

TERMS AND CONDITIONS FOR THE BLOOM SUB-AGENT FLOAT FINANCING PRODUCT

1. THE AGREEMENT

- 1.1. These terms and conditions (the “**Terms and Conditions**”) constitutes an agreement and set out the complete terms and conditions between you, I&M Bank Limited and Safaricom Plc for the Bloom Subagent Float Financing product (the “**Product**”). These Terms and Conditions shall be binding on you and your personal representatives and permitted assigns upon you opting into or registering for the Product.
- 1.2. These Terms and Conditions and any amendments or variations thereto take effect on their date of publication.
- 1.3. These Terms and Conditions are supplemental to all the terms and conditions applicable to M-PESA Sub-Agents as at the date of publication. In the event of any inconsistency between these Terms and Conditions and any other Terms and Conditions with respect to the Product, these Terms and Conditions shall prevail.
- 1.4. You acknowledge and agree that for purposes of this Product and any other credit products offered through the M-PESA system, Safaricom is not the lender or financial institution advancing the loan amounts. Such loan amounts are exclusively offered by Safaricom’s financial partners who are duly licensed by the Central Bank of Kenya to offer credit facilities. Safaricom’s role in the credit products and solutions shall be limited to providing the platforms for disbursement of loans and repayment of such loans.

2. DEFINITIONS

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

- 2.1. “**Access Channels**” or “**M-PESA Access Channels**” means the gateway provided by Safaricom to the Customers to access their M-PESA Account through either, USSD, STK or APP.
- 2.2. “**Sub-Agent’s Float**” means the sum of e-money held by the Sub-Agent for the provision of the M-PESA Services under the Terms and Conditions applicable to M-PESA Sub-Agents from time to time.
- 2.3. “**Agreement**” means these Terms and Conditions and any amendments that will be made from time to time.
- 2.4. “**Amount Due**” refers to any Facility amount that remains unpaid after the Facility Term.
- 2.5. “**Applicant**” means any person who, through the Opt-In Function, applies for enrolment or registration onto the Product and establishment of a Loan Limit.
- 2.6. “**Credit Reference Bureau**” or “**CRB**” means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations, 2020, as amended, revised or promulgated from time to time, to inter alia, collect and facilitate the sharing of customer credit information.
- 2.7. “**Customer**” or “**Client**” means any Applicant or any Agent who has registered to use the Product and has accepted this Agreement.
- 2.8. “**Customer Care Centre**” means the Safaricom Customer Care Centre designated for the Product in accordance with these Terms and Conditions.
- 2.1. “**Event of Default**” refers to any of the circumstances set out in Clause 10 below.
- 2.9. “**Equipment**” includes your mobile phone handset, device, M-PESA enabled SIM Card and/or other equipment which when used together enables you to access the Network.
- 2.10. “**Facility**” means any funds advanced on your M-PESA Account under these Terms and Conditions.
- 2.11. “**Facility Term**” means the period agreed for full Repayment of the Facility, being seven days from the date of disbursement of the loan. It is further understood that the Facility Term shall be subject to a roll over period of seven (7) days.
- 2.12. “**Fee**” means the fee chargeable to the Sub-Agent for accessing the Facility and includes:
 - (a) A fee equivalent to 2% of the loan amount; and

- (b) Any other charges for the Facility as communicated by us from time to time in accordance with this Agreement and includes any charges, and applicable taxes thereon under the laws of Kenya.
- 2.13. **“Government”** means the National Government, County Government or any other Government lawfully established under the laws of Kenya.
- 2.14. **“IPRS”** means the Integrated Population Registration System operated by the Government.
- 2.15. **“I&M”** means I&M Bank Limited incorporated in Kenya as a limited liability company under the Companies Act and duly licensed as a bank under the Banking Act and includes affiliates or subsidiaries of I&M Bank as may from time to time be specified by I&M to you.
- 2.16. **“Know Your Customer”** also known as **KYC** refers to the customer due diligence obligations, information, items documentation and requirements prescribed by relevant laws of Kenya and as may be prescribed or recommended by the Government or Central Bank of Kenya from time to time.
- 2.17. **“M-PESA Sub-Agent”** a person authorized to offer cash deposit and redemption services by Safaricom to M-PESA Subscribers provided that the term person as used in these Terms and Conditions shall include both natural persons as well as bodies corporate and legal entities and further provided that the term shall include sub-agents.
- 2.18. **“M-PESA”** or **“M-PESA Product”** means the money transfer and payment service that is managed and operated exclusively by Safaricom in Kenya and licensed by the Central Bank of Kenya.
- 2.19. **“M-PESA Account”** as used with respect to the Sub-Agent means the Sub-Agent’s Float used to serve M-PESA customers and to hold the Sub-Agent’s commission, or the M-PESA Account registered to a Client’s Nominated Account Number and created in the M-PESA System, being the mobile number designated by the Customer during registration as an agent.
- 2.20. **“M-PESA System”** means the technical platform for the time being providing the M-PESA Product.
- 2.21. **“MSISDN”** means Mobile Subscriber Integrated Services Digital Network Number (Mobile Number).
- 2.22. **“Network”** means the mobile cellular network operated by Safaricom.
- 2.23. **“Opt-in Function”** means the proprietary menu option developed by Safaricom that enables Customers to apply to Safaricom to register for the Product.
- 2.24. **“Opt-out Function”** means the proprietary menu option developed by Safaricom that enables M-PESA Subscribers to opt out of the Product.
- 2.25. **“Loan Limit”** means the maximum Facility amount you are allowed on the Product as defined, established and communicated to you by us from time to time based on your credit score; it being acknowledged that the limits at the launch of the Product are KES 1000.00 to KES 1,000,000.00 and may be reviewed by you from time to time.
- 2.26. **“Personal Information”** means personal identifiable information as prescribed in the Data Protection Act, 2019 which includes but is not limited to name, address, phone number, identification number and location data. It shall also include Customer Information as described in Clause 4.4.
- 2.27. **“PIN”** means your personal identification number being the secret code used to access and operate your Equipment on the M-PESA System including but not restricted to access and use of the Product.
- 2.28. **“Recovery Expenses”** include any costs including legal fees incurred by us to recover Overdue Amounts.
- 2.29. **“Repayment”** means repayment of any amount due under the Product as defined in these Terms and Conditions including but not restricted to repayment of the Facility and the Fee.
- 2.30. **“Request”** means a request or instruction received by us from you or purportedly from you through the Network and the System and upon which we are authorized to act.
- 2.31. **“Safaricom”** means Safaricom PLC, a public limited liability incorporated in Kenya under the Companies Act.
- 2.32. **“Product”** means the term loan product or service offered by Safaricom and I&M or other bank Partners contracted by Safaricom under the terms of this Agreement.
- 2.33. **“SIM Card”** means the subscriber identity module which when used together with other prescribed Equipment enables a Customer to use the M-PESA Product.

- 2.34. **“STK Menu”** means the M-PESA STK menu embedded on the SIM Card and appearing on the M-PESA user interface.
- 2.35. **“USSD”** means the USSD service provided by Safaricom.
- 2.36. **“We,” “our,”** and **“us,”** means Safaricom and I&M and where applicable may include our affiliates, successors and assigns.
- 2.37. **“You”** or **“your”** means the Customer and includes the Customer’s personal representatives and assigns.
- 2.38. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

3. ACCEPTANCE OF THE TERMS AND CONDITIONS

- 3.1. Before opting-in or registering for the Product, you should carefully read and understand these Terms and Conditions as they govern the access, use and operation of the Product. These Terms and Conditions are available on the respective websites for Safaricom and I&M. Where you are unable to read and understand these Terms and Conditions from an electronic device you are requested to collect a printed version from a Safaricom Shop.
- 3.2. If you do not agree with these Terms and Conditions, please click “Decline” on the Opt-in Function.
- 3.3. You will be deemed to have read, understood and accepted these Terms and Conditions:
 - 3.3.1. upon clicking on the “Accept” option on the Opt-in page requesting you to confirm that you have read, understood and agreed to abide by these Terms and Conditions; and/or
 - 3.3.2. by using or continuing to use and requesting for the Product.
- 3.4. By registering for the Product, you agree to comply with and be bound by these Terms and Conditions as amended and revised from time to time and you affirm that these Terms and Conditions are without prejudice to any other rights that we may have in law or otherwise regarding your registration, access and use of the Product.
- 3.5. We may from time to time vary or amend these Terms and Conditions and your continued access and use of the Product constitutes your acceptance to be bound by the terms of any such amendment or variation.

4. REGISTERING FOR THE SERVICE

- 4.1. You are required to register for the Product through the designated M-PESA Access Channels. You must meet the eligibility requirements for the Product which are:
 - 3.4.1. You must be at least eighteen (18) years old, for a natural person and your (the Sub-agent’s) nominated number must have been on the Network for at least One Hundred and Eighty (180) days or such other period as may be required by Safaricom from time to time;
 - 3.4.2. You must have been active for a period of at least six (6) months or such other period as we may determine and communicate to the Customers from time to time; and
 - 3.4.3. You must have had an active float account six months preceding the application to register for the Product or such other rate as may be communicated to Customers from time to time. Notwithstanding your compliance with the eligibility requirements set out in these Terms and Conditions, we reserve the right to decline your application to register for the service, get allocated a credit limit and to obtain a loan.
- 4.2. We reserve the right to verify the authenticity and status of your M-PESA Account and transactions and may decline your application if you do not meet these minimum requirements.
- 4.3. You may register for the Product on more than one M-PESA Account but not on more than five (5) M-PESA Accounts provided that clause 4.10, 4.11 and 4.12 and all of these Terms and Conditions will apply to each M-PESA Account that may be registered in your name. We reserve the right to revise the number of M-PESA accounts that you may register for the Product in our sole discretion.
- 4.4. You hereby agree and authorize us to exchange between Safaricom, I&M and our Bank partners any of your Customer information held by us in respect of provision of any Safaricom products and services including the M-PESA Product to facilitate the performance of this Agreement. Such personal information includes KYC and such other information that will enable us to identify you and comply with the regulatory “know your customer” requirements (together the **“Customer Information”**).

- 4.5. You also hereby agree and authorize us to use information relating to your use of the M-PESA service and other Safaricom products as we shall require for purposes of delivering the Products ("M-PESA Information").
- 4.6. We reserve the right to request further information from you pertaining to your application to register for the Product at any time. Failure to provide such information within the time we require may result in a decline of your application to register for the Product.
- 4.7. You hereby agree and authorize us to obtain and procure your Personal Information from the Government of Kenya's repositories which, includes but is not limited to IPRS and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to us.
- 4.8. You hereby further acknowledge and authorize us to verify your Personal Information in our custody against the information received from the Government of Kenya repositories (including but not limited to IPRS) in your respect.
- 4.9. You hereby expressly consent and authorize us to disclose, receive, record or utilize your Personal Information or information or data relating to your account with respect to the Product and any details on your use of Safaricom products and services.
- 4.10. Our acceptance or decline of your application to register for the Product shall be communicated through the contact details provided by you. You acknowledge and accept that our acceptance of your application to register for the Product creates a separate and distinct additional contractual relationship between you and Safaricom outside the Terms and Conditions that apply to you for the use of other M-PESA products from time to time.
- 4.11. In the event an agent Till(s) associated to a nominated number is swapped, or the nominated number is swapped or recycled, You shall not be able to access the Product for a period of twenty-four (24) hours.
- 4.12. We reserve the right to decline your application to register for the Product or, subject to 30 days' notice or such other notice as may be required by law, to revoke your registration on the Product. Where we decline your application to register or revoke your registration, we shall endeavor to formally communicate to you our reasons for the same.
- 4.13. The Sub-Agent acknowledges and agrees as follows:
- (a) The loans will be issued to individuals in whose name the Sub-agent's nominated number is registered.
 - (b) Commission deductions towards repayment of the loan amounts may be done from the Sub-Agent's till and from other tills that the relevant individual is a nominated number.
 - (c) The commission amounts to be deducted shall be commission amounts to which the Sub-Agent is entitled, post-split of the M-PESA Agent/Head Office (HO) commission.
 - (d) The Sub-Agent shall be scored, and a limit assigned based on the Sub-Agent's commissions, volume of transactions and other parameters contemplated under these Terms and Conditions.
 - (e) For the avoidance of doubt, lending under this Product shall be made to Sub-Agent through the registered owner of the Sub-Agent's nominated number who is the legal owner of the Sub-Agent.

5. YOUR REQUESTS

- 5.1. You hereby irrevocably authorize us to act on all Requests received by us using your M-PESA PIN and to hold you liable in respect thereof. We may nevertheless refuse to carry out any requests beyond the scope of the Product as offered from time to time.
- 5.2. We shall be deemed to have acted properly and to have fully performed all our obligations upon our compliance with the Request. We may ask for further information or confirmation (whether written or otherwise) from you before complying with a Request but shall not be obliged to comply with a Request in the absence of such further information or confirmation.
- 5.3. We shall decline any Request for a Facility under the Product if you exhaust your Loan Limit by value or number of loans or M-PESA transactional load limit (as communicated by Safaricom) and reserve the right to partly decline your Request if fully complying with the same would cause you to exceed the Loan Limit or M-PESA transactional limit. In deciding whether to offer you the Product, we shall take into account the number and frequency of transactions concluded by M-PESA customers at the Sub-Agent level.

- 5.4. You can only cancel a Request by Requesting cancellation through the Access Channels within a live or mid-air transaction. Cancellation will however only be allowed where your Request has not yet been acted on by us. If we are able to cancel your Request, you may be charged for such cancellation.
- 5.5. You hereby authorize us to effect such orders and act on such instructions in respect of your M-PESA Account as may be required by the Government or any court order or by a competent authority or agency under the applicable laws.

6. REQUESTING A FACILITY

- 6.1. Upon opting into the Product, you will receive a confirmation message specifying your Loan Limit.
- 6.2. If you are not allocated a Loan Limit, you must continue to provide your services to M-PESA customers in order to build a transaction history and enhance your credit score in order to be eligible to a Loan Limit, considering that the scoring used in determining your Loan Limits is based on among other parameters, transaction velocity at sub agent level.
- 6.3. By accepting these Terms and Conditions, you agree and admit that we reserve the exclusive right to set the Loan Limit.
- 6.4. You may check your Loan Limit using the appropriate menu option provided on your Equipment through the Access Channels.
- 6.5. Your Request for a Facility will be appraised according to our Facility appraisal procedures. We reserve the right at our sole discretion and, without assigning any reason, to approve or decline such Request. Communication of our acceptance or decline of your Request will be via SMS sent to your Safaricom mobile phone number (MSISDN) and or Equipment.
- 6.6. The facilities advanced under the Product shall have a term of seven (7) days, with an initial interest chargeable at a flat rate of 2% of the principal sum borrowed. The initial interest charge shall be payable at the point of disbursement.
- 6.7. In the event that the Facility remains unpaid at the end of the initial seven-day period, it shall automatically roll over into subsequent periods of seven (7) days each, up to a maximum of three (3) rollovers.
- 6.8. We shall be entitled to a rollover interest of 2% which shall be applied to the outstanding balance at the beginning of each rollover period, payable at the point of repayment.
- 6.9. You will not qualify for any new or additional Facility where any facility remains outstanding beyond the Facility Term or are in default of any of the Terms and Conditions of the Facility including these Terms and Conditions.
- 6.10. You may opt-out of the service at any time if you so wish to, provided you have paid any outstanding loans.
- 6.11. The proceeds of the loans advanced under the Product shall be used exclusively for financing the Sub-Agent's float and not for any other purpose.

7. LOAN LIMIT

- 7.1. We may from time to time prescribe the minimum and maximum Facility you may be able to Request on the Product. Such limits will be communicated through SMS, our websites, www.safaricom.co.ke and www.imbankgroup.com.
- 7.2. The Loan Limit is subject to review from time to time and we reserve the right to vary your Loan Limit without giving any reasons. We shall notify you of any variation to the Loan Limit and your continued use of the Product will constitute acceptance of your revised Loan Limit.
- 7.3. Where you have any outstanding Facility for more than the period of the allocated tenor, your right to use the Product and any un-utilized Loan limit may be suspended forthwith.

8. CREDIT SCORING

- 8.1. Your Loan Limit and our continued approval of your Requests for a Facility will be determined by your credit score.

- 8.2. Your credit score will be assessed based on various matters including the volume of transactions concluded at the sub-agent level. We reserve the right to prescribe the parameters that we may use for purposes of prescribing the Loan Limits.

9. REPAYING THE FACILITY

- 9.1. You are responsible for repaying all borrowed amounts together with applicable fees and charges under this Product. You irrevocably instruct us to automatically recover the Facility in full together with the Fee during the allocated Facility Term. You acknowledge that, in order to effect these instructions, Safaricom may debit the amounts due as commission to you (from any of your accounts with us) at any time until the Facility is cleared in full.
- 9.2. The Sub-Agent acknowledges and agrees that where any of the tills or accounts associated with the Sub-Agent takes up a loan under this Product and the loan amounts remain outstanding for more than thirty (30) days, the Sub-Agent's tills and account or any other tills associated with the Sub-Agent may be suspended and the commissions on the said till clawed back to repay the loan.
- 9.3. You may repay the Facility through the Access Channels.
- 9.4. We may terminate our relationship with you and suspend your access to the Product if you fail to repay the Facility in full together with any outstanding Fee within the Facility Term.
- 9.5. Any funds available in your M-PESA Account shall be applied towards Repayment of the amount due in the following order of priority:
- 9.5.1. First in repayment of all the Fees, if any is outstanding; and
 - 9.5.2. Secondly towards repayment of the Facility.

10. EVENTS OF DEFAULT

An event of default occurs:

- 10.1. Where any Facility is due and unpaid within the Facility Term and where the M-PESA Account has been inactive for more than 30 to 90 days or the credit in the M-PESA Account are inadequate to meet the outstanding Facility, or
- 10.2. If any representations or statements or particulars made by you are found to be incorrect; or
- 10.3. If you commit any breach or fail to observe, keep or perform any of the terms, conditions, covenants or provisions of any other agreement between us and yourself in respect of the Facility; or
- 10.4. if there is reasonable apprehension that you are unable to pay your debts or we receive any notice that you have admitted any inability to pay your debts as they become due; or
- 10.5. if you are convicted under any criminal law in force related to use of the services or any other related services; or
- 10.6. If any judgement or decree in any legal proceedings is passed against you which is not satisfied within seven (7) days of demand, or
- 10.7. If a Garnishee or Attachment Order or a lien created against any of your deposits with us or assets maintained by you is made.

11. CONSEQUENCES OF DEFAULT:

- 11.1. At any time after an Event of Default has occurred or is continuing, I&M may, without prejudice to any other right or remedy granted to us under any law:
- 11.1.1. terminate the Products in accordance with clause 23 below;
 - 11.1.2. declare that the Facility (inclusive all Fees or charges) and all other amounts outstanding under these Terms and Conditions is immediately due and payable, whereupon you shall be required to settle the Facility with immediate effect;

- 11.1.3. hold any of your funds standing in credit with I&M (under the Product) as collateral and security for any amounts outstanding and due from you in respect of the Facility or Product. You hereby agree and confirm that I&M is entitled in its discretion to prevent or restrict you from withdrawing in whole or in part the funds in your accounts for so long as and to the extent of the amount outstanding in respect of your Loan without I&M giving any notice to you and/or without incurring any liability to you whatsoever in that connection;
- 11.1.4. have a right of lien and set off over funds held by you in any of your accounts with I&M. I&M may, without notice, set off against any amount due from any other account whether current, loan, or loans or any other type of account. A right of lien and setoff shall exist over savings and mobile saving accounts;
- 11.1.5. submit information concerning the Event of Default to Credit Reference Bureaus as required under the Banking Act or any other regulatory body; and/or
- 11.1.6. take reasonable measures including engaging an independent debt-collection agency, to recover the amount in default provided that the Sub-Agent shall be responsible for catering for the costs of such recovery efforts.

12. LIEN AND SECURITY RIGHTS

- 12.1. You acknowledge and accept that I&M shall have a general lien over (right to retain) all your property in our possession. Such property and assets include but are not restricted to cash, goods, securities or valuables deposited for safe custody as security, cheques presented, bills and any other movable or immovable property charged to secure repayment of any money, whether or not that money has been repaid, and also over all property in respect of which, by the general law, we have lien. Property held under lien in these Terms and Conditions shall be deemed to be held as security for the Facility, up to an amount equivalent to the aggregate of the outstanding principal on your Facility and the Recovery Expenses.
- 12.2. You hereby also constitute I&M as your attorney for the purposes of completing and perfecting any transactions in relation to your M-PESA Account or any other of your property held by us in lien for purposes of discharging your Facility, including the Recovery Expenses and unpaid Fees ("Outstanding Amounts").
- 12.3. A written notice of fourteen (14) days running from the date of issuance of the same to you shall be issued to advise you of our intention to realize sufficient amounts of your property held in possessory lien to settle any Outstanding Amounts. Any Repayment received after lapse of the notice will be accepted strictly on account and without prejudice to our rights.
- 12.4. You agree not to terminate or cancel registration of your Safaricom mobile phone number (MSISDN) when you have any Outstanding Amounts.

13. STATEMENTS

- 13.1. We shall from time to time, at your Request, provide you with statement(s) or activity report(s) ("**the Mini Statement**") in respect of your M-PESA Account on your Equipment through the Access Channels. You may also from time-to-time request Safaricom for statement(s) or activity reports in respect of your M-PESA Account through the same channels.
- 13.2. The Mini Statement will not be sent to you in printed form but will be delivered to you either by SMS to the Client Nominated Number or contact details associated with your M-PESA Account or such other electronic means as we may determine. You shall be responsible for the payment of any charges associated with delivery of the Mini Statement to you.
- 13.3. You may obtain your full statement or the Mini Statement in printed form from your nearest Safaricom Shop. You shall be responsible for payment of any charges payable for such printed statements.
- 13.4. The full statement and or Mini Statement will show all transactions carried out on your M-PESA Account during the period requested and or since the previous statement. You must check your statement carefully and inform us as soon as possible, of any errors or anomalies or transactions not made in accordance with your instructions.
- 13.5. You will be deemed to have accepted all entries in your Statement if you do not raise queries or objections on the entries therein within fifteen (15) calendar days from the statement date.

- 13.6. Save for a manifest error, the full statement and or Mini Statement issued to you aforesaid in respect of your M-PESA Account shall be conclusive evidence of the transactions carried out on your M-PESA Account for the period covered in the Mini Statement and or full statement.
- 13.7. We reserve the right to rectify discrepancies, add and or alter the entries in your full statements or Mini Statement, without prior notice to you. We will however inform you of any rectification, additions and or alterations effected on your statements within seven (7) days before the changes are effected.
- 13.8. You will be notified of all transactions on your M-PESA Account by way of SMS.

14. LOSS OF EQUIPMENT AND UNAUTHORIZED TRANSACTIONS

- 14.1. If you lose your Equipment or you for any reason you believe that your PIN may have been accessed by an unauthorized person, you shall immediately notify the Safaricom Customer Care Centre for assistance.
- 14.2. Until and unless we receive your notice of loss or unauthorized access of the PIN as above, we shall remain authorized to accept any Requests on your M-PESA Account using your PIN.
- 14.3. You shall give us and any person acting on our behalf all necessary assistance in any investigations, all information as to the circumstances of the loss or possible misuse of your Equipment or PIN in order to enable us to take all reasonable steps mitigate the loss incurred or likely to be incurred as a result of loss of the Equipment or misuse or unauthorized access to your PIN.
- 14.4. You consent to the disclosure by us to third parties of such information as is relevant concerning your M-PESA Account in connection with such loss of your Equipment or possible misuse or unauthorized access of your PIN.

15. CUSTOMER COMPLAINTS

- 15.1. Complaints shall be made by calling or SMS 100 for prepaid or 234 which is for M-PESA support. Alternatively, you can visit any Safaricom shop or access the Self-service using code 456.
- 15.2. We will take all reasonable measures within our means to resolve your complaints in accordance with the M-PESA Product User Terms and Conditions, Lipa na M-PESA Terms and Conditions and M-PESA Agency and Sub-Agency agreements. We will handle all complaints in accordance with our complaints handling procedures, which are available on request from any Safaricom Shop or the Safaricom Customer Care Centre. Where a notification regarding your complaint or any other matter is expected from us but not received, you are entitled to follow up on the complaint within a reasonable time.
- 15.3. We, on receiving a complaint, shall provide the complainant with a prompt written acknowledgement within forty-eight (48) hours and resolve the complaint in seven (7) working days. For complaints not resolved within seven (7) working days, written updates should be forwarded to the customer on the progress in resolving the complaint, once in every seven days.

16. FEES, CHARGES AND EXPENSES

- 16.1. You are responsible for the payment of all applicable Fee for the use of the Product. The Fee payable under this Product will be published in information pamphlets, daily newspapers, cash merchant outlets and on the I&M and Safaricom website. Safaricom's Customer Care team will be on hand to assist you with the cost schedule if you are uncertain about the applicable charges.
- 16.2. All Fees are subject to change at any time at our sole discretion.
- 16.3. You shall pay to us and hereby accept that we are entitled to deduct from your M-PESA Account (without reference to you):
 - 16.3.1 any Fee payable in respect of the Product.
 - 16.3.2 any legal charges including advocate and client costs incurred by us in obtaining legal advice in connection with the Product and your dealings with us or incurred by us in any legal, arbitration or other proceedings arising out of any dealings in respect the Product and all other Interest, expenses and taxes, duties, impositions and expenses incurred in complying with your Requests.
- 16.4. Except as may otherwise be notified, the Fee is inclusive of all applicable taxes including Value Added Tax at the prevailing rate. You hereby agree to pay all Fees.

- 16.5. You hereby agree to pay costs charges and expenses incurred by us in obtaining or attempting to obtain payment of any Facility owed under your M-PESA Account.
- 16.6. We shall, at the time when you make any Request on the Product notify you of the applicable Fee in order to afford you an opportunity to confirm your knowledge and acceptance of them.
- 16.7. We shall provide a detailed breakdown of the Fee incurred in the full statement and Mini statement. Please visit your nearest Safaricom Shop for a copy of the complete guide on our tariffs. The tariffs are also available on our websites at <https://www.safaricom.co.ke> and <https://www.imbankgroup.com/>.
- 16.8. Fees relating to your use of the M-PESA Product and the Lipa na M-PESA Product shall be strictly in accordance with the prevailing Terms and Conditions for M-PESA Product and the Lipa na M-PESA Product.

17. TAXES

All Repayments are inclusive any taxes payable by you. You hereby irrevocably grant us permission to revise the Fee upon any changes to taxes applicable.

18. YOUR PERSONAL INFORMATION

- 18.1. You hereby expressly consent and authorize us to disclose receive record or utilize your customer information or information or data relating to your M-PESA Account with respect to the Facilities granted under the Product and any details of your use of the Products:
 - 18.1.1. between I&M and Safaricom for the purposes of this Product and other services as we shall advise you;
 - 18.1.2. to and from our service providers, dealers, agents or any other company that may be or become our affiliate or subsidiary or holding company for reasonable commercial purposes relating to the Products.
 - 18.1.3. to a Credit Reference Bureau;
 - 18.1.4. to independent debt-collection agencies;
 - 18.1.5. to our lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;
 - 18.1.6. for reasonable commercial purposes connected to your use of the Products, such as marketing and research related activities; and
 - 18.1.7. in business practices including but not limited to quality control, training and ensuring effective systems operation.
- 18.2. You authorize us to disclose any information relating to your M-PESA Account to any local, foreign or international law enforcement or governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud or to any other institution or third party as required by the laws of any country and as we may deem necessary.
- 18.3. You authorize us to disclose, respond, advise exchange and communicate the details or information pertaining to your M-PESA Account and or your Facility to third parties involved in the administration of your M-PESA Account and Facilities, underwriting of insurance policies, updating of databases, or provision of user support.
- 18.4. You shall notify your nearest Safaricom Shop in writing of any changes to Customer Information and KYC or update the same through the Equipment. Until such notice is received, your Personal Information shall be deemed to be that which you provided in your application to register for the Product.

18.5. Collection of information

We are required by law to collect certain Personal Information and are legally obligated to deny you the service if such information is not availed.

Apart from the legal obligation mentioned above, we also need to collect your Personal Information for quality service delivery. Please note that although this is voluntary, without such information we may not be able to provide quality service.

18.6. Privacy

We are committed to respecting and protecting the privacy of the information we collect from you. Our privacy statement, as updated from time to time, explains how we treat your Personal Information, who we share your information with, and measures taken to protect your privacy when you use our Product. This can be found on Safaricom's Data Privacy Statement at <https://www.safaricom.co.ke/dataprivacystatement/>. If unable to access the link or this website, please reach us on any of our customer care channels to receive a copy.

You shall notify your nearest Safaricom Shop in writing of any changes to your Personal Information or update the same through the Equipment on your STK Menu, USSD or Safaricom App including but not restricted to your name and address. Until such notice is received, your Personal Information shall be deemed to be that which you provided in your application to register for the Product.

19. YOUR EQUIPMENT AND RESPONSIBILITIES

- 19.1. You shall at your own expense provide and maintain in safe and efficient operating order such Equipment necessary for the purpose of accessing the Products. You shall be responsible for ensuring the proper performance of your Equipment. We shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall we be responsible for any computer virus or related problems that may be associated with your access and use of the Products and Equipment. You shall be responsible for charges due to any service provider providing you with connection to the Network and we shall not be responsible for losses or delays caused by any such service provider.
- 19.2. You shall follow all instructions, procedures and these Terms and Conditions and any other documents we may provide you concerning access and use of the Products and Equipment.
- 19.3. You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Equipment and for keeping your PIN secret and secure. You shall ensure that your PIN does not become known or come into possession of any unauthorized person. We shall not be liable for any disclosure of your PIN to any third party, and you hereby agree to indemnify and hold us harmless from any loss and damage we may incur as a result of your intentional, negligent or reckless disclosure of the PIN.
- 19.4. You shall take all reasonable precautions to detect any unauthorized use of your Equipment, PIN and or the Products and immediately notify us and Safaricom to enable us to take steps to protect your M-PESA Account and M-PESA Account respectively.
- 19.5. You shall immediately inform us through the Customer Care Centre in the event that:
 - 19.5.1. You have reason to believe that your PIN is or may be known to any person not authorized to know the same and/or has been compromised; or
 - 19.5.2. You have reason to believe that unauthorized use of the Product has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.
- 19.6. You shall at all times follow the security procedures we notify you from time to time or such other procedures as may be applicable to the Products from time to time. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your responsibility to keep Personal Information confidential. In particular, you shall ensure that the Products are not used, or Requests are not issued or the relevant functions are not performed by anyone other than a person authorized by you.

20. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that the intellectual property rights in the Product (and any amendments, upgrades or enhancements thereto from time to time) and all associated documentation that we provide to you are vested either in Safaricom or I&M. You shall not infringe any such intellectual property rights. You shall not duplicate, reproduce or in any way tamper with any documentation or functionality on the Equipment or the Access Channels without Safaricom's and I&M's prior written consent.

21. INDEMNITY

- 22.1 In consideration of Safaricom and I&M complying with your instructions or Requests in relation the M-PESA Account, you undertake to indemnify us and hold us harmless against any loss, charge, damage, expense, fee or claim which we may suffer or incur or sustain thereby and you absolve us from all liability for loss or damage which you may sustain from us acting on your instructions or requests or in accordance with these Terms and Conditions.
- 22.2 The indemnity in clause 22.1 shall also cover All demands, claims, actions, losses and damages of whatever nature which may be brought against any of us or which we may suffer or incur arising from its acting or not acting on any Request or arising from the malfunction or failure or unavailability of any hardware, software, or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond our control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by us.
- 22.3 The Indemnity in Clause 22.1 shall also cover any loss or damage that may arise from your use, misuse, abuse or possession of any third party software, including without limitation, any operating system, browser software or any other software packages or programs, any unauthorized access to your M-PESA Account or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your Equipment, any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by us as a consequence of any breach by these Terms and Conditions by you.

22. VARIATION AND TERMINATION OF RELATIONSHIP

- 22.1. We may at any time, upon issuance of thirty (30) days' notice to you, terminate or vary our business relationship with you and suspend or discontinue your registration and/ or access to the Product:
- 22.1.1. if you use the Product or Facility for unauthorized purposes or where we detect any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Products.
 - 22.1.2. if your M-PESA Account or agreement with Safaricom is terminated for whatever reason.
 - 22.1.3. if we are required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority to that effect or necessitating it.
 - 22.1.4. if we reasonably suspect or believe that you are in breach of these terms.
 - 22.1.5. if you are found to be using, holding or trading in Unregulated Currencies.
 - 22.1.6. if you are found to be trading or is part of businesses associated with using, holding or trading in Unregulated currencies, gambling and or betting.
 - 22.1.7. if you are found to be engaging in Forex trading or operating Foreign Exchange Bureaus without the prerequisite approvals from relevant statutory bodies including the Central Bank of Kenya and the Capital Markets Authority.
 - 22.1.8. where such a suspension or variation is necessary as a consequence of technical problems or for reasons of your safety or public access fees.
 - 22.1.9. to facilitate update or upgrade the contents or functionality of the Products from time to time.
 - 22.1.10. where your M-PESA Account becomes inactive or dormant or is deemed abandoned in line with the Unclaimed Financial Assets Act.
 - 22.1.11. if we decide to suspend or cease provision of the Products for commercial reasons or for any other reason as we may determine.
- 22.2. You may cancel registration for the Product at any time through your Equipment. You may however not cancel registration if you have an outstanding and unpaid Facility, Overdue Amount or unpaid Fees.
- 22.3. Termination shall not affect any accrued rights and liabilities of either party and, in particular, shall not affect your obligations to meet any liabilities incurred prior to such termination.

23. BREACH OF TERMS AND CONDITIONS

In the event of any breach of these Terms and Conditions, we may in circumstances where you fail to comply or fail procure compliance with the terms of a notice consequently served on you, require immediate repayment in full of the Facility and/or forthwith terminate the contractual relationship with you without any consequential liability to you or any other person.

24. DISPUTE RESOLUTION AND JURISDICTION

- 24.1. You may contact the Safaricom Customer Care Center to report any disputes, claims or discrepancies in your M-PESA Account or in respect of the Product.
- 24.2. Any dispute arising out of or in connection with this Agreement that is not resolved by Customer Care Centre representatives shall be referred to a Kenyan court of competent jurisdiction.
- 24.3. To the extent permissible by law, the determination of the court shall be final, conclusive and binding upon the parties hereto.
- 24.4. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.

25. NOTICES

Without prejudice to any other clause in these Terms and Conditions, all notices concerning the Product may be sent via SMS to the Safaricom mobile phone number (MSISDN) associated with your M-PESA Account and shall be deemed received if we do not receive a delivery failure notice.

26. MISCELLANEOUS

- 26.1. These Terms and Conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal representatives and successors.
- 26.2. This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.
- 26.3. We may vary or amend these Terms and Conditions and applicable fees at any time and without consultation to you provided that Safaricom and I&M shall upon reasonable notice, inform you of any such variations or amendments within 30 days in advance of their intended commencement date and such notice and particulars of the variations including the amended version of these Terms and Conditions shall be published on the I&M and Safaricom websites, via SMS to the Safaricom mobile phone number (MSISDN) associated with your M-PESA Account and may, additionally, be published in posters or pamphlets and availed at Safaricom's Agents outlets or I&M Agents and branches or in the daily newspapers or by any other means as we may determine.
- 26.4. No failure or delay by either yourself or on our part in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.
- 26.5. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
- 26.6. If any provision of these Terms and Conditions shall be found by any duly appointed arbitrator, court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.
- 26.7. Any variations or amendments to these Terms and Conditions shall be binding upon you as fully as if the same were contained in these Terms and Conditions.
- 26.8. Safaricom and I&M are regulated by the Central Bank of Kenya for purposes of the Product.
- 26.9. You have the right to seek independent legal counsel in order to fully understand the implications and potential consequences of agreeing to these Terms and Conditions prior to "opting-in". You shall be deemed to have read, understood and accepted to be bound by these Terms and conditions (which may be amended by Us from time to time) by selecting the "opt-in" option.