

## ANNEX 1A

### TERMS AND CONDITIONS FOR INTERNET BANKING

#### 1. INTRODUCTION:

These terms and conditions apply to the use of our internet banking services and shall be read in conjunction with our mobile banking terms and conditions where relevant and applicable. It enumerates your rights and responsibilities and those of Consolidated Bank of Kenya Limited regarding the use of internet and mobile banking services.

#### 2. DEFINITIONS:

2.1 “We”, “us”, “our”, “the bank” means Consolidated Bank of Kenya Limited

2.2 “You”, “your” means:

- i) in the case of an individual, the customer who has an account(s) with us on which the Service is available. If you have a joint account, references in these Conditions to “you” include each of you together and separately; or
- ii) in the case of a limited company, any director, official and any other persons authorised by the customer to give instructions on the account(s);  
or
- iii) in the case of a partnership, the individual partners (in their separate capacities of partners and individuals) and any other persons authorised by the customer to give instructions on the account(s); or
- iv) in the case of a limited liability partnership, any member and any other person(s) authorised by the customer to give instructions on the account(s); or
- v) in the case of a sole trader or professional practitioner, the Customer who has the account(s) and any other person(s) authorised by the customer to give instructions on the account(s); or
- vi) in the case of a club, society or unincorporated body, any official and any other person(s) authorised by the customer to give instructions on the account(s); or
- vii) in the case of a trust, any trustee and any other person authorised by the trustees to give instructions on the account(s).

2.3 “Security Details” means the identifying words, codes and numbers agreed between you and us that are used in the security procedure. They may include Personal Identification Number (PIN), user identification, password, or any other means of secure identification.

2.4 “Service” means the Consolidated Bank internet and mobile banking services when accessed using the internet or mobile terminal device.

2.5 “Bank” means Consolidated Bank of Kenya Limited as a limited liability company under the Companies Act and duly licensed as a bank under the Banking Act and includes subsidiaries of the Bank as may from time to time be specified by the Bank to you.

2.6 “Customer” means the person who holds an Account with the bank

2.7 “Communication System” means the device which you select to access Internet Banking which may include but not limited to a computer, cellphone, telephone, television or similar technologies and the medium through which you access internet banking which may include but is not limited to internet, wireless application protocol(WAP), etc.

### 3. *AUTHORITY:*

3.1 The use of Communication System means we do not interact face to face. Unless you notify the bank before it gives effect to an instruction, you irrevocably authorize the bank to accept, rely on and act on all instructions that appear to originate from you and permit the bank to regard all activities you conduct or instructions sent after you enter your security details as being authorized by you and intended to have legal force and effect and to pay to and from your account(s) the amounts involved when the transaction has been authenticated by the use of the security procedure we require you to follow (even if someone else is impersonating you).

3.2 If you have a joint account, we will act on the instructions of any one of the joint account holder but you are jointly and severally liable for all transactions carried out and for the repayment of any borrowing which arises on your account. Each Joint account holder acting alone, under assigned security details may use the service and the bank shall not be required to obtain the consent or notify any one joint account holder of the requests. Each Joint account holder releases the Bank from any and all liability and agrees not to make any

claim or bring any action against the bank for honouring or allowing any actions or requested whether the person performing the transaction is one of the joint account holders or is otherwise authorized to use the Service.

4. *SECURITY PROCEDURE:*

4.1 you must protect and keep your security details confidential at all times and take all reasonable precautions to prevent unauthorised 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.

4.2 Please note that after initial registration or enrolment there will never be a reason for any person including a member of our staff or customer contact centre to know or ask for your security details in full. If you receive any such request from anyone (even if they are using our name and logo and appear to be genuine) then it is likely to be fraudulent and you must not disclose your security details to any person, under any circumstances. You should report any such requests to us immediately.

4.3 We rely on you to report any compromise of your security details without any delay. You may do this by contacting our Customer contact centre or your branch and we may ask you to verify your identity to prevent someone else impersonating you. Once you notify us to disable you security details, we are entitled to (i) reject all instructions received after such notification (ii) suspend the processing of all instructions not yet executed (iii) deactivate the security details without further notice . If you fail to do so, you will be liable for any unauthorised payments on your account confirmed by use of the security details

4.4 You will be responsible for all instructions given by you or anyone acting with your authority between the time you pass the security procedure and the time you exit from the service. In your own interests, you should not leave the device you are using to access the service unattended while you are still logged onto our website.

5. *TRANSACTIONS:*

5.1 Banking instructions received through the service for your current and savings accounts on any business day will normally be processed that day. (You will be advised at the time you send the instruction if the instruction cannot be processed that day but will be processed the next business day.)

5.2 You are responsible for all transactions carried out using the service and for repayment of any debt that arises from use of the service.

5.3 where you are not sure that your instruction has been carried out, please contact our customer contact centre before repeating it. This is because the initial instruction may still be processed and repeating the instruction may lead to a double transaction. You will not hold the bank liable if you execute the same instruction more than once and neither instruction will be reversible. You may contact us through our Contact Centre through telephone number 0703-016-016 or Email;-[tellus@consolidated-bank.com](mailto:tellus@consolidated-bank.com)

#### 6. *CHARGES:*

The bank has the right to charge a fee for the provision of the services and for the use of all or part of the service. The current fees chargeable are as provided in the Bank's tariff which is available at the branch and on the Bank's website. You will be liable to pay the bank for any fees levied for the use of the service, unless the bank in its sole discretion has waived such fees. By accepting these terms and conditions, you provide the bank with the authority to debit these fees from your account immediately the transaction is completed. These charges will reflect in your normal bank statement. The Bank has the right to revise the fees chargeable for this Service from time to time subject to a Thirty days' Notice and the bank has the right to terminate this Agreement if you fail to pay any fees levied for the provision of the service.

#### *AVAILABILITY OF SERVICE:*

7.1 Unless a law prohibits us from excluding or limiting our we will not be liable for any failure to provide the service, in part or full, for any cause that is beyond our reasonable control. This includes, in particular, any suspension of the service resulting from maintenance and upgrades to our systems or the systems of any party used to provide the service.

7.2 if for any reason other than a reason mentioned above, the Service is interfered with or unavailable, the Bank's sole liability in respect thereof shall be to re-establish the Service as soon as reasonably practicable or, at the Bank's option, to provide to the Customer alternative banking facilities which need not be electronic for any interference with or unavailability of the Service, howsoever caused.

7.3. The bank will automatically terminate your right of access to the internet banking services should you cease to maintain any account with the bank which can be accessed via the internet banking services or should your access to such account be restricted by the bank or any other party for any reason;

7.4 You may terminate the internet banking services by giving prior written notice to the bank. The internet banking services will be cancelled within seven (7) days from the date of the bank's receipt of the notice of termination and you agree that the bank shall not be obliged to effect any of your instructions received on any day falling after the receipt of your notice of termination. The bank reserves the right to terminate the internet banking services for any reasons whatsoever, provided the bank gives you fourteen (14) days prior written notice.

7.5 You acknowledge that termination will not affect your liability or obligations in respect of instructions processed by the bank on your behalf

#### 7. *VARIATION/TERMINATION/SUSPENSION OF SERVICE:*

8.1 Notwithstanding anything herein to the contrary, the bank may on issuance of, 'Thirty days' notice to you, suspend or terminate your right of access to any of the Internet banking services for any reason whatsoever and without any obligation to give any reasons;

8.1.1 The bank will automatically terminate your right of access to the Internet banking services should you cease to maintain any account with the bank which can be accessed via the Internet banking services or should your access to such account be restricted by the bank or any other party for any reason;

8.2 Without prejudice to the Bank rights under clause 8.1, the Bank may at its sole discretion and where possible upon reasonable notice suspend services :

8.2.1. if you use the services for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;

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

8.2.3. if the Bank reasonably suspects or believes that you are in breach of these Terms and Conditions;

8.2.4. where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;

8.2.5. to facilitate maintenance, repair activities, update or upgrade the contents or functionality of the Services from time to time or for any emergency reason as deemed necessary;

8.2.6. where you remain inactive for any period of time determined by the Bank in its reasonable discretion; or

8.2.7. If the Bank 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.

8.2.8 As a result of a change in the way you operate your account or in your financial circumstances, we have reasonable grounds to believe that you may have difficulty in meeting your commitments;

8.3. If the Bank receives notice of your demise, the Bank will not be obliged to allow any operation or withdrawal from your Account by any person except upon production of Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.

8.4 You may terminate the mobile banking services by giving prior written notice to the bank. The Internet banking services will be cancelled within seven (7) days from the date of the bank's receipt of the notice of termination and you agree that the bank shall not be obliged to effect any of your instructions received on any day falling after the receipt of your notice of termination.

8.4.1. You acknowledge that termination will not affect your liability or obligations in respect of instructions processed by the bank on your behalf;

#### *LIABILITY AND INDEMNITY:*

9.1 For the avoidance of doubt, you agree that all provisions in the mobile banking terms and conditions relating to the bank's liability including qualifications, exclusions and limitations shall where relevant apply to the internet banking terms and conditions, and the internet banking service.

9.2 In circumstances not within the Bank's control The Bank shall not be responsible or liable for any loss suffered by the Customer should the Service be interfered with or be unavailable by reason of (a) any industrial action, (b) the failure of any of the Customer's Facilities, or (c) any other circumstances whatsoever not reasonably within the Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the System, terrorist or any enemy action equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system.

9.3. The Bank will not be liable for any losses or damage suffered by you as a result of or in connection with:-

9.3.1. Failure, malfunction, interruption or unavailability of the services, your communication System;

9.3.2. Your failure to give proper or complete instructions for payments or transfers

9.3.4 Any fraudulent or illegal use of the Services, the Communication System; or

9.3.5 Your failure to comply with these Terms and Conditions and any document or information provided by the Bank concerning the use of the Services.

9.4 If for any reason other than a reason mentioned above, the Services are interfered with or unavailable, the Bank's sole liability under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practicable.

9.5 Save as provided in subparagraph 9.4 the Bank shall not be liable to you for any interference with or unavailability of the Services, howsoever caused.

9.6 Under no circumstances shall the Bank be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss or damage of whatever kind, howsoever caused, arising out of or in connection with the Services even where the possibility of such loss or damage is notified to the Bank.

9.7 We do not exclude our duties or liabilities under the Banking Act or Rules or the Central Bank of Kenya Prudential Guidelines for the conduct of business

#### 10. *EVIDENCE:*

10.1 You agree that all instructions transmitted by you through the internet or otherwise issued by you, though in electronic form:

10.1.1 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;

10.1.2 are original documents and you agree not to challenge the admissibility of any instruction on the grounds that it is made in electronic form; and

10.2 You acknowledge and agree that the bank's records and any records of your instructions made or performed, processed or effected through the internet banking service by you or any person purporting to be you, or any record of transactions relating to the internet banking service and any record of any transactions maintained or by any relevant person authorized by the bank relating to or connected with the internet banking 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 the bank. You hereby 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 and/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.

*11. FORCE MAJEURE:*

The Bank shall not be liable for any failure to perform its obligations under this terms and conditions if the failure results from event which may include but not be limited to acts of God, government, civil or military authority, civil of labour disputes/disturbances, strikes, criminal or terrorist activity, wars, fires, explosions, earthquakes, storms, floods, disease or health quarantines, government or regulator action, lack of available resources from persons other than Us, electrical equipment or mobile network failures, or any other causes not within our control and which by the exercise of reasonable diligence we are unable to prevent, whether of the class of causes hereinbefore mentioned or not. If any force majeure even occurs, the bank will give prompt written notice and will use commercially reasonable efforts to minimize the impact of such event

*12. ASSIGNMENT & SUB-CONTRACT:*

12.1 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.

12.2 The bank 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 internet banking service.

**13. DISCLOSURE OF INFORMATION**

13.1. You hereby expressly consent and authorize the Bank to disclose receive record or utilize your personal information or information or data relating to your Account and any details of your use of the Services:

13.1.1. 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;

13.1.2. to and from the Bank's service providers, dealers, agents or any other company that maybe or become the Bank's subsidiary or holding company for reasonable commercial purposes relating to the Services;

13.1.3 to the Bank's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;

13.6 for reasonable commercial purposes connected to your use of the Services, such as marketing and research related activities; and

13.6. in business practices including but not limited to quality control, training and ensuring effective systems operation.

#### 14. NOTICES

14.1 You permit the Bank to issue notices required in terms of this agreement, legislation or regulation by making such notification available via our communication system or sending such notification by email, SMS or similar future technologies. Such notice issued by the Bank, will, if they contain contractual terms relating to Internet Banking, also form part of this agreement.

14.2 You acknowledge that you have no claim against the Bank for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the Account

#### 15 DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

15.1 You may contact the Contact Centre to report any disputes, claims or discrepancies through telephone number 0703-016-016 or email; [tellus@consolidated-bank.com](mailto:tellus@consolidated-bank.com).

15.2 Any dispute arising out of or in connection with this Agreement that is not resolved by Customer Care Centre representatives shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties or in default of such agreement within 60 days of the notification of a dispute, upon the application of either party, by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch). Such arbitration shall be conducted in the English language in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995.

15.3 To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.

15.4 This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.

#### 16 TRANSACTIONAL LIMIT

16.1 The Bank can, at any time, set Internet Banking Transaction limits and daily limits that restrict your ability to withdraw or pay out of an Account through Internet Banking. The current maximum transactional limit per day is 100,000. The bank however reserves the discretion to review aforesaid limit from time to time subject to reasonable notification.

## 17. INTELLECTUAL PROPERTY RIGHTS

17.1 The Customer acknowledges that the intellectual property rights in the System (and any amendments or enhancements thereto from time to time) and all associated documentation that the Bank provides to the Customer through the System or otherwise are vested either in the Bank or in other persons from whom the Bank has a right to use and to sub-license the System and/or the said documentation. The Customer shall not infringe any such intellectual property rights.

17.2 The Customer shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Bank.

## 18. PROTECTION FROM THIRD PARTIES

The customer shall indemnify the Bank against, and hold it harmless from, any and all liabilities, claims, costs, expenses and damages of any nature in any way arising out of or relating to disputes or legal actions by third parties concerning the use or Bank's provision of the Services.

Customer's obligations under this section shall survive termination of the Subscription.

## 19. RELATIONSHIP

Nothing in these Terms and Conditions shall create any agency, fiduciary, joint venture or partnership relationship between customer and the Bank.

## 20. HEADINGS

The headings contained in these Terms and Conditions are for convenience of reference only, and shall not be deemed to be a part of these Terms and Conditions neither be referred to in connection with the interpretation of these Terms and Conditions.

## 21. SEVERABILITY

In the event that any provision of these Terms and Conditions or the application of any such provision to any person or set of circumstances shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of these Terms and Conditions and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

If there are two or more persons comprised in the expression “the customer” then the undertakings and liabilities of the Customer under these Terms and Conditions shall be joint and in solid undertakings and liabilities shall be construed accordingly and reference herein to the “customer” shall mean any or more of them.

If the customer is a corporate body, then these Terms and Conditions shall continue in full force and effect and continue to bind each of its assigns and successors.