

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following definitions shall have the following meanings:

"Account" means any one or more Bank accounts operated by the Customer through which the Customer may access an Electronic Banking Service.

"Agreement" means together:

(i) these General Terms and Conditions including the User Guides;

(ii) any policy statement or certificate relating to the provision of any Service; or in such other manner as the bank may permit from time to time;

(iii) each application form; and

(iv) any addendum or other supplemental agreement agreed between the Bank and a Customer varying the terms of this Agreement.

"Alert" means a customized message sent by the Bank to a Customer through a short message service / text ("**SMS**") to a Customer's mobile phone, email, fax or any other mode of electronic communication.

"Available Balance" means the amount (excluding any unconfirmed credit) in an Account which can be withdrawn by a Customer.

"Bank" means Diamond Trust Bank Kenya Limited, incorporated in Kenya as a limited liability company under the Companies Act (Cap. 486 of the Laws of Kenya) and includes such Branch or Subsidiaries of the Bank as may from time to time be specified by the Bank to the Customer. Reference to the **"Bank"** shall include without limitation reference to the Bank's successors in title and assigns, and shall also include any director, officer, manager or any other person duly authorized to represent the Bank.

"Banking Day" means a day on which the counters of the Branch and/or Subsidiary (as applicable) are open for the transaction of ordinary business.

"Branch" means a branch or branches of the Bank which may from time to time be specified by the Bank to the Customer;

"Customer" means the person(s) whose name(s) is/are specified as such in the application form and whose details are as recorded with the Bank with respect to the Bank account to which the Electronic Banking Services apply.

"Deposit Account" means any Bank account with a credit balance.

"Designated Mobile Phone Number" means the mobile phone number specified in paragraph 4.2 of this Agreement.

"Electronic Access Device" means a computer, telephone, cell phone, smart phone, personal digital assistant or any other electronic device, including any wireless devices, used by a Customer to access any of the

Electronic Banking Services offered by the Bank;

"Electronic Banking Service" means any one or more of a range of services offered by the Bank through Electronic Channels whereby the Bank enables a Customer to obtain banking and other services by use of an Electronic Access Device. Electronic Banking Services include the Mobile Banking Service, the Internet Banking Service and the E-statements facility.

"Electronic Channel" means any electronic system, hardware, software, medium or channel (including telephone, website and facsimile), whether Internet based or not, put in place by the Bank to enable the Bank's Customers access and utilise banking and other services provided by the Bank through the Electronic Banking Service platform;

"E-statements" means the electronic record prepared by the Bank from time to time reflecting the number and nature of transactions being made in and out of the account;

"Instruction" means a request or Instruction issued by a Customer to the Bank through an Electronic Access Device and which, when received by the Bank, is deemed to have been properly issued by the Customer, and on which the Bank is authorised to act.

"Internet Banking Service(s)" means the Electronic Banking Service specified in paragraph 3.1 of this Agreement.

"Internet Service Provider" means a provider of internet connectivity services retained by the Customer and through whose internet platform/network the Customer is able to communicate with the Bank and utilize the Internet Banking Services.

"Log-in Information" means a Username, Password and/or Personal Verification Question and/ or any other information that the Customer must enter to access the Internet Banking Services.

"Loss" means any losses, damages, proceedings, penalties, claims, liabilities, costs (including legal costs) and expenses of any kind

"Mobile Banking Service(s)" means the Electronic Banking Service specified in paragraph 4.1 of this Agreement.

"Mobile Service Provider" means a provider of mobile network services retained by the Customer and through whose telephone network the Customer is able to communicate with the Bank for purposes of utilizing any of the Mobile Banking Services.

"Nominated User(s)" means the representative or representatives of the Customer authorised by the Customer to hold and/or change (where applicable) the PIN, User name, Password and/or Personal Verification Question and hence to access and use the Electronic Banking Service on behalf of the Customer.

"Password" means a numeric/ alpha numeric secret code initially provided to the Customer by the Bank and which the Customer may with authority from the Bank or at the express request of the Bank modify from time to time. The password is to be used by the Customer together

with a User Name and/or Personal Verification Question to access one or more of the Electronic Banking Services and use of the Password shall enable the Bank to authenticate / verify the identity of a Customer when the Customer is accessing an Electronic Banking Service.

"Personal Verification Question(s)" means a question and/or answer that a Customer may be required to choose and/or provide answers to when prompted, and to be used by the Bank to enable the Bank confirm that it is the Customer or the Nominated User that is accessing the Electronic Banking Services.

"PIN" means the secret four (4) digit code known only to the Customer or Nominated User to be used by the Customer to access one or more of the Electronic Banking Services, particularly the Mobile Banking Services, and through which the Bank is able to authenticate / verify the identity of a Customer when the Customer is accessing an Electronic Banking Service.

"Tariff" means the Bank's schedule of costs and charges payable by the Customer to the Bank, as published from time to time, for the provision of the Bank's products and services including but not limited to costs and charges levied by the Bank for an Electronic Banking Service.

"Third Party" and/or **"Third Party Provider"** means a party other than the Bank or the Customer that is involved in the provision and/or use of the Electronic Banking Services including but not limited to Mobile Service Providers, Internet Service Providers, utility providers, hardware and/or software providers, agents, recipients, etc.

"Username" means a unique combination of numbers and/or letters that are selected by the Customer and/or the Bank which identify the Customer and are used by the Customer to access the Internet Banking Service. The User name must be provided together with a Password to enable a Customer access the Internet Banking Service.

"User Guides" means the operating and procedural guides or manuals or technical specifications provided or otherwise made available to a Customer in connection with any Electronic Banking Services including any updates of the same;

1.2 In this Agreement:

1.2.1 references to **"the Customer"** shall, where the context so admits, include the Customer's, successors in title ;

1.2.2 where **"the Customer"** is more than one person, references to **"the Customer"** shall include all and/or any of such persons and the obligations of the Customer shall be joint and several;

1.2.3 words in the singular shall include the plural and vice versa and words importing any gender shall include all other genders;

1.2.4 **"person"** shall include a body of persons, corporate or incorporate;

1.2.5 references to paragraphs and subparagraphs shall mean paragraphs and subparagraphs of this Agreement;

1.2.6 The Customer's use of the Electronic Banking Service is also governed by the applicable current, savings, term and call and overdraft accounts agreement(s), if any, and the Bank's General Terms and Conditions which the Customer has already signed.

2 ELECTRONIC CHANNELS AND MATERIALS

2.1 The Bank may maintain an Electronic Channel to provide the Customer with information about the Bank's services and products, to enable the Customer access the Electronic Banking Services, and to facilitate communication with the Bank.

2.2 Any Customer wishing to access an Electronic Banking Service shall be required to fill out and sign an application form for the Electronic Banking Service that the Customer wishes to obtain which form shall be submitted to the Bank for acceptance in the Bank's sole discretion

2.3 If the Bank formally approves the Customer's application, the Customer will provide the Bank with a unique PIN and/or Password known only to the Customer as well as a Username and Log-in Information, and only then shall the Customer be permitted use of the Electronic Banking Service. The PIN and/or Log-in Information will form a unique link to each specific Customer's profile(s).

2.4 Further services and products may be added to the Electronic Banking Services platform and profiles for other services from time to time created by the Bank. The Bank reserves the right to modify, replace and/or withdraw any service and/or profile at any time, without giving reason thereof and without prior notice to the Customer and further without incurring any liability whatsoever to the Customer howsoever arising.

2.5 If the Customer wishes to access an Electronic Banking Service, the Customer will be required to read and accept in writing the terms and conditions of this Agreement and the Customer's or Nominated User's subsequent use of the Electronic Banking Services constitutes the Customer's agreement to all such terms and conditions.

3. PARTICULARS OF THE INTERNET BANKING SERVICE

Definition

3.1 The Internet Banking Service is an Electronic Banking Service offered by the Bank through its website and accessed by any Customer with an Electronic Access Device capable of accessing the Bank's website through an Internet Service Provider.

Identification, Access and Use

3.2 A Customer will be granted access to the Internet Banking Service upon the successful input and upload by a Customer or a Nominated User of the following log-in information to the Bank's website:

- a) Username;
- b) Password; and
- c) Personal Verification Question (when prompted by the Bank)

3.3 Once the identification characteristics outlined in clause 3.2 above are inputted into an Electronic Access Device and received by the Bank the identification characteristics shall be deemed to be sufficient proof of identity of the Customer and for this reason, the Bank may permit the Customer or a Nominated User to make enquiries or to receive information and correspondingly to execute Instructions placed by the Customer or a Nominated User within the framework and scope of the selected authorisation without making further checks or verifying actual identity of the actual user and without incurring any liability whatsoever to the Customer in relation to such Instructions .

3.4 The Bank shall moreover retain the right, at any time and without specifying reasons, to refuse to provide information or to accept Instructions issued via the internet and/or suspend the Internet Banking Services and may insist that the Customer proves their identity by other

means including but not limited to use of the original signature or by a personal appearance.

3.5 Instructions issued to the Bank by a Customer or a Nominated User through the Internet Banking Service shall be considered to have been drawn up, authorised and sent by Customer, irrespective of restrictions pertaining to the internal relationship between the Customer and a Nominated User. The Bank shall consequently properly fulfill its obligations if it obeys the orders which it receives within the framework of the Internet Banking Service on the basis of a correct identity check pursuant to paragraph 3.2 herein.

3.6 The Customer undertakes to unreservedly recognize all the transactions recorded on the Customer's accounts which shall have been performed by use of the Internet Banking Service using the Customer or Nominated User's personal identification, in particular without a written order, regardless of whether or not the Instructions to undertake the transactions have been issued by the Customer.

Execution of Instructions

3.7 The Customer may use the Internet Banking Service at all times subject to availability of an applicable electronic communications system. The execution by the Bank of the Instructions given by the Customer or a Nominated User through the Internet Banking Service shall, however, be dependent on whether the same may only be undertaken on normal Banking Days and, further, on the institutions and systems involved in the execution of the Instruction. For example, an Instruction to pay a bill made through the Internet Banking Service may be dependent on the capacity of the third party receiving the payment to accept the same.

3.8 Instructions shall be placed by means of the transmission of corresponding data into an Electronic Access Device. Once an Instruction is received by the Bank's Electronic Channels then it shall only be revoked by the Customer or Nominated User in writing and shall only be possible if the revocation is made before that Instruction has been executed. If the Customer requests the Bank to cancel any Instruction after it has been acted upon by the Bank, the Bank may at its absolute discretion cancel such Instruction but shall have no obligation to do so and the Customer shall be liable for any and all claims made against the Bank in respect of any such cancellation and shall keep the Bank fully indemnified in respect thereof.

3.9 Unless otherwise stated, confirmation by the Bank of receipt of an Instruction issued by the Customer or a Nominated User through the Internet Banking Service shall not serve as confirmation of execution of the Instructions.

3.10 The Customer or a Nominated User must check that all data to be provided in respect of an Instruction by the Customer or Nominated User is complete and accurate before sending the same. Responsibility for the data sent by the Customer or the Nominated User shall at all times remain with the Customer. The risk of misallocation of funds or return brought about by the input of incorrect or incomplete data shall be borne by the Customer. In any event, the Bank shall be entitled to accept and to act upon any Instruction, even if that Instruction is otherwise for any reason incomplete or ambiguous if, in its absolute discretion, the Bank believes that it is able to correct the incomplete or ambiguous information in the Instruction without reference to the Customer being necessary.

3.11 The Bank may decline to accept any Instructions issued through the Internet Banking Service insofar as the authenticity thereof is not sufficiently verified to the satisfaction of the Bank.

3.12 Communications and Instructions sent by the Customer to the Bank through the Internet Banking Service must not contain any Instructions which are subject to deadlines. In this regard, the Bank shall not accept any liability for Instructions which are not executed within any deadline (irrespective of the nature thereof) or losses arising therefrom and the Customer shall indemnify and continue to indemnify and hold the Bank harmless against any claims and demands (and all costs and expenses in connection therewith) whatsoever arising therefrom.

Internet Risk

3.13 The Customer in particular acknowledges the following risks and shall, to the exclusion of the Bank, take such precautions as may be necessary to control and or mitigate the same:

3.13.1 The Bank does neither provide unrestricted access to the respective Internet Banking Services nor is it able to assure the unrestricted utilisation thereof. Likewise, the Bank does not assure the unrestricted operational readiness or security of the Internet.

3.13.2 Insufficient system knowledge and inadequate security precautions by the Customer or Nominated User may facilitate unauthorised access (e.g. inadequately protected storage of data on the hard disk, data transfers, monitor radiation, etc.). The Customer shall be solely responsible for informing himself and the Nominated User about the necessary security precautions in detail, and for adhering thereto.

3.13.3 There is a latent risk of a third party secretly being able to obtain access to the Electronic Access Device of a Customer while the same is connected to the Internet.

3.13.4 There is always a risk of viruses spreading to the Electronic Access Device of a Customer as a result of the use of the Internet, networks or electronic data carriers. So-called virus scanners (anti-viruses) may be able to help the security precautions of the Customer, and the deployment thereof is strongly recommended by the Bank.

3.13.5 The use of unlicensed software or software from untrustworthy sources increases risks and it is therefore important that the Customer works only with licensed software obtained from trustworthy sources.

4. PARTICULARS OF THE MOBILE BANKING SERVICE

Definition

4.1 The Mobile Banking Service is an Electronic Banking Service made possible by use of a Mobile Service Provider through which the Customer or a Nominated User is able to communicate with and receive banking and other services from the Bank by use of a mobile phone.

Identification, Access and Use

4.2 To enable a Customer access a Mobile Banking Service, the Customer shall be required to provide the Bank with one (1) Designated Mobile Phone Number which shall be used by the Customer or the Nominated User to access the Customer's account profile.

4.3 Access to the Mobile Banking Service shall be granted to the Customer or Nominated User by the Bank on the successful input or upload by a Customer or a Nominated User of the PIN provided to or created by the Customer and is predicated on the same being received by the Bank's Electronic Channels and being verified by the Bank to have been uploaded through the Customer's Designated Mobile Phone Number.

4.4 Once the PIN is successfully uploaded to the Bank's Electronic Channels through the Customer's Designated Mobile Phone Number the same shall be deemed to be sufficient proof of identity of the Customer or the

Nominated User and for this reason, the Bank may permit the Customer or the Nominated User to make enquiries or to receive and correspondingly to execute Instructions placed by the Customer or the Nominated User within the framework and scope of the selected authorisation without making further checks and without incurring any liability to the Customer in relation to such Instructions

4.5 The Bank shall moreover retain the right to at any time and without specifying reasons refuse to provide information or to accept Instructions given through the Mobile Banking Service platform and/or suspend the Mobile Banking Services and where necessary the Bank may insist that the Customer or the Nominated User proves their identity by other means including but not limited to use of the original signature or by a personal appearance.

4.6 Instructions issued to the Bank by a Customer or the Nominated User through the Mobile Banking Services platform shall be considered to have been drawn up, authorised and sent by the Customer, irrespective of any restrictions pertaining to the internal relationship between the Customer and a Nominated User. The Bank shall consequently properly fulfil its obligations if it obeys the Instructions which it receives within the framework of the Mobile Banking Service on the basis of a correct identity check pursuant to paragraph 4.3 herein.

4.7 The Customer undertakes to unreservedly recognise all the transactions recorded on the Customer's accounts which have been performed by use of the Mobile Banking Service using the Customer or Nominated User's personal identification, in particular without a written order, regardless of whether or not the Instructions to undertake the transactions have been issued by the Customer.

Execution of Instructions

4.8 The Bank is hereby irrevocably authorised by the Customer to act on all Instructions received and accepted by the Bank from the Customer or Nominated User (or purportedly from them) that are to be effected through the Customer's Mobile Banking Service and to hold the Customer liable thereof, notwithstanding that any such Instructions are not authorised by the Customer or Nominated User. If the Customer requests the Bank to cancel Instruction after it has been received by the Bank from the Customer or Nominated User, the Bank may at its absolute discretion cancel such Instruction but shall have no obligation to do so and the Customer shall indemnify and continue to indemnify and hold the Bank harmless against any claims and demands (and all costs and expenses in connection therewith) whatsoever arising therefrom.

4.9 The Customer or Nominated User must check that all data to be provided in respect of an Instruction by the Customer or Nominated User is complete and accurate before sending the same. Responsibility for the data sent by the Customer or the Nominated User shall remain with the Customer and/or Nominated User and the risk of misallocation of funds or return brought about by the input of incorrect or incomplete data shall be borne by the Customer. In any event, the Bank shall be entitled to accept and to act upon any Instruction, even if that Instruction 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 Instruction without reference to the Customer being necessary.

4.10 Unless otherwise stated, confirmation by the Bank of receipt of Instructions issued by the Customer or Nominated User through the Mobile Banking Service shall not serve as confirmation of execution of the Instructions .

5. TRANSACTIONS CAPABLE OF BEING CARRIED OUT THROUGH ELECTRONIC BANKING SERVICE

5.1 Depending on the Electronic Banking Service subscription applied for by the Customer and approved by the Bank, the services provided and/ or the transactions that a Customer or Nominated User is able to perform may vary.

5.2 The Bank may offer the Electronic Banking Services features and/or functionalities either individually or collectively as a bundle or as specifically advised by the Customer in the application form and shall publish tariffs for the various Electronic Banking Services so offered to the Customer. In this regard, the Customer may subscribe for specific services and/or transaction types and the Customer's profile shall be customised to allow performance of only those services subscribed for.

5.3 The Bank shall retain the right to at its sole discretion to add to, modify, remove and/or suspend any features and/ or functionalities of any Electronic Banking Service extended to the Customer and, where such features and/or functionalities are offered collectively as a bundle, the Bank reserves the right to modify the bundled service or move the Customer from one bundle to another or from one Tariff to another without giving reasons therefor or incurring any liability whatsoever to the Customer in connection therewith.

6. LIMITS ON THE ELECTRONIC BANKING SERVICE TRANSACTIONS

6.1 The Customer may use an applicable subscribed Electronic Banking Service to transfer or effect a payment for any amount as long as the transaction with its associated charges does not cause the available balance in the deposit account to be less than zero unless the Customer has either an overdraft facility for the affected deposit account or a term deposit account pledged with the Bank to cover excesses that may arise in the affected deposit account from time to time in which case the Customer agrees and authorises that the two accounts be linked in the Bank's Electronic Channels for that purpose.

6.2 If the Customer has an overdraft facility linked to the payment deposit account, the transfers and/or electronic bill payments using the Electronic Banking Service should not exceed the approved overdraft facility amount.

6.3 Payments authorised by the Customer or Nominated User and made by the Bank for and/or through a Third Party Provider, for example cell phone based money transfers, shall be governed by the terms and conditions noted herein and shall be subject to all enabling and supporting agreements for the provision of the third party service with the Third Party Provider that the Customer will be a party to at all times.

7. SERVICE CHARGES

7.1 The Customer shall pay or procure the payment of the Bank's tariffs, fees and charges (including any cancellation fees or termination charges) for providing the Electronic Banking Services and any software and materials specially provided or licensed by the Bank to the Customer at its request in addition to the normal transaction service charges applicable to various transaction types as advised by the Bank from time to time and the Customer hereby agrees and authorises the Bank (i) to debit the Customer's account with the amounts of the transactions effected via any of the Electronic Banking Services; and (ii) debit the Customer's account with the amount of any fees applicable to the effected Electronic Banking Service from time to time.

7.2 The Customer, whenever applicable, shall pay any tax chargeable upon any sums payable by the Customer to the Bank and also any other charges or duties levied on the Customer or the Bank by any

governmental or statutory body relating to the provision of the Electronic Banking Service and authorises the Bank to debit the Customer's account with the amounts thereof .

7.3 The Bank is hereby irrevocably authorised from time to time to debit any amounts payable by the Customer under the provisions of subparagraphs 7.1 and/or 7.2 against any account in any currency maintained by the Bank, the Branch and/or the Bank subsidiaries (as applicable) in the name of the Customer. In addition to the fees payable under this Agreement, the charges and fees applicable to the Customer's Accounts shall apply.

8. TERMS APPLICABLE TO ALL INSTRUCTIONS ISSUED FOR THE TRANSACTIONS CARRIED OUT ON THE ELECTRONIC BANKING SERVICE PLATFORM

8.1 For the purposes of carrying out any Instruction to effect a transaction, the Customer:

8.1.1 authorises the Bank to, where necessary, transmit payment Instructions on the Customer's behalf and to act for these purposes as an instructing financial institution. The Customer acknowledges that the Bank will be acting as the Customer's agent for the purpose of transmitting or procuring the transmission of any such Instructions and that any bank or third party being the recipient of any such Instructions shall be authorised and entitled to act upon them as if they had been given directly by the Customer to such recipient, and

8.1.2 agrees to authorise any relevant Third Party to provide account and other information to the Bank.

8.2 The Customer agrees with the Bank that:

8.2.1 the Bank is authorised to record all telephone conversations made between the Bank and the Customer or Nominated User in writing or by tape/digitally or other means as the Bank may determine;

8.2.2 where any Instruction is given by fax, email, or SMS followed by delivery of the original Instruction, the fact that the same had been given by fax, email or SMS and the date of the facsimile shall be annotated on the original copy (where possible). In the absence of such annotation, the Customer agrees that the Bank shall not be liable for any consequences including (without limitation), in the case of payment Instructions, any losses arising from any duplication of payment or fund transfer, and

8.2.3 as between the Bank and the Customer, and in the absence of manifest error, the Bank's records (whether in paper, electronic, data or other form) of each Instruction or other communication with the Customer shall be prima facie evidence in absence of proof to the contrary of the fact of receipt or non-receipt of such Instruction or communication and of the contents of an Instruction or communication.

8.3 In the event of any conflict between any terms of any request from the Customer and the terms of this Agreement, the terms of this Agreement shall prevail.

8.4 The Bank shall not be obliged to accept or to act upon any Instruction if to do so would require access to, action by, or information from the Branch, or any subsidiary or the Bank located in any jurisdiction where it is not a Banking Day at the relevant time when such access, action or information is required or would cause a breach of any existing mandate facility limit or agreement between the Bank, the Branch and/or any subsidiary of the Bank (as applicable) and the Customer. In the event that the Bank does accept or act upon any such Instruction, the Customer shall remain liable thereof.

9. CUSTOMER'S RESPONSIBILITIES

9.1 The Customer shall at his/its own expense provide and maintain in a safe and efficient operating order such Electronic Access Devices and other hardware, software and facilities (including access to any public telecommunications systems), and any communications network (hereinafter collectively referred to as "the Facilities") necessary for the purpose of accessing the Electronic Channel and/or the Electronic Banking Services.

9.2 The Customer shall be responsible for ensuring proper performance of the Facilities including any losses or delays that may be caused by a Third Party Provider supplying the Customer with any of the Facilities. The Bank shall neither be responsible for any errors or failures caused by any malfunction of the Facilities nor shall the Bank be responsible for any virus or related problems that may be associated with the use of the Customer's Electronic Access Device.

9.3 The Customer shall be responsible for charges due to any Third Party Provider providing the Customer with any of the Facilities, for example connection to the internet, and the Bank shall not be responsible for losses or delays caused by any such Third Party Provider.

9.4 The Customer and/or Nominated User shall abide with any applicable laws, rules and regulations necessary to have access to and use of the Electronic Banking Services and shall ensure that all persons the Customer allows to have access to the Facilities shall comply with all laws and regulations applicable to the use of the Electronic Banking Services and follow all Instructions, procedures and terms contained in this Agreement and any document provided by the Bank concerning the use of the Electronic Banking Services.

9.5 The Customer and/or Nominated User shall prevent any unauthorised access to or use of the Electronic Banking Services by way of keeping their Password, PIN and/or Log-in Information a secret at all times. The Customers shall ensure that the Password, PIN and/or Log-in Information does not become known or come into the possession of any unauthorised person.

9.6 The Customer and/or Nominated User shall take all reasonable precautions to detect any unauthorised use of the Customer or Nominated User's Electronic Access Device and/or the Customer's Electronic Banking Services. To that end, the Customer shall ensure that all communications from the Bank are examined and checked by or on behalf of the Customer as soon as practicable after receipt by the Customer in such a way that any unauthorised use of and access to the Customer and/or Nominated User's Electronic Access Device and/or Electronic Banking Services will be detected.

9.7 The Customer and/or Nominated User shall immediately inform the Bank by telephone with a written confirmation sent the same day in the event that:

9.7.1 The Customer and/or Nominated User has reason to believe that their Password, PIN and/or Log-in Information is or may be known to any person not authorised to know the same and/or has been compromised; and/or

9.7.2 The Customer and/or Nominated User has reason to believe that unauthorised use of the Electronic Banking Services has or may have occurred or could occur and/or a transaction may have been fraudulently input or compromised.

- 9.8 The Customer and/or Nominated User shall not send or attempt to send any Instruction to the Bank through their Electronic Access Device if the Customer or Nominated User has reason to believe that for any reason such Instruction may not be received by the Bank or may not be received accurately and intelligibly.
- 9.9 The Customer and/or Nominated User shall at all times follow the security procedures notified to the Customer by the Bank from time to time or such other procedures as may be applicable to the Electronic Banking Services from time to time; The Customer acknowledges that any failure on the part of the Customer and/or Nominated User to follow the recommended security procedures may result in a breach of the Customer's profile confidentiality and may lead to unauthorised transactions in accounts linked to the Customer's Electronic Banking Service subscription with the Bank. In particular, the Customer shall ensure that the Electronic Banking Services are not used and/or Instructions are not issued and/ or the relevant functions are not performed by anyone other than a person authorised to do so.
- 9.10 The Customer and/or Nominated User shall not at any time Operate and/or use the Electronic Banking Services in any manner that may be prejudicial to the Bank.
- 9.11 The Customer shall be responsible for the Customer and/or Nominated User's acts and omissions in the use of the Electronic Banking Service and the Bank shall not be responsible for any direct or indirect loss that arises there from.
- 9.12 The Customer shall keep the Bank indemnified against any Loss whatsoever howsoever and whensoever arising from any breach by the Customer or Nominated User of this clause 9
- 10. EXCLUSION OF LIABILITY**
- 10.1 The Bank will not be responsible or liable for:
- 10.1.1 any indirect or consequential losses or economic loss or loss of profit or business incurred by the Customer in connection with use of the Electronic Banking Services notwithstanding the Bank's awareness of the possibility or likelihood of the Customer incurring the same;
- 10.1.2 any loss in connection with any unforeseeable acts or omissions or neglect acts on the part of Third Parties or any Third Party Providers retained by the Bank;
- 10.1.3 any losses arising in connection with the Bank acting upon Instructions sent by the Customer and/or Nominated User or by reason of the Bank failing or refusing to so act if, acting in good faith, in the Bank's opinion there is or are reasonable ground(s) for such failure or refusal (other than as caused by gross negligence or willful default on the part of the Bank);
- 10.1.4 any loss suffered by the Customer where the Electronic Banking Services are interfered with or are unavailable by reason of (a) any industrial action, (b) the failure of any of the Customer's own Facilities, or (c) any other circumstances whatsoever not reasonably within the Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the Electronic Channels, terrorist or any enemy action, equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system;
- 10.1.5 any losses caused as a result of or in connection with any laws or regulations of countries where transactions are settled or cleared and/or any exchange control restrictions or other governmental regulations (for example anti money laundering regulations)which are imposed from time to time unless caused by the Bank's breach of such laws and regulations;
- 10.1.6 any losses suffered by the Customer by reason of:
- 10.1.6.1 the shut-down or delay in the availability of a Customer's Mobile Service Provider, Internet Service Provider or other Third Party Provider;
- 10.1.6.2 any viruses, trojan horses, worms, logic software, other bombs or other similar programs or routines (including hacking) affecting any Website, Electronic Channels, the Customer's own Facilities; or
- 10.1.6.3 incomplete messaging or sending of Instructions;
- 10.1.7 any damages or losses arising from unauthorised access to any Electronic Banking Service by a third party using the Customer's Password, PIN and/or Log-in Information, unless prior notification from the Customer has been received by the Bank stating that no further access to the relevant Service shall be granted to any person, using such PIN and/or Log-in Information which notification shall have effect either from the date of receipt of such notification or such later date as may be specified in such notification; or
- 10.1.8 the consequences of any misuse of any Electronic Access Device and/or Electronic Channel by the Customer and/or Nominated User, or the Customer and/or Nominated User's use of any Electronic Channel or Third Party Provider not approved for and/or related to provision of any of the Electronic Banking Services.
- 10.2 Any other limitation of liability contained in any other agreement between the Customer and the Bank, law, rules and/or regulations shall be in addition to and shall not derogate from the above.
- 10.3 Without prejudice to clause 10.1 above, the Bank's maximum aggregate liability to a Customer for any claim arising from or in connection with use of any of the Electronic Banking Services shall be limited to the aggregate amount of service charges or Tariffs paid by the Customer for the relevant Electronic Banking Services in the three months preceding such claim.
- 10.4 The Customer hereby acknowledges and agrees that whilst the Bank will use all reasonable endeavours to ensure that all financial information available through the Electronic Banking Service platform is accurate when initially made available, the Bank shall not be liable for any loss incurred or damage suffered by the Customer and/or Nominated User by reason or in consequence of the Customer and/or Nominated User's use of financial information which is not up to date.
- 10.5 If for any reason other than a reason mentioned in subparagraph 10.1.4 the Service is interfered with or unavailable, the Bank's sole liability under this Agreement in respect thereof shall be to re-establish the applicable Electronic Banking Service as soon as reasonably practicable or, at the Bank's option, to provide to the Customer alternative banking facilities which need not be electronic facilities.
- 10.6 The Bank shall not be liable to the Customer for any interference with or unavailability of the Electronic Banking Services, howsoever caused.
- 10.7 Save as otherwise provided in this Agreement, all terms, conditions and warranties express implied by law regarding the quality or fitness for purpose or otherwise of the Electronic Banking Services are excluded to the fullest extent permitted by applicable law.

10.8 No claim made by a Customer against the Bank under the Agreement or otherwise in connection with any Electronic Banking Service or any other ancillary service shall be valid and enforceable against the Bank unless notified to the Bank within thirty (30) days of the Customer becoming aware or of the date when the Customer should using ordinary due diligence have become aware of the facts on which the claim is based.

11. INDEMNITY

11.1 The Customer shall indemnify and keep the Bank indemnified against:

11.1.1 any Loss incurred or to be incurred by the Bank in respect of any claims against the Bank for recompense for loss caused by (a), (b) and/or (c) of subparagraph 10.1.4 where the particular circumstance is within the Customer's control; and

11.1.2 any Loss incurred or which may be incurred by the Bank as a consequence of any breach by the Customer of the terms of this Agreement

11.2 The Customer shall indemnify and keep the Bank indemnified against Loss incurred or to be incurred by the Customer relating to or in connection with the Electronic Banking Services, whether directly or indirectly, unless Loss arose as a direct consequence of the gross negligence or willful misconduct of the Bank, its employees or its Third Party Providers.

11.3 The Customer shall indemnify and keep the Bank indemnified against the following:-

11.3.1 any Loss which Incurred the Bank or which it may suffer or incur arising from its acting or not acting on any Instruction or arising from the malfunction or failure or unavailability of any Electronic Channel's 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 or any other event beyond the Bank's control, interruption or distortion of communication links or arising from reliance on any person or Third Party Provider or any incorrect, illegible, incomplete or inaccurate information or data contained in any Instruction received by the Bank.

11.3.2 any Loss that may arise from the Customer's 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.

11.3.3 any unauthorised access to the Customer's accounts or any breach of security or any destruction or accessing of the Customer's data or any destruction or theft of or damage to any of the Customer's Facilities.

11.3.4 any Loss occasioned by the failure by the Customer to adhere to any terms and conditions applicable to the Electronic Banking Services and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of a Third Party Provider's facilities or systems or the inability of a third party or Third Party Provider to process a transaction.

12. AMENDMENTS

12.1 The Bank may at any time amend, vary and/or change the terms and conditions stipulated in this Agreement or the Electronic Banking Services package from time to time offered/ available to the Customer.

12.2 If the amendment, variation and/or change adversely affect the Customer, the Bank will give the Customer notice through an Alert, letter, prominently displayed notices in the banking hall or other mode

of communication prior to the effective date of the amendment, variation and/or change.

13. TERMINATION

13.1 Notwithstanding anything contained in this Agreement, the same may be terminated at any time by either party giving the other one calendar month's prior notice, PROVIDED that in the event of any change in any law or the application thereof, or any other event which, in the judgment of the Bank, would have the effect of prejudicing the Bank should it continue with the rendering of the Electronic Banking Services to the Customer, the Bank shall be entitled to terminate this Agreement at any time without prior notice to the Customer.

13.2 If the Customer terminates this Agreement for provision of the Electronic Banking Services, the Bank may continue to effect Instructions until such time as the Bank will have had a reasonable opportunity to act on the Customer's notice of termination.

13.3 The termination of this Agreement shall not, in itself, terminate or affect the relationship of Banker and Customer between the Bank and the Customer.

13.4 Paragraphs 10, 11, 15 and 17 shall survive the termination of this Agreement.

GENERAL PROVISIONS

14.1 The Customer shall not assign the benefit of this Agreement or any rights arising hereunder.

14.2 No waiver by the Bank of any breach by the Customer of any of the terms of this Agreement shall be effective unless it is an express waiver in writing of such breach. No waiver of any such breach shall waive any subsequent breach by the Customer.

14.3 It is hereby acknowledged:

14.3.1 that the Customer has not relied upon any representation, warranty, promise, statement of opinion or other inducement made or given by or on behalf of or purportedly by or on behalf of the Bank in deciding to enter into this Agreement; and

14.3.2 that no person has or has had authority on behalf of the Bank whether before, on or after the signing of this Agreement to make or give any such representation, warranty, promise, statement of opinion or other inducement to the Customer or to enter into any collateral or side agreement of any kind with the Customer in connection with the Electronic Banking Service.

14.4 This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof. For the avoidance of doubt, nothing herein shall vary, discharge or in any other way affect or prejudice any security granted by the Customer or any third party in favour of the Bank in relation to any obligations of the Customer which may arise if any Instruction from the Customer hereunder is acted upon by the Bank.

14.5 Any notice required to be given under this Agreement shall be in writing and sufficiently served if sent by registered post, stamped and properly addressed:

14.5.1 if to the Bank, to the manager of the Branch or to the Bank at the address of the Branch at which the Customer's Account is held; or

14.5.2 if to the Customer, at the address given by the Customer in the application form and shall be deemed to have been served five banking days after posting.

14.6 The Customer hereby undertakes to the Bank to make the Nominated User aware of the a Nominated User's obligations under this Agreement and to take all such steps as shall from time to time be necessary to ensure compliance by the Nominated User with the provisions of this Agreement.

14.7 The Bank shall not be liable to the Customer for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of execution of this Agreement other than those representations agreements statements and undertakings confirmed by a duly authorised representative of the Bank in writing or expressly incorporated or referred to in this Agreement.

14.8 If any provision of this Agreement shall be found by any 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 of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

15. CONFIDENTIALITY AND DISCLOSURE

15.1 The Customer shall maintain and shall procure that the Nominated User shall maintain the confidentiality of the PIN, Log-in Information and any other information and materials of any nature supplied to the Customer by the Bank in relation to the Service. The Customer shall be fully liable to indemnify the Bank for any Loss incurred as a result of breach of the provisions of this paragraph.

15.2 The Customer hereby authorises the Bank to collect, retain and use personal information about the Customer for certain purposes as detailed in the Bank's data protection and privacy policies or as may from time to time be required by law.

15.3 The Customer authorises the Bank to disclose any information (including any personal data) regarding the Customer and the status of the Customer's accounts (including deposit accounts) with the Bank obtained under this Agreement to:

15.3.1 any office/branch/division of the Bank;

15.3.2 any Third Party Provider, service provider or professional adviser who provides administrative, telecommunications, computer, payment, collections, security, clearing, credit reference or checking, or other services or facilities to the bank in connection with the operation of the Bank's business;

15.3.3 any person to whom the Bank is required to make disclosure to under the requirements of any law, regulation or practice;

15.3.4 any financial institution with which the Customer proposes to have any dealings,

and to use such information in connection with the administration and operation of the Services.

16. INTELLECTUAL PROPERTY RIGHTS

16.1 The Customer acknowledges that the intellectual property rights in the Electronic Channels and all associated information and/or documentation (including any amendments or enhancements thereto from time to time) that the Bank provides to the Customer through the Electronic Channels 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 Electronic Channels and/or the said information and/or documentation. The Customer shall not infringe any such intellectual property rights.

16.2 The Customer and/or Nominated User shall not duplicate, reproduce or in any way tamper with the Bank's Electronic Channels and associated information or documentation without the prior written consent of the Bank.

16.3 In respect of third-party software used by the Customer and not otherwise supplied by the Bank, the Bank is not a party to any licence agreement entered into by the Customer and the licensor and thus makes no warranties or representations relating to such software, including, without limitation, warranties or representations relating to its suitability for a particular purpose, security features or performance. The Customer acknowledges that the use of such software shall be at the Customer's own risk.

16.4 The Customer acknowledges and understands that the utilisation of such third-party software may be illegal and/or may infringe upon certain third-party intellectual property rights. The Customer understands that, in the use of any third-party software not expressly supplied by the Bank, it shall at all times be incumbent upon the Customer to ascertain the legality of such use and to obtain all necessary licences and permissions from the relevant parties.

17. GOVERNING LAW

17.1 This Agreement shall be governed by and shall be construed according to the Laws of the Republic of Kenya.

17.2 The parties hereby irrevocably submit to the jurisdiction of the Courts of Kenya, but the Bank shall be at liberty to enforce anywhere a Judgment in any jurisdiction where the Customer carries on business or has any asset.

18. INTENTION TO BE BOUND AND INDEPENDENT LEGAL ADVICE

18.1 The Customer, has executed these Terms and Conditions with the intention to be legally bound by the contents herein.

18.2 The Customer hereby agrees and confirms that they have read and understood these Terms and Conditions and have sought and obtained independent legal and financial advice regarding the legal, tax, financial or other implication arising under these Terms and Conditions.

Director

Signature

Date

Director/Secretary

Signature

Date



or

Name of Customer

Signature of Customer

Date