

## GULF AFRICAN BANK – Terms and Conditions

The relationship between you and the Bank shall be governed by these Terms and Conditions.

### 1. Definitions

1.1. In these Terms and Conditions, unless the context otherwise requires:

**“AAOIFI”** means the Accounting and Auditing Organisation for Islamic Financial Institutions;

**“Access Profile”** means the information and/or documentation held by us in respect to you to enable you access the System and/or use of GABNet;

**“Account(s)”** means any one or more of your accounts held with the Bank which includes your Investment Savings Account, Current Account, Investment Time Deposit Account, facility account or any other account that you may have with the Bank singly or jointly;

**“Account Opening Form”** means the form that the Bank may prescribe from time to time to be completed by you in respect to the establishment and operation of an Account;

**“ATM”** means an automated teller machine of the Bank or of a Shared Network Partner of the Bank (which the Bank may from time to time advise) including the VISA network wheresoever situated at which you or Cardholder can effect a Transaction;

**“Authorised Signatory”** means you and/or in relation to you, any person(s) authorised as specified in writing by you to the Bank to operate the Account on your behalf in accordance with the Mandate given by you;

**“Available Balance”** means the amount in the Account which can be drawn by you without any restriction by us (such restricted amounts including without limitation any unconfirmed credit(s), any amount(s) credited to the Account in error and/or any amount(s) which the Bank has a right of set-off);

**“Bank”** means Gulf African Bank Limited a body corporate carrying on banking business under the regulation of the Central Bank of Kenya and of Post Office Box number 43683-00100, Nairobi in the Republic of Kenya which expression shall where the context so admits include its successors in title (whether immediate or derivative) and assigns;

**“Banking Hours”** means the hours for which the Bank is generally open for all classes of business as may be determined by us in respect of each of our Branches from time to time;

**“Bank’s Branches”** means (including the main registered office of the Bank) places in the Republic of Kenya where the Bank’s business is operated and conducted and a “Bank’s Branch” shall be construed accordingly;

**“Bank’s Tariff”** means (including but not limited to) the schedule of the fees and charges levied by us in relation to the Account, a financial product or service as may be approved and announced by us from time to time;

**“Business Day”** means any day which the Bank is open for business;

**“Card”** means the Visa electron debit card or prepaid card (as the case may be) whether containing the Contactless functionality or not issued by us at the request and in the name of the Cardholder for use in connection with debit card services or prepaid card services (as the case may be) provided by us;

**“Cardholder”** means a person to whom a Card has been issued and whose name appears on it;

**“Cheque”** means the cheque forms issued by us to you and forming part of the Chequebook;

**“Chequebook”** means the serially numbered Cheques bound together and issued by us to you;

**“Contactless”** means a mode through which you can pay for goods or services without physically needing to swipe your Card;

**“Current Account”** means the current account(s) structured on the Shari’ah concept of Qard opened and maintained by you with the Bank;

**“Customer”** means the holder of an Account as specified in the Account Opening Form and includes the Customer’s personal representatives or its successors in title (whether immediate or derivative) and permitted assigns;

**“Foreign Currency”** means any currency howsoever denominated other than Kenya Shillings;

**“GABNet Application Form”** means the form to be completed by you in order to subscribe to GABNet;

**“GABNet”** means the banking services offered by us in which transactions are conducted electronically over the internet. You must subscribe to GABNet in order to be able to access such services;

**“Investment Period”** means a period of one (1) calendar month in respect of the tenure of an Investment Savings Account or Investment Time Deposit Account and a period of one (1), three (3), six (6), nine (9) or twelve (12) calendar months as shall be selected by you in respect of the tenure of an Investment Time Deposit Account;

**“Investment Savings Account”** means an Account in which a deposit according to which the depositor (Customer fund owner or Rab al Maal) authorises the Bank (Mudarib/investor) to invest the Customer’s funds according to the unrestricted Mudaraba contract in accordance with the principles of Shari’ah;

**“Investment Time Deposit Account”** means an Account where the Customer (Rab al Maal) authorises the Bank as Mudarib to invest the deposit according to the unrestricted Mudaraba agreement under the principles of Shari’ah;

**“Joint Account”** means an Account opened jointly for more than one (1) person in which they have equal rights and equal obligations;

**“Kenya Shillings”** means the lawful currency of the Republic of Kenya;

**“Mandate”** means the mode of operation of an Account as specified by you in the Account Opening Form;

**“Mandate Card”** means the form that the Bank may prescribe from time to time to be completed by you in respect of the Mandate;

**“Merchant Establishment”** means an establishment wherever located which accepts the Card and shall include but not be limited to stores, shops, restaurants, hotels or airline organisations which display the Bank’s logo or a Shared Network Partner’s logo including any VISA branded logo, as a sign of acceptance of the Card and at which a POS Terminal has been installed;

**“Mudarib”** means entrepreneur or managing trustee in an investment and for the purpose of these Terms and Conditions, the Mudarib refers to the Bank;

**“Mudaraba”** means a partnership in profit in which one party provides capital (“Rab al Maal” or “Mudaraba Investor”) and the other party provides its expertise and skill in relation to the investment of such capital (“Mudarib” or “Mudaraba Manager”). Profit, if any, is shared between the parties as per an agreed ratio while loss, if any, is borne solely by the Mudaraba Investor (as the case may be) as per the laws of Kenya notwithstanding the fact that it is contrary to Shari’ah. This does not apply to Current Account Customers;

**“Mudaraba Assets”** means the assets in which the Bank invests the Mudaraba Pool;

**“Mudaraba Pool”** means the joint investment pool comprising of deposits received from Customers and funds from the Bank’s equity. The Mudaraba Pool shall be managed and invested by the Bank in Mudaraba Assets on an unrestricted (or restricted if applicable) basis in accordance with the principles of Shari’ah;

**“Password”** means the secret word or phrase used in combination with the Username which enables you to access GABNet and which is known only to you;

**“Personal Data”** means any information relating to you from which you can be identified;

**“PIN”** means in relation to a Cardholder, the personal identification number required to gain access via an ATM or POS Terminal to effect a Transaction;

**“POS Terminal”** means a point of sales (POS) terminal installed at a Merchant Establishment capable of processing a Transaction;

**“Profit Calculation Period”** means, in relation to an Investment Savings Account and Investment Time Deposit Account, a period of one (1), three (3), six (6), nine (9) or twelve (12) calendar months as shall be applicable to you or otherwise as determined by us, for which profits on the Mudaraba Funds is calculated;

**“Profit Payment Date”** means the date on which the Bank pays your share of the profit amount, which shall fall no later than fifteen (15) days after the end of the relevant Profit Calculation Period;

**“Qard”** means an interest free loan of any fungible commodity including money;

**“Rab Al Maal”** means the capital provider. You are the Rab al Maal as regards your credit balance in your Account with the Bank;

**“Shared Network Partner”** means any person with whom the Bank enters into an arrangement by which Cardholders of the Bank can effect Transactions on ATMs and/or POS Terminals owned by or affiliated to the person;

**“Shari’ah”** is a reference to the general body of Islamic law and regulations as interpreted by the Bank’s

Shari’ah Supervisory Board and, where relevant, by reference to any applicable standards published by AAOIFI;

**“Shari’ah Supervisory Board”** means the committee of Islamic scholars and academics who have agreed to advise the Bank on matters of Islamic jurisprudence and Shari’ah as the same impacts on the business of the Bank;

**“System”** means the information technologies applied and used by us to provide GABNet;

**“Terms and Conditions”** means these Terms and Conditions as set out in the Account Opening Form as may be amended from time to time;

**“Transaction”** means any transaction effected by use of the Card in accordance with these Terms and Conditions and “Transactions” shall be construed accordingly;

**“Username”** means the unique name allocated to you to enable you identify yourself for purposes of accessing GABNet; and

**“Weightages”** means investment participation weightages, approved by us for Investment Savings Accounts and Investment Time Deposit Accounts, in the Mudaraba Pool.

1.2. Clause headings shall not affect the interpretation of these Terms and Conditions.

1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4. References to “we”, “our” or “us” means the Bank.

1.5. References to “you” and “your” mean the Customer.

1.6. A reference to a company shall include any company, corporation or other body corporate wherever and however incorporated or established.

1.7. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.8. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.9. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.10. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

### 2. Account Opening and Operations

- (a) We may, at our sole and absolute discretion, upon due application by you and subject to these Terms and Conditions, applicable regulations and Shari’ah guidelines, open an Account for you. We shall not open an Account for you if your name appears in any blacklist(s) (whether local or international) issued, circulated or otherwise available to us from time to time.
- (b) We shall assign a base Account number for you to carry out all transactions with us. The base Account number is used to determine your various Account types. You may carry out all transactions with any of our Branches.
- (c) The Account shall be operated by you under the name (s) specified in the Account Opening Form and all documents provided thereunder. We shall have the right at our sole and absolute discretion, to request you for all necessary proof of your name and any change thereof and we shall be at liberty to decline to act on any or all of your instructions until such request is met to our sole and absolute satisfaction.
- (d) We reserve the right, at our sole and absolute discretion, at any time during the tenure of the Account to request you for any information and/or documentation that we may require for the establishment and/or operation of the Account including any information, confirmations and/or documentation stipulated by any anti-money laundering and/or anti-terrorism laws.
- (e) You must immediately inform us in writing of any change in the details given by you in the Account Opening Form and any subsequent changes thereto.

### 3. Specimen Signature

You shall give to us, in a form acceptable to us, at our sole and absolute discretion, a specimen of the signature of each Authorised Signatory. We may require a fresh specimen signature in the event of a change in your name. The specimen signature of the Authorised Signatory registered with us shall be considered to be the basis for carrying out transactions in your Account(s) as indicated on the Mandate Card by you. The specimen signature shall remain valid unless changed or cancelled. Any change or cancellation shall only become valid on the next working day following the day of receipt of such instructions from you by us at our Branch at which your Account is maintained.

### 4. Categories of Accounts

The following terms and conditions will apply to the different categories of accounts described below. This is in addition to the other terms and conditions contained herein.

#### Current Account

- (a) The credit balance in the Current Account is a Qard to us on which no profit or other form of return is payable.
- (b) We undertake to pay the credit balance in full subject to your compliance with these Terms and Conditions.
- (c) We may invest all amounts outstanding in the Current Account in such manner as we, in our absolute discretion, deem fit and no returns of whatsoever nature (including profit) is paid out on the Current Account.
- (d) The Current Account shall be subject to the minimum balance requirements prescribed by us from time to time and advised to you and may be operated in such denominations approved by us from time to time.
- (e) Withdrawals from Current Account shall be made through Cheques issued by us, written instructions or Card as provided for in these Terms and Conditions. Deposits in the Account may be accepted in all our Branches by cash, Cheques or through our ATMs or cash deposit machines as provided for in these Terms and Conditions.
- (f) Transfers between Accounts may be performed.
- (g) We shall have the right to refuse to pay any payment orders or cheques written on forms other than our forms without any responsibility whatsoever on our part.

#### Investment Savings Account

- (a) You (being the owner of funds (the “Mudaraba Funds”) or Rab-al-Maal) authorise us (being the Mudarib or fund manager) to invest the Mudaraba Funds in the Investment Savings Account according to the principles of Islamic Shari’ah in such manner as we, in our absolute discretion, deem fit.
- (b) The outstanding balance in the Investment Savings Account (the “ISA Deposits”) maintained by you shall be invested by us in a Mudaraba Pool together with funds from the Bank’s equity and other depositors and shall be managed and invested by us in Mudaraba Assets on an unrestricted (or restricted, if applicable) basis in accordance with the principles of Shari’ah.
- (c) The profits (“Mudaraba Profits”) realized as a result of the Bank’s investment activity under sub-paragraph (b) above, shall be allocated between us and you, as follows:
  - (i) in consideration of the services provided by us hereunder, we shall be entitled to a predetermined percentage share of the Mudaraba Profits, for the corresponding

- Investment Period (the "Mudarib's Profit Share");
- (ii) the remaining Mudaraba Profit, after deduction of the Mudarib's Profit Share (the "Profit Amount"), shall be allocated amongst the depositors by reference to the Weightages in accordance with sub-paragraph (d) below. Your share of the profit will be determined in accordance with the per annum rate (the "Profit Rate") applicable to the relevant category to which your ISA Deposits belongs and shall be paid on the relevant Profit Payment Date; and
- (iii) the Mudarib's Profit Share and the Weightages applicable to each category shall be determined by us. Any profits made by us from the Mudaraba Pool shall be distributed between you and the Bank; with you being entitled to at least five per cent (5%) and the Bank being entitled to a maximum of ninety five per cent (95%) of such profits respectively.
- (d) The Weightages shall be posted on our website on a monthly basis. We reserve the right to vary the Mudarib's Profit Share and/or the Weightages from time to time in accordance with the prevailing regulations and/or directives applicable to us and such variation shall be deemed to be effective upon the commencement of the Profit Calculation Period immediately succeeding such variation. You shall be deemed to have accepted such variation if we do not receive any notice to the contrary within seven (7) days from the issuance of such notice.
- (e) The Profit Amount for an Investment Savings Account shall be calculated on the monthly average balance of the Investment Savings Account for the relevant Investment Period and the Profit Calculation Period is deemed to be one (1) calendar month unless you withdraw whole or part or part of the balance whenever you desire.
- (f) We as a Mudarib shall bear any loss arising from our operations as per the Laws of Kenya, notwithstanding the fact that it is contrary to Shari'ah.
- (g) We as a Mudarib will invest the ISA Deposits in accordance with the absolute Mudaraba provisions on the basis of the average monthly balance available in the Investment Savings Account.
- (h) Investment Savings Accounts shall be subject to the minimum balance requirement as set by the management of the Bank and if the balance in the Investment Savings Account, on any day during the month falls below this minimum balance requirement then the entire balance in the Investment Savings Account shall not participate in the investment during that month.
- (i) We may issue a Chequebook to Investment Savings Account holders and you may issue payment orders on this Account. A Card shall be issued to you if you hold an Investment Savings Account to enable you to utilize ATM services.
- (j) The cash withdrawal slip and/or ATM and/or the Chequebook availed by us must be used in making all withdrawals from the Account.
- (k) We shall establish a stabilization fund, if required. Such fund shall be funded, held and disbursed only upon instruction and prior approval of the Shari'ah Supervisory Board of the Bank.
- (l) We being a member of the Deposit Protection Fund are obliged to protect your deposits under the provisions of section 39 of the Banking Act (Chapter 488 of the Laws of Kenya).

#### Investment Time Deposit Account

- (a) Should you wish to open an Investment Time Deposit Account with us, you will be required to enter into a Mudaraba on the terms and conditions stipulated in the Mudaraba agreement.
- (b) You as the owner of the Mudaraba Funds or Rab-al-Maal, authorise us (being the Mudarib or fund manager) to invest the Mudaraba Funds in the Investment Time Deposit Account ("ITDA Deposit") according to the principles of Islamic Shari'ah in such manner as we, in our absolute discretion, deem fit.
- (c) The ITDA Deposits maintained by you shall be invested by us in a Mudaraba Pool together with funds from the Bank's equity and other depositors and shall be managed and invested by us in Mudaraba Assets on an unrestricted (or restricted, if applicable) basis in accordance with the principles of Shari'ah
- (d) The profits ("ITDA Mudaraba Profits") realized as a result of our investment activity under sub-paragraph (c) above, shall be allocated between the Bank and you as follows:
  - (i) in consideration of the services provided by us hereunder, we shall be entitled to a predetermined percentage share of the Mudaraba Profits, for the corresponding Investment Period (the "ITDA Mudarib's Profit Share");
  - (ii) the remaining ITDA Mudaraba Profit, after deduction of the ITDA Mudarib's Profit Share (the "ITDA Profit Amount"), shall be allocated amongst the depositors by reference to the Weightages in accordance with sub-paragraph (d)(iii) below. Your share of the profit will be determined in accordance with the per annum rate (the "ITDA Profit Rate") applicable to the relevant category to which your ITDA Deposits belong and shall be paid on the relevant Profit Payment Date; and
  - (iii) the ITDA Mudarib's Profit Share and the Weightages applicable to each category shall be determined by us. The Weightages shall be posted on our website on monthly basis. We reserve the right to vary the ITDA Mudarib's Profit Share and/or the Weightages from time to time in accordance with the prevailing regulations and/or directives applicable to it and such variation shall be deemed to be effective upon the commencement of the Profit Calculation Period immediately succeeding such variation. You shall be deemed to have accepted such variation if we do not receive any notice to the contrary within seven (7) days from the issuance of such notice.
  - (iv) The ITDA Profit Amount for an Investment Time Deposit Account shall be calculated on the monthly average balance of the Investment Time Deposit Account for the relevant Investment Period and the Profit Calculation Period is deemed to be one (1) calendar month unless you withdraw whole or part or part of the balance whenever you desire.
- (e) We as Mudarib shall bear any loss arising from its operations as per the Laws of Kenya, notwithstanding the fact that it is contrary to Shari'ah.
- (f) You shall be considered to have agreed to the renewal of the deposit automatically on maturity subject to the prevailing rate, unless you instruct otherwise before the expiry of the investment by giving us four (4) Business Days' notice prior to maturity of the deposit.
- (g) You may not draw the whole or a part of your deposit before its expiry. In special cases the management of the Bank may allow you to draw the whole or a part of the deposit and the management has the right to decide on how the deposit shall be treated in such case as per Shari'ah guidelines.
- (h) Except for amounts held in Investment Term Deposit Accounts in Kenya Shillings, we are not bound to repay deposits in the same currency deposited, but undertake payment by issuing a demand draft or transfer of the same currency deposited at the exchange rate prevailing on the day of repayment of the said deposit.
- (i) The minimum limit for accepting the Investment Term Deposit equivalent to that in other currencies shall be defined by us from time to time.
- (j) You shall select a fixed Investment Period (or such other periods approved by us), provided that the minimum term of the Investment Term Deposit Account will be one (1) calendar month or as otherwise determined by us from time to time.
- (k) We shall issue acknowledgement of receipt/renewal of the Investment Term Deposit Account to you stating the amount deposited in your favour.
- (l) We shall establish a stabilization fund, if required. Such fund shall be funded, held and disbursed only upon instruction and prior approval of our Shari'ah Supervisory Board.

- (m) We being a member of the Deposit Protection Fund are obliged to protect Customer deposits under the provisions of section 39 of the Banking Act (Chapter 488 of the Laws of Kenya).

#### Joint Accounts

- (a) An individual Account can be opened jointly in the name of two (2) or more persons.
- (b) Where the Mandate in a Joint Account is 'either/or', each Account holder of the Joint Account is authorised to operate the Joint Account individually and it shall be deemed that the instructions given by one Account holder to the Joint Account are authorised by the other Customer(s) to the Joint Account.
- (c) Where the Mandate in a Joint Account is 'jointly', each Account holder of the Joint Account is only authorised to operate the Joint Account together with all others (or as specified in the Mandate).
- (d) All deposits made in a Joint Account and the inward transfers to the Joint Account shall be deemed to be owned equally by Account holders unless otherwise stipulated on the Account Opening Form.
- (e) The Joint Account holders shall be jointly and severally liable for settling in full all dues or claims to the Bank that may arise or any commitments, present or future, by the actions of any one of the Joint Account holders operating the Joint Account or any withdrawals that may cause the Joint Account to be overdrawn.
- (f) In the event of the death or loss of legal capacity of one of the Joint Account holders, the other Account holders shall notify us of their intention to continue operating the Joint Account within a period not exceeding ten (10) days from the date of death or loss of the legal capacity. We shall then suspend withdrawal from the Joint Account until a successor is legally appointed.
- (g) Any of the Joint Account holders or their representatives should not request credit facilities in their personal names secured by the Joint Account without a written approval from all the Joint Account holders.
- (h) We shall have the right to issue a Card to each of the Joint Account holders if each of them is authorized to handle the Joint Account by a single signature only, and they will be held individually or jointly, responsible for all the liabilities that occur from using this service.

#### Accounts in Foreign Currencies

- (a) Subject to any exchange regulations (where applicable), you may open Accounts in Foreign Currency upon our approval.
- (b) The transactions in the Accounts maintained in Foreign Currency shall be effected only by our forms, drafts or written instructions, in the same currency that the Account is maintained.
- (c) Cash withdrawal in Foreign Currency notes from Accounts maintained in Foreign Currency will be subject to the rate of exchange and commission as determined by us from time to time.
- (d) You may transfer from your Account maintained in Foreign Currency to your Account maintained in Kenya Shillings or vice versa at the prevailing rate of exchange on the day of such transfer. You acknowledge that we will not be held responsible for any exchange losses that you may incur when transferring any amount from your Account maintained in Foreign Currency to any other currency Account.

#### Minors' Accounts

We may open Investments Savings Account for minors. The minor's parent or guardian or trustee shall operate the minor's Account on behalf of the minor until such time that the minor attains the age of majority upon which time the minor shall be entitled to receive funds and operate the Account with the permission of their parent, guardian or trustee.

#### 5. Inoperative/Dormant Accounts

- (a) An Account shall be considered inoperative if no transaction is effected on it for a period exceeding six (6) months and we shall, in this case, have the right to reject any debit to the Account including Cheques, outgoing transfers or any other incoming transfers. We may (including without limitation) apply any one or more of the following conditions to an Account upon its classification as "dormant":
  - (i) confirm the validity and authenticity of the first transaction reactivating the Account;
  - (ii) suspend the issuance of statements of Account; and/or
  - (iii) charge a maintenance fee as may be determined by us from time to time.
- (b) You shall be fully responsible for any consequences, claims, legal procedures or losses in regard to your dormant Account and you confirm that we shall not in any case be responsible for the dormancy. It is your responsibility to issue us with instructions should you wish to re-activate or close your Account.

#### 6. Freezing of your Account

We may at any time and in our sole discretion, refuse to accept any instructions in respect of your Account, if and for so long as:

- (a) there is any dispute between the you and us; or
- (b) we have any reason to suspect that a fraud has been or is likely to be committed; or
- (c) your Account is being or is likely to be operated by you for any illegal and/or unlawful transaction; or
- (d) we have any doubt for any reason that either you are not the person entitled to operate the Account or that there is any dispute in respect of the Mandate; or
- (e) we are under a legal obligation to do so.

#### 7. Closing of your Account

- (a) We shall not close your Account without giving you notice of not less than fourteen (14) days except:
  - (i) where your Account is being used for illegal activity; or
  - (ii) where a court order requires us to close the Account.
- (b) We shall disclose in our notice to you the reasons for closing your Account.
- (c) Where possible, the Bank will give you sufficient time to take such steps as may be necessary to keep the Account running.
- (d) When we close your Account, our responsibility shall end by issuing you a cheque for the balance available on the Account and sending it by post to your last communicated address by you. We shall expect you to repay any amounts due to us upon receiving our advice of the intention to close your Account.
- (e) Where it is impossible to trace you, the funds shall be dealt with by us as may be prescribed by law.
- (f) If we close your Account pursuant to a court order, the funds in your Account shall be dealt with as the court may direct.

## 8. Your Instructions

- (a) You can give the Bank instructions in person or by telephone, mobile phone, through our official website, facsimile, unless we advise you that instructions may be given in a different way for a particular Account or service. We shall only be bound to act upon your original and duly executed instructions and/or documents drawn or accepted in accordance with the Mandate until such time as you shall give us due written notice to the contrary.
- (b) Before you give us any instructions by telephone, mobile phone, facsimile or through our official website, you and us will agree on the necessary security procedures for authenticating such instructions.
- (c) We will act on instructions given:
  - (i) on a document bearing your original signature(s); or
  - (ii) by telephone, mobile phone, facsimile or through our official website whether or not they were given by you as long as we have followed the security procedures.
- (d) If you instruct us by telephone, mobile phone or through our official website, we may ask you to confirm such instructions.
- (e) Instructions received after Banking Hours or on a non-Business Day shall be processed on the next Business Day. You may cancel instructions provided that we are not otherwise irrevocably bound to act upon such instructions and provided further that we have confirmed in writing that such instructions have not yet been acted upon. We shall be entitled to levy a charge as per the Bank's Tariff for cancelling instructions.
- (f) We shall not be bound to verify the correctness of oral (by telephone or otherwise), facsimile, electronic or any other forms of unwritten communication or instructions. We shall not be liable in the event that we act on instructions which have been corrupted or improperly transmitted or if the information contained in the said communication is not received or is delayed and you shall indemnify and hold us harmless if such an event occurs.
- (g) We may refuse to act on your instructions, if the instructions are not clear and/or if we have reason to believe that you did not give the instructions and/or if we believe that a law, regulation, code or other duty which applies to us may be broken by acting on the instructions.

## 9. Deposits and Withdrawals

- (a) You may deposit for credit to your Account cash, Cheques and/or other instruments drawn in a manner and in a form acceptable to us. Account deposits by third parties into your Account may be accepted without any responsibility to us and upon us undertaking relevant queries in accordance with any anti-money laundering and/or anti-terrorism laws.
- (b) Subject to daily withdrawal limits (if any), a sufficient Available Balance and the terms of your Account, you may make withdrawals and/or payments from your Account.
- (c) Withdrawals can be made from your Account by you, an Authorised Signatory or by an agent who can be appointed after completing the required documents prepared by us. Cash withdrawals from an Investment Savings Account shall be done by using our forms, the Card or a Cheque. Cash drawings from a Current Account shall be done using the Cheques or through the ATM using your Card.
- (d) You shall not be permitted to draw against, and we shall not be obliged to make payment against a Cheque or other payment which has not been cleared.
- (e) We shall only pay cash to you upon the presentation of a Cheque, where the Cheque is duly signed by an Authorised Signatory.
- (f) Where a Cheque for the payment of cash is presented by any person other than you, we may require confirmation from an Authorised Signatory before we make payment to such person and in this regard you shall indemnify the Bank on a full and unqualified basis in respect of all payments made to the bearer of the Cheque whether or not the money is received by you and whether or not the order for payment is in fact your order.
- (g) Where we receive several instructions from you for withdrawals and/or payments from the Account at approximately the same time such that the aggregate amount sought to be withdrawn and/or paid exceeds the Available Balance, we may in our sole and absolute discretion comply with such of the said instructions in such order and/or manner as we deem fit.
- (h) You must not draw your Account below the prescribed minimum balance of the Account without our prior written consent. We shall be at liberty at our sole and absolute discretion to refuse to honour a Cheque, make a payment and/or allow a withdrawal if the effect of the same would be to cause your Account to be drawn below its prescribed minimum balance.
- (i) In the event that your Account is overdrawn as a result of our exercise of the right to automatically debit your Account or for any other reason whatsoever, the amount for which your Account is overdrawn including any other charges imposed by us is a debt due and payable to us.
- (j) You undertake to pay an amount calculated at the rate of 20% per annum (which rate may be revised by us from time to time) on any amounts debited by us from your Account in accordance with clause (i) above from (and including) the date of the same being debited until the actual payment of such amounts together with the additional amounts payable pursuant to this clause (j) in full and such sums shall hereinafter be referred to as 'Default Damages'. You further undertake to pay all the amounts recovered by us on account of Default Damages in an account maintained by us specifically for charitable purposes as approved by our Shari'ah Supervisory Board.
- (k) Customers who cannot sign their name (due to illiteracy or any other form of disability) should produce proper identification acceptable to the Bank to perform the transaction before the concerned Bank official by using finger print and stamp (if any) before drawing any amount from their Account. To protect the interests of Customers who may be illiterate or unable to sign their names due to disability, the Bank may issue Chequebooks or Cards on a discretionary basis.

## 10. Collection and Remittances

- (a) Cheques, dividend-warrants, bonds or drafts drawn to your order or to the order of a depositor and deposited in your Account shall be accepted as collection items, unless agreed otherwise by us and in accordance with the banking practices prevailing at Shari'ah compliant banks. We have the right to reject Cheques, drafts or any other securities drawn to the order of a third party. We maintain the right to debit your Account with any unpaid and non-collected items in addition to our charges in accordance with the Bank's Tariff without assuming any responsibility in case of non-collection of such items.
- (b) Drawings against Cheques under collection shall only be allowed after their actual realization.
- (c) We shall pay the actual amount of Telex/SWIFT transfers or bank drafts/Cheques received in your favour after deducting the banking fees or charges and commissions in accordance with the Bank's Tariff and the correspondent bank's charges.
- (d) You agree that purchase by us of a bank draft (in Foreign Currency) previously issued by us at your instruction shall be at our discretion and at the exchange rate prevailing on the date of purchase after the deduction of our fees/charges and commissions in accordance with the Bank's Tariff.
- (e) We shall credit all incoming remittances and bank drafts issued to your credit into your Account in the currency of such Account unless we receive instructions contrary thereto from you, and the deposit shall be at the exchange rate prevailing on the same day of deposit.
- (f) We shall have the right to refuse to pay for any bank draft or transfer if your name and/or account number does not match that of the Bank's records or for any other reason.

- (g) All the transfers effected by us in accordance to your instructions shall be at your expense and responsibility, and we shall not be responsible if the amounts credited to your Account are reduced due to the charges or decline in value, and we shall not be responsible if you are unable to avail the funds on account of any restrictions issued by the concerned authorities.
- (h) We and our correspondents are not liable for the consequences of any irregularity, delay, mistake, telegraphic error, omission or misinterpretation that may arise and we shall further not be liable for any loss which may be incurred through our correspondents failing properly to identify the person named in the instructions or retaining the funds should we or our correspondents deem such retention expedient pending confirmation of the identity of any other person or of the said instructions by a letter or otherwise.
- (i) Should all or any of such transfers be unpaid and refunded to the Bank, you can only claim the value thereof at the buying rate of the day when the refund takes place. The refund cannot be effected until we have received definite advice from our correspondents that the funds are unpaid and that the original instructions have been cancelled.
- (j) We shall at our absolute discretion determine the order or priority of funds transfers instructed by you, and may at our absolute discretion transfer funds from any of your Accounts to cover any overdrawn amount in your Current Account.
- (k) You irrevocably agree and authorize us to act on all your instructions (including but not limited to funds transfers, bill payments and stop payment instructions) and accept full responsibility for all such instructions, and in particular for ensuring the accuracy and completeness of your instructions, and also for ensuring that the same instructions are not inadvertently transmitted to us twice.
- (l) Any instructions for funds transfers is subject to any arrangement now subsisting or which may hereafter subsist between you and us in relation to the particular Account. We hereby reserve the right to:
  - (i) refuse at any time to carry out any one or more of your funds transfer instructions (whether in relation to one-off funds transfer or standing instructions/recurring bill payments) without assigning any reason therefor; and/or
  - (ii) impose limits, restrictions or conditions on your funds transfer (whether in relation to type, currency, purpose, number, or any other aspect thereof) as may be required by us or any relevant authority(ies).

## 11. Statements of Accounts/Addresses/Details

- (a) You shall be provided with the advices and statements of accounts in respect of your Account (as per your request or by our decision). If we do not receive any objection within fifteen (15) days from the date of dispatch of the advice or the statement of account by any electronic media, then such statement and advice shall be deemed correct. If you do not receive a statement of account for any period, it is your responsibility to demand a statement from the Bank within one (1) month of the date on which such a statement would normally have been sent to you.
- (b) You shall have the right to ask for an additional copy of the statement of account at your own expense.
- (c) For all purposes, including any legal proceedings, a certificate signed by any director, manager and/or any authorised signatory of the Bank as to any matter relating to your Account shall, in the absence of any manifest error, be conclusive evidence against you in respect of the said matter.
- (d) Unless you give notice in writing, the address set out in the Account Opening Form shall be the approved address for the mailing of all letters or other notification (legal or otherwise). You shall inform the Bank in writing, in case of changes to any of your particulars as set out in the Account Opening Form.
- (e) We may stop e-mailing advices or statements of account if they are undelivered on two (2) or more consecutive occasions until such time you provide to us an alternative address for e-mailing the statements to you. You hereby absolve us from any consequences, losses, damages, claims or other rightful acts which you may otherwise have against us arising either directly or indirectly from instances where the statements of accounts are undelivered. Furthermore, you understand that we will not be responsible in any way, for your inability to verify the correctness or the propriety of the entries in the statements in instances where your statements of accounts are undelivered, and agree to indemnify and hold us indemnified against any loss, damage or claims which may arise by virtue of the above.

## 12. Standing Orders

We may effect any standing orders from you provided that you have sufficient Available Balance in your Account on the due date(s) of the execution of such orders. We shall not be liable for any delay or error in the dispatch or on the transmission or for any error on the part of the paying bank or any of its correspondents. You acknowledge that we shall not be liable for such delays or errors and you shall indemnify us for the losses, damages and expenses incurred by us as a result of the execution of the standing orders given by you.

## 13. Adjustment of Entries

We reserve the right without prior notice to you, to debit any amount(s) credited to your Account in error and/or reverse any entry made to your Account in error. We accept no responsibility for the consequences of such debits and/or reversals. In case of any errors in entries, any adjustments or correction in the entries signed by us shall be considered effective and correct. You shall not have the right to claim the value of the wrong deposits into your Account and you agree and confirm that we have the right to claim the amounts wrongfully paid to you. You further agree and accept the obligation to settle the amounts wrongfully paid to you by the method, procedures, and the dates specified by us without any objection and irrespective of the lapse of any period of time from the date of occurrence of the wrong entry.

## 14. Bank Charges, Fees and Commissions

- (a) All applicable fees and charges for the various services or products provided by us shall be set out in the Bank's Tariff which may be amended from time to time.
- (b) We have the right to automatically debit your Account(s) for all applicable fees and charges for the various services or products provided by us in accordance with the Bank's Tariff and any governmental fees, taxes, levies and/or stamp duty, and also any other fees and charges payable on the transactions performed by you from time to time. We shall not be obligated to notify you or obtain your consent prior to any debit made by us.
- (c) Current Accounts and Investment Savings Accounts are subject to the stipulated minimum daily balance as determined and announced by us from time to time.
- (d) In the event that your Account is overdrawn as a result of our exercise of the right to automatically debit your Account or for any other reason whatsoever, the amount for which your Account is overdrawn including any other Bank charges imposed by us is a debt due and payable to the Bank.
- (e) You undertake to pay an amount calculated at the rate of 20% per annum (which rate may be revised by us from time to time) on any amounts debited by us from your Account in accordance with sub-paragraph 14(d) above from (and including) the date of the same being debited until the actual payment of such amounts together with the additional amounts payable pursuant to this sub-paragraph 14(e) in full and such sums shall hereinafter be referred to as 'Default Damages'. You further undertake to pay all the amounts recovered by us on account of Default Damages in an account maintained by us specifically for charitable



purposes as approved by our Shari'ah Supervisory Board.

- (f) We shall have the right to vary the charges and fees set out in the Bank's Tariff at any time upon receiving approval from our Shari'ah Supervisory Board.

#### 15. The Bank's Rights of Set-Off And Lien

- (a) Where you maintain or establish more than one Account with the Bank, such relationships between us and you will be deemed to constitute that of a single integral and indivisible account relationship. We shall have an absolute right to combine or merge any of your Accounts for the purpose of setting-off any debit balance against available credit balance or to reimburse ourselves for recovery of monies for which you are liable. We shall have a general lien over all your property in our possession, including, but not limited to, cash, goods, securities or valuables held by us, Cheques presented for payment, bills and any other property (movable or immovable) charged in whatever manner by you in our favour to secure the repayment of such monies.
- (b) You agree that the Bank may at any time and without giving any prior notice, freeze, set-off or transfer any amounts between your Accounts whatsoever their types or names, whether individual or joint Accounts, in Kenya Shillings or Foreign Currency, so that each Account shall be considered as security for the other Accounts, individually or jointly, for the purpose of settling any liability you or the party (ies) guaranteed by you may have towards the Bank.
- (c) We may attach all the properties maintained by us in your name and call on all the guarantees issued by you to us for the purpose of settling any amounts due by you to us.

#### 16. Chequebooks

- (a) A Chequebook shall be issued by us to you at our sole discretion, subject to the terms set out in this paragraph 16.
- (b) We may charge a fee for the issuance of a Chequebook and any other additional Chequebooks issued to you as may be set out in the Bank's Tariff.
- (c) We may refuse to make payment to you or any other third party on any Cheque which is not drawn in the manner specified in this sub-paragraph 16(c):
- (i) you must write, date and sign the Cheque in clear handwriting using legible ink (preferably blue or black) in the currency of your Account for an amount not exceeding the Available Balance;
  - (ii) when drawing a Cheque, the amount should be stated in both words and figures in such a manner as to prevent the insertion of any other word or figure and/or to prevent any fraudulent alterations;
  - (iii) the Cheque must be signed by an Authorised Signatory as per the terms of the Mandate;
  - (iv) any alteration to the Cheque must be counter-signed by an Authorised Signatory as per the terms of the Mandate; and
  - (v) any un-crossing of the Cheque must be done by an Authorised Signatory as per the terms of the Mandate.
- (d) No incomplete Cheque should be given to any person and all uncompleted Cheques should be kept in safe custody at all times.
- (e) You must count the number of Cheques contained in the Chequebook at the time you are issued with the Chequebook and periodically throughout the use of the Chequebook. If any Cheque is found to be lost or missing, you must inform us immediately.
- (f) We may refuse to honour a Cheque where the date of the Cheque is more than six (6) months old or where the date is in the future (post-dated cheques).
- (g) Where you want us to stop payment on a Cheque, you must immediately request us in writing to do so. Upon receipt of a written notice from you to stop payment of a Cheque, we shall record the notice and stop the payment provided that such notice is received before the transaction sought to be stopped has not occurred. We reserve the right to charge an administration fee for stopping the payment of a Cheque.
- (h) We shall not be liable to you in any way and you shall full indemnify us against any claims by any third party should the Bank make payment against a Cheque on your behalf, where the Cheque is presumed to be issued by you but the signature or content of the Cheque and/or written instruction has been forged if:
- (i) you have facilitated such forgery; or
  - (ii) there has been a previous forgery of your Cheque or note of instruction without you having previously objected to the payment.

#### 17. Card Services

This section applies to issuance and usage of the Bank's Cards.

##### (a) Card Issuance and Usage

- (i) This paragraph 17 is only applicable to individual Customers or Customers which are businesses owned and operated by sole proprietors who have been issued with Cards by us or businesses with 'either/or to sign' Mandate or that provide relevant board resolutions and indemnity documents.
- (ii) It is a condition of issue that the Cardholder maintains a Current Account or an Investment Savings Account with us at any of our Branches for us to issue the Card. In the event of the Account being closed for any reason, the Card shall immediately be returned to us by the Cardholder and its validity shall cease.
- (iii) The Card is issued for use only on electronic machines capable of accepting VISA/ELECTRON cards and may not be used to obtain credit of any description on the strength of the Card.
- (iv) The Card may be utilized at any ATM in order to effect a Transaction which shall include:
- (a) to effect a debit to your Account by withdrawal of cash, any such debit being effected immediately;
  - (b) to effect a credit to your Account by the deposit of cash or Cheque, any such credit being effected either on the next working day (for cash deposit) or on the day of receipt of cleared funds (for Cheque deposits).
  - (c) to display the current balance of your Account on the ATM;
  - (d) to give an account mini statement to the Cardholder;
  - (e) to order a Cheque book or statement relating to your Account; and
  - (f) such other Transaction as may from time to time be made available by us to the Cardholder including top-up of mobile phone airtime and transfer of funds between Accounts.
- (v) The Card is issued entirely at the risk of the Cardholder who shall indemnify the Bank for all loss or damage howsoever caused from the use of the Card.

##### (b) Loss, Surrender or Replacement of the Card

- (i) The Card shall remain our property at all times.
- (ii) The Cardholder shall take every possible care to prevent the Card from being lost, misplaced or stolen and shall not pass the Card to any other person.
- (iii) The Cardholder shall notify us immediately if the Card is lost, misplaced or stolen or if it comes to the hands of a third party.
- (iv) Where verbal notice of loss or theft is given, it must be confirmed in writing to the Cardholder's

Bank's Branch within forty eight (48) hours of the receipt of the oral notice by us.

- (v) We may, at our sole discretion, cancel the validity of the Card where it has not been in use for a period of six (6) months or otherwise and request its return at any time, in which case the Cardholder shall immediately comply, with such request.
- (vi) The Cardholder must return the Card to us for cancellation in the event the Cardholder no longer wishes to utilize the Card.
- (vii) On receipt of a written request for replacement of a Card either damaged or lost we may, after due verification, issue a replacement Card and debit the Account with the appropriate replacement fee applicable from time to time.
- (viii) The Cardholder must not use or attempt to use the Card after any notification of cancellation or withdrawal has been given.

##### (c) PIN

- (i) To enable the Cardholder to utilise the Card, a PIN may be issued to the Cardholder. The PIN shall be mailed and/or personally delivered to the Cardholder on identification and the Cardholder shall ensure that the same is received in a sealed envelope. This PIN may subsequently be changed by the Cardholder at the Cardholder's own risk at any ATM that offers such a service.
- (ii) The security of the PIN is important and must be maintained by the Cardholder at all times.
- (iii) The Cardholder (and in case of a Card issued in respect of a Joint Account all Joint Account holders jointly and severally) may incur liability for unauthorised use of the Card and any instruction given by means of the Card and the PIN, whether in conjunction or independently, may be deemed by us at our sole and absolute discretion to be instructions given by the Cardholder.
- (iv) The Cardholder undertakes:
- (a) not to disclose the PIN to any other person;
  - (b) to take precaution to prevent anyone else seeing the PIN being entered in an ATM or POS Terminal;
  - (c) not to write or indicate the PIN on the Card or elsewhere, even if it is disguised; and
  - (d) to commit the PIN to memory and destroy any record thereof.
- (v) In the event of the PIN becoming known to someone else other than the Cardholder, that person shall be treated by us as an agent of the Cardholder and the Cardholder shall indemnify us against all losses or damage which may occur as a result of the PIN becoming known.
- (vi) The Cardholder shall notify us immediately if the PIN is unwittingly or otherwise disclosed or made available to a third party.

##### (d) Contactless Transactions

- (i) The Contactless functionality is an additional feature included in the Card and does not in any manner affect the existing functionality of the Card.
- (ii) Contactless transactions can only be done at Merchant Establishments which have a Contactless enabled POS Terminal and a reader capable of processing a Contactless transaction.
- (iii) A Cardholder is required to bring the Card within 4 centimeters (cm) of the Contactless enabled POS Terminal or reader and tap or wave the Card in order to effect a Transaction.
- (iv) The Contactless functionality applies only to purchases at Merchant Establishments. Transactions such as cash deposits and withdrawals or online purchases and any other that are effected by use of the Card cannot be conducted through the Contactless mode.
- (v) The use of the Contactless functionality is optional as a Cardholder shall be at liberty to either opt in or out. The limit for purchases via the Contactless functionality shall be zero in the event a Cardholder notifies the Bank in writing of their intention to opt out of its use.
- (vi) The Contactless functionality is only applicable for low value purchases not exceeding KES 2,500.00 or the limit set by the Shared Network Partners. The Cardholder shall be required to use a PIN to make payments exceeding the said amount or limit.
- (vii) We hereby make no express or implied warranties or representations regarding the Contactless functionality and shall not be liable for any acts or omissions of the Cardholder and any third party including Merchant Establishments and Shared Network Partners.
- (viii) We shall not be liable for any conditions imposed by VISA, Merchant Establishments and/or Shared Network Partners with respect to the use of the Contactless functionality by the Cardholder.

##### (e) Multiple Accounts and Cards

- (i) The daily cash withdrawal limit for a Card shall be in respect of the total daily cash withdrawals made from all the Accounts.
- (ii) Where the Account is a Joint Account and mandate is either or survivor to sign, upon completion and execution of the Account Opening Form by each account holder of the Joint Account, any of the Joint Account holders may be issued with an ATM Card in respect of the said Joint Account.
- (iii) Where the Account is a Joint Account and Cards are issued to more than one or all of the Joint Account holders, each Card so issued shall be separately subject to the daily cash withdrawal limit.

##### (f) ATM and POS Transactions

- (i) We shall debit your Account with the amount of any withdrawal or transfer or payment for goods and services at the POS Terminals and all such payments as effected by the use of the Card along with our charges in accordance with the Bank Tariff.
- (ii) The Cardholder(s) shall at all times remain liable for any Transaction and shall indemnify us for all loss or damage howsoever caused by any unauthorized use of the Card or related PIN. Our record of Transactions shall be conclusive and binding for all purposes.
- (iii) The amount of any Transaction in a currency other than Kenya Shillings will be converted into Kenya Shillings at a rate determined by us for the date when the relevant Transaction is debited to the Card's corresponding Account. Relevant charges as per the Bank's Tariff will apply.
- (iv) The Cardholder accepts all debits made to the Account arising from the use of the Card without limitation (except after written notice of loss has been received and acknowledged by us).
- (v) The Cardholder shall ensure sufficient drawing power in the Account to which the Card relates before making any withdrawals. If for any reason an Account is overdrawn by the use of the Card, the Cardholder shall immediately make up for the deficit by a direct payment or transfer of funds from any other Account of the Cardholder maintained with us. Failure to comply with this condition shall entitle us to cancel the Card and/or make transfer on the Cardholder's behalf (if more than one Account is maintained at the Bank).
- (vi) We reserve the right to limit the total cash sum withdrawn by the Cardholder during any twenty four (24) hour period and to advise the Cardholder of such limits from time to time.
- (vii) When a Cardholder completes a Transaction through an ATM, he/she can opt to receive a printed Transaction record. However, for all cash/Cheque deposit transactions at the ATM the Cardholder agrees that no receipt shall be issued by the ATM other than an acknowledgement of receipt of a Cheque or envelope as the case may be and without express reference to the amount deposited. The Cardholder is advised to retain the record of a Transaction generated by the ATM.
- (viii) Any deposit made through the ATM will be subject to verification by us which shall be binding and

conclusive for all purposes.

- (ix) The Cardholder agrees that requests on the ATM such as Chequebook requisitions shall be processed on the next Business Day.

#### (g) Merchant Establishment Usage

- (i) The Card may be utilized at any Merchant Establishment. The Card is for electronic use only.
- (ii) Once authenticated and approved, the Transaction is complete and a Transaction print out shall be generated at the POS Terminal for execution by the Cardholder.
- (iii) The Cardholder is also advised to check the Transaction details before taking delivery of the items purchased and/or services provided and leaving the counter of the Merchant Establishment.
- (iv) Once the Card is swiped and verified and the Transaction approved, the Account shall be debited with the full value of the Transaction immediately.
- (v) We shall not accept responsibility for any arrangement or negotiations the Cardholder may have with the Merchant Establishment including but not limited to the nature or quality of the goods supplied and/or services provided or any representations or warranties made by the Merchant Establishment. Should the Cardholder have any complaint concerning any Merchant Establishment as to the merchantability or quality of goods supplied and/or services provided, such complaint shall be resolved by the Cardholder directly with the Merchant Establishment. Failure to do so however shall not relieve the Cardholder (and in case of a Joint Account all Joint Account holders jointly and severally) of any obligations to us. The Cardholder is also advised to notify us of any grievances, complaints or disagreements with a Merchant Establishment immediately.
- (vi) We do not accept any responsibility for a surcharge levied by any Merchant Establishment.
- (vii) In case a Cardholder wishes to reverse a completed Transaction due to an error or on account of return of merchandise by the Cardholder to the Merchant Establishment, the earlier sales receipt issued by the Merchant Establishment must be cancelled by the Merchant Establishment, and a copy of the cancelled receipt must be retained in the Cardholder's possession. Reversal/refund of debits due to such Transactions shall be processed manually and shall only be made by us upon our receipt of:
- (a) an appropriate refund from the Merchant Establishment, either directly or through the respective Shared Network Partner's settlement process; and
- (b) the cancelled sales slip from the Cardholder.
- (viii) If the Cardholder, or anyone authorised to use the Card, provides a mandate whether such comprises but is not limited to a signed coupon, subscription voucher or telephone instruction or gives the Card number to make a purchase or obtain cash advance, without presenting the Card (such as for mail order, telephone order or internet), the legal effect shall be the same as if the Card was used by the Cardholder and a sales voucher or any other document or cash advance voucher was signed by the Cardholder. We shall debit the Account with the full amount of all Card transactions and the Cardholder will be liable to pay us all the amounts so debited whether or not such a voucher or other document is signed by the Cardholder and irrespective of any rights or obligations as between the Merchant Establishment and the Cardholder.

#### (h) Card Fees and Service Charges

- (i) In respect of each Cardholder we shall be entitled at our sole and absolute discretion in accordance with the Bank's Tariff, to charge and debit from the Account such fees and charges as we may from time to time notify the Cardholder including but not limited to an initial Card issuance fee, Card renewal and/or replacement fee, a service fee for an amount to be prescribed by us from time to time for the use of the Card and a charge for undertaking such Transactions as may from time to time be specified by us. Any failure however by us to so notify the Cardholder shall not prejudice in any way howsoever the recovery by us of such fees and charges from the Cardholder (and in case of a Card issued in respect of a Joint Account any of the Joint Account holders).
- (ii) If the Card is utilized at ATMs belonging to our Shared Network Partners, a service fee may be charged by the operator and/or an automated transfer network for undertaking the Transaction.
- (iii) Any Government duties, rates, taxes or charges as and when levied by the Government or any other competent taxing authority in respect of any Transaction shall be payable by the Cardholder and debited by us to the Account.

#### (i) Termination

- (i) The Cardholder may discontinue utilizing the Card services provided by us at any time by a written notice to us accompanied by the return of the Card cut into two (2) pieces. The Cardholder (and in case of a Card issued in respect of a Joint Account all Joint Account holders jointly and severally) shall be liable for all Transactions undertaken by the Cardholder and/or charges incurred up to the receipt, as duly acknowledged by us, of the written notice of termination to us.
- (ii) We shall be entitled to discontinue the debit card services at any time by canceling the Card without assigning any reason whatsoever upon issuance of seven (7) days' notice, which notice shall be issued either by posting to the Cardholder's address last notified in writing to us or by electronic mail to the Cardholder's electronic mail address as indicated in the Account Opening Form. The notice shall be deemed to have been served upon the Cardholder seven (7) days after the date of posting or seven (7) days after the date of sending the electronic mail as the case may be. Upon termination either at the request of the Cardholder or by us, we shall not be required to refund any amounts to the Cardholder (and in case of a Card issued in respect of a Joint Account any of the Joint Account holders), whether in respect of prepaid fees or otherwise.

#### (j) Expenses of Enforcement

A Cardholder (and in case of a Card issued in respect of a Joint Account all Joint Account holders jointly and severally) shall be liable to indemnify us (on a full and unqualified indemnity basis) in respect of any and all expenses incurred by us in enforcing or attempting to enforce these Terms and Conditions or the recovery of any amounts due from a Cardholder to us including all legal fees and court filing fees and disbursements.

#### (k) General Card Conditions

- (i) A Card is not transferable and must not be used by any person other than the Cardholder.
- (ii) A Card remains our property and upon cancellation must be surrendered on demand to us.
- (iii) An issued Card shall have a limited validity period, and upon expiry a new Card may be issued by us at our sole and absolute discretion.
- (iv) The Card is neither a credit card nor a cheque guarantee card and the Cardholder shall not represent the Card as such.
- (v) The Account may not be overdrawn by a Cardholder by effecting a Transaction.
- (vi) Cash or Cheques deposited in an ATM for credit to an Account shall be collected by us and the proceeds shall not be available until the relevant funds have been received for value by us.
- (vii) The execution of a Transaction shall be subject to any operating limitations mandated on the Account.
- (viii) The use of the Card is subject to the rules and regulations of the Shared Network Partners including VISA.
- (ix) The Cardholder hereby gives consent to us to make inquiries regarding the verification of any information that has been provided by the Cardholder in the Account Opening Form.
- (x) We may assign our rights and benefits at any time.

#### (l) Liability of the Cardholder and the Bank

- (i) A Cardholder (and in case of a Card issued in respect of a Joint Account all Joint Account holders jointly and severally) shall be fully liable in respect of each Transaction undertaken by the use of the Card.
- (ii) A Transaction must be carried out in such a way that any confidential information displayed on a POS Terminal is not disclosed to a third party. We shall not be liable for any disclosure to any third party arising out of effecting of a Transaction.
- (iii) A Cardholder (and in case of a Card issued in respect of a Joint Account any of the Joint Account holders) shall not hold us liable, responsible or accountable in any way whatsoever for any loss, injury or damage howsoever arising out of the use of an ATM including inability to make a cash withdrawal due to lack of funds at the ATM where the Transaction is being processed.
- (iv) We shall not be liable for the refusal or inability of any Merchant Establishment, POS Terminal or ATM to accept or honour a Card or to complete a Transaction.
- (v) We shall not be liable for the retention of a Card by an ATM or POS Terminal.
- (vi) We shall not be liable for any loss or damage arising directly or indirectly from any malfunction or failure of an ATM and Card or POS Terminal or the temporary insufficiency of funds in such machine.
- (vii) We shall bear no liability for inability to perform any obligations with regard to the ATM operations due to anything whatsoever outside our control.
- (viii) We shall not be liable if we are unable to perform any obligations due (directly or indirectly) to but not limited to the failure of any machine, data processing system or transmissions link or to industrial dispute, strikes, lock outs, acts of any public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lighting, earthquakes, fires, storms, flood, civil disturbances, terrorisms, governmental regulations and directions and anything outside our direct control, or the control of our agents or sub-contractors.
- (ix) We shall only be liable for loss or damage arising from our failure to deactivate a Card which is reported to have been lost, misplaced or stolen by the Cardholder within the timelines provided herein which is immediately after such loss, misplacement or theft.

#### 18. Mobile Banking

This section applies to your usage of the Bank's Mobile Banking Service.

##### (a) The Mobile Banking Service

- (i) We will provide the mobile banking service ("the Mobile Banking Service") to you through your mobile phone. You must be a subscriber of a mobile service provider with which the Bank has an agreement with for the provision of the Mobile Banking Service to you.
- (ii) You may subscribe to the Mobile Banking Service. We reserve the right to accept or decline any application for the Mobile Banking Service at our sole discretion.
- (iii) The processing of your application and the subsequent registration for the Mobile Banking Service will be done within forty eight (48) hours of submission of your application.
- (iv) It is your sole responsibility to familiarize yourself with the operating procedures for the Mobile Banking Service as will be provided by us upon your registration to the Mobile Banking Service. We will not be liable for any losses incurred as a result of your errors either of commission and/or omission.
- (v) You agree and undertake to be bound by and to comply with all of the procedures relating to the Mobile Banking Service as may be issued by us from time to time. We shall not be bound by or obliged to take any action on any instructions which do not properly comply with the procedures and we may reject such non-compliant instructions.
- (vi) We will provide you with a Personal Identification Number (PIN) for use with the Mobile Banking Service. You must keep this PIN secret and not disclose it. You must take all reasonable care to prevent unauthorized or fraudulent use of the Mobile Banking Service. We will not be held liable for any losses arising from the unauthorized use of your PIN.
- (vii) The provision of the Mobile Banking Service is subject to the availability of the mobile telephony connectivity. We will not be held liable for non-delivery or delay in delivery or wrongful delivery of the Mobile Banking Service as a result of the failure of the mobile telephony connectivity.
- (viii) You agree that we shall not be held liable for any disputes that may arise between you and your mobile service provider.
- (ix) The Mobile Banking Service will be provided to you as long as you are the sole account holder of the Account(s) or have the Mandate to singularly operate the specified Account.
- (x) We will ensure as far as possible that any information supplied to you through the Mobile Banking Service is accurate. We shall not be liable for any error which results in the provision of inaccurate information.
- (xi) The Mobile Banking Service will only be available in geographical regions where the chosen mobile service provider provides mobile telephony connectivity.
- (xii) You undertake to keep the Subscriber's Identification Module (SIM) card and mobile phone safely. You shall not leave your mobile phone unattended or permit any person access to your mobile phone in such a manner that he may use it and/or the Mobile Banking Service, whether with or without your consent.
- (xiii) You must notify us immediately of theft or loss of the your mobile phone/SIM Card, any unauthorized access to the Mobile Banking Service or upon your discontinuation of the telephony service with the your mobile service provider at our Branch at which your Account is held. We shall not be held liable for any losses resulting from the loss of the SIM card and/or cell phone howsoever caused.
- (xiv) We reserve the right to enhance the Mobile Banking Services at any time. It is your responsibility to keep updated with these enhancements. We will make all reasonable efforts to notify you of any changes or updates at our Branches and/or our website.
- (xv) We reserve the right to charge a fee for the provision of the Mobile Banking Service and for the use of all or part of the Mobile Banking Service in accordance with the Bank's Tariff. You will be liable to pay us for any fees levied for the use of the Mobile Banking Service, unless we in our sole discretion have waived such fees. By accepting these Terms and Conditions, you provide us with the authority to debit these fees from your Account on a monthly basis. These charges will be reflected in your normal bank statement. We reserve the right to revise the fees chargeable for the Mobile Banking Service from time to time. We reserve the right to terminate the Mobile Banking Service in the event that you fail to pay any fees levied for the provision of the Mobile Banking Service.
- (xvi) We shall not be held liable for the quality of service of the mobile service provider and give no warranty with respect to the quality of service by the mobile service provider.
- (xvii) You must notify us of any changes in your Account number, mobile telephone number, address and any other information that may affect your ability to access the Mobile Banking Service. We will not be held liable for sending information to your mobile telephone number as contained in our records at any given time.
- (xviii) You agree to bear all risks and consequences of our inability to comply with any instruction sent using the Mobile Banking Service due to errors in transmission of your instructions.

##### (b) Non-repudiation

Until and unless you notify us otherwise, all instructions received by us which are associated with your mobile phone details shall be deemed to have come from you, and we shall be entitled to rely on such instructions whether they actually originated from you or not. You acknowledge that we may not be able to reverse or annul

any transaction executed based on instructions received prior to your notice to us.

### (c) Indemnity

You hereby indemnify and hold us harmless against any loss, claim and/or damage that may arise due to negligence, fraud collusion or violation of these terms on your part and/or the part of any third party.

### (d) Termination and consequences of termination

- (i) You may terminate the use of the Mobile Banking Service through an application form available at our Branches. Such requests will be effected within five (5) working days of receipt of the termination notice by us. Any fees that may be outstanding at the time of such termination will remain payable and we reserve the right to debit such fees from your Account.
- (ii) You will remain liable for any mobile service provider charges that may arise from the use of the Mobile Banking Service as per the mobile service provider's terms and conditions.

### (e) Discontinuation of the Mobile Banking Service

The Mobile Banking Service may be discontinued by us at our sole discretion and at any time after giving prior notice to you. It is agreed by you and us that we may however suspend the service temporarily, without any notice to you, for upgrade, expansion, maintenance and repair activities, or for any emergency reason as deemed necessary.

### (f) Disclosure

Information and instructions received from you through the Mobile Banking Service will be stored by us and accessed by our employees (as is deemed necessary).

## 19. GABNET

This section applies to your usage of GABNET, the Bank's internet banking service.

### (a) Subscription

- (i) Upon approval of your subscription to GABNet by us as well as payment by you of the fees and charges set out in sub-paragraph 19(f) below to us, we shall allow you access to GABNet subject to and in accordance with these Terms and Conditions.
- (ii) You undertake to provide accurate information in the GABNet Application Form and further undertake that you shall promptly provide accurate information in furtherance of the subscription whenever required to do so by us. You shall be responsible for the correctness and authenticity of any and all information provided to us. We shall not be liable to you and/or any third party for any loss and/or damage arising out of any inaccurate information provided by you however so caused. You unconditionally and irrevocably undertake and agree to full indemnify us against all claims, demands, losses, costs, damages, liabilities or expenses whatsoever which we may at any time incur, sustain or suffer as a result of relying on any inaccurate information provided by you and also agree to reimburse us in full, upon demand, for all payments, losses, costs, damages, liabilities and expenses made, suffered or incurred by us as a consequence thereof or arising there from.
- (iii) We reserve the right to add, modify, replace or withdraw any electronic banking service at any time, for any reason whatsoever, without prior notice to you.

### (b) Your Responsibilities

- (i) You shall at your own expense provide and maintain in safe and efficient operating order such hardware, software or any other communication equipment or device (collectively the "Equipment") necessary for the purpose of accessing GABNet.
- (ii) You shall be responsible for ensuring proper performance of the Equipment and shall be responsible for any losses or delays that may be caused by the Equipment. We shall neither be responsible nor liable for any errors or failures caused by any malfunction of the Equipment nor shall we be responsible or liable for any computer virus or related problems that may be associated with the use of the System, GABNet and the Equipment. You shall be responsible for charges due to any service provider providing you with connection to the internet and we shall not be responsible or liable for losses or delays caused by any such service provider.
- (iii) You shall obtain all licences and consents necessary to have access to and use of the System and shall ensure that all persons you allow 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 herein and any document provided by us concerning the use of GABNet and the System.
- (iv) You shall take all reasonable and necessary precautions to prevent and detect any unauthorized use of GABNet and the System.
- (v) You undertake not to disclose your Username and Password to any other person. In the event that your Username and Password become known to any other person, that person shall be treated by us as your authorised agent and you shall indemnify us against all loss or damage which may occur as a result of the Username or Password becoming known.
- (vi) You shall not under any circumstances allow any person access to your Account through the System.
- (vii) You shall immediately inform us by telephone followed by a written confirmation sent on the same day where you have reason to believe that:
  - (a) your Username and/or Password has been compromised; and/or
  - (b) unauthorised use of the System and/or GABNet has or may have occurred or could occur; and/or
  - (c) a transaction in respect of GABNet may have been input fraudulently or compromised.
- (viii) You shall not send or attempt to send any request or instructions to us through the System if you have reason to believe that for any reason such request or instructions may not be received by us or may not be received accurately and intelligibly.
- (ix) You shall at all times follow the security procedures notified to you by us from time to time or such other procedures as may be applicable to GABNet from time to time and specifically those that may be contained on our website or product literature. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of the Access Profile confidentiality and may lead to unauthorised use of the System and/or GABNet. In particular, you shall ensure that GABNet is not used or instructions are not issued or the relevant functions are not performed by anyone other than a person authorised to do so.
- (x) You shall not at any time operate or use GABNet in any manner that may be prejudicial to us.
- (xi) You understand and accept that you may link an Account with multiple signatories to your Access Profile and GABNet only if you have submitted to us an original GABNet Application Form executed by all signatories to the said Account confirming that we are authorised to act on all requests or instructions. It shall be your sole responsibility to ensure that no unauthorised persons have access to the said Account.
- (xii) We shall be entitled and authorised to debit your Account with the amounts of the transactions effected via GABNet as well as to debit your Account with the amount of any fees applicable to GABNet from time to time.

### (c) Irrevocable Authority to the Bank

- (i) We are irrevocably authorised by you to act on all requests or instructions and to hold you liable therefore, notwithstanding that any such requests or instructions are not issued by/and or authorized by you or are not in accordance with your Mandate. If you request us to cancel any transaction or instruction after a request or instruction has been received by us from you, we may in our sole and absolute discretion cancel such transaction or instruction.
- (ii) We shall be entitled to accept and to act upon any request or instruction, even if that request or instruction is for any reason incomplete or ambiguous if, we, in our sole and absolute discretion believe that we can act upon the request or instruction the incompleteness or ambiguity of the request or instruction notwithstanding.
- (iii) We shall not be obliged to accept or to act upon any request or instruction if to do so would require access to, action by, or information from the our Branch when such access, action or information is required or would cause a breach of any existing mandate facility limit or agreement between you and us. In the event that we do accept or act upon any such request or instructions, you shall remain liable for and indemnify us against all claims, demands, losses, costs, damages, liabilities or expenses whatsoever which we may at any time incur, sustain or suffer as a result of accepting or acting upon such request or instructions.
- (iv) We shall not be obliged to accept or act upon instructions received on a day which is not a Business Day or received beyond Banking Hours. Any instructions received on a day that is not a Business Day or after Banking Hours shall be effected by us on the next Business Day. We shall not be liable for any loss or damage which takes place with regard to instructions submitted through the System on a day that is not a Business Day or beyond Banking Hours.

### (d) Limits of Electronic Banking Transactions

You may transfer or effect a payment for any amount provided that such transaction in respect of GABNet does not cause the balance in your Account to fall below the prescribed minimum balance of your Account unless you have a separate Account duly pledged with us to cover excesses that may arise in the affected Account from time to time in which event the said Accounts must be linked in the System for that purpose and the said transaction cannot cause the excess balance in the affected Account to exceed the amount pledged in the other Account.

### (e) Records of Transactions and your Rights to this Information

- (i) All GABNet transactions performed by you once allowed access into the System shall be logged for the period that you have access to the System. Subject to the applicable laws, we shall maintain copies of all requests or instructions in applicable multi-media form. In addition, any hard copies of documentation prepared and/or held by us for the purpose of effecting a transaction as per a request or instruction shall be maintained by us.
- (ii) All documents and other records of whatever nature held and/or issued and/or maintained by us in respect of a request or instruction and/or GABNet transaction, shall, in the absence of manifest error, be conclusive evidence of the request or instructions and/or GABNet transaction and all transactions relating thereto and shall not be subject to challenge by you on any ground, whatsoever.
- (iii) You shall be deemed to have unconditionally accepted and shall not subsequently challenge or object to any of the transactions in respect of a request or instruction and/or GABNet transaction or any other transaction in respect of your Account contained in any statement of account issued by us to you in respect of a request or instruction and/or GABNet transaction unless you object to us in writing in respect of the said transactions as contained in the said statement of account within fifteen (15) days from the date the said statement of account is issued or deemed to have been issued by us to you.

### (f) Charges

- (i) You shall pay to us an initial set up fee and a monthly subscription fee for GABNet in addition to transaction charges applicable to various transaction types in respect of GABNet as set out in the Bank's Tariff or as advised by us from time to time. We may in our sole discretion revise these charges and fees after giving you fourteen (14) days' notice of such revision. We may also in our sole discretion waive the initial set up fees and/or the monthly subscription fees or a portion thereof.
- (ii) You shall pay any tax chargeable upon any sums payable by you to us and also any other charges or duties levied on you or us by any governmental or statutory body relating to the provision of GABNet.
- (iii) We are hereby irrevocably authorised by you from time to time to debit and set off any amounts payable by you in respect to your utilisation of GABNet as set out in the Bank's Tariff to the relevant Account in any currency maintained by us in your name. In addition to the fees payable for GABNet, the charges and fees applicable to your Account shall also apply.

### (g) Exclusion of Liability

- (i) Circumstances Not Within Our Control: We shall not be responsible or liable for any loss or damage suffered by you, whether direct, indirect or consequential, including but not limited to loss of revenue, profit, business, contracts, anticipated savings or goodwill, loss of use or value of any equipment including software, whether foreseeable or not, should GABNet be interfered with or be unavailable by reason of (a) any industrial action, (b) the failure of any of your Equipment or (c) any other circumstances whatsoever not reasonably within our 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 system.
- (ii) Electronic Bill Payments and Transfer of Funds:
  - (a) We shall not be liable for any losses or damage suffered by you, whether direct, indirect or consequential, including but not limited to loss of revenue, profit, business, contracts, anticipated savings or goodwill, loss of use or value of any equipment including software, whether foreseeable or not, as a result of delay, failure and/or refusal by us to act on a request or instructions in time or at all in anyone or more of the following circumstances (as the case may be):-
    1. If you do not have a sufficient amount in the Account;
    2. If you do not authorise a bill payment in good enough time for the payment to be made and properly credited by the payee (your counter-party) by the time it is due;
    3. If the System or the Equipment are not fully functional;
    4. If circumstances beyond our control prevent us from making a payment or transfer;
    5. If the amount in your Account is subject to legal process, court order or other encumbrance restricting the payment or transfer;
    6. If you do not give proper or complete instructions for the payment or transfer or you do not follow the procedures in these Terms and Conditions or other applicable agreement with us in respect of a request for a payment or a transfer;
    7. If we have reason to believe that you and/or any other party is using GABNet for fraudulent or illegal purposes;
    8. If a payment or a transfer request would be in respect of an amount deposited in a form or by a method that has not yet made the said amount available for withdrawal;



9. If the payment or transfer request is in contradiction or conflict with other existing agreements in respect of your Account.
- (b) If we make a timely payment or transfer but the payee nevertheless fails to credit your payment promptly after receipt, we shall not be liable for any loss or damage suffered by you as a result of such failure on the part of the payee.
- (c) We are exempted from any form of liability whatsoever for complying with all instruction(s) given by means of your Username and Password and this includes instances where the Password and Username becomes known to third parties or otherwise becomes compromised.
- (d) We shall not be responsible for any fraudulent, duplicate or erroneous instructions given by means of your Username and Password.

### (iii) Indemnity

- (a) You shall indemnify and keep us harmless on a full and unqualified indemnity basis against all and any costs (including legal costs), claims, actions, proceedings, losses, damage, demands, liabilities, and expenses whatsoever suffered sustained or incurred by us in connection with or arising from circumstances set out in sub-paragraph 19(g)(i) where the particular circumstance is within your control and against all and any costs (including legal costs), claims, actions, proceedings, losses, damage, demands, liabilities, and expenses suffered or incurred by us as a consequence of any breach by you of any term or condition hereof.
- (b) You shall indemnify and keep us harmless against any demands, claims, actions, losses, damages, costs or expenses whatsoever which we may at any time incur, sustain or suffer as a result of provision of GABNet unless such demands, claims, actions, losses, damages, or costs arose as a direct consequence of our gross negligence or wilful misconduct or that of or any of our employees.
- (c) You shall indemnify and keep us harmless against the following:
  1. All demands, claims, actions, losses and damages of whatever nature which may be brought against us or which we may suffer sustain or incur arising from our reliance on any incorrect, illegible, incomplete or inaccurate information or data contained in any request or instructions.
  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.
  3. Any unauthorised access to your 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.
  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.
- (iv) If for any reason other than a reason mentioned in subparagraph 15(g)(i) GABNet is interfered with or unavailable, our sole liability in respect thereof shall be to re-establish GABNet as soon as reasonably practicable or, at our option, to provide to you alternative banking facilities which need not be electronic facilities.
- (v) Save as provided in sub-paragraph 19(g)(iv), we shall not be liable to you for any interference with or unavailability of GABNet, howsoever caused.
- (vi) Under no circumstances shall we be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss of whatever kind, howsoever caused, arising out of or in connection with GABNet.
- (vii) Except in respect of death or personal injury caused by our gross negligence or our wilful misconduct, we shall be under no liability for any claim whatsoever in respect of any transactions effected by us in response to any request or instructions unless we have received notice in writing of any such claim from you as follows:
  - (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 us on which such claim is based.
- (viii) To the extent permitted by law, we:
  - (a) disclaim all warranties with respect to the System and GABNet, either express 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) make no warranty that the System is error free or that its use shall be uninterrupted and you acknowledge and agree that the existence of such errors shall not constitute a breach of these Terms and Conditions.

### (h) Termination

- (i) GABNet may be terminated at any time by either you or us giving the other one (1) calendar months' notice, provided that in the event of any change in any law or the application thereof, or any other event which, in our judgment, would have the effect of prejudicing us should we continue with the rendering of GABNet to you, we shall be entitled to terminate GABNet at any time without notice to you.
- (ii) If you terminate GABNet, we may continue to make electronic bill payments, transfer of funds and other transactions that you would have previously authorized until such time as we shall have had a reasonable opportunity to act on your notice of termination.
- (iii) The termination of GABNet shall not, in itself, terminate or affect the relationship between us and you.
- (iv) Sub-paragraph 19(g) shall survive termination of GABNet.

### (i) Intellectual Property Rights

- (i) You acknowledge that the intellectual property rights in the System (and any amendments or enhancements thereto from time to time) and all associated documentation that we provide to you through the System or otherwise are vested either in us or in other persons from whom we have a right to use and to sub-license the System and/or the said documentation. You shall not infringe any such intellectual property rights.
- (ii) You shall not duplicate, reproduce or in any way tamper with the System and associated documentation without our prior written consent.

### 20. Complaints

- (a) We may require that any complaint made by you in relation to your Account be made in writing.
- (b) Once a complaint has been received by us, we shall :
  - (i) provide you with a prompt written acknowledgement (at least within forty eight (48) hours of receipt) that we have received the complaint and are dealing with it and where a complaint which was submitted verbally is not resolved within forty eight (48) hours,

we shall confirm to you in writing, through electronic means or through other means agreeable to you of the existence of the complaint and that it is still pending resolution by us;

- (ii) investigate the complaint competently, promptly and impartially;
- (iii) assess fairly and promptly the subject matter of the complaint, whether the complaint should be upheld and what remedial action or redress (or both) may be appropriate;
- (iv) offer within seven (7) Business Days any redress or remedial action which is appropriate;
- (v) Update you in writing once in every seven (7) Business Days on the progress for a complaint which is yet to be resolved within the first seven (7) Business Days from receipt;
- (vi) explain to you, in a way that is fair, clear and not misleading and in a language you understand our assessment of the complaint, its decision on it, and any offer of remedial action or redress; and
- (vii) comply promptly with any offer of remedial action or redress which you accept.

### 21. Liability

- (a) We shall not be liable to you:
  - (i) for any loss of profit or opportunity or any consequential loss or damage to your reputation;
  - (ii) for any act or omission including any breach of our obligations under these Terms and Conditions caused by circumstances beyond our reasonable control including but not limited to wars, acts of God, fire, strike, insurrection or riot embargo, terrorist or any enemy action, theft or burglary, lack of available resources from persons other than the Bank, labour disputes, floods, electrical or mobile network failure, government or regulator action, delays in transportation or the requirement or regulations of any civil or military authority;
  - (iii) (where we are operating your Account by means of a software package or other accounting system) for the non-performance of the software which shall have occurred directly or indirectly as a result of (including without limitation) adverse power fluctuations or damage resulting from fire, water, accidents, spillage of fluids, connections to improper power supplies, faulty or incorrect electrical wiring or connection,
- (b) Where we are found to be liable to you for any loss, injury or damage resulting from any wilful or negligent delay or error in carrying out your clear and unequivocal instructions, our liability shall be the lower of:
  - (i) the amount of such loss, injury or damage; or
  - (ii) the amount of any interest or profit (as the case may be) not received, or any interest or profit (as the case may be) that you have to pay as a result of such failure, delay or error.

### 22. Validity of Documents

We are not responsible for the authenticity, validity, regularity or value of documents including but not limited to bills of lading, delivery orders, consignment documents, receipts, warrants and insurance policies.

### 23. Communication

- (a) Any written communication from us to you, including but not limited to, any notice given pursuant to these Terms and Conditions shall be deemed to have been received by you:
  - (i) if delivered personally, at the date and time of delivery;
  - (ii) if sent by Short Message Service (SMS), at the date and time of sending;
  - (iii) if sent by email, at the date and time of sending;
  - (iv) if sent by post, on the fifth day from the date of posting;
  - (v) if sent by airmail, on the seventh day from the date of posting;
  - (vi) if sent by telex, when the proper answerback is received;
  - (vii) if sent by SWIFT, when the acknowledged SWIFT message is received; and
  - (viii) if sent by facsimile, on completion of the transmission.
- (b) It shall be sufficient for us to prove that any notice or communication given to you was properly addressed notwithstanding that it be undelivered or returned undelivered.
- (c) You shall have no claim against us for damages resulting from loss, delay, misunderstanding, mutilation, duplication, or any other irregularity due to the transmission of any communication whether to or from you, us or any third party, by delivery, SMS, email, post, fax, telegraph, telephone, telex or any other form of cable communication.

### 24. Indulgences

- (a) Any concession which may be granted to you by us shall not affect your obligations to us or our rights as against you.
- (b) If we do not at any time exercise the full implementation thereof of any clause or obligation set out in these Terms and Conditions, or if we delay the implementation thereof, the same shall not be considered to be a waiver of our right or abandonment of the full implementation thereof at a subsequent time.

### 25. Assignment

We shall have a full and unfettered right to assign and/or transfer all or any of our rights, benefits and obligations under these Terms and Conditions to any person at any time without notice to you.

### 26. Other General Conditions

- (a) We shall at all times operate your Account in accordance with the rulings and guidance given by our Shari'ah Supervisory Board. You agree to be bound by the rules and guidance of the Shari'ah Supervisory Board with respect to all matters relating to the interpretation and applications of the rules of Shari'ah to your Account.
- (b) All amounts held in your Accounts are held in strict conformity with the rules of Shari'ah as determined by our Shari'ah Supervisory board.
- (c) Unlike conventional interest based bank accounts, it is hereby agreed by you and us that we shall not pay interest on your Account nor shall we use your deposits for prohibited lending. We may however use the deposits in the Account for Shari'ah compliant purposes but always in accordance with the requirements of the Laws in Kenya.
- (d) In case of a corporate Customer being wound up or liquidated, its Account shall be frozen and no amounts in its name with us shall be released unless a formal order by a competent court is produced and availed to us to this effect, and we shall only be responsible therefor from the date on which we have been notified about the winding up or liquidation.
- (e) In the case of the death of an individual Customer or a Customer's sole proprietor, the Account shall be frozen and no amounts in the Customer's name held with us shall be released to the Customer's or sole proprietor's personal representatives or heirs or their attorneys unless a formal order by a competent court is produced and availed to us to this effect, and we shall only be responsible therefor from the date on which we have been notified about the death.

- (f) You shall be responsible for paying the zakat due on your funds unless you authorize the Bank in writing to pay it on your behalf.
- (g) We have the right to destroy the Chequebooks/Cards/PIN mailers (as the case may be) in regard to your Account if they have not been collected by you within a maximum of three (3) months from the date of issuance thereof. You shall submit a new application form and pay the relevant charges for re-issuance of any of these items in accordance with the Bank's Tariff.
- (h) We shall at any time have the right to amend these Terms and Conditions from time to time and we shall notify you of such amendments through a general notice to be displayed at our Branches or any of the means outlined under paragraph 19(a) and you shall thereafter be bound by such amendments to the Terms and Conditions. If we do not receive an objection from you within fifteen (15) days, then you shall be considered to have accepted such amendments.

## 27. Representations and Warranties

- (a) Except as specifically provided herein and to the fullest extent permitted by law, we make no and expressly exclude all and any warranties, representations, guarantees or endorsements, whether express or implied, oral or written, including without limitation to warranties for merchantability, fitness for a particular purpose, accuracy, quality, adequacy, security, availability, reliability, timeliness and/or completeness of any product, service, information, content or any other (including third party products, services, information and content) contained in these Terms and Conditions or performance, use and operation of any of the foregoing.
- (b) You agree that you have placed no reliance on any representation, warranty or guarantee made by us save and except for those representations, warranties or guarantees which have been expressly stated under these Terms and Conditions. Any representations, whether written or oral, given by any officer or representative of the Bank shall be void and have no legal effect whatsoever.

## 28. Confidentiality and Disclosure

- (a) We may not without your prior consent, disclose any information about you or any other person relating to your Account, to any other third party than in the following circumstances:
  - (i) to our agents, associates or subsidiary companies for the purpose of lending and/or with the aim of developing new products and improving services and benefits to our customers with the understanding that the information will be kept confidential;
  - (ii) anyone to whom we may transfer our rights to under these Terms and Conditions;
  - (iii) where we are legally compelled to or it is in the public's interest to disclose such information; or
  - (iv) to protect our interests and our customers and this may include the use of credit scoring and rating and/or the release of information to reference agencies or duly enacted credit reference bureaus.
- (b) You hereby consent to us disclosing any information regarding your Account that we may be required to disclose under the Foreign Account Tax Compliance Act of the United States of America.
- (c) You hereby give us consent for the disclosure of information as provided for in these Terms and Conditions.

## 29. Data Protection

- (a) We shall collect your information once you apply for and establish an Account with us and throughout the duration your Account shall be in operation.
- (b) This information includes your Personal Data which we shall process, hold and use in accordance with the Data Protection Act, No. 24 of 2019.
- (c) We have provided detailed information with respect to how we process, hold and use Personal

Data, keep Personal Data secure and your rights regarding your Personal Data in our Privacy Statement which is available on our website at <https://gulfafribanbank.com/>

## 30. Local and International Transfers

- (a) For instructions to transfer amounts equal or greater than USD10, 000.00 or its equivalent in any currency, supporting documentation for effecting such instructions shall be required from you in line with legal and regulatory guidelines. These include but are not limited to the following: invoice, Import Declaration Form (IDF), bill of lading and duly executed contracts.
- (b) All information and particulars provided to us by you shall be considered to be accurate, true and correct in all aspects.
- (c) You agree that transfers shall be processed in accordance with and subject to our applicable regulations.
- (d) In the absence of any instructions to the contrary funds will be transmitted in the currency of the geographical location of the destination and subject to related cut-off times or any other regulations applicable therein.

## 31. Disclaimer

We disclaim liability for any funds or assets deposited by you which are subsequently found to have derived from illegal source or activities. You confirm that the funds or assets deposited with us are not derived from any illegal source or activities.

## 32. Severance

Each of the provisions of these Terms and Conditions is severable and distinct from the others and, if at any time one or more of these provisions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted but shall not affect the validity, legality and enforceability of the remaining provisions.

## 33. Applicable Laws and Jurisdiction

These Terms and Conditions shall be governed by and shall be construed in accordance with the Laws of the Republic of Kenya. The Bank and the Customer each hereby agree to submit to the non-exclusive jurisdiction of the courts of Kenya in connection with any legal action suit or proceedings arising out of or relating to these Terms and Conditions.

## Declaration

1. I confirm that the Bank has explained in clear terms that I am not under any obligation to sign these Terms and Conditions if:
  - (a) I am not sure of the suitability of the products or services offered herein;
  - (b) these Terms and Conditions appear onerous; and
  - (c) the execution of these Terms and Conditions by me shall be secured with difficulty from my financial position or other condition.
2. I further confirm that I have been informed by the Bank of my right to take some time to think before signing these Terms and Conditions.
3. I have read and understood these Terms and Conditions and hereby agree to abide by the same unconditionally.
4. I confirm that the information provided to the Bank by me is true and accurate and I undertake to inform the Bank of any changes thereto.

## Signed:

1.		
Name	ID/Passport Number	Signature
2.		
Name	ID/Passport Number	Signature
3.		
Name	ID/Passport Number	Signature
4.		
Name	ID/Passport Number	Signature