

# ONLINE BANKING TERMS AND CONDITIONS

I/We (hereinafter the 'Customer') confirm and agree that the following terms and conditions shall govern our/my electronic access to Online Banking with the Bank:

## 1. Definitions and Interpretation

In these Terms and Conditions unless the context otherwise requires:

**'Account'** means any one or more of the Customer's account(s) held with the Bank which includes the Customer's investment savings, current, term deposit account or facility account that a Customer may have singly or jointly;

**'Application Form'** means the application form for Online Banking that the Bank may prescribe from time to time;

**'Bank'** means Gulf African Bank Limited, a body corporate carrying on banking business of P.O Box 43683-00100 Nairobi in the Republic of Kenya which expression shall where the context so admits include the Bank's successors and assigns;

**'Business Day'** means a day on which the Bank (including its branches) is open for ordinary business;

**'Customer'** means the Bank's Customer whose details are set out in the application form for Online Banking services;

**'Cut-Off Time'** means 3.00 p.m. after which the Bank may opt not to process Instructions;

**'Instruction'** means the Customer's request sent through electronic means to the Bank for Online Banking services and **'Instructions'** shall be construed accordingly;

**'Password'** means the secret word or phrase used in combination with the User Name which enables the Customer to access Online Banking and which is known only to the Customer.

**'Postal Address'** means the Customer's postal address as provided by the Customer from time to time and maintained in the Bank's records.

**'Online Banking'** means banking services availed by the Bank to the Customer through the Internet;

**'System'** means the information technologies applied and used by the Bank to provide Online Banking;

**'User Name'** means the unique name allocated to the Customer to enable him identify himself for purposes of accessing Online Banking;

1.1. In these Terms and Conditions:

- 1.1.1. words denoting the singular number shall include the plural number also and vice versa and words importing the masculine gender include the feminine gender and neuter and vice versa;
- 1.1.2. the expression "person" shall include any legal or natural person partnership trust company joint venture government or any agency thereof local authority or other body (whether corporate or unincorporated);

1.1.3. references to costs charges expenses or remuneration shall be deemed to include, in addition, references to any value added tax or similar tax charged or chargeable in respect thereof; and

1.1.4. references to indemnifying any person against any circumstance include indemnifying and keeping that person harmless from all actions claims and proceedings from time to time made against that person and all loss or damage and all payments costs and expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance.

1.2. Headings to clauses are for convenience only and shall not affect the construction or interpretation of these Terms and Conditions.

## 2. Customer's Responsibilities

- 2.1. The Customer shall at his 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 Online Banking.
- 2.2. The Customer 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. The Bank shall neither be responsible nor liable for any errors, delay or failures caused by any malfunction of the Equipment nor shall the Bank be responsible or liable for any computer virus or related problems that may be associated with the use of the System, Online Banking and the Equipment. The Customer shall be responsible for charges due to any service provider providing the Customer with connection to the Internet and the Bank shall not be responsible or liable for losses or delays caused by any such service provider.
- 2.3. The Customer shall obtain all licenses and consents where necessary to have access to and use of the System.
- 2.4. The Customer shall take all reasonable and necessary precautions to prevent and detect any unauthorized use of the System.
- 2.5. The Customer undertakes not to disclose his Username and Password to any other person. In the event of the Username and Password becoming known to any other person, that person shall be treated by the Bank as an agent of the Customer and the Customer shall indemnify the Bank against all loss or damage which may occur as a result of the Username or Password becoming known.
- 2.6. The Customer shall not under any circumstances allow any person access to his Account through the System.
- 2.7. The Customer shall inform the Bank in writing and with immediate effect where he has reason to believe that:
  - 2.7.1. the User Name and/or Password has been compromised; and/or
  - 2.7.2. unauthorized use of the System has occurred or may or could occur; and/or
  - 2.7.3. a transaction is fraudulent or has been compromised.
- 2.8. The Customer shall at all times follow the security procedures notified to the Customer by the Bank from time to time or such other procedures as may be applicable to Online Banking from time to time and

specifically those that may be contained on the Bank's website or System.

- 2.9. The Customer shall not at any time operate or use the System in any manner that may be prejudicial to the Bank.
- 2.10. The Customer understands and accepts that linking of an Account requiring multiple signatures to the Customer's profile on the System will only be effected by the Bank if the Customer has submitted to the Bank an original Application Form signed by all signatories to the Account confirming that the Bank is authorized to act on all Instructions, and it will be the responsibility of the Customer to ensure that no persons have access to the Account using the System.
- 2.11. The Bank shall be entitled and authorized to debit the Customer's Account with the amounts of the transactions effected via Online Banking as well as to debit the Customer's Account with the amount of any fees applicable to Online Banking from time to time.
- 2.12. The Customer's application for and use of the System shall be subject to these Terms and Conditions and any other terms and conditions applicable to the Account held by the Customer.

### 3. Irrevocable Authority of the Bank

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

### 4. Fees and Charges

- 4.1. The Customer shall pay such fees and charges as advised by the Bank from time to time as consideration for the Bank making available Online Banking to the Customer. In addition to the fees and charges, the Customer will be liable to pay any taxes, charges or duties payable by the Bank in relation to the provision of Online Banking to the Customer.
- 4.2. The Bank is irrevocably authorized from time to time to debit and set off any fees and charges payable by the Customer to any Account(s) in any currency maintained by the Bank in the Customer's name.

### 5. Exemption of Liability

- 5.1. The Bank will not be liable for any losses or damage suffered by the Customer as a result of delay, failure and/or refusal by the Bank to act on any Instructions on time or at all in any one or more of the following circumstances (as the case may be):
  - 5.1.1. If the Customer does not have enough funds in the Account.
  - 5.1.2. If the payment or transfer would result in the Customer's Account being overdrawn.
  - 5.1.3. If the Customer does not authorize a payment in good time for the payment to be made and properly credited by the time it is due.
  - 5.1.4. If the System or the Customer's Equipment are not

working properly.

- 5.1.5. If the funds in the Customer's Account are subject to legal process, court order or other encumbrance restricting the payment or transfer.
- 5.1.6. If the Customer does not give proper or complete Instructions or the Customer does not follow the procedures in requesting a payment or a transfer.
- 5.1.7. If the Bank has reason to believe that the Customer or someone else is using Online Banking for fraudulent or illegal purposes.
- 5.1.8. If a payment or a transfer request would consist of funds deposited in a form or by a method that has not yet made the funds available for withdrawal.
- 5.1.9. If the payment or transfer request is in contradiction or in conflict with other existing terms and conditions governing the account of the Customer held with the Bank.
- 5.2. The Bank is exempted from any form of liability whatsoever for complying with all Instruction(s) given by means of the Customer's Username and Password and this includes instances where the Password and Username becomes known to third parties or otherwise becomes compromised.
- 5.3. The Bank shall not be responsible for any fraudulent, duplicate or erroneous Instructions given by means of the Customer's Username and Password.
- 5.4. The Bank shall not be responsible or liable for any loss suffered by the Customer should the System or Equipment be interfered with or become unavailable by reason of any industrial action or any interruption, error, delay or non-availability, including equipment failure, loss of power and failure of any public or private telecommunication system, 'Force Majeure' including but not limited to fire, strike, insurrection, floods, riots, embargo, theft or burglary, communication failure, inordinate delays in transmission or communication or transportation, terrorism, war or the requirement of any civil or military authority.
- 5.5. Under no circumstances will the Bank be responsible to the Customer for loss of profits or anticipated savings or for any indirect or consequential loss of whatever kind, howsoever caused, arising out of or in connection with the System.
- 5.6. If for any other reason other than the reasons mentioned in this clause 5 the System is interfered with or is unavailable, the Bank's sole responsibility in respect thereof shall be to re-establish the System as soon as is reasonably practicable or, at the Bank's discretion, to provide the Customer with alternative banking facilities which need not be electronic facilities.
- 5.7. Any claims relating to a transaction should be lodged with the Bank within 48 hours from the time of the alleged transaction on which such claim is based.

### 6. Confidentiality

- 6.1. The Customer hereby understands that the Password and Username is used to give Instructions to the Bank and accordingly undertakes to ensure strict confidentiality thereof.
- 6.2. The Customer hereby agrees that if necessary the Bank may disclose information about the Customer in the following circumstances:
  - 6.2.1. To third parties where such disclosure is required under any law, regulation or court order and this includes disclosure to licensed credit reference bureaux.

- 6.2.2. In the event of a claim by or against the Bank in respect of an item deposited or withdrawn against the Customer's Account.
- 6.2.3. Disclosure to the Bank's agents, subcontractors, auditors or lawyers/legal advisors to the extent required in the normal course of the Bank's business.
- 6.2.4. Where the Customer authorizes the disclosure;
- 6.2.5. In accordance with the Bank's prevailing Privacy Statement as amended from time to time.

## 7. Indemnity

The Customer hereby agrees to indemnify the Bank on a full unqualified basis for any loss or damage suffered by the Bank arising out of unauthorized access to the Customer's Account or Username or Password, the Customer's use, misuse or abuse of the Equipment, the System, incorrect illegible incomplete or inaccurate information or Instructions by the Customer and/or any transaction that may be fraudulent or illegal or suspicious and/or any loss or damage occasioned by the failure of the Customer to adhere to any terms and conditions applicable, supplying incorrect information or loss and damage occasioned by unavailability of third party Equipment or systems activity and any costs incurred by the Bank to protect itself against such claims including legal, statutory fees and taxes so incurred.

## 8. Processing of Transactions

- 8.1. The Bank shall not be obliged to accept or act upon instructions received on a day which is not a Business Day or received after Cut-Off Times. Any instructions received on a day that is not a Business Day shall be effected by the Bank on the next Business Day and any Instructions received after Cut-Off Time shall be effected by the Bank on the next Business Day. The Bank will not be liable for any loss or damage which take place with regard to Instructions submitted between the time the Instructions are submitted through the System and the stipulated time required by the Bank for effecting any Instructions.
- 8.2. The Bank shall have absolute discretion to set limits on the amount of any transfers or payments to be made by the Customer.

## 9. Online Banking Records

The Bank will keep and maintain records as it deems fit for all Instructions carried out by and between the Bank and the Customer through the System. The Bank's records shall be conclusive evidence of any Online Banking accessed by the Customer through the System.

## 10. Termination of Online Banking

- 10.1. The Bank has the right to terminate Online Banking without any prior notice to the Customer in the following circumstances:
  - 10.1.1. Failure of the Customer to observe and comply with or breach of these Terms and Conditions.
  - 10.1.2. In the case of fraud or illegal activities by the Customer in relation to the use of the System.
  - 10.1.3. If the Bank is required to do so by any law or regulation.
  - 10.1.4. Where the Bank is unable for any reason to offer Online Banking.

- 10.2. The Customer may terminate access to Online Banking by giving the Bank fourteen (14) days' written notice of his intention to do so. Such termination will not affect the Customer's liabilities incurred by the Customer prior to issuance of the notice of termination and during the notice period relating thereto.
- 10.3. Any material, documents or details furnished to the Customer remains the property of the Bank. Therefore, upon termination, any materials, documents or details relating to the System shall be returned to the Bank or destroyed and such material shall not be copied, transcribed or used for any purpose other than as specifically authorized in these Terms and Conditions.

## 11. Amendments

The Bank shall at any time have the right to vary or amend these Terms and Conditions and notification of any such variation or amendment shall be given to the Customer through a general notice to be displayed at the Bank's branches and its website. The Customer shall thereafter be bound by such amendments.

## 12. Intellectual Property Rights

The Customer shall not duplicate, reproduce or in any way tamper with the System or disclose the contents of the System to any other party or obscure or alter, interfere with or infringe on any intellectual property rights in relation to the System.

## 13. Local and International Transfers

- 13.1. For Instructions to transfer amounts equal or greater than USD10,000.00 or its equivalent in any currency, supporting documentation for the payment will be required from the Customer in line with legal and regulatory guidelines. These include but are not limited to the following: invoice, IDF (Import Declaration Form), bill of lading, duly executed contracts or sale agreements etc.
- 13.2. All information and particulars provided to the Bank by the Customer are considered to be accurate, true and correct in all aspects.
- 13.3. The Customer agrees that transfers shall be processed in accordance with and subject to the Bank's applicable regulations.
- 13.4. It is understood that the Bank shall exercise reasonable care in effecting the Customer's Instructions through the use of reliable means available and in accordance with the Customer's Instructions. The Bank shall not be liable for any delay in effecting Instructions or loss of funds due but not limited to the Customer remitting Instructions after Cut-Off Time or the Customer remitting inaccurate or erroneous Instructions.
- 13.5. 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.

## 14. Governing Law and Jurisdiction

These Terms and Conditions shall be governed by and construed in accordance with the Laws of Kenya and any dispute relating thereto shall be subject to the non-exclusive jurisdiction of the courts of Kenya.