

TERMS AND CONDITIONS FOR THE APPLICATION AND USE OF THE LOAN FACILITY

1. Definitions

- 1.1. **"Credit Charge"** means a fixed percentage of the Loan payable together with the Loan;
 - 1.2. **"Credit Limit"** means the maximum pre-approved amount that a Customer can borrow on the Just Cash® System;
 - 1.3. **"Credit Reference Bureau"** means a credit reference bureau duly licensed and registered under the Credit Reference Bureau Regulations 2013 to *inter alia*, collect and facilitate the sharing of customer credit information;
 - 1.4. **"Customer"** means a person whose name is registered in the Lenders Just Cash® System with valid identification details and a registered mobile phone number;
 - 1.5. **"Facility"** means the Loan which the Customer requests from the Lender through their registered and recognised Mobile Phone Number;
 - 1.6. **"Loan"** means a loan disbursed electronically by the Lender to a Customer account held and operated with the PostBank upon a Customer's request.
 - 1.7. **"Just Cash® System"** means the Lenders electronic lending and communication software enabling the Customer to communicate with the Lender for the purpose of accessing the Facility;
 - 1.8. **"Late Repayment Charge"** means a penalty charged at the rate of ten percent (10%) of the Loan;
 - 1.9. **"Lender"** means AAR Credit Services Limited incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) and having its principal place of business at Methodist Ministries Centre, Oloitokitok Road, and of P.O. Box 101267-00101 Nairobi Kenya;
 - 1.10. **"PostBank"** means Kenya Post Office Savings Bank incorporated in Kenya under the Kenya Post Office Savings Bank Act (Chapter 493B of the Laws of Kenya) and having its principal place of business at Postbank House, 16th Banda Street, and of P.O. Box 30311-00100 Nairobi Kenya;
 - 1.11. **"P/A Insurance Premium"** means such personal accident insurance cover as the Lender may place with an Insurer selected by the Lender in respect of such accidental risks affecting the Customer, as the Lender shall determine.
 - 1.12. **"Repayment Date"** means the day that the Loan shall be due for repayment being thirty (30) calendar days from the date of disbursement of the Loan, and on such other subsequent calendar date 30 days from the previous Repayment Date;
 - 1.13. **"Request"** means a request or instruction received by the Lender from you or purportedly from you through the Safaricom Network and the Just Cash® System and upon which the Lender is authorized to act;
 - 1.14. **"Service"** means and shall include any form of loan that the Lender may offer you pursuant to this Agreement as you may from time to time subscribe to, and "Services" shall be construed accordingly;
 - 1.15. **"You"** or **"your"** means the Customer and includes the personal representatives, assigns and heirs of the Customer;
 - 1.16. The word **"Customer"** shall include the masculine and the feminine gender as well as juristic persons;
 - 1.17. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- ### 2. Acceptance of the Terms and Conditions:
- 2.1. Before using applying utilising or querying for the Service you should carefully read and understand these Terms and Conditions which will govern the provision, use, operation and management of the Service.
 - 2.2. You will be deemed to have read, understood and accepted these Terms and Conditions:-
 - 2.2.1. upon confirming National Identification number, Mobile Phone

Number and Personal Details either through the USSD Service or mobile Phone Application

2.2.2. upon replying on the "Yes" option on the Just Cash® System requesting you to confirm that you have read, understood and agreed to abide with these Terms and Conditions; and/or

2.2.3. by using or continuing to use and operate the Service

2.3. By using and applying to access the Service with the Lender 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 Service and you affirm that these Terms and Conditions herein are without prejudice to any right that the Lender may have with respect to the Service in law or otherwise.

2.4. These Terms and Conditions may be amended or varied by the Lender from time to time and the continued use, access, enjoyment of the Service constitutes your agreement to be bound by these terms and conditions or any such amendment, addition, deletion or variation.

2.5. You acknowledge and accept that the Lender offers the Service only by electronic means via the Lenders Just Cash® System.

3. Operations

3.1. You acknowledge that the Lender shall appraise your Facility request according to the Lender's loan appraisal and vetting processes and that the Lender reserves the right, at its sole discretion, and without assigning any reason to approve or decline your application for a Facility.

3.2. Subject to approval of your Facility request for a Loan, the Lender shall lend and disburse to you an amount to be determined by the Lender in its sole discretion subject to a minimum amount of Kenya Shillings Five Hundred (KShs 500.00/=) and a maximum amount Kenya Shillings Ten Thousand (KShs 100,000.00/=) or the Customer's advised Credit Limit.

3.3. The proceeds of the Loan shall be credited into your approved and confirmed Account held and operated with PostBank subject to any deductions on account of applicable Credit Charge and or Transaction Fees.

3.4. You hereby consent, allow, authorise and grant PostBank the authority to open an MSAWA account that shall be operated, held and accessed in accordance with such terms and conditions that PostBank shall provide and you expressly confirm that you shall abide by such terms and conditions.

3.5. In consideration of the Lender granting you the Loan, you shall pay a Credit Charge as prescribed in Schedule 1 of these terms and conditions or at such other rate as the Lender shall determine at its own discretion which shall be paid together with the Loan on the Repayment Date.

Schedule 1

Period	Credit Charge (Per month)
1 Month	10%
6 Months	5%
12 Months	3.5%
24 Months	3.5%

3.6. You shall make payments by way of deduction from your Account and you hereby consent and give authority to PostBank to deduct any or all sums due against the Loan granted to you from your Account unless otherwise agreed and advised by the Lender in its sole discretion.

3.7. If you do not pay the Loan on the Repayment Date the Lender shall automatically charge a Late Repayment Charge.

3.8. You shall pay to the Lender any charges, fees, expenses, taxes, duties, impositions and expenses incurred by the Lender in complying with your Facility request.

3.9. You hereby expressly give consent to the PostBank to recover all monies due from you that you will not have settled on the Repayment Date from your Account in the first instance or from any other source of your income or assets.

- 3.10. The Lender reserves the right to vary the terms of the Loan including the credit charge and fees payable thereon from time to time.
- 3.11. Any addition, alteration, modification or deletion to these Terms and Conditions may be made from time to time by the Lender and of which notice may be given to you by way of Short Messaging Service shall be binding upon you as fully as if the same were contained in these Terms and conditions.

4. Credit Reference Bureaus

- 4.1. You hereby expressly authorise the Lender to solicit, query, search, conduct, carry out and perform credit checks with, and/or obtain the Customer's credit information, or such other information, from any or all licensed Credit Reference Bureaus, with respect to this Agreement, and/or the Lender maintaining a Loan for you.
- 4.2. You hereby expressly consent, allow and authorise the Lender to disclose, advise, exchange and communicate the details pertaining to your Loan to Credit Reference Bureaus (CRBs) and other Credit Providers.
- 4.3. You authorise the Lender to obtain any information that it may require relating to the Loan from credit providers, and from any other source to which the Lender may apply, each source being hereby authorised by you to provide the Lender with such information.
- 4.4. You hereby undertake to notify the Lender immediately of any situation, which materially changes the provision, use, operation and management of the Loan.

5. Exclusion of Liability

- 5.1. The Lender will endeavour to do its utmost to ensure that there are no delays or failures in offering the Loan. However, the Lender shall not be liable for any loss suffered by you due to, as a result of, or in connection with failures that may arise as a result of inefficiencies caused by the Mobile Phone Network providers or which are occasioned by strikes, riots or civil unrest, breakages, fire, unforeseen commercial delays, acts of God or permission

requirements or licences that are required from Mobile Phone Network Providers.

- 5.2. You hereby expressly consent to waive any claim against the Lender for delays or failures to offer the Loan due to any or all of the causes and events mentioned in 5.1 above.

6. Termination

- 6.1. The Lender shall not be obliged to advance the Facility or, where the Facility has been advanced, may demand immediate payment of all amounts owed under this Agreement in the event that:

6.1.1. You fail to pay any sum payable hereunder on the Repayment Date.

6.1.2. You fail to perform and/or observe any of your obligations under the Agreement.

6.1.3. The Lender has reason to believe that you are likely to become insolvent or have committed an act of bankruptcy.

6.1.4. PostBank terminates any or all its contractual agreements with you or closes any or all of your accounts held with PostBank in accordance to its terms and conditions.

6.1.5. If your agreement with your Mobile Network Operator is terminated for whatever reason;

6.1.6. the Lender is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;

6.1.7. the Lender 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) which you fail to remedy (if remediable) within 14 days after the service of notice by email, SMS



or other electronic means requiring you to do so;

6.1.8. such a suspension, closure or termination is necessary as a consequence of technical problems or for reasons of safety; to facilitate update or upgrade the contents or functionality of the Services from time to time;

6.1.9. you have in the opinion of the Lender become inactive or dormant in the use of the Just Cash® System or the Services;

6.1.10. the Lender 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;

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

7. Notices

7.1. The Lender shall send information concerning the Loan or Facility via Short Messaging Service (SMS) to you through the Mobile Network Mobile Phone number associated with your Loan or Facility and registered on the Just Cash® System.

7.2. You acknowledge that you have no claim against the Lender for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the Facility or Loan.

8. Dispute Resolution

Any dispute arising out of or relating to this Agreement, or the breach, termination or validity thereof (a **Dispute**) will be settled in accordance with the procedures set forth herein.

8.1. Disputes

8.1.1. The Parties shall use their good faith efforts to resolve any Dispute, controversy or claim of any nature whatsoever arising out of or in relation to or in connection with this Agreement. To this end, the Parties in dispute shall each promptly appoint representatives of appropriate standing who shall meet and attempt to resolve any Dispute between them. In the event that an amicable settlement has not been reached within thirty (30) days of the parties' representatives meeting as aforesaid, the following provisions of this clause 11.2 shall apply.

8.2. Arbitration

8.2.1. Any dispute, difference or question whatsoever and howsoever arising out of or in connection with this Agreement, save as specifically provided herein, shall be referred for final determination to a single arbitrator to be appointed by agreement between the parties hereto or in default of any such agreement within seven (7) days of the notification of any dispute by either party to the other then, upon application by either party, by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitrators ("Institute").

8.2.2. Such arbitration shall take place in Nairobi and shall be conducted in accordance with the Rules of Arbitration of the Institute.

8.2.3. To the extent permissible by law the determination of the arbitrator shall be final and binding upon the Parties and shall not be subject to any appeal.

8.3. Nothing in this clause 11 shall restrict either Party's freedom to commence legal proceedings of any nature for the purposes of seeking preliminary injunctive relief or interim or conservatory measures from any court of competent jurisdiction pending the final decision or award of any arbitrator.

9. Governing Law

9.1. This Agreement shall be governed by the laws of Kenya and the parties agree to submit disputes arising out of or about this Agreement to the courts in Kenya.

10. Entire Agreement

10.1. This Agreement constitutes the entire understanding between the Parties relating to the subject matter herein unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, promises, arrangement, correspondence negotiations or understandings whether oral or written, of any Party to this Agreement.

11. General

11.1. No failure on the part of any party to exercise, or delay on its part in exercising, any right, power or remedy provided by this Agreement or by law shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further or other exercise of that, or any other, right, power or remedy.

11.2. No failure by the Lender to exercise, and no delay in exercising, any right or remedy in respect of any provision of this Agreement shall operate as a waiver of such right or remedy.

11.3. If any provision or part of a provision of this Agreement shall be, or be found by any court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of this Agreement, all of which shall remain in full force and effect