MEMORANDUM OF UNDERSTANDING

between

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS

and

Maui Police Department

regarding

THE DESIGNATION OF Maui Police Department **EMPLOYEES**

AS CUSTOMS OFFICERS (EXCEPTED)

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and Maui Police Department.

2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of Maui Police Department G.O. 304.12.

3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of Maui Police Department.

   Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), *HSI is not conveying the authority to enforce administrative violations of immigration law.*

   There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of Maui Police Department to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. **RESPONSIBILITIES.**

   The Parties agree as follows:

   HSI agrees to:

   a. Designate certain employees of Maui Police Department as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;

   b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;

   c. Provide appropriate training in laws, policies, and procedures to each designated employee;

Exhibit 1

d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and

e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, *et seq.*).

Maui Police Department agrees:

a. That only sworn law enforcement officers of Maui Police Department who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);

b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);

c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;

d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;

e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and

f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and

b. To schedule periodic meetings to review this MOU, as required.

5. **REPORTING AND DOCUMENTATION.** HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and Maui Police Deparment .

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Card Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: SAC Honolulu	Maui Police Deparment :
Name: Gary Bell	Name: Clifton Perreira
Title: Management Program Analyst	Title: Acting Captain
Address: 595 Ala Moana Blvd.,	Address: 55 Mahalani Street
Honolulu, HI 96813	Wailuku, HI 96793
Telephone Number: +1 (808) 260-5962	Telephone Number: +1 (808) 244-6472
Fax Number: +1 (808) 522-5852	Fax Number: +1 (808) 244-6458
E-mail Address: gary.bell@hsi.dhs.gov	E-mail Address: clifton.perreira@mpd.net

7. OTHER PROVISIONS. This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

8. EFFECTIVE DATE. The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

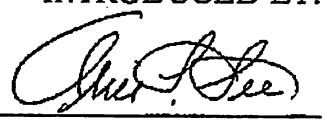
9. MODIFICATION. This MOU may be amended by the written concurrence of both Parties.

10. TERMINATION. This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:

John F. Tobon	John Pelletier
Name of HSI Official	Name of Maui PD 's Official
Special Agent in Charge	Chief of Police
Title of HSI Official	Title of Maui PD 's Official
Homeland Security Investigations	Name of Maui PD 's Agency
U.S. Immigration and Customs Enforcement	
Date: _____	Date: _____

INTRODUCED BY:



ALICE L. LEE
Upon the request of the Mayor.