

TERMS AND CONDITIONS FOR THE SAFARICOM CUSTOMER CREDIT SERVICE

1. DEFINITIONS

- 1.1. In these Terms and Conditions the following words and expressions bear the following meanings:
 - 1.1.1. **“Credit Reference Bureau”** means a credit reference bureau duly licensed to collect and facilitate the sharing of customer credit information;
 - 1.1.2. **“IPRS”** means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons and its successors;
 - 1.1.3. **“M-PESA Account”** means your mobile money store of value, being the record maintained by Safaricom of the amount of E-Money from time to time held by you in the M-PESA System;
 - 1.1.4. **“M-PESA Service”** means the money transfer and payments service provided by Safaricom through the M-PESA System;
 - 1.1.5. **“M-PESA System”** means the system operated by Safaricom in Kenya for the provision of the M-PESA Service using the Network;
 - 1.1.6. **“Request”** means instructions by a customer requiring Safaricom's action or response whether in relation to the Service, customer support, general queries, acceptance of terms or any other instructions incidental to Safaricom's service.
 - 1.1.7. **“Safaricom”** means Safaricom Limited incorporated in Kenya as a limited liability company under the Companies Act (Cap 486 of the Laws of Kenya);
 - 1.1.8. **“Services”** shall include the unsecured short term credit advance services offered by Safaricom to eligible customers pursuant to this Agreement and such other service under this Agreement as you may from time to time subscribe to and “Service” shall be construed accordingly;
 - 1.1.9. **“SIM Card”** means the subscriber identity module which when used with the appropriate mobile phone handset enables you to access the Network and to use the M-PESA and KCB M-PESA System;
 - 1.1.10. **“SMS”** means a short message service consisting of a text message transmitted from one mobile phone to another;

- 1.1.11. **“System”** means Safaricom's mobile-based communications software enabling the Customer to communicate with Safaricom for purposes of the Services;
 - 1.1.12. **“Transaction Fees”** includes any fees and charges payable for the use of the Services as published by Safaricom on Safaricom's website and/or the daily newspapers in Kenya or by such other means as Safaricom shall in its sole discretion determine. Transaction Fees are subject to change at any time at Safaricom's sole discretion;
 - 1.1.13. **“We,” “our,” and “us”**, means Safaricom and includes the successors and assigns of Safaricom;
 - 1.1.14. **“You” or “your”** means the Customer and includes the personal representatives of the Customer;
 - 1.1.15. The word **“Customer”** shall include both the masculine and the feminine gender as well as juristic persons;
 - 1.1.16. **“Services”** shall refer to the unsecured short term credit advance services offered by Safaricom to eligible customers;
 - 1.1.17. **“System”** means Safaricom System;
 - 1.1.18. **“Transaction Fees”** includes the any fees and charges payable for the use of the Services;
- 1.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2. ACCEPTANCE OF THE TERMS AND CONDITIONS

This Agreement sets out the complete Terms and conditions. You will be deemed to have read, understood and accepted these Terms and conditions by using the Services.

3. SERVICE ACCESS

- 3.1. In order to access the credit service, you must be at least 18 years old and a registered and active M-PESA Subscriber for at least six (6) months immediately preceding the date of your application.
- 3.2. You may access the service using your phone's MPESA menu.
- 3.3. You hereby consent to the use of the Personal Information for the provision of said services by Safaricom. Safaricom reserves the right to request you for further information pertaining to your application. Failure to provide such information within the time required may result in them declining your application.

- 3.4. You hereby agree and authorize Safaricom to obtain and procure your Personal Information contained in the IPRS from the Government of Kenya, and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to Safaricom.
- 3.5. Acceptance of your application shall be done via SMS. This does not create any contractual relationship between you and Safaricom beyond these terms and conditions. Safaricom reserves the right to decline your application or to revoke the same at any stage at its discretion and without assigning any reason or giving any notice thereto.

4. YOUR REQUESTS

- 4.1. You hereby irrevocably authorize Safaricom to act on all Requests received from you. You agree to and shall release from and indemnify Safaricom against all claims, losses, damages, costs and expenses arising as a result of any of your Requests (or failure to exercise such).
- 4.2. Safaricom shall be entitled to accept and to act upon any Request, even if incomplete or ambiguous if, in its absolute discretion, we believe that we can correct the incomplete or ambiguous information in the Request without any reference to you being necessary.
- 4.3. You can cancel your Request by calling the Customer Care Centre and Requesting cancellation. Cancellation will be allowed where your Request is revocable and has not yet been acted on.
- 4.4. Safaricom may refuse to make a payment if you do not have sufficient funds in your M-PESA Account. In deciding whether you have sufficient funds, Safaricom will take account of any instructions to make payments and regular payments which have not yet been paid from your M-PESA Account. Safaricom will not be obliged to take account of regular credits or any amounts received after it has decided not to make the payment.
- 4.5. Safaricom is authorized to effect such orders in respect of your Account as may be required by any court order or competent authority or agency under the applicable laws.
- 4.6. Safaricom may refuse to carry out any Requests which would result in there being an overdraft on your Account. No Overdraft will be allowed on your Account. Safaricom is entitled to demand repayment of any money overdrawn from your account together with interest and penalties.

5. OPT IN PROCESS:

- 5.1 The service will only be available to white listed specific Safaricom mobile numbers.
- 5.2 Customers will opt in by dialing the service USSD code, and will be required to accept the terms and conditions.
- 5.3 Upon successfully accepting the terms and conditions, the customer will receive a confirmation message.
- 5.4 Safaricom will score the customer and create a rating that will also determine their credit limit.

6. LOAN REQUEST PROCESS:

- 6.1 The customer will access the USSD channel and can select to either check loan limit or select the option request loan; the loan limit will be displayed in the loan request page. This will at all time be subject to a credit score process that includes analysis of the customer's MPESA usage, CBR ratings and previous credit transactions.
- 6.2 The customer will then be required to enter the loan amount
- 6.3 Safaricom will process the request and a notification message will be sent to the customer once said funds are approved (account is credited) or denied.

7. LOAN REPAYMENT PROCESS:

- 7.1. The customer will access the USSD channel and choose to settle the full loan amount or settle a partial amount. For the latter they will be required to provide an amount.
- 7.2. The loan account will be adjusted accordingly on Safaricom's platform.
- 7.3. The customer will be notified of the status of their loan repayment.
- 7.4. There is a rollover fee of 5% on the outstanding balance every 30 days.
- 7.5. There is a maximum of two rollovers before you are reported to CRB (Credit reference Bureau)
- 7.6. You will be reported to CRB after the 90th day of default.

8. STATEMENTS

- 8.1. You may request for a statement or activity report using your M-PESA Mini Statement which will provide details of the last transactions in your Account.
- 8.2. The M-PESA Mini Statement shall not be sent to you in printed form but shall be delivered to you by SMS.

8.3. Your statement will show all amounts added or taken from your Account during the period requested and/or since the previous statement. You must check your statement carefully and tell Safaricom as soon as possible if it includes any transaction or other entry which appears to you to be wrong or not made in accordance with your instructions.

8.4. Safaricom reserves the right to rectify discrepancies, add or alter the entries in your statements, without prior notice to you. Safaricom will however inform you of any rectification, additions and or alterations effected on your statements within a reasonable time after the changes are effected.

9. CUSTOMER COMPLAINTS

9.1. Complaints may be made in person, in writing, by post, email or by telephone.

9.2. Safaricom will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with Safaricom's complaints handling procedures, which are available on request from any Customer Care Centre. Applicable tariffs will be charged by your telephone and internet service provider (s) when communicating with the Customer Care Centre.

10. DISCLOSURE

10.1. You authorize Safaricom to disclose any information relating to your Account to a Credit Reference Bureau, or any local 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 Safaricom may deem necessary.

10.2. You shall take all reasonable precautions to detect any unauthorized use of the System and the Services. You shall immediately inform Safaricom through the Customer Care Centre in the event that:

10.2.1. You have reason to believe that your M-PESA PIN is or may be known to any person not authorized to know the same or has been compromised; or

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

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

11. EXCLUSION OF LIABILITY

- 11.1. Safaricom shall not be responsible for any loss suffered by you should the Services be interfered with or be unavailable by reason not within Safaricom's control.
- 11.2. Safaricom will not be liable for any losses or damage suffered by you as a result of or in connection with:-
 - 11.2.1. unavailability of sufficient funds in your M- PESA Account and/or in your Account;
 - 11.2.2. failure, malfunction, interruption or unavailability of the System or M- PESA Service;
 - 11.2.3. the money in your Account being subject to legal process or other encumbrance restricting payments or transfers thereof;
 - 11.2.4. your failure to give proper or complete instructions for payments or transfers relating to your Account;
 - 11.2.5. any fraudulent or illegal use of the Services, the System and/or your Equipment; or
 - 11.2.6. Your failure to comply with these Terms and conditions.
- 11.3. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

12. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that the intellectual property rights in the System and all associated documentation are vested in Safaricom. You shall not infringe any such intellectual property rights. You shall not duplicate, reproduce or in any way tamper with the System and associated documentation without prior written consent of Safaricom.

13. INDEMNITY

In consideration of complying with your requests in relation the Account, you undertake to indemnify Safaricom and hold it harmless against any loss, charge, damage, expense, fee or claim sustained from acting on your instructions or in accordance with these Terms and conditions.

14. VARIATION AND TERMINATION OF RELATIONSHIP

- 14.1. Safaricom may at any time, upon notice to you, terminate or vary its business relationship with you and close your Account.
- 14.2. Without prejudice, Safaricom may at its discretion suspend or close your Account:

- 14.2.1. if you use the Account for unauthorized purposes or where Safaricom detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;
 - 14.2.2. if your M-PESA Account or agreement with Safaricom is terminated for whatever reason;
 - 14.2.3. if Safaricom is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;
 - 14.2.4. if Safaricom reasonably suspects or believes that you are in breach of these terms and conditions (including non-payment of any Loan amount due from you where applicable);
 - 14.2.5. where such a suspension or variation is necessary as a consequence of technical problems;
 - 14.2.6. to facilitate update or upgrade the contents or functionality of the Services from time to time;
 - 14.2.7. where your account becomes inactive ;
 - 14.2.8. If Safaricom decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.
- 14.3. You may close your Account at any time at any Customer Care Centre.
- 14.4. Termination shall however not affect any accrued rights and liabilities of either party.

15. MISCELLANEOUS

- 15.1. These terms and conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.
- 15.2. This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.
- 15.3. No failure or delay by either yourself or Safaricom in exercising any right or remedy hereunder shall operate as a waiver. If any provision of these terms and conditions are unenforceable, it shall not affect the other provisions.

16. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

- 16.1. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.
- 16.2. You may contact the Customer Care Center to report any disputes, claims or Account discrepancies.
- 16.3. Any dispute arising that is not resolved by our Customer Care Centre shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties or in default of such agreement within 60 days of the notification of a dispute, upon the application of either party, by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch). Such arbitration shall be conducted in the English language in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act.
- 16.4. To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.