

1. THE AGREEMENT

- 1.1 This Agreement sets out the complete Terms and Conditions (hereinafter called "these Terms and Conditions") which shall be applicable to the NCBA Sasa Mobile Loan Services (as hereinafter defined) opened by you (as hereinafter defined) with the Bank (as hereinafter defined).
- 1.2 These Terms and Conditions and any amendments or variations thereto take effect on their date of publication.
- 1.3 The Customer accepts and acknowledges that this is a legal and binding agreement between the Customer and the Bank once accepted by both parties.
- 1.4 "We," "our," and "us," means the Bank and includes its successors in title and assigns;
- 1.5 "You" or "your" means the Customer and includes your personal representatives, heirs and permitted assigns;
- 1.6 The word "Customer" shall include both the masculine and the feminine gender as well as juristic persons;
- 1.7 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.8 Headings in these Terms and Conditions are for convenience purposes only and they do not affect the interpretation of this Agreement.

2. DEFINITIONS

- 2.1 In these Terms and Conditions the following words and expressions (save where the context requires otherwise) bear the following meanings:
- 2.1.1 **"Bank"** means NCBA Bank Kenya PLC incorporated in Kenya as a public limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) and duly licensed as a Bank under the Banking Act (Chapter 488 of the Laws of Kenya) and includes subsidiaries of the Bank as may from time to time be specified by the Bank to you;
- 2.1.2 **"Credit Reference Bureau"** means a credit reference bureau duly licensed under the Banking Act

pursuant to the Banking (Credit Reference Bureau) Regulations, 2020 to inter alia, collect and facilitate the sharing of customer credit information;

- 2.1.3 **"Customer"** means the person in whose name the NCBA Mobile Loan Account with the Bank is existing;
- 2.1.4 **"Contact Centre"** means the Customer Care Centre or NCBA Bank Branch as may be notified to the Customer by the Bank from time to time;
- 2.1.5 **"E-Money"** means the electronic monetary value depicted in your Mobile Money Account representing an equal amount of cash;
- 2.1.6 **"Equipment"** includes your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access mobile Network;
- 2.1.7 **"IPRS"** means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of of Interior and National Administration
- "Immediate payment"** means voluntary instant repayment of loan advanced before the due date.
- 2.1.8 **"Bank Account"** means the account held and operated in the Bank by a NCBA Bank customer.
- 2.1.9 **"NCBA Mobile Loan "** means the money transfer and payments service provided by NCBA Bank through the NCBA Sasa System;
- 2.1.10 **"NCBA Sasa System"** means the system operated by NCBA Bank for the provision of the Mobile Banking Service using the Mobile Networks;
- 2.1.11 **" NCBA NOW PIN"** means your personal identification number being the secret code used to access and operate the NCBA Now System and your NCBA Mobile Loan Account;
- 2.1.12 **"NCBA Now Subscriber"** means any person registered to use the NCBA Now System to send or receive money or make payments;

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- 2.1.13 **"NCBA Now Service"** means the service offered by the Bank to borrow and repay loans through mobile phone;
- 2.1.14 **"Loan Auto recovery"** means automated recovery of the loan advanced from the customer account on the due date.
- 2.1.15 **"NCBA Mobile Loan Menu"** means the NCBA Mobile Loan Menu on the NCBA Now System;
- 2.1.16 **"NCBA Mobile Loan Account"** means a loan account opened and operated in accordance with the terms and conditions herein contained;
- 2.1.17 **"NCBA Mobile Loan "** means the loan facility advanced by the Bank.
- 2.1.18 **"Network"** means the mobile cellular network operated by various mobile networks;
- 2.1.19 **"Request"** means a request or instruction received by the Bank from you or purportedly from you through the Network and the System and upon which the Bank is authorized to act;
- 2.1.20 **"Late Repayment Penalty"** means penalty of 10% per annum charged on any outstanding loan amount after the due date;
- 2.1.21 **"Services"** shall include any form of Banking services or products that the Bank may offer you pursuant to this Agreement and as you may from time to time subscribe to and "Service" shall be construed accordingly;
- 2.1.22 **"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 NCBA Now System;
- 2.1.23 **"SMS"** means a short customized message service consisting of a text message transmitted from one mobile phone to another;
- 2.1.24 **"System"** means the Bank's electronic Banking and communications software enabling the Customer to communicate with the Bank for purposes of the Services. The System and the Services will for the purpose of this Agreement be accessed through the NCBA Now System;
- 2.1.25 **"Transaction Fees"** includes the interest fee, the penalty fee and any other fees and charges payable for the use of the Services as published by the Bank on the Bank's website and/or the daily newspapers in Kenya or by such other means as the Bank shall in its sole discretion determine.
- 2.1.26 **"Credit Limit"** means the maximum pre-approved amount that a customer can borrow on this service.
- 3. ACCEPTANCE OF THE TERMS AND CONDITIONS**
- 3.1 Before applying to take a NCBA Mobile Loan via the NCBA Now System you should carefully read and understand these Terms and Conditions which will govern the use and operation of the NCBA Mobile Loan .
- 3.2 If you do not agree with these Terms and Conditions, Please click "No" on the NCBA Mobile Loan .
- 3.3 You will be deemed to have read, understood and accepted these Terms and Conditions:-
- 3.3.1 Upon clicking the "Yes" option on the NCBA Mobile Loan Menu requesting you to confirm that you have read and accepted the Terms and Conditions as stated in the website [http://www. NCBA-bank.com](http://www.NCBA-bank.com); and/or
- 3.3.2 Upon registration of NCBA Mobile Loan Account and/or by using or

continuing to use and operate the NCBA Mobile Loan Product.

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

3.5 These Terms and Conditions may be amended or varied by the Bank from time to time through a thirty day notice and the continued use of your NCBA Mobile Loan Account constitutes your agreement to be bound by the terms of any such amendment or variation.

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

4. **ACCOUNT OPENING**

4.1 In order to open an NCBA Mobile Loan Account with the Bank, you must be at least 18 years old, a registered and active Mobile Subscriber with a mobile service provider with which the Bank has an agreement with for the provision of this service for at least 6 months prior to

opening of the NCBA Mobile Loan Account. The Bank reserves the right to verify with the IPRS the authenticity of your details.

4.2 You may open an NCBA Mobile Loan Account solely by way of an electronic application made by you using your Equipment via the NCBA Sasa Menu on the NCBA Now System.

4.3 You hereby agree and authorize the Bank to request the mobile service provider for your personal information held by them pursuant to the agreement between you and mobile service

provider for the provision of their products and services including their mobile money Service which information shall include your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Bank to identify you and comply with the regulatory "Know Your Customer" requirements (together the "Personal Information"). You also hereby agree and authorize the Bank to request the mobile service provider for information relating to your use of the mobile money Service and System as the Bank shall require for purposes of providing you the Services ("Mobile Money Service Information"). You hereby consent to the disclosure of the Personal Information and the Mobile Money Service Information by the mobile service provider to the Bank and to the aforesaid use of the Personal Information and the Mobile Money Service Information by the Bank.

4.4 You hereby agree and authorize the Bank to obtain and procure your Personal Information contained in the IPRS from the Government of Kenya and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to the Bank. You further authorize the bank to use alternate sources from its partners in its evaluation of your eligible loan amount.

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

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

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

4.8 The Bank reserves the right to decline your application for an NCBA Mobile Loan Account or to revoke the same at any stage at the Bank's sole discretion and without assigning any reason or giving any notice thereto.

5. TYPES OF ACCOUNT

As a registered Bank account holder and an NCBA Now Subscriber, you may, subject to these terms and conditions register for a NCBA Mobile Loan Account using the NCBA Sasa menu on your equipment and/or to borrow money from the Bank as follows:

5.1 NCBA Mobile Loan Account

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

5.1.2 Where you apply for a loan from the Bank, your application shall be

appraised according to the applicable loan appraisal processes of the Bank. The Bank reserves the right at its sole discretion and without assigning any reason to approve or decline your application for a loan.

5.1.3 Subject to approval of your application for a loan the Bank shall disburse to you a loan of an amount to be determined by the Bank in its sole discretion subject to a minimum amount of Kenya Shillings Five Hundred (Kshs.500/=) and a maximum amount determined by the Bank may from time to time in its sole discretion determine (the "Loan"). For avoidance of doubt, an approval of a certain maximum amount to be loaned to the Customer shall not entitle the Customer to the same maximum amount upon a successive/future loan application.

5.1.4 The proceeds of the Loan shall be credited into your Mobile wallet or Bank Account subject to any deductions on account of applicable Transaction Fees, statutory charges and Interest charge.

5.1.5 You shall repay the Loan within the timelines dictated by the Bank, which timelines as communicated at the date of disbursement/application. The said timelines shall be determined by the Bank in its sole discretion determine

5.1.6 Interest on the Kenya Shillings loan facilities shall be paid at such rate or rates not exceeding any maximum permitted by law and subject to the NCBA base rate which currently stands at 13% plus a margin of 4.1% ("the Bank margin") i.e. 17.1% p.a. The Bank margin is subject to change from time to time as the Bank may determine in its sole and absolute discretion, subject however to the maximum permitted by law where CBR is determined by Central Bank of Kenya from time to time. The Bank

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shall notify the Borrower in the event of any change in the Bank margin in accordance with the clause below.

The Bank reserves the right to, in its sole and absolute discretion, change/vary the Bank margin and consequently the applicable rate of interest subject however to the maximum permitted by law. The Bank shall advise the Borrower, thirty (30) days prior to any change in the rate of interest so payable.

- 5.1.7 You shall make all payments due from you to the Bank in respect of the Loan and Transaction Fees using the Mobile Wallet Services, Electronic Transfers and the Mobile Banking System and other repayment channels agreed by the Bank in its discretion.
- 5.1.8 In the event that you do not repay the Loan in full within the stipulated and assigned time , the Bank will automatically start charging a late repayment penalty fee which shall be calculated on any outstanding amount in respect of the loan and shall continue to accrue till payment is received by the Bank in full.
- 5.1.9 The Bank shall be entitled to terminate this Agreement and close your NCBA Mobile Loan Account in accordance with the provisions of Clause 14 without prejudice to any of its rights accruing hereunder if you fail to repay the Loan and/or the Transaction Fees due thereon within the stipulated and assigned time .
- 5.1.10 You expressly agree that any salary or income used to assess and approve your Mobile Loan will continue to be paid into your account with the Bank for the duration of the loan. Further, you may not change or redirect this income without the Bank's prior approval. Failure to comply may result in the loan being treated as in default and the Bank taking appropriate recovery action in line with these terms and applicable law.
- 5.1.11 The Bank shall utilize funds in any of accounts opened and operated by you to offset any amounts

outstanding and due from you to the Bank in respect of your NCBA Mobile Loan Account. You hereby agree and confirm that the Bank is entitled in its discretion to prevent or restrict you from withdrawing in whole or in part the funds in your Bank Account for so long as and to the extent of the amount outstanding in respect of your NCBA Mobile Loan without the

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Bank giving any notice to you and/or without incurring any liability to you whatsoever in that connection.

5.1.12 The Bank reserves the right to vary the terms of the Loan including the fees payable thereon from time to time having regard to the prevailing rules and regulations of the Central Bank of Kenya and the policies of the Bank. Such variations will be done after a thirty (30) day notice.

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

The Bank is entitled to be paid by the Borrower and may debit the Borrower (without reference the Borrower) with bank fees, commissions, costs other charges incurred by the Bank in respect to Borrower's loan. The Bank is hereby irrevocably authorized by the Borrower, at the Borrower's expense, to debit the Borrower's account consolidate (without reference to the Borrower or any of the Borrower's accounts, bank commissions, costs and other charges with existing loan(s) and the same shall be deemed part of the loan thereof.

5.1.14 You hereby expressly consent and authorize the Bank to disclose, respond, advise exchange and communicate the Banking Act, the Credit Reference Bureau Regulations, 2020 or any other regulatory body.

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6. FEES

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

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

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- 6.2.1 any Transaction Fees payable in respect of the Services;
- 6.2.2 any legal charges including advocate and client costs incurred by the Bank in obtaining legal advice and/or services in connection with your NCBA Mobile Loan Account and your dealings with the Bank or incurred by the Bank in any legal, arbitration or other proceedings arising out of any dealings in respect of your NCBA Mobile Loan Account; and
- 6.2.3 all other fees, expenses and taxes, duties, impositions and expenses

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incurred in complying with your Requests.

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

- 6.4 The Bank will levy the below fees

Fee type	Fee
One off facility fee	4%

- 6.5 Please visit your nearest Bank branch for a copy of the complete guide on the Bank's Tariffs. The Tariffs are also available on our website at <https://www.NCBA.bank.com/ke/wp-content/uploads/2017/04/Tarrif-Guide-Customer-20th-March.pdf>.

- 6.6 The Bank will give you at least seven (7) days' notice of intention to effect new charges, fees, costs and/or commissions by way of email, SMS, letter and/or notices in the daily newspapers.

7. STATEMENTS

- 7.1 You may request for a statement or activity report in respect of your NCBA Mobile Loan account from the Bank.
- 7.2 The Loan Account Statement shall provide details of the last 5 (five) transactions or such other number of transactions as determined by the Bank.
- 7.3 You may obtain printed NCBA Mobile Loan Account Mini Statements or a printed Bank statement pertaining to your NCBA Mobile Loan Account from the Bank's branches. You shall be responsible for the payment of any charges levied by the Bank for such printed statements.
- 7.4 Save for a manifest error, an NCBA Mobile Loan Account Mini Statement or Bank statement issued to you aforesaid in respect of your NCBA Mobile Loan Account shall be conclusive evidence of the transactions carried out on your NCBA Mobile Loan Account for the period covered in the NCBA Mobile Loan Account Mini Statement and/or Bank statement.

8. IRREVOCABLE AUTHORITY OF THE BANK

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

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

- 8.3 If you request the Bank to cancel any transaction or instruction after a request has been received by the Bank from you, the Bank will cancel such a transaction or instruction provided the request to cancel is received not later after 24 hours of the original transaction, thereafter the bank may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.

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

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

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

9. CUSTOMER'S EQUIPMENT AND CUSTOMER'S RESPONSIBILITIES

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

- 9.2 You shall be responsible for ensuring the proper performance of your Equipment. The Bank shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall the Bank be responsible for any computer virus or related problems that may be associated with the use of the System, the Services and the Equipment. You shall be responsible for charges due to any service provider providing you with connection to the Network and the Bank shall not be responsible for losses or delays caused by any such service provider.
- 9.3 You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the Bank concerning the use of the System and Services.
- 9.4 You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Equipment and for keeping your NCBA NOW PIN secret and secure. You shall ensure that your NCBA NOW PIN does not become known or come into possession of any unauthorized person. The Bank shall not be liable for any disclosure of your NCBA NOW PIN to any third party and you hereby agree to indemnify and hold the Bank harmless from any losses resulting from any NCBA NOW PIN disclosure.
- 9.5 You shall take all reasonable precautions to detect any unauthorized use of the System and the Services. To that end, you shall ensure that all communications from the Bank are examined and checked by you or on your behalf as soon as practicable after receipt by you in such a way that any unauthorized use of and access to the System will be detected.
- 9.6 You shall immediately inform the Bank through the Contact Centre in the event that:
- 9.6.1 You have reason to believe that your NCBA NOW PIN is or may be known to any person not authorized to know the same and/or has been compromised; and/or
- 9.6.2 You have reason to believe that unauthorized use of the Services has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.
- 9.7 You shall at all times, follow the security procedures notified to you by the Bank from time to time or such other procedures as may be applicable to the Services from time to time. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your NCBA Mobile Loan Account's confidentiality. In particular, you shall ensure that the Services are not used or Requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.
- 9.8 You shall not at any time operate or use the Services in any manner that may be prejudicial to the Bank.
10. **CUSTOMER COMPLAINTS**
- 10.1 Complaints may be made in person, in writing, by post, email or by telephone.
- 10.2 The Bank will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with the Bank's complaints handling procedures, which are available on request from any Bank Branch or the Customer Care Centre. Where a notification regarding your complaint or any other matter is expected from the Bank but not received, the complaint must be made within a reasonable time after non-receipt of such notification.
- 10.3 Applicable tariffs will be charged by your telephone and internet service provider (s) when communicating with the Customer Care Centre.
11. **EXCLUSION OF LIABILITY**
- 11.1 The Bank shall not be responsible for any loss suffered by you should the Services be interfered with or be unavailable by reason of (a) the failure of any of your Equipment, or (b) any other circumstances whatsoever not

within the Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the System, terrorist or any enemy action equipment failure, loss or destruction of any data, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system any other event beyond the Bank's control. The Bank will not be liable for any losses or damage suffered by you as a result of or in connection with:-

- 11.1.1 Unavailability of sufficient funds in your Mobile money Account, and/or in your Bank Account;
- 11.1.2 Failure, malfunction, interruption or unavailability of the System, your Equipment, the Network, NCBA NOW System and/or NCBA Mobile Loan Service ;
- 11.1.3 the money in your Bank Account being subject to legal process or other encumbrance restricting payments or transfers thereof;
- 11.1.4 Contributory fraud /negligence/deficiency on your part leading to any fraudulent or illegal use of the services, the Account and/or your Equipment and whereupon you fail to immediately report suspected or known breaches to the Bank via its Contact Centre;
- 11.1.5 Your failure to give proper or complete instructions for payments or transfers relating to your NCBA Mobile Loan Account;
- 11.1.6 Any fraudulent or illegal use of the Services, the System and/or your Equipment whether by yourself or any third party; or
- 11.1.7 Your failure to comply with these Terms and Conditions and any document or information provided by the Bank concerning the use of the System and the Services.
- 11.2 If for any reason other than a reason mentioned in subparagraphs 11.1, the Services are interfered with or unavailable, the Bank's sole liability

under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practicable.

- 11.3 Save as provided in subparagraph 11.2 the Bank shall not be liable to you for any interference with or unavailability of the Services, where it is not at fault for the unavailability of services.

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

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

13.

INDEMNITY

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

- 13.2 The indemnity in clause 13.1 shall also cover the following:

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- 13.2.1 All demands, claims, actions, losses and damages of whatever nature which may be brought against the Bank or which it may suffer or incur arising from its acting or not acting on any Request or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the Bank..
- 13.2.2 Any loss or damage that may arise from your use, misuse, abuse or possession of any third party software, including without limitation, any operating system, browser software or any other software packages or programs.
- 13.2.3 Any unauthorized access to your NCBA Mobile Loan 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.
- 13.2.4 Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these Terms and Conditions.
- 13.2.5 Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the particular circumstance is within your control.

14. **TERMINATION**

- 14.1 The Bank may at any time, upon notice to you, terminate or vary its business relationship with you and close your NCBA Mobile Loan Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credit limit which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine. The Bank shall immediately furnish the Customer with a termination

notice informing them of the termination of the relationship.

- 14.2 Upon termination as per clause 14.1 above, the Customer shall pay to the Bank the balance of any loan extended to them under Mobile Banking within the thirty (30) days of the termination notice.
- 14.3 Without prejudice to the Bank rights under clause 14.1, the Bank may at its sole discretion suspend, decline loan application or close your NCBA Mobile Loan Account:
 - 14.3.1 If you use the NCBA Mobile Loan Account for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;
 - 14.3.2 If your Bank Account or agreement with the bank is terminated for whatever reason;
 - 14.3.3 If the Bank is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;
 - 14.3.4 If the Bank reasonably suspects or believes that you are in breach of these Terms and Conditions (including non-payment of any Loan amount due from you where applicable);
 - 14.3.5 Where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;
 - 14.3.6 To facilitate update or upgrade the contents or functionality of the Services from time to time;
 - 14.3.7 Where you remain inactive for any period of time determined by the Bank in its reasonable discretion; or
 - 14.3.8 If the Bank decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.
 - 14.3.9 If you have had a current or past listing with Credit Reference Bureau for a Non-performing account with any institution.

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14.4 You may close your NCBA Mobile Loan Account at any time at any NCBA Branch upon payments of all outstanding amounts owed to the Bank.

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

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

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

15. **DISCLOSURE OF INFORMATION**

15.1 You hereby expressly consent and authorize the Bank to disclose receive record or utilize your personal information or information or data relating to your NCBA Mobile Loan Account and any details of your use of the Services:

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

15.1.2 to and from the Bank's service

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

15.1.3 to a Credit Reference Bureau;

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

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

15.1.6 for reasonable commercial purposes connected to your use of the

Services, such as marketing and research related activities; and

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

16.

MISCELLANEOUS

16.1 These Terms and Conditions (as may be amended from time to time) form a legally binding agreement binding on you, your personal representatives and permitted assigns.

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

16.3 The Bank may vary or amend at any time and without notice to you these Terms and Conditions and the Transaction Fees. Any such variations or amendments may be published in

posters or pamphlets available at bank's branch outlets, in the daily newspapers, on the Bank website and/or by any other

means as determined by the Bank and any such variations and amendments shall take effect immediately upon publication.

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

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

16.6 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.

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

17. NOTICES

- 17.1 The Bank may send information concerning the NCBA Mobile Loan Account via SMS to the Mobile Network Mobile Phone number associated with your Bank Account.
- 17.2 You acknowledge that you have no claim against the Bank for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the NCBA Mobile Loan Account.

18. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

- 18.1 You may contact the Contact Centre to report any disputes, claims or NCBA Mobile Loan Account discrepancies.
- 18.2 Any dispute arising out of or in connection with this Agreement that is not resolved by Customer Care Centre representatives shall be resolved in accordance with the Laws of Kenya.
- 18.3 To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.
- 18.4 This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.
- 19. Applicable Law**
- 19.1 This Agreement, its validity, construction and performance shall be governed by, and construed in accordance with the Laws of Kenya. Any claims arising from this Agreement shall be subject to the Kenyan Law.