

1. These terms and conditions apply to Commercial International Bank (CIB) Kenya Limited Internet Banking and Mobile Service (the "Service").
  - 1.1 These terms and conditions operate in conjunction with the terms and conditions applicable to the Account(s) the Customer accesses using the Services including, but not limited to the Bank's General Terms and Conditions.
  - 1.2 Please read these terms and conditions before using the Service.
2. **Definitions and Interpretation**
  - 2.1 In these terms and conditions, including the Schedule, unless the context otherwise requires:
    - a) "Nominated User" means the representative of the Customer authorized by the Customer to hold and change the Password and hence to access the system and the Service on behalf of the Customer.
    - b) "Password" means the secret password known only to the Customer or the Customer's Nominated User for the access to the System. The Customer may change the password at will
    - c) "Request" means a request or instruction received by the Bank from the Customer or purportedly from the Customer through the System and upon which the Bank is, by virtue of clause 5.1, authorized to act
    - d) "Service" means such of the internet banking or Mobile Banking services as the Customer may from time to time subscribe for
    - e) "System" means the internet banking, Mobile Service and communications software enabling the Customer to communicate with the Bank for the purposes of the Service. The System and Service will for the purpose of the Application be accessed through the internet
    - f) "Application" means Application for the Services by a Customer; and
    - g) "User ID" means the Unique number of the Customer or the Customers Nominated User in the System
3. **Applications by Customer**
  - 3.1 In consideration of other factors, the Bank shall provide to the Customer with the Services subject to and in accordance with these terms and conditions.
  - 3.2 The Customer will apply for the Service by completing the requisite form provided by the Bank. The Application shall be subject to the Bank's approval.
  - 3.3 Once the Bank has approved the Application and the Customer has been maintained as an authorized user of the Service, the Customer or in the case of joint account holders, the Nominated User, will provide to the System a unique identification (ID) and a Password known only to the Customer or the Nominated User as the case may be, and then only shall the Customer or the Nominated User be afforded use of the Service. The ID and Password will form a unique link to the Customer's access profile.
  - 3.4 The Customer's Application for and use of the Service shall be subject to these terms and conditions and any current, savings, term, call and overdraft accounts agreements between the Bank and the Customer and the Bank's General Terms and Conditions signed by the Customer.
  - 3.5 In the event that the Customer are joint account holders, the signatories to the Customer's Bank account will nominate a single user/Nominated User granting him/her the right to access the Service and System and to effect transactions through the System.
4. **Customer's Facilities and Customer's Responsibilities**
  - 4.1 The Customer shall at its own expense provide and maintain in safe and efficient operating order such hardware, software and other facilities (including access to any public telecommunications systems) and any communications network (collectively "the Facilities") necessary for the purpose of accessing the System and the Service
  - 4.2 The Customer shall be responsible for ensuring proper performance of the Facilities including any losses or delays that may be caused by the Facilities. The Bank shall neither be responsible nor liable for any errors or failures caused by any malfunction of the Facilities nor shall the Bank be responsible or liable for any computer virus or related problems that may be associated with the use of the System, the Service and the Facilities.
  - 4.3 The Customer shall be responsible for charges due to any service provider providing the Customer with connection to the services and the Bank shall not be responsible or liable for losses or delays caused by any such service provider.
  - 4.4 The Customer shall obtain all licenses and consents necessary to have access to and use of the System and shall ensure that all persons it allows to have access to the System shall comply with all laws and regulations applicable to the use of the System and shall follow all instructions, procedures and terms contained in this Agreement and any document provided by the Bank concerning the use of the System and Service.
  - 4.5 The Customer or in the case the Customer consists of joint account holders, the Nominated User, shall prevent any unauthorized access to or use of the System and Service by keeping his/her ID and Password secret at all times.
  - 4.6 The Customer shall take all reasonable and necessary precautions to detect any unauthorized use of the System and Service. To that end, the Customer shall ensure that all communications from the Bank are examined and checked by or on behalf of the Customer as soon as practicable after receipt by the Customer in such a way that any unauthorized use of and access to the System will be detected.
  - 4.7 The Customer shall immediately inform the Bank by telephone with a written confirmation sent the same day in the event that:
    - 4.7.1 The Customer has reason to believe that any Password used by the Customer or the Nominated User to gain access to the Service and to communicate with the Bank is or may be known to any person not authorized to know the same and/or been compromised; and/or
    - 4.7.2 The Customer has reason to believe that unauthorized use of the Service has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.
  - 4.8 The customer shall use the channels below to inform the bank in the case of 4.7 above:
    - a) Email address: [contactus@cibke.com](mailto:contactus@cibke.com)
    - b) Telephone Number: +254 703 053 100 or +254 709 063 000
    - c) Visit the nearest Commercial International Bank (CIB) Kenya Limited Branch
  - 4.9 The Customer shall not send or attempt to send any Request to the Bank through the System if the Customer has reason to believe that for any reason such Request may not be received by the Bank or may not be received accurately and intelligibly.
  - 4.10 The Customer shall at all times follow the security procedures notified to the Customer by the Bank from time to time or such other procedures as may be applicable to the Service from time to time. The Customer acknowledges that any failure on the part of the Customer to follow the recommended security procedures may result in a breach of the Customer's profile confidentiality and may lead to unauthorized transactions in account(s) linked to the Customer's Applications with the Bank. In particular, the Customer shall ensure that the Service is not used or Requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.

4.11 The Customer shall not at any time operate or use the Service in any manner that may be prejudicial to the Bank.

4.12 The Bank shall be entitled and authorized to debit the Customer's Bank Account with the amounts of the transactions effected via the Service as well as debit the Customer's Bank Account with the amount of any fee applicable to the Service from time to time.

#### **5. Irrevocable Authority of the Bank**

5.1 The Bank is irrevocably authorized by the Customer to act on all Requests received by the Bank from the Customer (or purportedly from the Customer) through the System and to hold the Customer liable thereof, notwithstanding that any such requests are not authorized by the Customer or are not in accordance with any existing mandates given by the Customer. If the Customer requests the Bank to cancel any transaction or instruction after a Request has been received by the Bank from the Customer, the Bank may in its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.

5.2 The Bank shall be entitled to accept and to act upon any Request, even if the 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 reference to the Customer being necessary.

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

5.4 In the event of any conflict between any terms of any Request from the Customer and the terms of this Agreement, the terms of this Agreement shall prevail. This Agreement and all authorizations and other procedures agreed under this Agreement supplement any general terms and any mandates, which apply to the Customer's Bank Accounts with the Bank.

#### **6. Limits of Internet and Mobile Banking Transactions**

6.1 The Customer may transfer or effect a payment for any amount as long as the transaction does not cause the balance in the Deposit Account to be less than zero unless the Customer has either an approved overdraft facility for the affected Deposit Account or a term Deposit Account pledged with the Bank to cover excesses that may arise in the affected Deposit Account from time to time in which case the two accounts are linked in the System for that purpose.

6.2 If the Customer has an approved overdraft facility or term Deposit Account linked to the payment Deposit Account, the transfers and/or electronic bill payments using the Service should not exceed the approved overdraft facility or the pledge term Deposit Account.

#### **7. Records of Transactions and Customer Rights to this Information**

7.1 All activities performed by the Customer once allowed access into the System will be logged until the Customer ends a session. The Bank shall maintain copies of all Requests received from the Customer in electronic form. In addition, any hard copies of documentation prepared by the Bank in the process of effecting a transaction as per the Customer's Requests will be maintained. As between the Customer and the Bank, the Bank's copy records shall be conclusive evidence of the fact of receipt or non-receipt of a Request and of the contents of such Request.

7.2 The Customer shall be deemed to have accepted and shall not subsequently challenge or object to any of the transactions contained in the Statement if the Customer fails to object to the Statement in writing within thirty (30) days from the date the Monthly Statement was sent or deemed to have been sent to the Customer by the Bank.

#### **8. Exclusion of Liability**

8.1 Circumstance not within the Bank's Control:

a) The Bank shall not be responsible or liable for any loss suffered by the Customer should the Service be interfered with or be unavailable by reason of

- i. any industrial action,
- ii. the failure of any the Customer's Facilities, or
- iii. any other circumstances whatsoever not reasonably within the Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the System, terrorist or any enemy action, equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications systems.

8.2 Electronic Bill Payments and Transfer of Funds

a) The Bank will not be liable for any losses or damage suffered by the Customer as a result of delay, failure and/or refusal by the Bank to act on a Request in time or at all in any one or more of the following circumstances (as the case may be):-

- i. If the Customer does not have enough funds in the Deposit Account.
- ii. If the payment or transfer would result in the Customer's approved overdraft facility limit being exceeded.
- iii. If the Customer does not authorize a bill payment in good enough time for the payment to be made and properly credited by the payee (the Customer's counterparty) by the time it is due.
- iv. If the System or the Customer's Facilities were not working properly.
- v. If circumstances beyond the Bank's control including those specified in clause 8.1 above prevent the Bank from making a payment or transfer.
- vi. If the money in the Customer's account is subject to legal process court order or other encumbrance restricting the payment or transfer.
- vii. If the Customer does not give proper or complete instructions for the payment or transfer or the Customer does not follow the procedures in this or other applicable agreement with the Bank for requesting a payment or a transfer.
- viii. If the Bank has reason to believe that the Customer or someone else is using the Service for fraudulent or illegal purposes.
- ix. If a payment or a transfer request would consist of money deposited in a form or by a method that has not yet made the money available for withdrawal.
- x. the payment or transfer request is in contradiction or conflict with other existing account agreements with the Customer.

b) Without prejudice to clause 8.2 (a), above, the Customer shall indemnify and keep indemnified the Bank against the following:

- i. 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 the Bank's reliance on any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the Bank.
- ii. Any loss or damage that may arise from the Customer's use, misuse, abuse or possession of any third-party software, including without limitation, any operating system,

- iv. browser software or any other software packages or programs.
  - v. Any unauthorized access to the Customer's accounts or any breach of security or any destruction or accessing of the Customer's data or any destruction or theft of or
  - vi. damage to any of the Customer's equipment.
  - vii. Any loss or damage occasioned by the failure by the Customer to adhere to any terms and conditions applicable to the Service and/or by supplying of incorrect information or
  - viii. 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.
- 8.3 If for any reason other than a reason mentioned in clause 8.1 the Service is interfered with or unavailable, the Bank's sole liability in respect thereof shall be to re-establish the Service as soon as reasonably practicable or, at the Bank's option, to provide to the Customer alternative banking facilities which need not be internet facilities.
- 8.4 Save as provided in clause 8.3, the Bank shall not be liable to the Customer for any interference with or unavailability of the Service, howsoever caused.
- 8.5 Under no circumstances shall the Bank be liable to the Customer for any loss of profit, revenue or anticipated savings or for any indirect or consequential loss of whatever kind, howsoever caused, arising out of or in connection with the Service.
- 8.6 Except in respect of death or personal injury caused by the negligence of the Bank, the Bank shall be under no liability for any claim whatsoever in respect of any terms or conditions contained herein or the performance thereof of any transaction(s) effected by the Bank in response to any Request unless the Bank has received notice in writing of any such claim from the Customer:
- a) In the case of any claim relating to a transaction, within thirty (30) days from the date of the alleged transaction on which such claim is based; and
  - b) In all other cases within ninety (90) days of the date of the alleged action or inaction by the Bank on which such claim is based.
- 8.8 To the extent permitted by law, the Bank:
- a) Disclaims all warranties with respect to the System and Service either expresses or implied, including but not limited to any implied warranties relating to quality, fitness for any particular purpose or ability to achieve a certain result.
  - b) Makes no warranty that the System is error free or that its use will be uninterrupted, and the Customer acknowledges and agrees that the existence of such errors shall not constitute a breach of these Terms and Conditions.
- 9. Termination of the Service**
- The Bank may at any time upon 30-day notice to the Customer, terminate or vary its business relationship with the Customer and in particular but without prejudice to the generality of the usage of the Services. We may give You a shorter period of notice (provided that such notice is reasonable in all the circumstances):
- i. where security requires it; or
  - ii. in circumstances beyond Our control; or
  - iii. in the event of fraud;
  - iv. you fail to observe and comply with these Terms and Conditions.
- 10. Applicable Law**
- These Terms and Conditions shall be governed by and interpreted in accordance with the relevant Kenyan law. The

relevant courts shall have sole jurisdiction over any disputes arising from Your use of the Service

**11. Bank Charges and expense Interest**

The Bank is entitled to be paid by the Customer and at its own discretion may debit the Customer with:

- a) Legal Charges  
Advocate and client costs incurred by the Bank in obtaining legal advice in connection with the Customer's accounts and dealings with the Bank or incurred by the Bank in any legal, arbitration or other proceedings arising out of any dealings in respect of the Customer.
- b) Commission  
Commission at such rates and at such time or times as the Bank decides, with discretion to charge different rates for different internet banking services.
- c) Other charges and expenses In addition the debits authorized by sub-clauses (a), (b) and (c) of this clause, all other expenses and charges including but not limited to disbursements for cheque books, postages, cables, telephone calls, taxes, duties, impositions and expenses incurred in complying with the Customer's requests.

**12. Delay by Customer in lodging complaints**

The Bank is not responsible for any matter unless the Customer has made a written complaint to the Bank as soon as reasonably possible.

**13. Instructions by Customer**

Credit Mobile Banking & Internet Banking Service and Transactions

- a) The Bank is irrevocably authorized by the Customer to act on all Requests received by the Bank from the Customer (or purportedly from the Customer) through the System and to hold the Customer liable thereof, notwithstanding that any such requests are not authorized by the Customer or are not in accordance with any existing mandates given by the Customer. If the Customer requests the Bank to cancel any transaction or instruction after a Request has been received by the Bank from the Customer, the Bank may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.
- b) 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 reference to the Customer being necessary.
- c) The Bank shall not be obliged to accept or to act upon any Request if to do so would require access to, action by, or information from the Branch, or the Bank located in any jurisdiction where it is not a Banking Day at the relevant time when such access, action or information is required or would cause a breach of any existing mandate facility limit or agreement between the Bank, the Branch and/or any subsidiary of the Bank (as applicable) and the Customer. In the event that the Bank does accept or act upon any such Request, the Customer shall remain liable thereof.
- d) For the purposes of carrying out any Instruction, you:
  - i. Authorize us to transmit payment instructions on your behalf and to act for these purposes as instructing financial institution (or procure any other Bank Member or third party so to act) You acknowledge that we will be acting as your agent for the purpose of transmitting or procuring the transmission of any such Instructions and that we or any other Bank Member or third party being the recipient of any such Instructions shall be authorized and entitled to act

upon them as if they had been given directly by you to such recipient, and

- ii. Agree to authorize any relevant third party to provide account and other information to us.
- iii. For the avoidance of doubt:
- iv. you agree that we are authorized to record all telephone conversations made between us in writing or by tape or other means as we may determine.
- v. Agreement, the terms of this Agreement shall prevail.

#### **14. Confidentiality and Disclosure**

- a) You undertake to maintain the confidentiality of the PIN &/or its ID, access code and Password and any other information and materials of any nature supplied to it/you by the Bank in relation to the Service. You agree to notify your nominated user, agents, employees and/or sub-contractors of the provisions of this paragraph and to impose this confidentiality requirement on its nominated user, agents, employees and/or sub-contractors entering into separate agreements, if necessary. You shall be fully liable to the Bank for any breach of the provisions of this paragraph by yourself, your nominated user, your employees, your agents and/or sub-contractors.
- b) You authorize us to collect, retain and use personal information about you for certain purposes as detailed in such data protection Laws and privacy policies as the Bank may issue from time to time.

- c) You agree that we are authorized to disclose any necessary information (including any personal data) regarding you and the status of your accounts (including deposit accounts) with us or any Bank Member obtained under this Agreement or any other agreement with us or with a Bank Member to any or all of:
  - i. your holding company or any other group company of yours;
  - ii. any office/branch/division of any Bank Member;
  - iii. any agent, contractor or third party provider or service provider or professional adviser who provides administrative, telecommuCreditations, computer, payment, collections, security, clearing, credit reference or checking, or other services or facilities to us in connection with the operation of our business;
  - iv. any person to whom we are required to make disclosure to under the requirements of any law, regulation or practice.
  - v. any financial institution with which you propose to have any dealings, and
  - vi. any actual or proposed participants or sub-participants in, or assignee, novate or transferee of, any of our rights in relation to you: and to use such information in connection with the administration and operation of the Services.