

The relationship between the Bank and the Customer is governed by the Laws of Kenya, the following general terms and conditions and any further agreement made in writing between the Bank and the Customer. Specific Terms and Conditions apply to specific accounts and products and are available to the Customer upon request.

### 1. Definitions

- a) **"Account"** means any type of account held by the Customer with the Bank in accordance with the instructions on the Account Opening Form;
- b) **"Agent"** means any person(s) authorized by the Customer or by the Authorized Signatory to receive and/or collect cash on any Withdrawal Instrument acceptable to the Bank from time to time and authorized to collect and/or deliver any other documents or notices relating to the Account;
- c) **"Application Form"** means the Bank's form completed by the Customer in respect to the opening and operation of an Account;
- d) **"ATM"** means Automated Teller Machine(s);
- e) **"Authorized Signatory"** means the Customer, or any person(s) authorized in writing, to operate the Account in accordance with the Mandate including appointed Attorney(s). Reference to Authorized Signatory shall include any duly appointed Attorney of the Customer;
- f) **"Bank"** means Commercial International Bank (CIB) Kenya Limited, and its Branches and Subsidiaries as may from time to time be specified by the Bank to the Customer;
- g) **"Banking Day"** means a day on which the counters of the Bank are open for the transaction of ordinary business
- h) **"Bank's Tariff"** means the Bank's published schedule of costs and charges payable by the Customer to the Bank for the provision of the Bank's products and services;
- i) **"Card"** means any card issued by the Bank at the request of the Customer for use in the manner agreed upon between the Bank and the Customer at the time of issuance and further as determined by the Bank from time to time;
- j) **"Cardholder"** means a person to whom the Bank's Card has been issued and includes an additional Cardholder;
- k) **"Cheque"** means the Cheque forms issued by the Bank to the Customer and forming part of the Cheque Book;
  - a) "Cheque Book" means the serially numbered cheques bound together and issued by the Bank to the Customer;
- h) **"Customer"** means the holder of the Account as specified in the Application Form;
- i) **"Electronic Banking Services"** means all electronically enabled services capable of operation by the Bank;
- j) **"Interest"** means the amount payable on the Account at the rate specified by the Bank from time to time whereas "Default Interest" means any additional Interest payable by the Customer on the Account at a rate equally specified and which amounts are payable in accordance with these Terms and Conditions;
- k) **"Mandate"** means the mode of operation of the Account as specified by the Customer in the Application Form;
- l) **"PIN Code"** means the secret Personal Identification Number known only to the Customer or the Customer's nominated user(s) for access to the System via an ATM or any other Point of Sale terminal to give a transaction instruction;
- m) **"Property"** means (including but not limited to) cash and other monies-worthy instruments used by the Customer in the conduct of business as held by the Bank;
- n) **"Security"** means (including but not limited to) any agreement, mortgage, charge, pledge, lien, guarantee, indemnity, debenture and/ or security securing in whole or in part any debt or liabilities of the Customer with the Bank;
- o) **"Specific Terms and Conditions"** means the terms and conditions that may be published by the Bank from time to time in relation to a specific product and/or service (or otherwise) provided by the Bank;

- p) **"Statement"** means the electronic or written record prepared by the Bank from time to time reflecting the number and nature of transactions made in and out of the Account;
- q) **"System"** means the multi-media banking and communications software or equipment enabling the Customer to communicate with the Bank for the purposes of the Electronic Banking Services;
- r) **"Tax"** means all taxes levies duties imposts charges withholdings (including without limitation any fiscal, regulatory, statutory, municipal or other tax) together with any penalty, default or additional charges relating to them;
- s) **"Withdrawal Instrument"** means (including but not limited to) cheques and withdrawal slips, signed and presented by the Customer for the purpose of instructing the Bank to pay cash to them.

### 2. Account Opening and Operations

- a) The Bank may, upon receipt of the Application Form and supporting documentation required from the Customer, open the Account in the name of the Customer as it appears in the Application Form;
- b) The Bank may require proof of the Customer's name and address and any supporting documents including changes (if any) in order to act on the Customer's instructions;
- c) The address provided by Customer in the Application Form shall be considered the registered address of the Account and all postal communication from the Bank shall be sent to this address. The Customer shall notify the Bank in writing on any changes to this address;
- d) The Bank shall be obliged to maintain the Account subject to the Customer's legal status and any information supplied to the Bank being satisfactory and up-to-date including as held by the relevant authority(ies), compliance to these Terms and Conditions, the Laws of Kenya and international laws and any other express or implied terms regulating the conduct of banking business in Kenya;
- e) The Bank may check by reference to third parties the correctness of details provided in the Application Form;
- f) The customer will notify the bank in writing within 14 days in case of any changes/ amendments on any of the personal data or other documentation provided to the bank

#### 2.1 Authorized Signatures

- a) The Customer may appoint and notify the Bank of an Agent to carry out any services on behalf of the Customer relating to the Account or an Attorney to operate the Customer's Account provided that:
  - i. Where an Agent is appointed, the Customer must complete and execute the Bank's known agents introduction form specifying the Mandate of the Agent to the Bank and/or such other documents as may be required by the Bank from time to time.
  - ii. Where an Attorney is appointed, the Customer must complete the Bank's letter of authority for third parties to operate the Account and/ or such other documents as may be required by the Bank from time to time.
- a) The Customer shall give to the Bank a specimen of the signature for the Customer or any Authorized Signatory or Agent as required. The Bank may require fresh specimen signatures in the event of a change in the names of the Customer, any Authorized Signatory or any Agent. The Bank may reject a specimen signature and the Bank shall not be obliged to give its reasons for doing so;
- b) An Attorney must produce to the Bank a certified copy of the duly registered Power of Attorney document. Unless otherwise agreed in writing, the Authorized Signatory is entitled to withdraw

all or any of the Customer's Property or Security held by the Bank from time to time, to open any further account in the Customer's name, and to overdraw any of the Customer's accounts.

### 3. Accounts

#### 3.1 Joint Accounts

- a) The Customer may open the Account jointly in the name of the Customer and any other person or persons ("Joint Account");
- b) Where the Mandate in a Joint Account is either/or survivor, each Customer to the Joint Account is authorized to operate the Joint Account individually and it shall be deemed that the instructions given by one Customer to the Joint Account are authorized by the other Customer(s) to the Joint Account;
- c) Where the Mandate in a Joint Account is "Jointly", each Customer to the Joint Account is only authorized to operate the Joint Account together with all others (or as specified in the Mandate);
- d) Any liability in the Joint Account will be borne jointly and severally by each Customer to the Joint Account.

#### 3.2 Fixed Deposit Accounts

- a) The Bank may in its sole discretion, accept funds in specified currencies from the Customer to be placed in an interest earning account for a fixed period of time ("Fixed Deposit");
- b) The Bank may in its sole discretion allow premature withdrawal of the Fixed Deposit. The Customer accepts that all such premature withdrawals will be subject to, at the Bank's sole discretion, either forfeiture of the entire or part of the interest accrued or levy of penalties and charges, as the Bank may determine and that these may be subject to change without notice to the Customer.

#### 3.3 Accounts in Foreign Currencies Subject to any laws and Government exchange regulations:

- a) The Bank may in its sole discretion and at the Customer's own risk, open and operate the Account in a foreign currency;
- b) At the request of the Customer, the Bank may debit or credit the Account with a currency other than the designated currency of the Account and may convert such amounts debited or credited (unless otherwise agreed) at the Bank's prevailing rates;
- c) Any demand on the Bank for payment from a foreign currency Account shall be properly met by the Bank at its option either issuing a draft, making payment in cash, effecting a transfer or making payment in any other manner in foreign currency at the discretion of the Bank.

#### 3.4 Minor Accounts

The Bank shall be entitled to act on the instructions received from the guardian named on the Account opening form of a minor's Account, until the minor Account holder ceases to be a minor.

#### 3.5 Dormant Accounts

- a) Any Account subject to Specific Terms and Conditions relating to the Account being deemed by the Bank to be inoperative or inactive after a given period of time shall be considered a "Dormant Account" and the Bank may freeze such an Account, require the Customer to confirm the authenticity or validity of the first instructions or transaction reactivating the Account, suspend the payment of Interest (if any), suspend the issuance of the Statement, or charge a maintenance fee as may be determined by the Bank from time to time;
- b) In the event the Customer does not claim any funds held in the Account or reactivate the Account within the stipulated period

under law, the Account shall be closed and any funds held in the Account will be treated as an unclaimed asset and administered as stipulated under law.

### 4. Freezing of the Account

**4.1** The Bank may at its sole discretion and at any time refuse to accept instructions ("Freeze the Account") of the Customer;

- a) If any regulator or authority in any country whatsoever or wheresoever situated requires the Bank to do so or the Bank is otherwise required by the law or pursuant to agreements with any such regulator or authority to do so or if the Bank needs to comply with any requirements associated with any applicable order or sanction of such regulators or authority;
- b) If the Bank suspects a fraud has been or is likely to be committed;
- c) If there is any dispute on the Account between the Customer and the Bank or the Customer and any other person;
- d) If the Bank has doubt as to the Mandate.

**4.2** The Bank will not be under any obligation to institute interpleader proceedings or to take steps for determination of such dispute or doubt.

### 5. Cheque Books

Cheque Books shall be issued by the Bank at its sole and absolute discretion to the Customer on request subject to the Cheque Book Terms and Conditions set out under this paragraph and on the inside cover of the Cheque Book, the Bank's rules and procedures and such other terms and conditions as may be published by the Bank from time to time:

- a) The Bank may charge a fee for the issuance of the Cheque Book and any other additional Cheque Books issued to the Customer;
- b) The Customer shall only issue Cheques on (an) active Account(s) containing sufficient funds;
- c) The Bank may refuse to make payment to the Customer or any third party on any Cheque not drawn in accordance with terms set out below:
  - i. The Customer must write, date and sign the Cheque in clear handwriting using legible ink (preferably blue or black) or any other indelible writing material, in the currency of the Account for an available amount;
  - ii. The amount set out on the Cheque must be stated both in words and in figures in a manner as to prevent any fraudulent alteration;
  - iii. Where any alteration or amendment is done the Cheque must be signed and countersigned by the Authorized Signatory in accordance with the Mandate;
  - iv. The Customer may request the Bank to make payment of the amount drawn on the Cheque, in currency notes and/or coins, by signing across the two vertical lines on the Cheque. Reference to "opening" the Cheque shall be construed accordingly;
  - v. The Customer shall at the time of collection of the Cheque Book verify that the number and details of Cheques in the Cheque Books are correct and the Bank shall not be held liable for any loss or damage (whether consequential or otherwise) suffered by the Customer thereafter;
  - vi. The Customer shall notify the Bank in writing immediately upon discovering that a Cheque or the Cheque Book has been lost, stolen or misplaced;
  - vii. Where any alteration or amendment is done the Cheque must be signed and countersigned by the Authorized Signatory in accordance with the Mandate;
  - viii. The Customer may request the Bank to make payment of the amount drawn on the Cheque, in currency notes and/or coins, by signing across the two vertical lines on the

- Cheque. Reference to "opening" the Cheque shall be construed accordingly;
- ix. The Customer shall at the time of collection of the Cheque Book verify that the number and details of Cheques in the Cheque Books are correct and the Bank shall not be held liable for any loss or damage (whether consequential or otherwise) suffered by the Customer thereafter;
  - x. The Customer shall notify the Bank in writing immediately upon discovering that a Cheque or the Cheque Book has been lost, stolen or misplaced;
- d) The Bank shall not be liable to the Customer and the Customer shall indemnify the Bank against any claims by a third party should the Bank make payment against a cheque where the Cheque is presumed to be issued by the Customer but signature, content or written instruction have been forged if:
    - i. The Customer has facilitated such forgery;
    - ii. There has been a previous forgery of the Customer's Cheque or note of instruction the Customer having previously not objected to;
    - iii. The Customer has been negligent or has failed to comply with any Terms and Conditions;
    - iv. The forgery has been perpetrated by an employee, servant, agent, contractor or persons known to the Customer.
  - e) The Bank may refuse to honour a Cheque where the date of the Cheque is
    - i. more than six (6) months old ("Stale Cheque") or
    - ii. where the date is in the future ("Postdated Cheque");
  - f) The Bank only acts as the Customer's collecting agent and if the Cheque is lost or stolen while in the custody of the Bank even where the Bank has been negligent, the Bank shall not be held liable for any loss or damage (whether consequential or otherwise) suffered by the Customer or any other person;
  - g) The Bank may, upon prior written request by the Customer, stop payment of a Cheque provided the request is received before the Bank has made or is obliged to make payment on the Cheque. The Bank will charge the Customer an administrative fee for stopping payment of a Cheque;
  - h) The Bank may stop payments of debit orders, cheques and/ or other instruments provided that the responsibility to cancel the underlying contract shall at all times rest with the Customer. The Customer shall indemnify the Bank against any legal action arising out of such cancellation;
    - i. Upon closure of any Account the Customer shall return to the Bank any remaining and uncompleted Cheques relating to the Account.

#### 6. Standing Orders and Direct Debits

- a) The Bank may permit the Customer to use automatic debits or withdrawals (such as direct debits or standing order instructions) from the Account unless the Specific Terms and Conditions of the Account provide otherwise. All such transactions will be set up at the Bank's discretion and the Bank reserves the right to honor the instructions subject to the available balance;
- b) The Customer shall have no claim against the Bank in the event any payments are not paid on the due date for any reason beyond the Bank's control.

#### 7. Security

- a) The Customer must change any one-time passwords sent by the Bank to a password only known to them;
- b) The Customer should avoid storing access codes in computers and other devices used to access the services. The Customer

- c) must report any compromise of their access codes without delay by contacting the Bank's call centre through [contactus@cibke.com](mailto:contactus@cibke.com) or 254 703 053 100 and/or Branches. The Customer must not disclose their access code to any Bank staff for whatever reason;
- c) The Customer must notify the Bank in writing of any fraud, unauthorized access or other irregularities on their Account or the System;
- d) Once the Customer notifies the Bank to disable their access codes, the Bank may:
  - i. Reject any instructions received after that notification;
  - ii. Suspend the processing of all instructions not yet executed;
  - iii. Deactivate the access code without further notice.
- e) The Customer shall at their own expense maintain in safe and operating order their hardware, software, phone, fax and other Communication Systems at their own expense;
- f) The Customer shall obtain third party services, licenses and consents required where necessary at their own expense to access or use the System.

#### 8. Fees

- a) Prevailing fees and charges will apply to the services;
- b) The Bank shall be entitled and authorized to debit the Customer's Account with any fees applicable to transactions effected as a result of the Customer's instructions.

#### 9. Interest

- a) Interest shall only be payable on the credit balance in an interest earning Account and shall be calculated at such rate as the Bank may determine from time to time. Interest (if any) will be paid and credited to the Account as specified in the Terms and Conditions relating to the Account;
- b) Interest payable shall be gross and any tax payable by the Bank from the interest shall be debited from the Customer's Account;
- c) The Bank will charge additional Interest at the Bank's prevailing rates where the Customer has failed to make payment of any amount due to the Bank;
- d) The Bank may at any time, without prior notification to the Customer, vary any Interest rates payable by the Customer under these Terms and Conditions.

#### 10. Right of Lien

- a) When the Customer is indebted to the Bank, the Bank shall have a general lien over all Property of the Customer in the Bank's possession charged to secure payment of any money whether or not that money has been repaid;
- b) Where the Customer is indebted in circumstances giving the Bank a right of set off, all securities as set out in Section 19 (a) hereof are held as Security for the debt;
- c) The Bank may give the Customer notice in writing that if an accrued debt is not paid within a stipulated period of time, the Bank may, without further notice to the Customer, realize sufficient relief of the Customer's Property under lien to discharge the debt and the Customer constitutes the Bank as their Attorney for the purpose of conducting the sale, giving title to the assets sold and all other necessary matters. Any sum remaining after such a transaction will be held for the Customer subject to these Terms and Conditions;
- d) The Bank is under no obligation in respect of any sale under Section 19(c) other than for that done in bad faith ("mala fides").

#### 11. Right of set-off

All operations between the Bank and the Customer shall be considered and treated as a single integral and indivisible Account, and the Bank shall (without prejudice to the generality of the foregoing) have the right (but not the obligation) to close and set-off any Account in the name of the Customer against any such Account or in that of any establishment of which the Customer is sole proprietor or vice versa.

#### 12. Banker's Power of Attorney

- a) The Customer hereby irrevocably appoints the Bank, its agents and successors in title as the Customer's Attorney in the event of the Bank exercising its right of set-off to transfer, amalgamate or combine the Customer's Account with any other account and separately any receiver appointed under any Security or pursuant hereto severally to be the Customer's Attorney in its name and on its behalf;
- b) The Customer acknowledges and agrees that the Bank as the Customer's sole Attorney in relation to all the Customer's Property held by the Bank under lien may fully exercise its powers to deal with any of the Property held by the Bank under lien;
- c) The Customer acknowledges and agrees that the Bank may execute or complete any documents which the Bank may require for perfecting its title to or for vesting the assets held by the Bank under lien, to sign, seal, deliver and otherwise perfect any such legal deeds and documents including without limitation the mortgages, charges or assignments and to do all such acts and things as may be required for the full exercise of the powers hereby conferred including any sale, lease, disposition, realization or getting in of the Customer's Property held under the Bank's lien.

#### 13. Communications

**13.1** Any written communication from the Bank to the Customer, including but not limited to bills of lading, delivery orders, consignment documents, receipts, warrants and insurance policies shall be deemed to have been received by the Customer;

- a) If delivered personally, at the date and time of delivery;
- b) If sent by post, the 5th day from the date of posting;
- c) If sent by airmail, on the 8th day from the date of posting;
- d) If sent by telex, when the proper answer-back is received;
- e) If sent by fax, when there is no 'sender error' received by the Bank;
- f) If sent by email, when there is no 'sender error' received by the Bank;
- g) If sent by SWIFT, when the acknowledged SWIFT message is received.

**13.2** Any notice, letter or communications addressed to the Bank shall be in writing or where with the prior written approval of the Bank, by email, telephone, facsimile, SWIFT and/or such other means as approved and shall be addressed to the Branch Manager (where the Account has been opened);

**13.3** The Bank may monitor or record telephone calls between the Bank and the Customer to determine or check instructions and/or determine the Bank's service standards and the Bank's records shall be conclusive.

#### 14. Complaints

The Customer has a right at any time to lodge a complaint by communicating with the Bank through the various communication channels provided. The customer may exercise his/her right to lodge a complaint or raise a query about account, the Bank's services, or

products by visiting any one of the bank's branches countrywide or by contacting the Bank through the following channel Tel no: +254 703 053 100/ +254 709 063 000 or Postal address: P.O Box 2051 – 00606 Sarit Centre Nairobi, Kenya

#### 15. Statements of Account

- a) The Bank shall provide the Customer with a Statement on a regular basis and through such mode as the Bank may in its discretion determine covering all transactions made in the Account for the period in question. The Bank may at the request of the Customer provide the Customer with additional Statements on the Account covering any period the Customer may desire, subject to the Customer paying to the Bank any prescribed fee and/or charges on the additional Statements;
- b) The contents of any Statement availed to the Customer and is not objected to by the Customer and/or their agents within twenty-eight (28) days from the date of the Statement shall be deemed to be correct in all material respects and shall not be challenged by the Customer under any circumstances;
- c) All Electronic Banking activities performed by the Customer once allowed access into the System will be logged until the Customer ends a session. The
- d) Bank shall maintain copies of all requests received from the Customer in applicable multi-media form. In addition, any hard copies of documentation prepared by the Bank in the process of effecting a transaction as per the Customer's requests will be maintained. The Bank's copy records shall be conclusive evidence of the fact of receipt or non-receipt of a request and of the contents of such request are prima facie proof that a transaction or payment was made with the Customer's authority;
- e) (d) The Bank shall not be liable for any damage resulting from losses, delays, misunderstandings, duplications, or any other irregularities due to transmission of any communication whether to or from the Customer, the Bank or any third party, by telephone, delivery, post, facsimile, e-mail, telegraph, SWIFT or any other means of communication.

#### 16. Tariff of Charges

- a) The Bank is entitled to be paid by the Customer and may debit the Account with the following:
  - i. All initial set up fees and/or monthly subscription fees for any services provided in addition to transaction charges as advised by the Bank from time to time. The Bank may in its sole discretion revise these charges and fees and may also in its sole discretion waive the initial set up fees and/or the monthly subscription fees or a portion thereof;
  - ii. All expenses incurred by the Bank in acting upon the instructions of and for the benefit of the Customer;
  - iii. Any tax chargeable upon any sums payable and any other charges or duties levied on the Customer or the Bank by any governmental or statutory body relating to the provision of any service provided by the Bank;
  - iv. Any Interest (including Default Interest, if any) on any Account which is overdrawn or in excess of the Bank's approved limit, on any loan or credit facility granted by the Bank to the Customer from time to time, at a per annum rate to be determined by the Bank in its own discretion in accordance with the Bank's usual mode for determining the Interest. Such Interest and Default Interest (if any) shall be calculated on daily balances and charged to the Account in accordance with the Bank's usual practice;
  - v. Any legal and/or professional fees and all other fees, costs and expenses incurred by the Bank in obtaining any legal, professional and/or other technical advice in connection with the Account or in connection with the investigation, review of any information provided by the Customer or in

the preparation, negotiation and perfection of any documents relating to any of the Customer's credit facilities and/ or any other dealings with the Bank and/or on the advise of its legal advisers to compromise or settle any claim arising out of the actions of the Agent and/or the appointed Attorney and/or the Authorized Signatory in relation to the operation of the Account;

- vi. (vi) All processing, agency, commitment or arrangement fees or commission or any other charges at such rates, at such times and in such manner as the Bank may in its sole discretion determine from time to time in accordance with the Bank's Tariff(s).
- b) The Customer shall indemnify the Bank forthwith upon demand for any of the costs incurred by the Bank in taking any steps to obtain repayment of the Account;
- c) The Bank's right to receive any payment from the Customer shall not be affected by any dispute between the Customer and any third party;
- d) The Customer hereby acknowledges and agrees that the Default Interest payable by the Customer (if any) to the Bank represent a reasonable pre-estimate of the loss to be suffered by the Bank in funding the default of the Customer.

#### 17. Accounting and Transmission Errors

- a) The Bank reserves the right without any prior notice to the Customer, to debit any amounts credited by the Bank to the Account in error and/or reverse any entry made to the Account in error. The Bank does not accept any responsibility for the consequences of such reversals;
- b) Any amount credited by the Bank to the Account in error and utilized by the Customer must be repaid to the Bank together with the applicable Interest within seven (7) days of demand by the Bank. After the demand period, the Default Interest rate is applicable on such amounts credited in error;
- c) The instructions made by the Bank shall be at the Customer's expense and neither the Bank, its correspondent banks nor any of their employees shall be held liable for any mutilation, corruption, duplication, erasure, omission through any cables, airlines, courier services, electronic, telephonic, or facsimile systems howsoever occurring
- d) To any credit reference bureau or credit reference agency, rating agency, insurance or insurance broker;
- e) To the Bank's professional advisors, service providers or independent contractors, or agents of such parties, such as debt collection agencies, data processing firms and/ or correspondent banks;
- f) To the Bank's agents, associates or subsidiary companies for the purpose of lending and/or with the aim of developing new products and/or improving services and benefits to its customers;
- g) To anyone to whom the Bank may transfer its rights to under this agreement, employees, agents or advisors or any of their officers;
- h) To anyone where the Bank is legally or contractually compelled to or it is in the public's interest to disclose such information, whether they are located in or outside Kenya and whether under any Kenyan laws or any foreign laws as may be applicable from time to time;
  - i. In the event the Customer requests and/or consents to the disclosure of the information;
  - ii. To any actual or potential party the Bank wishes to enter into a contract with or any of their officers, employees, agents or advisors;
- l) To any merchant or member of the Card association where such disclosure relates to the Card and/or use of the Card;
  - a. To the Authorized Signatory or any security provider;
- m) For fraud prevention purposes;
- n) Where it is in the Bank's interest to disclose;

- o) To anyone the Bank considers necessary to enable the Bank provide the Customer with services in connection to the Account whether such person is located inside or outside Kenya.

**18.2** The Customer hereby expressly and irrevocably consents to the recipients of the information disclosed by the Bank, using and transferring the information where it is necessary to:-

- a) Monitor the Bank's compliance with the law and agreements with any regulators or any authority;
- b) Provide the Customer with services related to the Account;
- c) Support the Bank and any permitted parties, business, financial, risk monitoring, planning and decision making.

**18.3** The Customer expressly and irrevocably consents to the Bank collecting, receiving, compiling and retaining:

- a) Any identity and fraud prevention checks on the Customer or any other person relating to the Account;
- b) Any credit information on the Customer or any other person relating to the Account for purposes of assisting the Bank perform its statutory assessment of the Customer's credit worthiness, determining whether or not to grant the Customer credit and monitoring the Customer's credit profile in the event the Bank grants the Customer credit and completing the Bank's customers' credit information with any credit reference bureaus.

**18.4** The Customer hereby expressly waives all rights to make claims or complaints under any law imposing a duty of confidentiality on the Bank following any of the disclosures authorized herein by the Customer. 19. Assignment or Transfer

- a) The Bank may without requiring the consent of the Customer, assign and/or transfer all or any of its rights, benefits and obligations under these Terms and Conditions to any person at any time;
- b) The Customer shall not be entitled without the Bank's prior written consent to assign and/or transfer all or any of its rights, benefits and obligations under these Terms and Conditions to any person at any time.

#### 20. Variation of Relationship and Closure of the Account

- a) The Customer may close the Account subject to the settlement of any payment of any outstanding liabilities due to the Bank;
- b) The Bank may at any time, upon giving notice to the Customer, terminate or vary its business relationship with the Customer but without prejudice to the generality of the foregoing the Bank may cancel credits which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine;
- c) The Bank may without notice close the Account pursuant to a court order or if the Bank determines in its absolute discretion that the Account is being used for an illegal activity;
- d) If the Customer terminates the subscription to Electronic Banking, the Bank may continue to make electronic bill payments, transfer of funds and other transactions that the Customer would have previously authorized until such time as the Bank will have had a reasonable opportunity to act on the Customer's notice of termination;
- e) In the event of closure of the Account the Customer shall inform the Bank in writing and deliver to the Bank any unused Cheques and/ or Cheque Books, any computer banking software and the Card which shall be cut in pieces. The Customer shall remain responsible for any un-authorized use of the Card in the event the Customer does not cut the Card in pieces. Notice of closure of a Joint Account shall be signed by all Customers to the Joint Account;

- f) The Customer shall immediately inform the Bank in the event the Customer is placed under an administration order or placed under any other form of insolvency or legal disability;
- g) The Customer shall pay any money owed to the Bank, including the amount of any Cheques, Card transactions or any other payment instructions made by the Customer not debited from the Account;
- h) The Bank shall not be held liable for loss or damage (whether consequential or otherwise) suffered by the Customer as a result of the Account being closed or the terms of the relationship between the Bank and the Customer being varied and it shall be the responsibility of the Customer to notify others regarding such termination or variation.

### 21. Intellectual Property Rights

- a) The Customer acknowledges that the intellectual property rights of the Bank's System (and any amendments or enhancements thereto from time to time) and all associated documentation that the Bank provides to the Customer 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. The Customer shall not infringe any such intellectual property rights;
- b) The Customer shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Bank.

### 22. Indemnity

22.1 The Customer hereby agrees to indemnify the Bank, on a full and unqualified basis, for any loss or damage suffered by the Bank or any other person that the Bank has had any dealings arising as a result of:

- a) All and any costs (including legal costs), claims, actions, proceedings, losses, damage, demands, liabilities, and expenses suffered or incurred by the Bank in connection with or arising from circumstances whether within the Customer's control or not and the consequences of any breach by the Customer of any term or condition hereof;
- b) Any demands, claims, actions, losses, damages or costs arising from any transaction, activity or operation of the Account or related to the Account;
- c) Any transaction or activity either as a result of the instructions or otherwise being deemed to be found or suspected as being an illegal, fraudulent or suspicious transaction or activity;

### 23. Confidentiality and Disclosure

23.1 The Bank is committed to keeping your personal data private. We shall process any personal data we collect from you in accordance with Data Protection Legislation and the provisions of the Data Privacy Policy as well as the Bank's Data Retention Policy.

23.2 The Bank may not without the customers prior consent, disclose any information about the Customer or any other person relating to the account, to any other third party other than in the following Circumstances:

- a) To any regulator or tax authority where necessary to establish any tax liabilities in any jurisdiction pursuant to orders, agreements with regulators or authorities or otherwise;
- b) To any court, tribunal or authority (including an authority investigating an offence) having jurisdiction over the Customer or the Bank;
- c) To any financial institution with which the Customer has or may have any dealings for the purpose of conducting credit checks including in the form of bank references;

- d) Any costs (including any Taxes, legal or statutory fees (billed on a client basis) incurred by the Bank (or any other person on the Bank's behalf) in connection with expenses as stated under, but not limited to Section 24 herein.

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

- a) All demands, claims, actions, losses and damages of whatever nature brought against the Bank arising from the Bank's reliance on any incorrect, illegible, incomplete or inaccurate information or data contained in any request received and acted upon by the Bank;
- b) Any loss or damage that may arise from the Customer's use, misuse, abuse or possession of any third party software;
- c) Any actions and transactions by the Customer's Agent, Authorized Signatory or Attorney that may result in damage or loss to the Bank;
- d) Any unauthorized access to the Customer's account 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 equipment;
- e) Any loss or damage occasioned by the failure of the Customer to adhere to any terms and conditions applicable to the service 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;
- f) Any transaction or activity either as a result of the instructions or otherwise being deemed to be found or suspected as being an illegal, fraudulent or suspicious transaction or activity;
- g) Any costs (including any Taxes, legal or statutory fees (billed on a client basis) incurred by the Bank (or any other person on the Bank's behalf) in connection with expenses as stated under, but not limited to Section 24 herein.

### 24. Exclusion of Liability

- a) Where the Customer has requested and the Bank has agreed to act upon any Customer instructions, whether in written form or through electronic communication, the Customer hereby acknowledges and agrees that:
  - i. Such communications sent by use of telephone, electronic mail and facsimile format are not secure and communications sent by use of electronic communication and their attachments (if any) which may contain privileged and confidential information intended solely for the use of the Customer may by error be received by a non-intended recipient;
  - ii. The Bank shall not be responsible for verifying the identity of the recipient of any e-mail and facsimile and shall not be responsible if any communications sent by electronic communication intended for the Customer are received by a non-intended recipient;
  - iii. The Bank shall not be responsible for ensuring the delivery or reconfirming the receipt of any communications to or from the Customer and the Customer hereby acknowledges that any review, dissemination, distribution, printing, or copying of any communication by any other party is outside the control of the Bank who shall also not be liable should such communications be sent out to the wrong person;
  - iv. The Bank shall not be responsible for 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 antimoney)

- laundering regulations) which are imposed from time to time.
- b) The Bank shall not be responsible for any losses suffered by the Customer by reason of:
- i. The shut-down or delay in the availability of a Customer's mobile service provider, internet service provider or other third party provider;
  - ii. Any viruses, trojan horses, worms, logic software, other bombs or other similar programs or routines (including hacking) affecting any website, electronic channels or the Customer's own facilities;
  - iii. Incomplete messaging or sending of instructions.
- c) The Bank shall not be liable for any losses or damage suffered by the Customer as a result of delay, failure and/or refusal by the Bank to action a request in time or at all in any one or more of the following circumstances (as the case may be):
- i. If the Customer does not have enough funds in the Account;
  - ii. If the payment or transfer would result in the Customer's approved overdraft facility limit being exceeded;
  - iii. If the Customer does not authorize a bill payment in good enough time for the payment to be made and properly credited by the payee (the Customer's counter-party) by the time it is due;
  - iv. If the System or the Customer's facilities were not working properly;
  - v. If the money in the Customer's Account is subject to legal process court order or other encumbrance restricting the payment or transfer;
  - vi. If the Customer does not give proper or complete instructions or the Customer does not follow the procedures applicable in requesting a payment or a transfer;
  - vii. If the Bank has reason to believe that the Customer or someone else is using the service for fraudulent or illegal purposes;
  - viii. If a payment or a transfer request would consist of money deposited in a form or by a method that has not yet made the money available for withdrawal;
  - ix. If the payment or transfer request is in contradiction or conflict with other existing Account agreements with the Customer.
- d) If the Bank makes a timely payment or transfer but the payee nevertheless fails to credit the Customer's payment promptly after receipt, the Bank shall not be liable for any loss or damage suffered by the Customer as a result of such failure on the part of the payee;
- e) The Bank shall not be liable to the Customer for any loss or damage (whether consequential or otherwise) in respect of:
- i. Any payment made on any Withdrawal Instrument to the Customer, any Authorized Signatory, any Agent or any other third party;
  - ii. The validity, authenticity, regularity or value of documents including but not limited to bills of lading, consignment notes, receipts, warrants, insurance policies, delivery orders or any documents relating to the Security.
- f) If for any reason provision of the services is interfered with or unavailable, the Bank's sole liability under these Terms and Conditions in respect thereof shall be to re-establish the services 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;
- g) Circumstances not within the Bank's reasonable control;
- h) The Bank shall not be responsible or liable for any loss suffered by the Customer should the services be interfered with or be unavailable by reason of:
- i. Any industrial action;
  - ii. The failure of any of the Customer's facilities;
  - iii. Any other circumstances including, without limitation, or error, interruption, delay or non-availability of the System, equipment failure, loss of power and failure of any public or private telecommunications system;
  - iv. "Force Majeure" means (including but not limited to) fire, strike, insurrection or riot, floods, embargo, theft or burglary, communication failure, inordinate delays in transmission of communication or transportation, terrorism, war or the requirements of any civil or military authority.
  - i) Under no circumstances shall the Bank be liable to the Customer for any loss of profit or anticipated savings or for any indirect or consequential loss 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;
- (j) All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

## 25. Variation and Amendment

- a) The Bank may vary and amend these Terms and Conditions at any time subject to the requirements of any statute in addition to publishing Specific Terms and Conditions in relation to any new products and/or services (or otherwise) that may be offered by the Bank;
- b) Notification of any such variation and/or amendment shall be given to the Customer either in writing or by publication thereof by such means as the Bank may select. Any variation and/or amendment so effected shall be binding on the Customer;
- c) Any additional and/or updated instructions on use of the Bank's electronic banking services can be found on the Bank's website [www.cibke.com](http://www.cibke.com)

## 26. Severability of Terms

Each of the provisions of these Terms and Conditions is severable and distinct from the others and, if at any time one or more of those provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**26.1** The Bank is committed to keeping your personal data private. The Bank Shall process any personal data we collect from you in accordance with Data Protection Legislation and the provisions of the Data Privacy Policy as well as the Bank's Data Retention Policy.

## 27. Indulgences

No indulgence by the Bank in respect of any of its rights hereunder shall operate as a waiver of the Bank's rights nor shall it constitute a novation thereof.

## 28. Governing Law and Jurisdiction

The Application Form, these Terms Conditions and any other documents required to be executed by the Customer in connection with the Account, shall be governed by and construed in accordance with the laws of the Republic of Kenya and the Customer submits to the non-exclusive jurisdiction of the Kenya courts.

## 29. Intention to Be Bound and Independent Legal Advice

- a) The Customer and/or the Authorized Signatory and/or the Agent and/or Attorney (and every other person connected to the Account) has executed these Terms and Conditions with the intention to be legally bound by the contents herein.

- b) 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.

### **30. Declaration**

I/We the undersigned hereby declare that:

**30.1** I/We are the sole owner(s) and beneficiary of the opened account, and declare the full responsibility for legality of the source of any funds deposited /Transferred to the accounts and such amounts are in compliance with Proceeds of Crime and Anti Money Laundering Act.

**30.2** I/We have complete knowledge, awareness and acceptance of the fees, expenses, commissions, and interest list applied at the bank on all the products and services as communicated by the Bank.

**30.3** In case I/We wish to close or stop the usage of the bank's products or service, I/We are obligated to head to the nearest branch and or contact the bank from the contacts provided in the account opening forms to inquire for the applied fees and discounts from the banks side (if any) without any liability or responsibility on the banks part.

**30.4** In case I/We witness any fraud or theft on any of our accounts held at the bank or loss of any banks Cards delivered to us , I/We shall be obligated to head to the nearest branch or shall notify the Bank directly by telephone and confirm in writing immediately. without any liability or responsibility on the banks part in this regard.

**30.5** I/We confirm that I/We are aware of the acceptable channels of lodging complaint/enquiries at the bank. I/We undertake /consent that our personal account shall not be permitted for business transactions and the bank reserves the right to reject any transaction that the bank deems as business and /or close the account misused for business transactions in its own discretion.