



**CENTRAL BANK OF KENYA
TREASURY MOBILE DIRECT (TMD)
TERMS AND CONDITIONS**

TREASURY MOBILE DIRECT (TMD)
CBK Treasury Mobile Direct- Terms and Conditions

**THE TERMS AND CONDITIONS FOR OPENING AND USE OF
CENTRAL BANK OF KENYA (CBK) TREASURY MOBILE
DIRECT (TMD)**

- 1.1. The Agreement sets out the complete Terms and Conditions (hereinafter called “ these Terms and Conditions”) which shall be applicable to the Central Bank of Kenya Treasury Mobile Direct (TMD) as (hereinafter defined) applied and opened by you (as hereinafter defined) with the CBK (as hereinafter defined).
- 1.2. These Terms and Conditions and any amendments or variations take effect on their date of acceptance.
- 1.3. The Mobile Money Service will be activated on notice.

2. DEFINITIONS

- 2.1. In these Terms and Conditions the following words and expressions (save where the context requires otherwise) bear the following meanings:
 - 2.1.1 “CDS Account” means a Securities account for investment in Government Securities held by a Customer with the Central Bank of Kenya (CBK), which is opened and operated in accordance with the CBK’s terms and conditions.
 - 2.1.2 “Customer” means the person in whose name the Mobile Money Service will be provided.
 - 2.1.3 “CBK” means The Central Bank of Kenya (CBK) which was established in 1966 through an Act of Parliament – The Central Bank of Kenya Act of 1966. Following the promulgation of the new constitution on August 27th 2010, The Central Bank of Kenya (CBK) is now established under Article 231 of the Constitution, 2010.
 - 2.1.4 The word “Customer” shall include the masculine and the feminine gender as well as juristic persons.
 - 2.1.5 “E-Money” means the electronic monetary value depicted in your mobile money account representing an equal amount of cash.
 - 2.1.6 “Equipment” includes your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access the Service.
 - 2.1.7 “Government Securities” means Treasury Bills and Treasury Bonds. Treasury Bills being a paperless short-term debt instruments. Treasury Bonds are paperless medium to long term debt instruments issued by the Government through the Central bank of Kenya to raise money in local currency.
 - 2.1.8 “IPRS” means the Integrated Population Registration System set up and maintained by Government of Kenya under the Ministry of Interior & Co-ordination of National Government Immigration & Registration of Persons.
 - 2.1.9 “MNOs” means Mobile Network Operators.
 - 2.1.10 “Mobile Money Service” means the money transfer and payments services provided by Mobile Network Operators (MNOs).
 - 2.1.11 “Mobile Money Account” means mobile money store of value being the record maintained by MNOs of the amount of E-Money from time to time held by you in the mobile money account.
 - 2.1.12 “Mobile Money System” means the system operated by MNOs for provision of the Mobile Money Service using the Network.
 - 2.1.13 “Mobile Money PIN” means your personal identification number being the secret code used to access and operate your mobile money system.

- 2.1.14 “Network” means the mobile cellular network service provider.
- 2.1.15 “Request” means a request or instruction received by the CBK from you or purportedly from you through the Network and the System and upon which the CBK is authorized to act.
- 2.1.16 “Services” shall include any form of Banking services or products that the CBK may offer you pursuant to these terms and conditions and as you may from time to time subscribe to and “Service” shall be understood accordingly;
- 2.1.17 “System” means the CBK’s electronic Banking and communications software enabling the Customer to communicate with the CBK for purposes of the Services. The Service and Systems will apply for the purpose of these terms and conditions.
- 2.1.18 “TMD ” means Treasury Mobile Direct where you register
- 2.1.19 “TMD USSD Menu ” means the Treasury Mobile Direct Menu on the USSD Mobile system.
- 2.2.20 “Transaction Fees” includes fees and charges payable for the use of the services offered in TMD. Transaction fees are subject to change at any time at the CBK’s sole discretion.
- 2.1.21 “We,” “our,” and “us,” means the CBK and includes the successors and assigns of the CBK.
- 2.1.22 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.1.23 “You” or “your” means the Customer and includes the personal representatives of the Customer.
- 2.1.24 Headings in these Terms and Conditions are for convenience purposes only and they do not affect the interpretation of this Agreement.

3. ACCEPTANCE OF THE TERMS AND CONDITIONS

- 3.1. The terms and conditions are a prerequisite for Mobile Banking service.
 - 3.1.1. Before applying for this Mobile Money Service you should carefully read and understand these Terms and Conditions which will govern the use and operation of the Service.
 - 3.1.2 If you do not agree with these Terms and Conditions, please do not sign the form or click on accept on your mobile phone.
 - 3.1.3 You will otherwise be deemed to have read, understood and accepted these Terms and Conditions.
 - 3.1.4 Upon signing of the Terms and Conditions form or clicking on accept on your equipment, requesting you to confirm that you have read, understood and agreed to abide with these Terms and Conditions; and/or
 - 3.1.5 By using or continuing to use and operate the Mobile Money Service.
 - 3.1.6 By applying for the Mobile money Service with the CBK, you agree to comply with and be bound by these Terms and Conditions for the time being and from time to time in force governing the operation of the Service and you affirm that these Terms and Conditions herein are without prejudice to any right that the CBK may have with respect to the Mobile Money Service in law or otherwise.
 - 3.1.7 By applying for the mobile money service with the CBK, you agree to comply with and be bound by these Terms and Conditions for the time being and from time to time in force governing the operation of the Service and you affirm that the Terms and Conditions governing the opening and maintenance of the account are without prejudice to any right that the CBK may have with respect to the Service or otherwise.
- 3.1.8 These Terms and Conditions may be amended or varied by the CBK from time to time and the continued use of

the Service constitutes your agreement to be bound by the terms of any such amendment or variation.

You acknowledge and accept that the CBK offers the Mobile Money Service only electronically and you agree to do business with the CBK and to operate the Mobile Money Service only by electronic means via the Mobile Money Menu on the System. Any query and complaint you may have relating to the Services shall be addressed to the CBK.

4. ACCOUNT OPENING

4.1 In order to apply for this Mobile Money Service you will require a CDS Account to enable investment in the various products of Government Securities.

4.1.1 You must be at least 18 years old and a registered, active Mobile Subscriber locally. The CBK reserves the right to verify with the local Mobile Network Operators the authenticity and status of your Mobile number and Mobile Money Account.

4.1.2 You hereby agree and authorize the CBK to request the Mobile Network Operators (MNOs) for your personal information held by the Mobile Network Operators (MNOs) you are subscribed to pursuant to the agreement between you and the Mobile Network Operators (MNOs) you are subscribed to for the provision of their services and products and the Mobile Money Account service including your phone number, name, date of birth, ID or Passport number and such other information that will enable the CBK to identify you and comply with the regulatory “ Know Your Customer” requirements (together with the “ Personal Information”). You hereby agree and authorize the CBK to request your Mobile Network Operators (MNOs) you are subscribed to for information relating to your use of the Mobile Money Service and Mobile Money System as the CBK shall require for purposes of providing you the services applied. You hereby consent to the disclosure of your Personal Information and the Mobile Money Account information by the Mobile Network Operators (MNOs) to the CBK and to the aforesaid use of the Personal Information and the Mobile Money Account information by the CBK.

4.1.3 You hereby agree and authorize the CBK to obtain and procure your Personal Information contained in the IPRS system from the Government of Kenya and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to the CBK.

4.1.4 You hereby further acknowledge and authorize the CBK to verify your Personal Information received from the Mobile Network Operators (MNOs) you are subscribed too against the information received from the Government of Kenya in your respect as contained in the IPRS.

4.1.5 The CBK reserves the right to request for further information from you pertaining to your application for the CDS account at any time. Failure to provide such information within the time required by the CBK may result in the CBK declining to accept your application for the CDS account.

4.1.6 Acceptance by the CBK of your application for the CDS account shall be done via notification sent to your Mobile Phone Number associated with your Mobile Money Account. You acknowledge and accept that the acceptance by the CBK of your application for the CDS account does not create any contractual relationship between you and your Mobile Network Operators (MNOs) you are subscribed to beyond the Terms and conditions that apply to your Mobile Money Account from time to time.

4.1.7 The CBK reserves the right to accept or decline your application for a CDS account and the application for the CBK Mobile Money services without giving any reason.

5. TYPE OF ACCOUNT

5.1 As a Holder of a CDS account you will be entitled, subject to these terms and conditions to operate a CDS account by only depositing into this account by transfer of money from your Mobile Money Account on the value date of the Government Securities.



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<p>5.1.1 As a Holder of the CDS account, you may only make deposits into this account using the TMD USSD Menu on your equipment. The transaction fees payable to your Mobile Network Operators (MNOs) you are subscribed to for transactions effected in respect of your Mobile Money Account from time to time will apply to any transactions effected in respect of your CDS account using the Mobile Money Account.</p> <p>5.1.2 Interest, refunds, maturities or other payments of Government Securities may be paid on the Mobile Money Account on the due date of the Government Securities.</p> <p>5.1.3 If monies remitted to the investor's Mobile Money Account are returned to CBK these will be held by the CBK in a non-interest earning account until appropriate disposal arrangements have been received and processed by the Customer.</p> <p>5.1.4 In the event that CBK is unable to remit funds through the Mobile Money Account, CBK reserves the right to channel the funds through the disposal instructions provided in the CDS account record by you.</p> <p>6. SECURITY</p> <p>6.1 Security is a paramount concern in the access and use of CBK Mobile Money Services and you must keep your security details secret and take all reasonable precautions to prevent unauthorized or fraudulent use of them. You must not disclose your security details to any other person or record your security details in any way that may result in them becoming known to another person.</p> <p>6.1.2 After the initial registration or enrolment to use the service, CBK will never ask anyone to contact you on our behalf with a request to disclose your security details in full. If you receive any such request from anyone (even if they are using the name and logo of CBK and appear to be genuine) then, it is likely to be fraudulent and you must not supply your security details to them under any circumstances. You should report any such requests to us immediately.</p> <p>6.1.3 Where a transaction on the account is confirmed by use of the security details you provided to access the service, whether the instructions originated from you or not, it shall be deemed that the specific instructions came from you (unless you notify CBK otherwise) and CBK shall not be liable for any of those requests, instructions or transactions. However, CBK will comply with reasonable requests for assistance from the police or any other agency to assist in any losses or identify actual or potential breaches of security.</p> <p>6.1.4 If you know or suspect that someone knows or has access to your security details, you must notify CBK immediately. If you fail to do so, you will be liable for any unauthorized payments on your account confirmed by use of your security details. If you suspect that you may have been a victim of fraud through the Mobile Money service, you must contact CBK immediately.</p> <p>6.1.5 You will be responsible for all instructions received from you or anyone acting with your authority through your USSD. In your own interest, you should not leave the equipment you are using to access the service unattended.</p> <p>6.1.6 You hereby irrevocably authorize the CBK to act on all requests received by the CBK from you (or purportedly from you) through the System and to hold you liable in respect thereof, notwithstanding that any such requests are not authorized by you or are not in accordance with any existing mandates given by you.</p> <p>6.1.7 You shall immediately inform the CBK in the event that:</p> <p>6.1.7.1 You have reason to believe that your Mobile Money Account PIN is or may be known to any person not authorized to know the same and or has been compromised (You should change the PIN immediately) and or;</p> <p>6.1.7.2 You have reason to believe that unauthorized use of the Mobile Money Service has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.</p>	<p>6.1.8 You shall at all-times follow the security procedures notified to you by the CBK from time to time or such other procedures as may be applicable to the Mobile Money Service from time to time. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your Mobile Money Service confidentiality. In particular, you shall ensure that the Services are not used or requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.</p> <p>6.1.9 You shall not at any time operate or use the Mobile Money Service in any manner that may be prejudicial to the CBK.</p> <p>7. TRANSACTIONS</p> <p>7.1 You shall be responsible for all transactions carried out using the Mobile Money Service and for payment of any transaction fee that arises from use of the service.</p> <p>7.1.2 The CBK is at liberty to send broadcast messages at their discretion and will also send you notifications whenever a transaction occurs in your CDS account. These transactions are as follows:</p> <p>7.1.3 Successful opening of your CDS account. The message will indicate your CDS account number which comprises of the Portfolio number which is used for your investment and Virtual number for your payments.</p> <p>7.1.4 Change of your disposal instructions requested by you will be sent to your equipment.</p> <p>7.1.5 Information on the Government Securities on offer will be availed to you once you insert your correct PIN.</p> <p>7.1.6 Upon application for purchase of Government Securities, the CBK will send you; notification on receipt of your bid instructions as well as the results of your bid to your equipment so that you can facilitate payment. Unsuccessful applicants will also be notified of their rejected applications.</p> <p>7.1.7 Upon payment by you as a successful bidder using the Mobile Money Service platform within the stipulated time as per the CBKs terms and conditions on payment.</p> <p>7.1.8 Upon default of payment of successful bid. The CBK will not be held liable for action taken against those who breach the terms and conditions of the offer.</p> <p>7.1.9 Upon complete Secondary Trading Transactions which you initiated, authorized and transacted.</p> <p>7.1.10 Upon other complete transactions or queries initiated by you on any other activities of Government Securities related to your CDS account.</p> <p>7.1.11 In the event funds are not applied successfully via the Mobile Banking Service.</p> <p>7.2 Funds returned as a result of not successfully applied funds and any other verified notification the Central Bank of Kenya has the right to hold the funds in a non-interest bearing account until advised by you on disposal instructions which has to be verified by ourselves in line with our KYC before remittance of the funds.</p> <p>7.2.1 CBK shall not be liable for if funds go to the unintended recipient as a result of your failure to provide adequate notice to CBK of any changes in you personal data, including the mobile phone number used to open your TMD and CDS Account.</p> <p>7.2.2 If you request the CBK to cancel any transaction or instruction after a request has been received by the CBK from you, the CBK may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.</p> <p>7.2.3 The CBK shall be entitled to accept and to act upon any request, even if that request is otherwise for any reason incomplete or ambiguous if, in its absolute discretion, the</p>	<p>CBK believes that it can correct the incomplete or ambiguous information in the Request without any reference to you being necessary.</p> <p>7.2.4 The CBK is authorized to effect such orders in respect of your Mobile Money Account as may be required by any court order or competent authority or agency under the applicable laws.</p> <p>7.2.5 In the event of any conflict between any terms of any request received by the CBK from you and these Terms and Conditions, these Terms and Conditions shall prevail.</p> <p>7.2.6 You may request for your CDS account balance in respect of your CDS Account from the CBK using your Equipment after inserting your correct PIN.</p> <p>7.2.7 The balance provided will be of your total holdings in Kshs for all the Government Securities you hold with us.</p> <p>7.2.8 For transactions whose amount exceeds KES 140 000/- or other prevailing transaction limit, CBK will at its sole discretion determine the best alternative means of disbursing or receiving the funds.</p> <p>8. STATEMENTS</p> <p>8.1 A CDS Statement of your holdings shall still be sent to you in printed form to the address you provided to us when you who opened the CDS account using the CDS mandate card.</p> <p>8.1.1 If you used your Mobile phone to open a CDS account, you may request for a statement or activity report of your CDS account from the CBK using your equipment. The CBK reserves the right to either send you a printed statement or deliver to you either by SMS to the Mobile Network Operator phone number associated with your Mobile Money Account or such other electronic means as the CBK may in its discretion determine.</p> <p>8.1.2 A CBK statement issued to you aforesaid in respect of the Mobile Money Service shall be conclusive evidence of the transactions carried out on your CDS Account for the period covered in the CBK statement.</p> <p>8.1.3 You shall be responsible for the payment of any charges levied by the Mobile Network Operators in delivering the activity reports.</p> <p>9. CUSTOMER'S EQUIPMENT AND RESPONSIBILITIES</p> <p>9.1 You shall at your own expense provide and maintain in safe and efficient operating order your Equipment necessary for the purpose of accessing the System and the Services.</p> <p>9.1.2 You shall be responsible for ensuring the proper performance of your Equipment. The CBK shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall the CBK be responsible for any computer virus or related problems that may be associated with the use of the System, the Services and the Equipment. You shall be responsible for charges due to any service provider providing you with connection to the Network and the CBK shall not be responsible for losses or delays caused by any such service provider.</p> <p>9.1.3 You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the CBK concerning the use of the System and Services, plus investments in Government Securities.</p> <p>9.1.4 You agree and acknowledge that you shall be solely be responsible for the safekeeping and proper use of your Equipment and for keeping your Mobile Money PIN secret and secure. You shall ensure that your Mobile Money PIN does not become known or come into possession of any unauthorized person. The CBK shall not be liable for any disclosure of your Mobile Money PIN to any third party and you hereby agree to indemnify</p>
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	and hold the CBK harmless from any losses resulting from any Mobile Money PIN disclosure.	11.1.10	You may close your Mobile Money Account at any time at any of our branches.	14	NOTICES
9.1.5	You shall take all reasonable precautions to detect any unauthorized use of the System and the Services. To that end, you shall ensure that all communications from the CBK are examined and checked by you or on your behalf as soon as practicable after receipt by you in such a way that any unauthorized use of and access to the System will be detected.	11.2	If the CBK receives notice of your demise, the CBK will not be obliged to allow any operation or withdrawal from your Mobile Money Account by any person except upon production of Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.	14.1	The CBK may send information concerning the CDS Account via SMS to the Mobile Phone number associated with your Mobile Money Account.
9.1.6	You shall immediately inform the CBK in the event that:	11.2.1	If the CBK receives notice of your demise, the CBK will not be obliged to allow any operation or withdrawal from your CDS Account by any person except upon production of Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.	14.1.1	You acknowledge that you have no claim against the CBK for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the CDS Account and Mobile Money Account.
10.1.6.1	You have reason to believe that your Mobile Money PIN is or may be known to any person not authorized to know the same and/or has been compromised; and/or	12.	DISCLOSURE OF INFORMATION	15.	LIABILITY AND INDEMNITY
10.1.6.2	You have reason to believe that unauthorized use of the Services has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.	12.1.	You hereby expressly consent and authorize the CBK to disclose, receive, record or utilize your personal information or information or data relating to your CDS Account and Mobile Money Account and any details of your use of the Services:	15.1	Without prejudice to any right or obligation under these terms and conditions, you acknowledge that the Mobile Money Service is dependent on the availability and proper functioning of the CBK Banking service. The service is therefore dependent on many variable circumstances, including location, availability of CBK services access, proper functioning of hardware and software and CBK shall not be liable for any loss or damage caused by any unavailability or improper functioning of Mobile Money Service for any reason.
9.1.9	You shall at all times follow the security procedures notified to you by the CBK from time to time or such other procedures as may be applicable to the Services from time to time. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your CDS Account's confidentiality. In particular, you shall ensure that the Services are not used or Requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.	12.1.1.	to and from any local or international law enforcement or competent regulatory or governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud;	15.1.1	Provided that CBK acts in good faith in carrying out any instructions, CBK shall not be liable for any loss caused by or arising from one or more of the following events or matters, however caused or occurring:-
9.1.10	You shall not at any time operate or use the Services in any manner that may be prejudicial to the CBK.	12.1.2.	to and from the CBK's service providers, dealers, agents or any other company that may be or become the CBK's subsidiary or holding company for reasonable commercial purposes relating to the Services; to a Credit Reference Bureau;	15.1.2	Incompatibility between your equipment and the Mobile Banking service, including but not limited to adverse outcome, damage, loss, disruption, violation, irregularity or failure arising from the use of or reliance on hardware, software, electronic devices or online networks;
10.	AVAILABILITY OF SERVICE	12.1.3.	to the CBK's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;	15.1.3	Virus, default, defect, deficiency, harmful components or malfunction or breakdown, disruption or failure of software or telecommunications, computer or other electronic equipment or system (whether or not owned, operated or maintained by CBK, yourself or any other person and whether or not used in the provision or operation of any account or service), including but not limited to:-
10.1	While CBK will make reasonable efforts to provide the service, it shall not be liable for any failure to provide the service, in part or full, for any cause that is beyond the reasonable control of CBK. This includes, but not limited to, any suspension of the service resulting from maintenance and upgrades to our systems or the systems of any party used to provide the service. We will however notify you of any planned suspension of the service.	12.1.4.	to the MNOs in connection with the Mobile Money Service;	15.1.4	The inability or failure of such software, equipment or system to accept or recognize or properly and accurately store, process or transmit dates or data incorporating or relying on dates, or the processing, storage or transmission of inaccurate date or data by virtue of such inability or failure of such equipment or system;
11.	VARIATION/TERMINATION OF SERVICE	12.1.5.	For reasonable commercial purposes connected to your use of the Services, such as marketing and research related activities; and	15.1.6	The transmission of virus to such software, equipment or system; or negligent use of or access to information relating to your accounts, instructions and other instructions issued to CBK as a result of the use of the service (except where such access is obtained as a result of gross negligence or willful default by CBK);
11.1	The CBK may at any time, upon notice to you, terminate or vary its business relationship with you and close your CDS account and Mobile Money Account.	13	MISCELLANEOUS	15.1.7	Loss or theft of your user ID, password or security information; Failure or refusal by CBK to effect any of your instructions due to any order of the court, notice, directive or any statute, regulation or by-law; Error in transmission of your instructions or any other instructions, data or information that ought to be transmitted through the service;
11.1.1	Without prejudice to the CBK rights under clause 12.1, the CBK may at its sole discretion suspend or close your CDS account and Mobile Money Account:	13.1	These Terms and Conditions (as may be amended from time to time) form a legally binding Agreement binding on you and your personal successors.	15.1.8	Inaccurate, garbled or incomplete instructions, data or information that might be transmitted through the service from you to CBK; Your failure to follow the latest instructions, procedures, directions or recommendation for using the Mobile Banking Service;
11.1.2	If you use the Mobile Money Account for unauthorized purposes or where the CBK detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;	13.1.1	This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.	15.1.9	Delay in payment, delivery or non-delivery of documents or material whatsoever under this terms and conditions, including delay by third parties; Delay or refusal on your part to execute instructions or other instructions
11.1.3	If your Mobile Money Account or agreement with The MNO is terminated for whatever reason;	13.1.2	The CBK may vary or amend at any time and without notice to you these Terms and Conditions and the Transaction Fees. Any such variations or amendments may be published in posters or pamphlets available at the MNO's outlets, in the daily newspapers, on the CBK and/or the MNO's website and/or by any other means as determined by the CBK and any such variations and amendments shall take effect immediately upon publication.		
11.1.4	If the CBK is required or requested to comply with an order or instruction of a recommendation from the Government, Court, Regulator or other competent authority;	13.1.3	No failure or delay by either yourself or the CBK in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.		
11.1.5	If the CBK reasonably suspects or believes that you are in breach of these Terms and Conditions	13.1.4	The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.		
11.1.6	Where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;	13.1.5	If any provision of these Terms and Conditions shall be found by any duly appointed arbitrator, court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.		
11.1.7	To facilitate update or upgrade the contents or functionality of the Services from time to time;				
11.1.8	Where you remain inactive for any period of time determined by the CBK in its reasonable discretion; or				
11.1.9	If the CBK decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.				



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15.1.10	that might be transmitted through the service; Loss resulting from your reliance on any news, reports or any other information that may be provided as part of, or by means of the service; Loss associated with systems failures, processing errors, software defects, operating mistake, hardware breakdowns, capacity, inadequacies, network vulnerabilities, control weaknesses, security shortcomings, malicious attacks, hacking incidents, fraudulent actions and inadequate recovery capabilities which may arise despite CBK's best efforts;	Mobile Banking service. CBK does not and cannot warrant that:-	18.1.2	CBK may, at any time delegate or sub-contract any rights or obligations under this Agreement to any third party, and appoint third party agents or sub-contractors to provide the whole or part of the Mobile Banking service.
15.2	Disclosure of any information to third parties arising as a result of negligence or failure on your part to keep your user ID or password confidential; Cessation, interruption or delay in transmission or any wrongful interception of any instruction through telecommunications, computer or other electronic equipment or system (whether or not owned, operated or maintained by CBK or by any other person and whether or not used in the provision or operation of account or service); Cessation or interruption of the availability or operation of the Mobile Banking service;	15.4.1 The service will be available at all times without interruption; 15.4.2 Be timely or error-free; 15.4.3 Meet your requirements; or 15.4.4 The quality of any products, information, services or other materials obtained through 15.4.5 The service will meet your expectations.	19.	INTELLECTUAL PROPERTY RIGHT
15.2.1	Failure or refusal of CBK or any other person to accept or honour instructions; or Inaccuracy or incompleteness of any information obtained from the use of the facility or service comprising the services.	15.5 CBK shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to:- 15.5.1 The use or inability to use the product; 15.5.2 The cost of procurement of substitute goods or services purchased through the service; 16.5.3 Unauthorized access to your transmissions; 16.5.4 Unauthorized access to your data; or 16.5.5 Statement or conduct of any third party service provider.	19.1	You acknowledge that the intellectual property rights in the System and any amendments, upgrades or enhancements thereto from time to time and all associated documentation that the CBK provides to you through the System or otherwise are vested either in the CBK or in other persons from whom the CBK has a right to use and to sub-license the System and or the said documentation. You shall not duplicate, reproduce or in any tamper with the System and associated documentation without prior written consent of CBK. You shall not interfere with any such intellectual property rights.
15.3	You agree to indemnify and compensate CBK for any damages, loss, expense or liability incurred by CBK as a result of any breach on your part of these terms and conditions. The indemnity clause in 16.3 shall also cover the following:	15.6 Except as specifically provided for in these terms and conditions or otherwise required by any law, the officers, directors, employees, agents or contractors of CBK shall not be liable for any indirect, incidental, special or consequential damages under or by reason of services or products provided under the terms and conditions or by reason of your use of the services, including, but not limited to, loss of profits, revenue, data or lawsuits by yourself or any third party, whether in an action in contract or tort or based on a warranty or any other legal theory.	20.	ARBITRATION, JURISDICTION AND DISPUTE RESOLUTION
15.3.1	All demands, claims, actions, losses and damages of whatever nature which may be brought against the CBK or which it may suffer or incur arising from its acting or not acting on any Request or arising from the malfunction or failure or unavailability of any hardware, software, or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond the CBK's control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the CBK	16. EVIDENCE	20.1.2	To the extent permissible by law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.
15.3.2	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.	16.1 You agree that all instructions transmitted by you through the internet, Mobile Phone or otherwise issued by you, although in electronic form:-	20.1.3	This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.
15.3.3	Any unauthorized access to your Mobile Banking 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.	16.1.2 Are written documents, and you agree not to dispute or challenge the validity or enforceability of any instruction on the grounds that it is not a written document and you hereby waive any such right you may have at law; and 16.1.3 Are original documents and you agree not to challenge the admissibility of any instruction on the grounds that it is made in electronic form.	Date:	Signature of the account holder.....
15.3.4	Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the CBK as a consequence of any breach by these Terms and Conditions.	16.2 You acknowledge and agree that CBK's records and any records of your instructions made, performed, processed or effected through the Mobile Money Service by you or any person purporting to be you, or any record of transactions relating to the service and any record of any transactions maintained or by any relevant person authorized by CBK relating to or connected with the service, whether stored in electronic or printed form, shall be binding and conclusive on you for all purposes whatsoever and shall be conclusive evidence of the instruction and transactions and your liability to CBK.	Signature of the account holder.....	Signature of the account holder.....
15.3.5	Any damages and costs payable to the CBK in respect of any claims against the CBK for recompense for loss where the particular circumstance is within your control.	16.2.1 You further agree that all such records are admissible in evidence and that you shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were incorporated or set out in electronic form or were produced by or are the output of a computer system, and hereby waive any of your rights, if any, to so object.	17. FORCE MAJEURE	Signature of the account holder.....
15.4	CBK makes no warranty of any kind, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, in connection with the	18. ASSIGNMENT & SUB-CONTRACT	18.	
		18.1 These terms and conditions are personal to you, and you shall not be entitled to assign, charge or otherwise deal with them in any way.		