”, “us” or “our” refer to Bank of Hawaii.

SECTION C: MOBILE AND ONLINE BANKING SERVICES

1. ACCOUNT MANAGEMENT FEATURES.

- a. *Access Account Data.* Some features of the Services allow you to view your Designated Account balances and other Designated Account information. Since certain information and transactions are not processed by us until after the close of our Business Day, some transactions may not be reflected in the system until the next banking day. Posted items may be reversed due to insufficient funds, stop payment orders, legal process or for other reasons. Certain balances may also not be immediately available for withdrawal.
- b. *Download Electronic Documents.* You may use the Services to elect to receive certain statements, notices or tax forms for your Designated Accounts electronically as provided in the Electronic Documents Service Supplement and Terms of Use. If you do so, you will no longer receive paper versions of these documents. If you choose paper delivery for your documents, these documents will not be available to download via Mobile and Online Banking.

- c. **Debit Card Management.** The Services give you the option to enable or disable your debit card for use, replace your debit card, report your debit card lost or stolen, and change the PIN code of your debit card.

The Debit Card Controls Service ("Card Controls" or "Card Controls Service") gives you the ability to set location, transaction type, merchant type and threshold amount limits for your Debit Card(s), or totally disabling all Debit Card transactions. You can customize Card Controls settings on each eligible card and they are effective immediately and can be modified/removed at any time. Your recurring transactions (such as utility bills or auto-payments) are not affected by turning the debit card off or adding threshold limits. The Card Controls Service also allows you to receive customized push alerts (in-App notifications) about debit card transaction activity. Standard data rates may apply.

Bank of Hawaii is not responsible for how merchants authorize transactions or code their terminal's location or merchant type. The terminal coding is the sole responsibility of the merchant and may impact the ability for the Card Controls Service to recognize the merchant category or location of an in-store transaction. Certain merchants may seek an authorization hold at the time the transaction is initiated (e.g., gas stations, restaurants, hotels, etc.). The authorization hold may be higher or lower than the actual transaction paid because the final transaction amount is not known at the time the transaction is initiated. This may affect any threshold limits you apply in the Card Controls Service, as Bank of Hawaii cannot control the amount of a transaction once an authorization has been granted.

2. TRANSFER FEATURES.

The features of the Services are available at our sole discretion but generally include account management services, transaction and payment services, and Mobile Deposit Services. You agree that we may proscribe specific methods of and procedures for your use of the Service in separate instructions, which we may change from time to time at our sole discretion and will generally be provided to you through the App. You agree that you are bound by the terms of these instructions as if such terms were provisions of this Agreement.

We do not limit the frequency or dollar amount of your Transfers.

In addition, for some of the features, specific terms apply, and you must separately consent to additional agreements; these are explained below. These agreements may reference other cutoff times and/or transaction limits applicable to those specific features.

- a. **Internal Transfers.** You may request internal transfers of funds from any Enabled Account in an amount up to the available balance in that account to any other Enabled Account. You may also establish internal transfer capability from any Designated Account to another Designated Account through the Service, and once you have established this, will have this transfer capability between those now Enabled Accounts. This includes internal transfers between two Deposit Accounts and transfers from a Deposit Account to make a payment on a Credit Account or a Line of Credit, provided each account involved in the transfer has been established as an Enabled Account. Please note the transfer of funds are not permitted between a Bank of Hawaii Account in Palau and Accounts in other locations.

Transfers between your Bank of Hawaii accounts are reflected immediately in your Available Balance, and may only be used for limited transactions, including debit card purchases and withdrawals. However, those funds will not be available for ACH debits and check payments until they are processed (posted).

Transfers are only processed (posted) on Business Days. For accounts held in the State of Hawaii, the Business Day cut-off time is 11:00 PM Hawaii Standard Time (HST). For accounts held in the West Pacific Region, it is 10:00 PM Chamorro Standard Time (ChST).

- b. **Credit Advances.** You may request advances from certain eligible Credit Accounts through the Services. Such advances must be transferred into one or more of your Deposit Accounts that is a Designated Account. All provisions of your line of credit agreements, including minimum draw and other transaction requirements, apply regardless of whether you request advances through the Services or by other means.
- c. **Bill Pay Service.** The Bill Pay Service allows you to request a payment or initiate a payment to a third party. The Bill Pay Service can be accessed through the Services and allows you to request one-time or recurring payments from an authorized Enabled Account to another party, including individuals, companies or organizations. The Bill Pay Service is subject to the terms and conditions set forth in the Bill Pay Service Supplement and Terms of Use.
- d. **Authorization to Process Transfers.** Regardless of any Account agreement language to the contrary, you authorize us to debit or credit your Enabled Account as appropriate for the total amount of the electronic

payment you initiate through the Bill Pay Service, and/or any other Transfer you authorize. Each Transfer debit entry will have the same legal effect as a written withdrawal on an account. Each Transfer credit entry will have the same legal effect as a deposit to an account. By using the Bill Pay Service to electronically direct us to make payments to Payees, you agree that you are authorizing us to debit the amount of those payments from your Payment Account and transfer the payments to your Payees on your behalf without your signature and without prior notice to you.

- e. *Reliance on Your Instructions and Responsibility to Provide Accurate Information.* Be sure to carefully review all information you provide to us regarding any Transfer request through the Services before authorizing the transaction. You are solely responsible for providing us with accurate and complete information with all transaction requests, and we are entitled to rely on the information you provide. In addition, we and, if applicable, any intermediary banks may process any Transaction Request solely based on the bank identifying numbers and account numbers you provide, even if the Transaction Request indicates a different beneficiary or recipient than the name associated with the identifying number or account number.
- f. *Foreign Currency.* All transaction requests will be processed in U.S. Dollars.
- g. *Transaction Limits.* We may establish Transaction Limits for security reasons. These Transaction Limits are in addition to any transaction limits disclosed to you through the deposit agreements and disclosures provided to you in connection with your Designated Accounts. We may decline to process any Transaction Request that will exceed applicable Transaction Limits. We will disclose the details of these Transaction Limits when required to by law.
- h. *Stop Payment Requests.* Please refer to your Deposit Account agreement for our policies and procedures regarding stop payment requests. In addition, the terms and conditions for stop payment requests applicable to payment services are contained in the supplemental agreements for those Services.
- i. *Amendment or Cancellation of Transaction Requests.* Except as permitted through the Services or by calling the Customer Service Center, and unless this Agreement or another agreement, user guide, or disclosure provides otherwise, you do not have a right to cancel or amend a Transaction Request once we have received it. However, we may attempt to amend or cancel a Transaction Request upon request at our sole discretion. If we attempt to reverse or modify a transaction at your request, we assume no liability therefor, including for any interest or losses that result if the reversal or modification is unsuccessful. Any request to amend or cancel a Transaction Request must include the exact amount (dollars and cents) of the Transaction Request at issue and, if applicable, clear instructions on how the Transaction Request should be modified. You are solely responsible for providing notice to the receiver or beneficiary of the Transaction Request that a reversal or modification is being transmitted and the reason for the reversal or modification.
- j. *Our Right to Reject Transactions.* Unless prohibited by law, we may refuse any Transaction Request or other transaction for any reason at our discretion and without prior notice. This includes, but is not limited to, transactions we believe are illegal, fraudulent, violate any applicable funds transfer or payment network rules, violate the terms of this Agreement or any other agreement you have with us, would exceed any applicable transaction limits, would cause you to overdraw your account, or pose an undue risk to us.
- k. *Notice of Transactions and Rejections.* We will notify you if we, any funds transfer system or clearinghouse, or any other bank rejects or fails to execute a transaction request and will inform you of the reason for the rejection or failure after we receive notice of the reason, unless prohibited by law. If a Transaction Request is rejected, we will refund any monies debited from your account in connection with the Transaction Request only after we have received confirmation of the effective cancellation of the Transaction Request and BOH is in possession of the funds associated with the Transaction Request.
- l. *Taxes.* You understand that you are responsible for all tariffs, duties, or taxes (excluding U.S. federal, state, and local taxation of the income of BOH) imposed by any government or governmental agency in connection with any Transaction Request executed pursuant to this Agreement.
- m. *Use of Fund Transfer Systems and Consent to Governing Rules.* We may facilitate any request for a Transfer by use of any ACH, Fedwire or other funds transfer system we choose at our discretion. If the accounts to be debited and credited pursuant to a Transaction Request are both maintained by us, we may facilitate the Transaction Request by a "book" transfer rather than through a funds transfer system. We will be responsible for selecting an ACH Operator for transmission of transaction requests involving ACH Entries. You acknowledge that all Transaction Requests will be governed by, and you agree to be bound to, the rules of the funds transfer system(s) we use to execute the Transaction Request ("Governing Rules"), including Fedwire, NACHA, the Clearing House Interbank Payments System ("CHIPS"), and the Society for Worldwide Interbank Financial Telecommunication ("SWIFT").

3. THE MOBILE DEPOSIT SERVICE.

We offer a Mobile Deposit Service that can assist you in making check deposits without visiting a retail office location.

The Mobile Deposit Service is available solely through the App and must be accessed using your Device. The Mobile Deposit Service permits you to scan paper checks and electronically transmit images of the checks ("Check Images") to BOH for collection.

- a. *Mobile Deposit Service Instructions on your Device; Legal Requirements.* You agree that we may proscribe specific methods of and procedures for your use of the Mobile Deposit Service, check handling and the transmission of Check Images in separate instructions which we may change from time to time at our sole discretion and will generally be provided to you through the App and to which you agree to be bound by.

You agree to only deposit checks payable solely to you as permitted by this Agreement. We may elect, at our discretion, to verify the authenticity or content of any transmission by placing a call to any owner or authorized signer on the Authorized Account but are not required to. We may deny access to the Mobile Deposit Service without prior notice if we are unable to confirm to our satisfaction any person's authority to access the Mobile Deposit Service or if we believe such action is necessary for security reasons. You agree to be responsible for any transmission or transaction we receive through the Mobile Deposit Service, even if it is not authorized by you. Each time you transmit Check Images and other information to us, you warrant that our security procedures are commercially reasonable (based on the normal size, type, and frequency of your transactions).

You agree to comply with the Mobile Deposit Service instructions on your Device and with all applicable state and federal laws, rules and regulations affecting the use of checks, drafts and Check Images.

- b. *Certain Checks Not Permitted.* You agree to use the Mobile Deposit Service only to deposit original paper Checks that are payable as provided above. You may not use the Service to deposit:

- Checks payable to others (even if endorsed over to you);
- Demand drafts;
- Substitute checks (i.e., paper checks created from an electronic image);
- Checks that are irregular in any way (e.g., where the numerical and written (legal) amounts are different);
- Checks that have previously been returned unpaid for any reason;
- Checks drawn on a foreign bank or payable in a foreign currency;
- Registered government warrants;
- Travelers Checks, Money Orders or Postal Orders;
- Checks suspected to be fraudulent or not properly authorized; or
- Checks that exceed the maximum daily aggregate limit set forth below.

Our processing of any of the Checks described above shall not obligate us to continue that practice, and we may stop doing so without cause or prior notice. We reserve the right to modify the types of checks acceptable for this Service at any time without prior notice.

- c. *Cutoff Hours.* The Mobile Deposit Service can be utilized 24 hours a day, seven days a week, except when our system is unavailable due to needed maintenance or system outages. Deposits received by us on or after our Mobile Deposit Service cutoff hour or on a Saturday, Sunday or U.S. federal holiday, will be deemed received by us as of the next Business Day.

Here are the current Mobile Deposit Service cutoff hours:

Hawaii - 5:00 p.m. Hawaii Standard Time (HST)
Guam and Saipan – 1:00 p.m. Chamorro Standard Time (ChST)
Palau – 12:00 p.m. Palau Time (PWT)

We may change the cutoff hours from time to time without prior notice. We are not responsible for the unavailability of the Mobile Deposit Service or any damages that may result from its unavailability. If the Mobile Deposit Service is not available for any reason or a check cannot be processed by means of the Mobile Deposit Service, you may deposit the check at any one of our branches.

- d. *Limits.* We reserve the right to set limits on your use of the Mobile Deposit Service; these limits are posted

on our website at <https://www.boh.com/personal/online-mobile/mobile-deposits#limits>. These limits may vary based on your customer relationship and agreements with us. We reserve the right to change Mobile Deposit limits at any time.

- e. *Your Security Responsibilities.* You are solely responsible for protecting against unauthorized access to the Mobile Deposit Service.
- f. *Check Handling; Collections.* You agree to submit and deposit only checks (i.e., drafts drawn on a credit union, savings and loan, or bank and payable on demand). You represent and warrant that each check and corresponding Check Image is provided in compliance in all respects with applicable law, this Agreement, and the Mobile Deposit Service instructions on your Device. You agree to endorse all checks with the text "For BOH Mobile Deposit Only" followed by your signature on the back of each check being deposited.

We will process Check Images according to the amount you enter, if applicable, or by the numeric amount shown. If the numeric amount is unclear, we may process the Check Image according to the written amount and may correct any amount that you entered.

- g. *Funds Availability.* If we confirm our receipt of your deposit on a business day before the cutoff hour described above, we will consider that day to be the day of your deposit; otherwise, your Check will be considered deposited as of the next business day. The total amount of your deposit will generally be available for use at end of day Posting, on the Business Day of your deposit, for debits Posting that Business Day. If the maker of a Check or another third party makes a claim against us or seeks a re-credit with respect to any Check processed through this Mobile Deposit Service, we may provisionally freeze or hold aside a like amount in your account pending our investigation and resolution of the claim. We also may charge your account for any Check that is returned, whether or not the return is timely or proper. If a Check is returned to us for any reason, we may return it to you in the form of a substitute check. If you decide to redeposit the returned item, you may only redeposit the substitute check; you may not deposit the original Check. Funds will be available for withdrawal in accordance with our standard funds availability schedule applicable to your Account.
- h. *Returned Deposit Items.* We may reject any Check Images if you are not in compliance with the terms of this Agreement, the Mobile Deposit Service Instructions, or applicable law. We reserve the right to reject any Check Images and have no liability to you for such rejection. We will handle returned Check Images in the manner described in the Mobile Deposit Service Instructions.

BOH reserves the right to redeposit dishonored checks and attempt collection again, unless you provide special Instructions regarding return deposit items.

SECTION D: ADDITIONAL LEGAL TERMS

1. ENTIRE AGREEMENT.

This Agreement (and the other documents referenced herein) constitute the entire agreement and understanding between you and BOH relating to the subject matter of this Agreement and supersedes all prior agreements (if any).

2. RELATIONSHIP TO OTHER AGREEMENTS.

Except as may be modified by this Agreement, all provisions of our deposit account or credit terms and conditions and any other agreements between you and BOH regarding any deposit account, credit account, or service unrelated to the Services governed by this Agreement (collectively, "Other Agreements") will remain in full force and effect during the term of this Agreement, including all related fees and charges. If the specific terms and conditions of this Agreement conflict with any Other Agreement with respect to the Services, the terms and conditions of the Other Agreement shall control unless otherwise specified in this Agreement, but only to the extent necessary to resolve the conflict.

3. TWO SIGNATURE LIMITATIONS.

Please note that any signature cards for your Deposit Accounts and documents for your Credit Accounts may indicate that more than one signature is required on checks, for the withdrawal or transfer of funds, or to obtain a credit advance, that notation is principally for your own purposes. We do not assume a duty to support multiple signature requirements in connection with the Services. As such, we assume no duty to confirm that two or more (or any combination of) authorized signers on an account have approved any transaction. We do not honor, and we have no obligation to comply with, any requests to require us to obtain two or more signatures for any use of the Services under any circumstance. As long as the Security Procedures were followed, all Instructions submitted through the Services will be deemed properly authorized by you.

4. PROHIBITED OR RESTRICTED USES OF THE SERVICES.

You agree that you will not use the Services in any way that would violate, or cause us to violate, any federal, state or

local laws, regulations, ordinances or rules, or any applicable payment or funds transfer network rules. In addition, you agree that we may refuse to permit any use connected to gambling transactions, whether lawful or not.

5. FEES/CHARGES.

The fees and charges for the Services under this Agreement will be set forth in your Authorized Account agreements, in a separate agreement applicable to the relevant Transaction Service, or in a fee schedule separately provided to you in conjunction with your Authorized Account or through the Services. These fees may be in addition to any fees otherwise related to your accounts with us. You agree to pay all fees when due. We reserve the right, upon written notice to you, to increase these fees and charges, or to impose additional fees and charges, in connection with the Services.

6. RESPONSIBILITY FOR CUSTOMER TECHNOLOGY AND EQUIPMENT.

Use of the Services may require you to use Customer Technology. It is your responsibility to ensure that all Customer Technology meets or exceeds our minimum specifications for accessing the Services, including the App and any applicable Security Procedures. All Customer Technology used in connection with the Services must be owned or leased and controlled by you.

All network technology that allows you to access the Services and our systems, such as computers, servers, routers, modems, and similar equipment must incorporate commercially reasonable firewalls, antivirus software and other protections designed to prevent unauthorized access and unauthorized use of your network and the Services. You agree that you will be, and will be responsible for, using the most current versions (including all updates and patches) of (1) operating systems; (2) internet browsers; (3) any software or applications needed to use or access the Services; and (4) security software that provides firewall, intrusion and antivirus protection ("Security Software"). You further agree to maintain, at a minimum, the recommended settings and perform all recommended system scans and checks established by the provider of your Security Software for ensuring a commercially reasonable security environment. You warrant and represent that all Customer Technology is free from any software or applications that alter or modify the operating or security features of any of the Security Software.

You agree that you are solely responsible for selecting and maintaining all Customer Technology and Security Software.

8. ACCEPTANCE OF RISK WHEN USING THE INTERNET AND OTHER THIRD-PARTY COMMUNICATION TOOLS AND SYSTEMS.

You acknowledge that BOH does not control and is not responsible for third-party communication tools, systems or services, such as email, text message, and your access to the internet. Although we employ certain protections to prevent unauthorized access to the Services and your accounts, there is no guarantee that any communications between you and us made through any third-party tool, system or service will be secure or cannot be intercepted. You agree that you are solely responsible, and that we are in no way liable for any issues that may arise from your use of third-party communication tools, systems or services.

9. ARBITRATION AGREEMENT.

PLEASE READ THE PROVISIONS OF THIS SECTION D.9 (THE "ARBITRATION AGREEMENT") CAREFULLY. IT REQUIRES ALL CLAIMS BETWEEN YOU AND US TO BE RESOLVED BY BINDING ARBITRATION WHENEVER YOU OR WE CHOOSE TO SUBMIT A CLAIM TO ARBITRATION. BY ACCEPTING THIS ARBITRATION AGREEMENT, YOU WAIVE YOUR RIGHTS TO TRY ANY CLAIM IN COURT BEFORE A JUDGE OR JURY (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT) AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION.

THIS ARBITRATION AGREEMENT REFLECTS YOUR AND OUR AGREEMENT TO HAVE ALL DISPUTES BETWEEN US RESOLVED BY BINDING ARBITRATION INSTEAD OF IN COURT.

PLEASE READ THIS ARBITRATION AGREEMENT CAREFULLY.

THIS ARBITRATION AGREEMENT AMENDS OUR PRIOR AGREEMENTS AND IT COVERS ALL DISPUTES ARISING OUT OF OR RELATING TO YOUR DEPOSIT ACCOUNT, REGARDLESS OF WHEN OR HOW THEY AROSE. IF YOU DO NOT WANT TO ARBITRATE DISPUTES, YOU MAY OPT OUT OF THIS ARBITRATION AGREEMENT, AS STATED BELOW.

Agreement to Arbitrate: By making this Arbitration Agreement you and we have elected to have any and all disputes between us resolved by binding arbitration. Because we operate in interstate commerce, our arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA").

What disputes are subject to arbitration? You or we may elect to have any dispute between us arising out of or relating in any way to your deposit Account or any of the products or services we provide to you in connection with your Account

resolved in an arbitration, including the enforceability and scope of this Arbitration Agreement. However, the enforceability of the Class Action Waiver set forth below shall be determined by the Court in which the Class Action is pending. Nothing in this Arbitration Agreement limits your right to express concerns to, or seek help from, any governmental agency other than a court.

ALL DISPUTES MUST BE ARBITRATED ON AN INDIVIDUAL BASIS. NEITHER YOU NOR WE MAY BRING A DISPUTE UNDER THIS PROVISION IN ANY PURPORTED MASS OR CLASS ACTION. THE ARBITRATOR(S) MAY NOT CONSOLIDATE MORE THAN ONE PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF MASS OR CLASS PROCEEDING.

THIS MEANS DISPUTES WILL NOT BE DECIDED BY A JUDGE OR JURY AND YOU WAIVE YOUR RIGHT TO PROCEED IN COURT.

If this prohibition against mass, class and consolidated proceedings is determined to be unenforceable, then this entire Arbitration Agreement shall be deemed inapplicable. If any other provision is determined to be unenforceable, the remaining provisions shall be unaffected by that determination.

What disputes are not subject to arbitration? All disputes between us are subject to arbitration. However, we will not ask to arbitrate any individual dispute that you file and pursue in the small claims court closest to where your Account is maintained by us.

Who will administer the arbitration? All arbitrations will be administered by Dispute Prevention & Resolution, Inc. ("DPR") under its then-applicable rules. If DPR is unable or unwilling to administer the proceedings, then it may be administered by another qualified organization we jointly select or by an arbitration organization or arbitrator(s) appointed pursuant to section 5 of the FAA.

Who pays for arbitration? Arbitration fees will be allocated by the arbitrator(s) according to the then-applicable DPR rules, but we will consider in good faith any written request your attorney makes to our attorney that we reimburse you for fees allocated to you by the arbitrator. You and we agree, however, that we will each pay our own attorneys' fees, and witness fees.

Where will the arbitration be conducted? The arbitration shall be conducted within 50 (fifty) miles of your residence at the time the arbitration is commenced.

Who will be the arbitrator? A single arbitrator will be chosen for any dispute that is alleged to involve amounts (including any claim for attorneys' fees, expert fees, costs and expenses) equal to or less than \$200,000. In that case, the arbitrator will only have the authority to award up to \$200,000 including all damages, fees, costs and expenses of every kind. A dispute involving total claims exceeding \$200,000 will be decided by a majority of a panel of three arbitrators. The sole arbitrator and the presiding arbitrator in an arbitration panel will be an attorney with at least fifteen (15) years of active practice or a retired judge.

What law will the arbitrator apply? The arbitrator or panel shall apply applicable substantive law consistent with the FAA and applicable statutes of limitations and shall be authorized to award any relief that would have been available in court, provided that the arbitrator's or panel's authority to resolve claims is limited to claims between you and us alone, and the authority of the arbitrator(s) to make awards is limited to awards to you and us alone. No arbitration award or decision will have any preclusive effect in favor of, or against, us or anyone else who is not a named party to the arbitration.

Where can you get additional information? For a copy of the Arbitration Rules, instructions on initiating an arbitration and for other information, contact Dispute Prevention & Resolution, Inc. 1003 Bishop Street, Pauahi Tower, Suite 1155, Honolulu, HI 96813, Telephone: 808-523-1234, Facsimile: 808-599-9100, dprhawaii.com.

What other rights do you and we have? You and we agree that we each retain the right to exercise self-help remedies, including setoff rights, and to seek provisional remedies from a court, subject to a final determination at your or our election of the dispute by the arbitrator. Neither you nor we waive the right to elect arbitration of a dispute by exercising self-help remedies, filing suit or seeking or obtaining provisional remedies from a court.

Survival and Severability: This Arbitration Agreement shall survive the termination of your deposit Account agreement and/or the deposit relationship between us, any bankruptcy by you or us, and any transfer by us of your Account. If any portion of this Arbitration Agreement other than the prohibition on consolidated, class and representative arbitration is deemed invalid or unenforceable, it shall not invalidate the remaining portions of this Arbitration Agreement.

Right to Opt-Out of Arbitration: You may opt-out of having to arbitrate disputes without affecting any of your rights and obligations as our customer. If you want to opt-out of arbitration, you must mail written notice of your decision to us

within sixty (60) calendar days of Account opening to P.O. Box 2900, Attn: Deposit Operations #118 Arbitration Opt Out, Honolulu, HI 96846. Your written notice must include: date, name, Account number(s), signature and the following statement: "I am authorized to opt-out of arbitration for the above referenced account(s)." If you do not submit written notice as provided above, you will be bound by this Arbitration Agreement and required to resolve claims through binding arbitration.

10. JURY TRIAL WAIVER.

If any claim or dispute between us is not subject to arbitration for any reason, including a determination that the Arbitration Agreement above is not enforceable, then you and we each waive our respective rights to a trial before a jury in connection with any disputes related to your Account or the Services. This includes any claim by us or by you, claims brought by you as a class representative on behalf of others, and claims by a class representative on your behalf as a class member (so-called "class action" suits).

11. RECORDING OF COMMUNICATIONS.

When you access any of the Services or otherwise communicate with us, you acknowledge and agree that all telephone or electronic conversations, or any other communications among or between you, BOH, any third parties used by you or us, and any of your or our respective employees and agents, may be monitored and recorded and retained by us or our third-party service providers by use of any reasonable means unless prohibited by law. We may use any recording for reasonable business purposes, including security and quality assurance. However, we are under no obligation to make or maintain any such recording. We will not remind you that we may be monitoring or recording a telephone or electronic conversation unless required by law to do so.

12. LIABILITY, DISCLAIMER OF WARRANTY AND INDEMNIFICATION.

- a. **GENERAL LIMITATION OF LIABILITY. OUR LIABILITY HEREUNDER IS LIMITED TO ACTUAL DAMAGES ARISING DIRECTLY FROM OUR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE WHEN PERFORMING THE SERVICES.**

TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL BOH OR ITS AFFILIATES, SUCCESSORS, ASSIGNEES, AGENTS OR SERVICE PROVIDERS BE LIABLE TO YOU (1) FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING, WHETHER UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY) IN CONNECTION WITH THE SERVICES AND THIS AGREEMENT, INCLUDING LOST PROFITS, DATA LOSS, OR OTHER PECUNIARY LOSS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, AND (2) FOR AN AMOUNT EXCEEDING THE AVERAGE FEES ACTUALLY PAID BY YOU AND RECEIVED BY US DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM FIRST ACCRUED.

THIS AGREEMENT AND OUR OTHER AGREEMENTS WITH YOU MAY CONTAIN ADDITIONAL LIMITATIONS OF LIABILITY.

- b. **DISCLAIMER OF WARRANTY. NEITHER BOH NOR ITS AFFILIATES, SUCCESSORS, ASSIGNEES, AGENTS OR SERVICE PROVIDERS, INCLUDING LICENSOR, MAKES ANY REPRESENTATION OR WARRANTY TO YOU AS TO THE SERVICES HEREUNDER, INCLUDING ANY HARDWARE, SOFTWARE, MOBILE APPLICATION, EQUIPMENT, TECHNOLOGY OR ASSOCIATED DOCUMENTATION PROVIDED BY US IN CONNECTION WITH THE SERVICES (WHETHER EXPRESS, IMPLIED OR STATUTORY), INCLUDING IMPLIED WARRANTIES OF QUALITY, TITLE, NON-INFRINGEMENT, PERFORMANCE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, AVAILABLE, SECURE, OR ERROR-FREE. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.**
- c. *Indemnification.* You agree to indemnify and hold harmless BOH and its affiliates, directors, officers, employees, counsel, agents, attorneys-in-fact, and other representatives from any costs, liabilities, claims, demands, losses, liabilities, penalties, actions, judgments, suits, damages, or expenses (including reasonable attorneys' fees, court costs, and fees of collection) (collectively, "Losses") related to or arising from the Services and this Agreement, and any related act or omission by us or you, including (1) any claim by a third party alleging that a Transaction Request or any other activity contravenes or compromises the rights, title, or interest of any third party, or violates any laws, rules, regulations, ordinances, court order or other mandate or prohibition, or (2) the breach of any representation, warranty, or covenant made by you to us in this Agreement or any related agreement.

13. SUSPENDING OR TERMINATING THE SERVICES.

You may terminate your use of any Service at any time by calling us or writing to us at the telephone number or address in SECTION A above. If you terminate your use of the Services, you agree to provide us with ten (10) Business Days prior written notice. In addition, before you terminate the Services, you must separately cancel all your transaction requests you scheduled through the Services (see SECTION C.2.k). If you do not cancel them before you terminate the Services, those transfers and payments may still be made.

We may suspend or terminate your use of any of the Services, or your ability to make transaction requests, or block a transaction or payment that you have scheduled using any of the Services, at any time for any reason without prior notice.

Whether you terminate this Agreement, or we do, the termination will not affect your obligations under this Agreement, even if we allow any Transaction Request to be completed after this Agreement has been terminated. You will be responsible for any fees which have not yet been Posted to your Authorized Account. However, termination will result in a loss of transaction history information about your accounts and transactions stored on the Services.

14. CHANGES TO THIS AGREEMENT AND THE SERVICES.

Subject to our acceptance and approval, this Agreement shall be effective the earlier of your accepting/signing (including electronically) of this Agreement or any Application for Services, or your first attempt to access the Services. While we will generally endeavor to provide you with advance notice, we reserve the right to terminate or modify this Agreement (or any agreement referenced herein) or any or all of the Services, or limit, suspend or discontinue your access to any or all Services, at any time without notice and for any reason, including (i) for security reasons; (ii) as may be required by law, regulation, any Governing Rules or a government authority; (iii) your default under this Agreement or any other agreement with us; (iv) if you have not used any of the Services at least once in the last six (6) months; or (v) you otherwise present undue risk to BOH as determined by us in our sole discretion. You will be responsible for paying any fees and charges related to the Services that have accrued on or before the date of termination. Subject to SECTION D.9, which pertains to the Arbitration Agreement, we may change this Agreement at any time by posting a revised version on our website or otherwise making the revised Agreement available to you. For example, we may add, delete, or modify terms. These terms include, but are not limited to, fees and charges for the Services. By maintaining your Mobile and/or Online Banking Services after the effective date of any amendment, change or addition to this Agreement, (or any agreement referenced herein), you agree to that amendment, change or addition.

15. NOTICES.

Unless we provide to you an alternate or different address, all notices to us must be in writing and sent to:

Bank of Hawaii
Mobile and Online Banking #361
P.O. Box 2900
Honolulu, HI 96846-6000

We may send notices to you by telephone, email, through the App, or any other form of commercially reasonable communication based on the contact information you provide to us. You agree to keep us informed of any changes to your contact information at all times.

16. LIMITATIONS OF ASSIGNMENT.

You may not assign, transfer, or otherwise delegate, whether by operation of law or otherwise, your rights or obligations under this Agreement (or any other agreement referenced herein) to any other person without our prior consent. Any assignment, transfer, or delegation or attempted assignment, transfer, or delegation in violation of the foregoing shall be void. We may assign, transfer, or otherwise delegate its rights or obligations, in whole or in part, under this Agreement (or any agreement referenced herein) in our sole discretion, including to any affiliate or third party or through the use of our subcontractors and service providers.

17. WAIVER.

No delay or omission by us in exercising any rights or remedies there under shall impair such right or remedy or be construed as a waiver of any such right or remedy. Any single or partial exercise of a right or remedy shall not preclude further exercise therefore or the exercise of any other right or remedy. No waiver shall be valid unless in writing signed by us.

18. SEVERABILITY.

In the event that any court or tribunal of competent jurisdiction determines that any provisions of this Agreement (or any agreement referenced herein) are illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected. To the extent permitted by law, you and we waive any provisions of law which prohibit or render unenforceable any provisions of this Agreement, and to the extent such waiver is not permitted by law, you and we agree that such provision will be interpreted as modified to the minimum extent necessary to render the provisions enforceable.

19. CHOICE OF LAW AND VENUE.

Except as otherwise specified, this Agreement will be construed in accordance with and governed by the laws of the United States and the State of Hawaii, without regard to conflicts-of-laws principles that would result in the application of the substantive laws of another jurisdiction. You agree that any dispute arising under this Agreement or relating in any way to the Services or your relationship with us, to the extent not arbitrated pursuant to SECTION D.9, will be exclusively resolved in a federal or state court located in the jurisdiction in which your account is domiciled and that you will be subject to such court's jurisdiction. You waive any objection that you may have based upon improper venue or forum non conveniens as to the conduct of any such proceeding.

20. FORCE MAJEURE.

We will not be liable for our failing to comply with, or delaying in complying with, our obligations under this Agreement (or any agreements referenced herein) when such inability arises out of causes beyond our control, including, without limitation, computer malfunction, interruption of communication facilities, labor difficulties, acts of God, war, flood, fire, riot, pandemic, terrorist attack, or any other cause, in each case beyond our reasonable control.

21. OUR RELATIONSHIP WITH YOU.

By providing you with the Services, we are establishing a banking relationship with you and committing to act in good faith and to the exercise of ordinary care in our dealings with you. This Agreement and your use of the Services does not create a fiduciary, advisory, or any other special relationship between you and us.

22. THIRD-PARTY INSTITUTIONS AND SERVICE PROVIDERS.

We may work with one or more third-party financial institutions or service providers in connection with the Services. By using the Services, you authorize us to share your corporate, financial, or other information with such third parties as necessary to provide you with the Services or to complete transactions you have requested. You also license and authorize us to access information maintained by such third parties, on your behalf as your agent, and you expressly authorize such third parties to disclose your information to us. We disclaim any liability for your use of any third-party financial institutions or service providers. Unless stated expressly otherwise in writing, we do not endorse or make any representations or warranties regarding any third-party financial institutions or service providers.

23. NO THIRD-PARTY BENEFICIARIES.

This Agreement is for the benefit only of you and is not intended to, and shall not be construed as, granting any rights to or otherwise benefiting any other person or entity.

24. SURVIVAL.

SECTION D and any other terms that expressly or are intended by their nature to survive termination of this Agreement, including any disclaimers of warranties and limitations of liability, shall survive the termination of this Agreement.

25. STATUTE OF LIMITATIONS.

Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any Service-related loss must be commenced within one (1) year from the date that the event giving rise to the claim, action or proceeding first occurs.

26. INTERPRETATION.

For purposes of this Agreement, the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," the word "or" is not exclusive, and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Words defined in the singular include the plural, and vice versa. Headings are included for convenience only and shall not affect the interpretation of this Agreement.

27. DEFAULT.

The occurrence of any of the following will be deemed, our sole discretion, a default under this Agreement:

- Any breach or default by you under the terms of this Agreement;
- Any breach or default under the terms of any other note, obligation, mortgage, assignment, guaranty, other agreement, or other writing to which you and BOH are parties;
- The insolvency, death, dissolution, liquidation, merger or consolidation of the customer;
- Any appointment of a receiver, trustee or similar officer of any property of the customer;
- Any assignment for the benefit of creditors of the customer;
- Any commencement of any proceeding under any bankruptcy, insolvency, receivership, dissolution, liquidation or similar law by or against the customer;
- The issuance or levy of any writ, warrant, attachment, garnishment, execution or other process against any property of the customer;
- The attachment of any tax lien to any property of the customer;
- Any statement, representation or warranty made by the customer (or any representative of the customer) to us at any time is determined to have been incorrect or misleading in any material respect when made;

- There is a material adverse change in the condition (financial or otherwise) of the business or property of the customer;
- We in good faith believes that the prospect of due and punctual payment or performance of the customer's obligations under this Agreement is impaired; or
- We in good faith believes that the customer is using the Services for any purpose that is illegal, fraudulent or exposes us to an unacceptable risk of financial, legal or reputational harm.

28. RIGHT OF SET-OFF; REMEDIES CUMULATIVE.

You acknowledge and agree that we have the right of set-off against any Deposit Account you have with us with respect to the amount of any and all fees, returns and refunds owed to the Bank by you under this Agreement or other agreement related to the Services without providing any notice to you or incurring any related liability therefor (including to the extent exercising our right of set-off results in the dishonor of any payments). Our rights and remedies under this Agreement or any other documents or instruments pursuant to or in connection with the Services are cumulative and not exclusive of any other rights or remedies.

SECTION E: ERRORS, DISPUTES, AND LOST/STOLEN SECURITY CODES

1. LOST OR STOLEN SECURITY CODE.

If you believe your Security Code has been lost or stolen, **you must change your Security Code immediately.** If you believe your Security Code has been lost or stolen and you cannot remember your Security Code, you must notify us at ONCE by telephoning us at the telephone number listed in SECTION A above. However, if you initially notify us by telephone we will change your Security Code, but you must promptly confirm your notice in writing. In all cases, you will continue to be liable for all transactions initiated by use of the Services until you change your Security Code or you request us to do so and we change your Security Code. If you fail to notify us that your Security Code have been lost or stolen, you could lose all of the money in your Designated Accounts. You further agree that we will not be liable for consequential damages arising from the unauthorized use of the Services which access your Designated Accounts.

2. ERRORS AND QUESTIONS.

You agree to examine your Account Statements each month and immediately report any discrepancies or errors by writing or calling us as provided in SECTION A above or visiting any Bank of Hawaii Branch. If you fail to notify us of discrepancies or errors within fourteen (14) days from the date of any Account Statement containing such information, we will be entitled to treat such information as being correct in all respects. Tell us:

- a. Your name and Account number;
- b. Describe the error or transaction you are unsure about and explain why you believe it is an error or why you need more information; and
- c. Tell us the date and dollar amount of the suspected error

If you tell us orally, we may require you send us your complaint or question in writing. We will determine whether an error occurred after we hear from you and will promptly correct any error we discover. We have no obligation to credit your Account for the amount of any erroneous or unauthorized transaction unless caused by our negligence. After completing our investigation, if we decide that there was no error, we will send you a written explanation. In addition, if we determine that no error or a different error occurred and if we had provisionally credited your Account, we will provide you notice that will include the date and the amount of the provisionally credited amount that will be debited.

3. YOUR LIABILITY FOR UNAUTHORIZED TRANSACTIONS.

Tell us AT ONCE if you believe your login credentials or other Security Codes have been lost or stolen, or if you believe that an Transfer has been made without your permission using information from your check. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit).

You are responsible for the confidentiality and use of your Security Codes and any transaction initiated with your Security Codes. You should not write your Security Codes down at all. If your Security Codes is disclosed to someone whether intentionally or not, you are authorizing him or her to access your Designated Account(s) and to do anything that you could do at any time, even if you only intend to authorize him or her to perform a specific transaction.

- a) **Our Liability.** Our liability for any act or failure to act shall not exceed any direct resulting loss, if any, which you incur and payment of interest. Unless otherwise required by law, we will not be liable for any consequential, indirect or special damage that you incur in connection with your transfer and Bill Pay payments you make through the Services, even if we are aware of the possibility of such damages. We will not be liable for any failure or delay in processing a transfer or Bill Pay payment which occurs, directly or indirectly, as a result of any strike or labor dispute, interruption of communication facilities, computer or equipment failure, fire, flood, war, riot, emergency condition, the actions or omissions of third parties, or any cause which is beyond our reasonable control. You agree that we may refuse to process or delay processing any transfer or Bill Pay payment if the transfer or Bill Pay payment would violate any guideline, rule, policy, law or regulation

of any government authority or funds transfer system.

4. DAMAGES, ATTORNEYS' FEES, COSTS AND INTEREST.

You will be liable for any loss or damages resulting from your breach of this Agreement or to which your negligence contributed. You will also be liable for any loss or damages resulting from unauthorized, fraudulent, or dishonest acts by any current or former user you authorize or any of your current or former employees, agents or representatives. In the event we take any legal action under this Agreement in addition to or instead of arbitration proceedings to collect overdrafts on the Payment Account or any other amounts you owe us, or because you break any other promise under this Agreement, or if we become involved in any other litigation or proceeding initiated by a third party, including but not limited to our responding to an attachment, garnishment or levy with respect to the Payment Account, you agree to reimburse us for any costs and expenses we incur, including, but not limited to our reasonable attorneys' fees, together with interest at the maximum interest rate allowed by law, and you further agree that we may charge those amounts against the Payment Account without prior notice to you.

SECTION F: YOUR AGREEMENT WITH LICENSOR (Licensor agreement):

The following terms and conditions apply solely to the App and your use of the App for access to the Services. By downloading the App you agree to these terms and conditions.

1. OWNERSHIP.

You acknowledge and agree that a third-party provider or licensor to your financial services provider ("Licensor") is the owner of all right, title and interest in and to the downloaded software to be used for access to Mobile Banking Services from your financial services provider and the computer programs contained therein in machine readable object code form as well as any accompanying user documentation along with all subsequent copies, updates or versions thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the "Software").

2. LICENSE.

Subject to the terms and conditions of this Agreement, you are hereby granted a limited, nonexclusive license to use the Software in accordance with the terms of this Agreement. All rights not expressly granted to you by this Agreement are hereby reserved by the owner of the Software. Nothing in this license will entitle you to receive hard-copy documentation, technical support, telephone assistance, or updates to the Software. This Agreement may be terminated at any time, for any reason or no reason. Upon termination, you agree to immediately destroy all copies of the Software in your possession or control.

3. RESTRICTIONS.

You shall not: (i) modify, revise or create any derivative works of the Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the Software, including, but not limited to, any trademark, logo or copyright.

4. DISCLAIMER WARRANTY.

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