

## TERMS AND CONDITIONS FOR USE OF KCB MOBILOAN

### 1. THE AGREEMENT

1.1. This Agreement sets out the complete Terms and Conditions (hereinafter called "these Terms and Conditions") which shall be applicable to the KCB Mobiloan Services (as hereinafter defined) opened by you (as hereinafter defined) with the Bank (as hereinafter defined).

1.2. These Terms and Conditions and any amendments or variations thereto take effect on their date of publication.

1.3 The Customer accepts and acknowledges that this is a legal and binding agreement between the Customer and the Bank once accepted by both parties.

1.4 "We," "our," and "us," means the Bank and includes its successors in title and assigns;

1.5 "You" or "your" means the Customer and includes your personal representatives and heirs;

1.6. The word "Customer" shall include both the masculine and the feminine gender as well as juristic persons;

1.7. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

1.8. Headings in these Terms and Conditions are for convenience purposes only and they do not affect the interpretation of this Agreement.

### 2. DEFINITIONS

2.1. In these Terms and Conditions the following words and expressions (save where the context requires otherwise) bear the following meanings:

2.1.1. "**Bank**" means KCB Bank Kenya Limited incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) and duly licensed as a Bank under the Banking Act (Chapter 488 of the Laws of Kenya) and includes subsidiaries of the Bank as may from time to time be specified by the Bank to you;

2.1.2. "**Credit Reference Bureau**" means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations, 2008 to inter alia, collect and facilitate the sharing of customer credit information;

2.1.3. "**Customer**" means the person in whose name the MOBILOAN Account with the Bank is existing;

2.1.4. "**Contact Centre**" means the Customer Care Centre or KCB Branch or KCB Mtaani outlets as may be notified to the Customer by the Bank from time to time;

2.1.5. "**E-Money**" means the electronic monetary value depicted in your Mobile Money Account representing an equal amount of cash;

2.1.6. "**Equipment**" includes your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access mobile Network;

- 2.1.7. **“IPRS”** means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons;
- 2.1.8. **“Immediate payment”** means voluntary instant repayment of loan advanced before the due date.
- 2.1.9 **“Bank Account”** means the account held and operated in the Bank by a KCB customer.
- 2.1.10. **“KCB MOBI”** means the money transfer and payments service provided by KCB through the KCB MOBI System;
- 2.1.11. **“KCB MOBI System”** means the system operated by KCB for the provision of the Mobile Banking Service using the Mobile Networks;
- 2.1.12. **“KCB MOBI PIN”** means your personal identification number being the secret code used to access and operate the KCB MOBI System and your Mobiloan Account;
- 2.1.13. **“KCB MOBI Subscriber”** means any person registered to use the KCB MOBI System to send or receive money or make payments;
- 2.1.14. **“KCB Mobiloan Service”** means the service offered by the Bank to borrow and repay loans through mobile phone;
- 2.1.15. **“Loan Auto recovery”** means automated recovery of the loan advanced from the customer account on the due date.
- 2.1.16 **“MOBI LOAN Menu”** means the MOBI LOAN Menu on the KCB MOBI System;
- 2.1.17. **“MOBILOAN Account”** means a loan account opened and operated in accordance with the terms and conditions herein contained;
- 2.1.18 **“MOBILOAN”** means the loan facility advanced by the Bank.
- 2.1.19 **“Network”** means the mobile cellular network operated by various mobile networks;
- 2.1.20. **“Request”** means a request or instruction received by the Bank from you or purportedly from you through the Network and the System and upon which the Bank is authorized to act;
- 2.1.21. **“Late Repayment Penalty”** means penalty of 10% per annum charged on any outstanding loan amount after the due date;
- 2.1.22. **“Services”** shall include any form of Banking services or products that the Bank may offer you pursuant to this Agreement and as you may from time to time subscribe to and “Service” shall be construed accordingly;
- 2.1.23. **“SIM Card”** means the subscriber identity module which when used with the appropriate mobile phone handset enables you to access the Network and to use the KCB MOBI System;
- 2.1.24. **“SMS”** means a short customized message service consisting of a text message transmitted from one mobile phone to another;
- 2.1.25. **“System”** means the Bank’s electronic Banking and communications software enabling the Customer to communicate with the Bank for purposes of the Services. The System and the Services will for the purpose of this Agreement be accessed through the KCB MOBI System;

2.1.26. **“Transaction Fees”** includes the interest fee, the penalty fee and any other fees and charges payable for the use of the Services as published by the Bank on the Bank’s website and/or the daily newspapers in Kenya or by such other means as the Bank shall in its sole discretion determine.

2.1.27. **“Credit Limit”** means the maximum pre- approved amount that a customer can borrow on this service.

### **3. ACCEPTANCE OF THE TERMS AND CONDITIONS**

3.1. Before applying to open the Mobiloan Account via the KCB MOBI System you should carefully read and understand these Terms and Conditions which will govern the use and operation of the Mobiloan Account.

3.2 If you do not agree with these Terms and Conditions, Please click “ No” on the Mobiloan Menu.

3.3 You will be deemed to have read, understood and accepted these Terms and Conditions:-

3.3.1 Upon clicking “Yes” option on the mobiloan Menu requesting you to confirm that you have read and accepted the Terms and Conditions as stated in the website [www.kcbBankgroup.com](http://www.kcbBankgroup.com); and/or

3.3.2 upon registration of a Mobiloan account and/or by using or continuing to use and operate the Mobiloan account.

3.4. By applying to open the Mobiloan Account with the Bank, you agree to comply with and be bound by these Terms and Conditions for the time being and from time to time in force governing the operation of the Mobiloan Account and you affirm that these Terms and Conditions herein are without prejudice to any right that the Bank may have with respect to the Mobiloan Account in law or otherwise.

3.5. These Terms and Conditions may be amended or varied by the Bank from time to time and the continued use of your Mobiloan Account constitutes your agreement to be bound by the terms of any such amendment or variation.

3.6. You acknowledge and accept that the Bank offers the Mobiloan Account only electronically and you agree to do business with the Bank and to operate the Mobiloan Account only by electronic means via the MOBILoan Menu on the KCB MOBI System. Any query and complaint you may have relating to the Services shall be addressed to the Bank through the Contact Centre. For the avoidance of doubt, you acknowledge and accept that you will not be allowed or entitled to receive or demand the Services pertaining to the Mobiloan Account at any branch or branches of the Bank unless otherwise advised by the Bank in its sole discretion. You further acknowledge and accept that the Contact Centre is not a branch of the Bank or the Bank’s Agent for purposes of conducting Banking business or transactions and that it will not act as such.

### **4. ACCOUNT OPENING**

4.1. In order to open an Mobiloan Account with the Bank, you must be at least 18 years old, a registered and active Mobile Subscriber with a mobile service provider with which the Bank has an agreement with for the provision of this service. The Bank reserves the right to verify with the IPRS the authenticity of your details.

4.2. You may open a Mobiloan Account solely by way of an electronic application made by you using your Equipment via the Mobiloan Menu on the KCB Mobi System.

4.3. You hereby agree and authorize the Bank to request IRPS for your personal information held by IPRS pursuant to the agreement between you and KCB for the provision of Mobile Banking products and

services and Banking Service including your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Bank to identify you and comply with the regulatory “Know Your Customer” requirements (together the “Personal Information”). You also hereby agree and authorize the Bank to request IPRS for information relating to your ID as the Bank shall require for purposes of providing you the Services. You hereby consent to the disclosure of the Personal Information by IPRS to the Bank and to the aforesaid use of the Personal Information by the Bank.

4.4. You hereby agree and authorize the Bank to obtain and procure your Personal Information contained in the IPRS from the Government of Kenya and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to the Bank.

4.5. You hereby further acknowledge and authorize the Bank to verify your Personal Information received from Mobile Network pursuant to Clause 4.3 against the information received from the Government of Kenya in your respect as contained in the IPRS.

4.6. The Bank reserves the right to request for further information from you pertaining to your application for a Mobiloan Account at any time. Failure to provide such information within the time required by the Bank may result in the Bank declining to accept your application for a Mobiloan Account.

4.7. Acceptance by the Bank of your application for a Mobiloan shall be done via SMS sent to the Mobile Phone Number associated with your Bank Account.

4.8. The Bank reserves the right to decline your application for a Mobiloan Account or to revoke the same at any stage at the Bank’s sole discretion and without assigning any reason or giving any notice thereto.

## **5. TYPES OF ACCOUNT**

As a registered Bank account holder and a KCB MOBI Subscriber, you may, subject to these terms and conditions register for a Mobiloan Account using the Mobiloan menu on your equipment and/or to borrow money from the Bank as follows:

### **5.1. MOBILOAN Account**

5.1.1. As a holder of a Mobiloan Account and having received a confirmation message bearing your credit limit, you may, subject to these terms and conditions apply for a loan using the request loan menu on your equipment. The transaction fees payable to Mobile Network for transactions effected in respect of your Account from time to time will apply to any transactions effected in respect of your Mobiloan Account using the KCB Mobi System.

5.1.2. Where you apply for a loan from the Bank, your application shall be appraised according to the applicable loan appraisal processes of the Bank. The Bank reserves the right at its sole discretion and without assigning any reason to approve or decline your application for a loan.

5.1.3. Subject to approval of your application for a loan the Bank shall disburse to you a loan of an amount to be determined by the Bank in its sole discretion subject to a minimum amount of Kenya Shillings Five Hundred (Kshs.500/=) and a maximum amount of Kenya Shillings One Hundred Thousand (Kshs. 100,000/=) or such other minimum or maximum amount as the Bank may from time to time in its sole discretion determine (the “Loan”).

5.1.4. The proceeds of the full Loan requested shall be credited into your Mobiloan Account subject to any deductions on account of applicable Transaction Fees and Interest charge.

5.1.5. You shall repay the Loan within the term agreed upon at the time of loan request.

The loan terms will be as below:

- i. 1 month
- ii. 3 months
- iii. 6 months

5. 1.6. In consideration of the Bank granting you the Loan, you shall pay monthly interest on the loan at our prevailing interest rate on loans, which will be set at no more than 4% p.a. above the prevailing Central Bank Rate (CBR) or such other base lending rate as may be determined by the Central Bank of Kenya (CBK). We shall accordingly revise the applicable rate or rates of interest in accordance with the CBR as published from time to time and give you notice of changes to our prevailing interest rate on loans. A one off negotiation fee of 2.5% of the amount borrowed will also be charged. The Interest and negotiation fees must be paid by you when you make your Loan repayment. You confirm that you will visit our website <http://ke.kcbbankgroup.com> to access our prevailing interest rates on loans and that you shall at all times be bound by the prevailing interest rate as published on the website, notwithstanding that you will not have received notice of changes thereto.

5. 1.7. Negotiation Fees and Transaction Fees are subject to change at any time at the Bank's sole discretion subject to thirty days' notice to you.

5. 1.8. You shall make all payments due from you to the Bank in respect of the Loan and Transaction Fees using the Mobiloan Service and the Mobile Banking System only unless otherwise agreed by the Bank in its discretion.

5. 1.9. In the event that you do not repay the Loan in full within the loan term after the date of disbursement of the Loan, the Bank will automatically start charging a late repayment penalty fee which shall be calculated on any outstanding amount in respect of the loan and shall continue to accrue till payment is received by the Bank in full.

5.1.10. The Bank shall be entitled to terminate this Agreement and close your Mobiloan Account in accordance with the provisions of Clause 13 without prejudice to any of its rights accruing hereunder if you fail to repay the Loan and/or the Transaction Fees due thereon within sixty (60) calendar days of the disbursement of the Loan.

5.1.11. The Bank shall utilize funds in any of accounts opened and operated by you to offset any amounts outstanding and due from you to the Bank in respect of your Mobiloan Account. You hereby agree and confirm that the Bank is entitled in its discretion to prevent or restrict you from withdrawing in whole or in part the funds in your Bank Account for so long as and to the extent of the amount outstanding in respect of your Mobiloan without the Bank giving any notice to you and/or without incurring any liability to you whatsoever in that connection.

5.1.12. The Bank reserves the right to vary the terms of the Loan including the fees payable thereon from time to time having regard to the prevailing rules and regulations of the Central Bank of Kenya and the policies of the Bank.

5.1.13. The Bank shall have a right of lien and set off over funds held by you in your Mobiloan Account, any other MOBI related Account(s) held by you and/or any other account held by you in the Bank.

5.1.14. You hereby expressly consent and authorize the Bank to disclose, respond, advise exchange and communicate the details or information pertaining to your Mobiloan Account to Credit Reference Bureau as required under the Banking Act or any other regulatory body.

## **6. FEES**

6.1. You hereby agree to pay all Transaction Fees payable in connection with your use of the Services.

6.2. You shall pay to the Bank and the Bank is entitled deduct from your Mobiloan Account and/or your Bank account (without further reference to you):

6.2.1. Any Transaction Fees payable in respect of the Services;

6.2.2. any legal charges including advocate and client costs incurred by the Bank in obtaining legal advice in connection with your Mobiloan Account and your dealings with the Bank or incurred by the Bank in any legal, arbitration or other proceedings arising out of any dealings in respect of your Mobiloan Account; and

6.2.3. All other fees, expenses and taxes, duties, impositions and expenses incurred in complying with your Requests.

6.3. You hereby agree to pay costs charges and expenses incurred by the Bank in obtaining or attempting to obtain payment of any loan owed under your Mobiloan Account.

## **7. STATEMENTS**

7.1. You may request for a statement or activity report in respect of your Mobiloan account from the Bank.

7.2. The Loan Account Statement shall provide details of the last 5 (five) transactions or such other number of transactions as determined by the Bank.

7.3. You may obtain printed Mobiloan Account Mini Statements or a printed Bank statement pertaining to your Mobiloan Account from the Bank's branches. You shall be responsible for the payment of any charges levied by the Bank for such printed statements.

7.4. Save for a manifest error, a Mobiloan Account Mini Statement or Bank statement issued to you aforesaid in respect of your Mobiloan Account shall be conclusive evidence of the transactions carried out on your Mobiloan Account for the period covered in the Mobiloan Account Mini Statement and/or Bank statement.

## **8. IRREVOCABLE AUTHORITY OF THE BANK**

8.1. it's your sole responsibility to familiarize yourself with the operating procedures for the service a will be provided by the Bank upon your registration to the Service. The Bank will not be liable for any losses incurred as a result of your errors either of commission and/or omission.

8.2 You hereby irrevocably authorize the Bank to act on all Requests received by the Bank from you (or purportedly from you) through the System and to hold you liable in respect thereof, notwithstanding that any such requests are not authorized by you or are not in accordance with any existing mandates given by you.

8.3. If you request the Bank to cancel any transaction or instruction after a Request has been received by the Bank from you, the Bank may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.

8.4. The Bank shall be entitled to accept and to act upon any Request, even if that Request is otherwise for any reason incomplete or ambiguous if, in its absolute discretion, the Bank believes that it can correct the incomplete or ambiguous information in the Request without any reference to you being necessary.

8.5. The Bank is authorized to effect such orders in respect of your Mobiloan Account as may be required by any court order or competent authority or agency under the applicable laws.

8.6. In the event of any conflict between any terms of any Request received by the Bank from you and these Terms and Conditions, these Terms and Conditions shall prevail.

## **9. CUSTOMER'S EQUIPMENT AND CUSTOMER'S RESPONSIBILITIES**

9.1. You shall at your own expense provide and maintain in safe and efficient operating order your Equipment necessary for the purpose of accessing the System and the Services.

9.2. You shall be responsible for ensuring the proper performance of your Equipment. The Bank shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall the Bank be responsible for any computer virus or related problems that may be associated with the use of the System, the Services and the Equipment. You shall be responsible for charges due to any service provider providing you with connection to the Network and the Bank shall not be responsible for losses or delays caused by any such service provider.

9.3. You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the Bank concerning the use of the System and Services.

9.4. You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Equipment and for keeping your KCB MOBI PIN secret and secure. You shall ensure that your KCB MOBI PIN does not become known or come into possession of any unauthorized person. The Bank shall not be liable for any disclosure of your KCB MOBI PIN to any third party and you hereby agree to indemnify and hold the Bank harmless from any losses resulting from any KCB MOBI PIN disclosure.

9.5. You shall take all reasonable precautions to detect any unauthorized use of the System and the Services. To that end, you shall ensure that all communications from the Bank are examined and checked by you or on your behalf as soon as practicable after receipt by you in such a way that any unauthorized use of and access to the System will be detected.

9.6. You shall immediately inform the Bank through the Contact Centre in the event that:

9.6.1. You have reason to believe that your KCB MOBI PIN is or may be known to any person not authorized to know the same and/or has been compromised; and/or

9.6.2. You have reason to believe that unauthorized use of the Services has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.

9.7. You shall at all times, follow the security procedures notified to you by the Bank from time to time or such other procedures as may be applicable to the Services from time to time.

You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your Mobiloan Account's confidentiality. In particular, you shall ensure that the Services are not used or Requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.

9.8. You shall not at any time operate or use the Services in any manner that may be prejudicial to the Bank.

## **10. EXCLUSION OF LIABILITY**

10.1. The Bank shall not be responsible for any loss suffered by you should the Services be interfered with or be unavailable by reason of (a) the failure of any of your Equipment, or (b) any other circumstances whatsoever not within the Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the System, terrorist or any enemy action equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system.

10.2. The Bank will not be liable for any losses or damage suffered by you as a result of or in connection with:-

10.2.1. Unavailability of sufficient funds in your Mobile money Account, and/or in your Bank Account;

10.2.2. Failure, malfunction, interruption or unavailability of the System, your Equipment, the Network, KCB MOBI System and/or KCB Mobiloan Service;

10.2.3. the money in your Bank Account being subject to legal process or other encumbrance restricting payments or transfers thereof;

10.2.4. Your failure to give proper or complete instructions for payments or transfers relating to your Mobiloan Account;

10.2.5. Any fraudulent or illegal use of the Services, the System and/or your Equipment; or

10.2.6. Your failure to comply with these Terms and Conditions and any document or information provided by the Bank concerning the use of the System and the Services.

10.3. If for any reason other than a reason mentioned in subparagraphs 10.1 or 10.2, the Services are interfered with or unavailable, the Bank's sole liability under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practicable.

10.4. Save as provided in subparagraph 10.3 the Bank shall not be liable to you for any interference with or unavailability of the Services, howsoever caused.

10.5. Under no circumstances shall the Bank be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss or damage of whatever kind, howsoever caused, arising out of or in connection with the Services even where the possibility of such loss or damage is notified to the Bank.

10.6. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.



## **11. INTELLECTUAL PROPERTY RIGHTS**

You acknowledge that the intellectual property rights in the System (and any amendments, upgrades or enhancements thereto from time to time) and all associated documentation that the Bank provides to you through the System or otherwise are vested either in the Bank or in other persons from whom the Bank has a right to use and to sub-license the System and/or the said documentation. You shall not infringe any such intellectual property rights. You shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Bank.

## **12. INDEMNITY**

12.1. In consideration of the Bank complying with your instructions or Requests in relation to the Mobiloan Account, you undertake to indemnify the Bank and hold it harmless against any loss, charge, damage, expense, fee or claim which the Bank suffers or incurs or sustains thereby and you absolve the Bank from all liability for loss or damage which you may sustain from the Bank acting on your instructions or requests or in accordance with these Terms and Conditions.

12.2. The indemnity in clause 12.1 shall also cover the following:

12.2.1. All demands, claims, actions, losses and damages of whatever nature which may be brought against the Bank or which it may suffer or incur arising from its acting or not acting on any Request or arising from the malfunction or failure or unavailability of any hardware, software, or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond the Bank's control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the Bank.

12.2.2. Any loss or damage that may arise from your use, misuse, abuse or possession of any third party software, including without limitation, any operating system, browser software or any other software packages or programs.

12.2.3. Any unauthorized access to your Mobiloan Account or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your Equipment.

12.2.4. Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these Terms and Conditions.

12.2.5. Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the particular circumstance is within your control.

## **13. TERMINATION**

13.1. The Bank may at any time, upon notice to you, terminate or vary its business relationship with you and close your Mobiloan Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credit limit which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine.

13.2. Without prejudice to the Bank rights under clause 13.1, the Bank may at its sole discretion suspend, decline loan application or close your Mobiloan Account:

13.2.1. If you use the Mobiloan Account for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;

13.2.2. If you're Bank Account or agreement with the bank is terminated for whatever reason;

13.2.3. If the Bank is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;

13.2.4. If the Bank reasonably suspects or believes that you are in breach of these Terms and Conditions (including non-payment of any Loan amount due from you where applicable);

13.2.5. Where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;

13.2.6. To facilitate update or upgrade the contents or functionality of the Services from time to time;

13.2.7. Where you remain inactive for any period of time determined by the Bank in its reasonable discretion; or

13.2.8. If the Bank decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.

13.2.8. If you have had a current or past listing with Credit Reference Bureau for a Non- performing account with any institution.

13.3. You may close your Mobiloan Account at any time at any KCB Branch upon payments of all outstanding amounts owed to the Bank.

13.4. If your Mobiloan Account has any credit balance at the time of its closure, we will return any such balance to you, less any applicable fees. If your Mobiloan is in arrears at the time of closure of your Mobiloan Account, you agree to pay to us immediately all amounts you owe us.

13.5. Termination shall however not affect any accrued rights and liabilities of either party.

13.6. If the Bank receives notice of your demise, the Bank will not be obliged to allow any operation or withdrawal from your Mobiloan Account by any person except upon production of Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.

#### **14. DISCLOSURE OF INFORMATION**

14.1. You hereby expressly consent and authorize the Bank to disclose receive record or utilize your personal information or information or data relating to your Mobiloan Account and any details of your use of the Services:

14.1.1. to and from any local or international law enforcement or competent regulatory or governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud;

14.1.2. to and from the Bank's service providers, dealers, agents or any other company that maybe or become the Bank's subsidiary or holding company for reasonable commercial purposes relating to the Services;

14.1.3. to a Credit Reference Bureau;

14.1.4. to the Bank's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;

14.1.5. to Mobile Network in connection with the Mobile Money Service and the Services;

14.1.6. For reasonable commercial purposes connected to your use of the Services, such as marketing and research related activities; and

14.1.7. In business practices including but not limited to quality control, training and ensuring effective systems operation.

## **15. MISCELLANEOUS**

15.1. These Terms and Conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.

15.2. This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.

15.3. The Bank may vary or amend at any time and without notice to you these Terms and Conditions and the Transaction Fees. Any such variations or amendments may be published in posters or pamphlets available at bank's branch outlets, in the daily newspapers, on the Bank website and/or by any other means as determined by the Bank and any such variations and amendments shall take effect immediately upon publication.

15.4. No failure or delay by either yourself or the Bank in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.

15.5. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

15.6. If any provision of these Terms and Conditions shall be found by any duly appointed arbitrator, court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.

15.7. Any addition or alteration to these Terms and Conditions may be made from time to time by the Bank and of which notice has been given to you by way of publication as provided in subparagraph 15.3 shall be binding upon you as fully as if the same were contained in these Terms and Conditions.

## **16. NOTICES**

16.1. The Bank may send information concerning the Mobiloan Account via SMS to the Mobile Network Mobile Phone number associated with your Bank Account.

16.2. You acknowledge that you have no claim against the Bank for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the Mobiloan Account.

## **17. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION**

17.1. You may contact the Contact Centre to report any disputes, claims or Mobiloan Account discrepancies.

17.2. Any dispute arising out of or in connection with this Agreement that is not resolved by Customer Care Centre representatives shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties or in default of such agreement within 60 days of the notification of a dispute, upon the application of either party, by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch). Such arbitration shall be conducted in the English language in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995.

17.3. To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.

17.4. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.