



TERMS AND CONDITIONS FOR THE OPENING AND USE OF THE MOMBO APPLICATION ACCOUNT

1. THE AGREEMENT

1.1 This Agreement sets out the complete Terms and Conditions (herein after called “these Terms and Conditions”) which shall be applicable to the MOMBO APP (as hereinafter defined) opened by you (as hereinafter defined) with the Company (as hereinafter defined).

1.2 These Terms and Conditions and any amendments or variations thereto take effect on their date of publication.

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 “**Mombo App**” means a mobile and web application account opened and maintained by a customer for purposes of accessing the Company’s service;

2.1.2 “**Mombo Group**” means a Limited company incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) herein referred to as “the Company” which owns Mombo App. And acts as an intermediary for the partners’ transac tions.

2.1.3 “**Customer**” means the person in whose name a Mombo App account is opened and maintained for the purposes of accessing the Company’s services ;

2.1.4 “**E-Money**” means the electronic monetary value depicted in your Mombo App Account representing an equal amount of cash;

2.1.5 “**Equipment**” includes your mobile phone, laptop, computer, tablet and/ or other equipment which when used together enables you to access the Network;

2.1.6 “**IPRS**” means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons;

2.1.7 “**Mombo App Menu**” means the Mobile App Menu on the System;

2.1.8 “**Mombo App Account**” means your mobile money store of value, being the record maintained by Mombo Group of the amount of E-Money from time to time held by you in the System;

2.1.9 “**Service charge**” means the percentage to be charged by the partners in provision of various services, which will be catered for by the client;

2.1.10 “**Mombo App Service**” means the money lending, savings and investing service provided by Mombo Group through the System on behalf of its partners;

2.1.11 “**Mombo System**” means the system operated by Mombo Group for the provision of the Mombo App Services;



2.1.12 “**Mombo App PIN**” means the unique code or identification or electronic in order to access your Mombo App Account;

2.1.13 “**Mombo App Subscriber**” means any person who voluntarily registers to use the Mombo App;

2.1.14 “**Network**” means the mobile cellular network operated by Network service providers in Kenya and the internet;

2.1.15 “**Request**” means a loan request, earnings withdrawal, membership withdrawal or membership request received by Mombo Group from you or purportedly from you through the Network and the System and upon which the Mombo Group is authorized to act;

2.1.16 “**Services**” shall include any form of online services or products that the App may offer you pursuant to this Agreement and as you may from time to time subscribe to and “**Service**” shall be construed accordingly;

2.1.17 “**SIM Card**” means the subscriber identity module which when used with the appropriate mobile phone handset enables you to access the Network and to use the Mombo App System;

2.1.18 “**SMS**” means a short message service consisting of a text message transmitted from one mobile phone to another;

2.1.19 “**System**” means the App’s electronic communications software enabling the Customer to communicate with Mombo Group for purposes of the Services. The System and the Services will for the purpose of this Agreement be accessed through the Mombo App System;

2.1.20 “**We,**” “**our,**” and “**us,**” means the Company and includes the successors and assigns of the Company;

2.1.21 “**You**” or “**your**” means the Customer and includes the personal representatives of the Customer;

2.1.22 “**Partners**” refers to other corporate entities that have partnered/outsourced/consulted with Mombo Group for their services to be offered through Mombo App.

2.2 The word “**Customer**” shall include both the masculine and the feminine gender as well as juristic persons;

2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.4 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 Before applying to open the Mombo App Account via the Mombo App you should carefully read and understand these Terms and Conditions which will govern the use and operation of the Mombo App Account.



- 3.2 If you do not agree with these Terms and Conditions, please click “Decline” on the Mombo App Menu.
- 3.3 You will be deemed to have read, understood and accepted these Terms and Conditions:-
 - 3.3.1 Upon clicking on the “Accept” option on the Mombo App Menu requesting you to confirm that you have read, understood and agreed to abide with these Terms and Conditions; and/or
 - 3.3.2 By using or continuing to use and operate the Mombo App Account.
- 3.4 By applying to open the Mombo App Account, 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 Mombo App Account and you affirm that these Terms and Conditions herein are without prejudice to any right that the Company may have with respect to the Mombo App Account in law or otherwise.
- 3.5 These Terms and Conditions may be amended or varied by the Company from time to time and the continued use of your Mombo App Account constitutes your agreement to be bound by the terms of any such amendment or variation.
- 3.6 You acknowledge and accept that the Company offers the Mombo App only electronically and you agree to do business with the Company and to operate the Mombo App Account only by electronic means via the Mombo App Menu on the System. Any query and complaint you may have relating to the Services shall be addressed to the Company. For the avoidance of doubt, you acknowledge and accept that you will not be allowed or entitled to receive or demand the Services pertaining to the Mombo App Account at any Mombo Group office branch or branches of the Company unless otherwise advised by the Company in its sole discretion.
- 3.7 That by using the Mombo App, all signatures will be electronic and will be captured using a QR Code. The information to be captured will include: the machine from which the App is accessed from, the person who signed and the time and date when the same was captured.

4. ACCOUNT OPENING

- 4.1 You may open a Mombo App Account solely by way of an electronic application made by you using your Equipment via the Mombo App Menu on the Mombo App System.
- 4.2 You hereby agree and authorize the Company to request for your personal information including your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Company to identify you and comply with the regulations.
- 4.3 You hereby agree and authorize the Bank to obtain and procure your Personal Information contained in the IPRS 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 Company.

- 4.4 You hereby further acknowledge and authorize the Mombo Group system to verify your Personal Information against the information received from the Government of Kenya in your respect as contained in the IPRS.
- 4.5 Mombo Group on behalf of its partners reserves the right to request for further information from you pertaining to your application for a Mombo App Account at any time. Failure to provide such information within the time required by the Company may result in the Company declining to accept your application for a Mombo App Account.
- 4.6 Acceptance by the Company of your application for a Mombo App Account shall be done via a text message to the number used during account opening.
- 4.7 The Company reserves the right to decline your application for a Mombo App Account or to revoke the same at any stage at the Company's sole discretion and without assigning any reason or giving any notice thereto.

5. CUSTOMER'S EQUIPMENT AND CUSTOMER'S RESPONSIBILITIES

- 5.1 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.
- 5.2 You shall be responsible for ensuring the proper performance of your Equipment. The Company shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall the Company 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 Company shall not be responsible for losses or delays caused by any such service provider.
- 5.3 You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the Company concerning the use of the System and Services.
- 5.4 You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Equipment and for keeping your MOMBO App PIN secret and secure. You shall ensure that your PIN does not become known or come into possession of any unauthorized person. The Company shall not be liable for any disclosure of your MOMBO APP PIN to any third party and you hereby agree to indemnify and hold the Company harmless from any losses resulting from any MOMBO APP PIN disclosure.
- 5.5 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 Company 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.



- 5.6 You shall immediately inform the Company in the event that:
- 5.6.1 You have reason to believe that your MOMBO APP PIN is or may be known to any person not authorized to know the same and/or has been compromised; and/or
 - 5.6.2 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.
- 5.7 You shall at all times follow the security procedures notified to you by the Company 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 Mombo App 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.
- 5.8 You shall not at any time operate or use the Services in any manner that may be prejudicial to the Company.

6. EXCLUSION OF LIABILITY

- 6.1 The Company shall not be responsible for any loss suffered by you should the Services be interfered with or be unavailable by reason of (a) the failure of any of your Equipment, or (b) any other circumstances whatsoever not within the Company'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.
- 6.2 The Company will not be liable for any losses or damage suffered by you as a result of or in connection with :-
- 6.2.1 Unavailability of sufficient funds in your Mombo App Account;
 - 6.2.2 Failure, malfunction, interruption or unavailability of the System, your Equipment, the Network, Service and/or System
 - 6.2.3 The money in your Account being subject to legal process or other encumbrance restricting payments or transfers thereof;
 - 6.2.4 Your failure to give proper or complete instructions for payments or transfers relating to your Mombo App Account;
 - 6.2.5 Any fraudulent or illegal use of the Services, the System and/or your Equipment; or
 - 6.2.6 Your failure to comply with these Terms and Conditions and any document or information provided by the

Company concerning the use of the System and the Services.

- 6.3 If for any reason other than a reason mentioned in subparagraphs 6.1 or 6.2.1, The Services are interfered with or unavailable, the Company's sole liability under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practicable.
- 6.4 Save as provided in subparagraph 6.3 the Company shall not be liable to you for any interference with or unavailability of the Services, howsoever caused.
- 6.5 Under no circumstances shall the Company 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 Company.
- 6.6 All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

7. INTELLECTUAL PROPERTY RIGHTS

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 Company provides to you through the System or otherwise are vested either in the Company or in other persons from whom the Company has a right to use and to sub-license the System and/or the said documentation. You shall not infringe any such intellectual property rights. You shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Company.

8. INDEMNITY

- 8.1 In consideration of the Company complying with your instructions or Requests in relation the Mombo App Account, you undertake to indemnify the Company and hold it harmless against any loss, charge, damage, expense, fee or claim which the Company suffers or incurs or sustains thereby and you absolve the Company from all liability for loss or damage which you may sustain from the Company acting on your instructions or requests or in accordance with these Terms and Conditions.
- 8.2 The indemnity in clause 8.1 shall also cover the following:
 - 8.2.1 All demands, claims, actions, losses and damages of whatever nature which may be brought against the Company 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 Company'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 Company.

- 8.2.2 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.
- 8.2.3 Any unauthorized access to your Mombo App 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.
- 8.2.4 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 Company as a consequence of any breach by these Terms and Conditions.
- 8.2.5 Any damages and costs payable to the Company in respect of any claims against the Company for recompense for loss where the particular circumstance is within your control.

9. VARIATION AND TERMINATION OF RELATIONSHIP

- 9.1 The Company may at any time, upon notice to you, terminate or vary its business relationship with you and close your Mombo App Account and in particular but without prejudice to the generality of the foregoing the Company may cancel credits which it has granted and require the repayment of outstanding debts resulting there from within such time as the Company may determine.
- 9.2 Without prejudice to the Company rights under clause 9.1, Mombo Group may at its sole discretion suspend or close your Mombo App Account:
 - 9.2.1 If you use the Mombo App Account for unauthorized purposes or where the Company detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;
 - 9.2.2 If the Company reasonably suspects or believes that you are in breach of these Terms and Conditions (including non-payment of any Loan amount due from you where applicable);
 - 9.2.3 where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;
 - 9.2.4 To facilitate update or upgrade the contents or functionality of the Services from time to time;
 - 9.2.5 where you remain inactive for any period of time determined by the Company in its reasonable discretion; or



- 9.2.6 If the Company 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.
- 9.3 You may close your Mombo App Account at any time.
- 9.4 If your Mombo App Account has any credit balance at the time of its closure, we will return any such balance to you, less any applicable fees. If your Mombo App Loan Account is in arrears at the time of closure of your Account, you agree to pay to us immediately all amounts you owe us.
- 9.5 Termination shall however not affect any accrued rights and liabilities of either party.
- 9.6 If the Company receives notice of your demise, the Company will not be obliged to allow any operation or withdrawal from your Mombo App Account by any person except upon production of Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.

10. DISCLOSURE OF INFORMATION

- 10.1 You hereby expressly consent and authorize the Company to disclose receive record or utilize your personal information or information or data relating to your Mombo App Account and any details of your use of the Services:
 - 10.1.1 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;
 - 10.1.2 to the Company's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;

11. MISCELLANEOUS

- 11.1 These Terms and Conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.
- 11.2 This Agreement and any rights or liabilities accruing there under may not be assigned by you to any other person.
- 11.3 The Company 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 Company's website and/or by any other means as determined by the Company and any such variations and amendments shall take effect immediately upon publication.
- 11.4 No failure or delay by either yourself or the Company 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.



- 11.5 The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
- 11.6 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.
- 11.7 Any addition or alteration to these Terms and Conditions may be made from time to time by the Company and of which notice has been given to you by way of publication as provided in subparagraph 11.3 shall be binding upon you as fully as if the same were contained in these Terms and Conditions.

12. NOTICES

- 12.1 The Company may send information concerning the Mombo App Account via text message and email used in account opening by a member.
- 12.2 You acknowledge that you have no claim against the Company for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the Mombo App Account.

13. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

- 13.1 You may contact the Company to report any disputes, claims or Mombo App Account discrepancies.
- 13.2 Any dispute arising out of or in connection with this Agreement that is not resolved by Company 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.
- 13.3 To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.
- 13.4 This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.