

TERMS & CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.0 “4G – CAPITAL” means Fourth Generation Capital Limited (CPR/2014/131938), a credit services company incorporated in the Republic of Kenya.

1.1 “Administration Fee” means a fee charged on each Loan disbursed to the Borrower calculated at a rate as advertised and agreed on the disbursement request form.

1.2 This “Agreement” means the prescribed application form together with these terms and conditions;

1.3 “The Borrower” means the person to whom this offer is addressed and includes his/her personal representatives or permitted assigns;

1.4 “Disbursement Request” means

a) in case of first time Borrower, a disbursement request submitted by the Borrower in a prescribed form; or

b) in case of repeat Borrower who has repaid his previous Loan, a disbursement request submitted by the Borrower by dialing short code 20142 (or any subsequent shortcodes registered to 4G-CAPITAL for the purpose of this product),

specifying the sum of the Loan required and the Repayment Date, which request shall be approved and/or amended by 4G - CAPITAL in writing.

1.5 “Disbursement Date” means the date on which any Loan is to be disbursed to the Borrower pursuant to a Disbursement Request under this Agreement;

1.6 “Event of Default” means any one of the events specified in clause 8 herein;

1.7 “Interest” means interest payable to 4G - CAPITAL at the rate as advertised and agreed on the disbursement request form, of the Loan sum charged from the Disbursement Date to the date of repayment;

1.8 “Late Payment Fee” means the fees payable on late repayment of the Repayment Amount as specified in clause 5.3;

1.9 “the Loan(s)” means fixed term Smart Cash loans, each in the sum specified in each Disbursement Request submitted to 4G - CAPITAL;

1.10 “Membership Fee” means the one off charge for admissions as member of Smart Cash (as set out in the Application Form) as advertised and agreed on the disbursement request form

1.11 “Repayment Amount” means the outstanding Loan and all or any Membership Fee, Interest, Administration Fees as set out in clause 5 and any applicable Late Payment Fee.

1.12 “Repayment Date” means the date specified for the repayment of the Repayment Amount for each Loan as specified in each Disbursement Request.

1.13 “Smart Cash” means the provision of short term cash loans for the purchase of Stock and such other revenue generating activity as may be agreed with 4G - CAPITAL.

1.14 “Stock” means such items of sale to be purchased by the Borrower from the proceeds of the Loan.

1.15 “Signature” means the customer’s name or a mark representing it, as signed personally by the customer on the disbursement request either via pen on disbursement form or via a digital marking on an electronic device.

2. ACCEPTANCE OF THE TERMS AND CONDITIONS

2.1. Before submitting Disbursement Request the Borrower acknowledges that he has had a chance to carefully read and understood these Terms and Conditions for granting of the Loan.

2.1. The Borrower shall be deemed to have read, understood and accepted these Terms and Conditions:-

2.1.1 in case of first time Borrower by signing and submitting Disbursement Request ; or

2.1.2. in case of repeat Borrower, upon replying via SMS with “YES” option on short code 20142 (or any subsequent shortcodes registered to 4G-CAPITAL for the purpose of this product) requesting the Borrower to confirm that he has read, understood and agreed to abide with these Terms and Conditions; and/or

2.2. These Terms and Conditions may be amended or varied by the 4G – CAPITAL from time to time and the continued use of Smart Cash constitutes your agreement to be bound by the terms of any such amendment or variation.

3. THE LOAN

Subject to the terms and conditions of this Agreement 4G - CAPITAL agrees to make available to the Borrower, such Loans as may be approved from time to time during the term of this Agreement.

4. PURPOSE

4.1 Loans disbursed will only be used to finance the purchase of Stock and such other revenue generating activity as may be agreed with 4G - CAPITAL.

5. DISBURSEMENT

5.1 The Loan will be disbursed in full within 30 days of the date of a Disbursement Request received from the Borrower.

5.2 4G - CAPITAL may at any time prior to the Disbursement Date cancel the provision of the Loan.

6. ADMINISTRATIVE CHARGES & INTEREST

6.1 The Borrower shall pay Interest and the Administration Fee on each Loan, which sums which shall be added to the Repayment Amount and payable on the Repayment Date.

6.2 The Borrower shall on the date of admission as a member of Smart Cash pay a Membership Fee which sum shall be added to the Repayment Amount and payable on the Repayment Date.

6.3 Late payment of the Repayment Amount (after the Repayment Date) will attract a fixed late payment fee equivalent to the admin fee incurred at the initiation of the loan ('Late Payment Fee') which will be added to the Repayment Amount and in the absence of payment within 7 days, another Late Payment Fee shall be charged and added to the Repayment Amount During the period of delayed payment Interest shall continue to accrue on the Repayment Amount.

6.4 In the event of payment not being received within the time periods stipulated in clause 5.3 above, then 4G - CAPITAL shall take such steps as may be necessary to enforce payment, with the Borrower being at full risk as to the costs and expenses incurred as a result.

6.5 The statement of 4G - CAPITAL as to the rate or amount of Interest/Late Payment Fee payable pursuant to this clause shall in the absence of manifest error be conclusive.

7. REPAYMENTS

7.1 The Repayment Amount shall be repaid on the Repayment Date.

7.2 Repayment of the Repayment Amount (or any part thereof) shall be made through mobile money into 4G - CAPITAL's specified Paybill Account in cleared funds by no later than 1159pm Nairobi time on the Repayment Date.

7.3 All payments to be made by the Borrower under this Agreement shall be made in full without any set-off or counterclaim whatsoever and free and clear of any present or future taxes, duties, charges fees or any other deductions or withholdings, save as required by Law, in which case the sum due from the the Borrower in respect of such payment shall be increased to the extent necessary to ensure that after the making of such deduction or withholding the 4G - CAPITAL receives a net sum equal to the sum which the 4G - CAPITAL would have received had no such deduction or withholding been required to be made and the Borrower shall indemnify 4G - CAPITAL against any losses or costs incurred by 4G - CAPITAL by reason of such deduction or withholding.

7.4 The Borrower shall have the right at any time to repay all or any amount of the Repayment Amount (including interest accrued to the date of repayment) without payment of any premium in respect of such early payment.

8. REPRESENTATIONS AND WARRANTIES

8.1 The Borrower represents and warrants to 4G - CAPITAL as at the date of this Agreement and on the Disbursement Date of each Loan:-

8.1.1 this Agreement when issued will (i) constitute his/her legal valid and binding obligations in accordance with their respective terms (subject to applicable insolvency laws), (ii) have been duly authorised and executed by the Borrower.

8.1.2 The Borrower is not in breach of any of the terms of this Agreement and all Repayment Amounts on any Loan have been repaid on the Repayment Date

8.1.3 there are no pending or to the Borrower's knowledge (after due and careful enquiry) threatened action or legal proceedings affecting the Borrower which may have a material adverse effect on the Borrower's Property, business, assets or financial conditions;

8.1.4 the Borrower is not in breach of or in default under any agreement or obligation relating to (or analogous to) financial indebtedness;

8.1.5 no event or circumstance referred to in paragraph 8.1 below has occurred and is continuing;

8.1.6 all factual information supplied to 4G - CAPITAL in contemplation of this Loan was true as at its date and did not omit anything material to be known by the Borrower and no change has occurred since the date of the information already supplied which renders it untrue or misleading and all projections and statements of belief and opinion given by the Borrower to 4G - CAPITAL were made in good faith after due and careful enquiry.

9. DEFAULT

9.1.1 the Borrower commits any breach of any provision of this Agreement;

9.1.2 the Borrower fails to repay any Loan disbursed under this Agreement on the terms on which the loan is disbursed.

9.1.3 any information provided by the Borrower in the Application Form proves to be inaccurate or misleading.

9.1.4 Any representation or warranty made or deemed to be made or repeated by the Borrower in or pursuant to this Agreement is or proves to have been untrue or incorrect in any material respects;

9.1.5 the Borrower becomes bankrupt or makes or seeks an arrangement with his/her creditors;

9.1.6 any distress or execution is levied on or affects any of the Borrowers property or assets;

9.1.7 by death of the Borrower;

9.1.8 by reason of illness or incapacity of the Borrower or if the Borrower become incapable of managing its own affairs or becomes a patient under any mental health legislation

9.1.9 any information provided by the Borrower in the Application Form proves to be inaccurate or misleading.

9.1.10 4G - CAPITAL (without prejudice to any of its rights) may upon and at any time after the happening of an Event of Default, provided that the same is continuing, demand the entire amount outstanding on all or any Loans disbursed to the Borrower to be repaid.

10. ASSIGNMENT AND TRANSFER

10.1 The Borrower may not assign or transfer any of its rights or obligations under this Agreement.

10.2 4G - CAPITAL may on giving written notice to the Borrower assign or transfer all or any of its rights and obligations under this Agreement.

10.3 The Borrower will execute all documents specified by 4G - CAPITAL to be necessary to give effect to any such assignment or transfer. 4G - CAPITAL may upon giving written notice to the Borrower change its lending office at any time.

10.4 This Agreement shall be binding upon and ensure for the benefit of the Borrower the Lender and our respective successors and permitted assigns.

11. INFORMATION

4G - CAPITAL may disclose such information about the Borrower and/or the Loans disbursed under this Agreement as 4G - CAPITAL may consider appropriate to any of its person with whom 4G - CAPITAL is associated and/or any actual or potential assignee or transferee of this Agreement. 4G - CAPITAL will inform any person to whom any disclosure is made that the Borrower has requested that the information disclosed, except any in the public domain, is treated in confidence (but 4G - CAPITAL will not be responsible for ensuring that it is so treated by any such person).

12. NOTICES

12.1 All notices or other communications to be given under this Agreement to either party shall be made in writing and sent by letter or facsimile transmission (unless as otherwise stated herein) and shall be deemed to be duly given or made at 9.00 a.m. on the Business Day following the date when delivered (in the case of personal delivery), when dispatched (in the case of facsimile transmission, PROVIDED THAT the sender has received a receipt indicating proper transmission and a hard copy of such notice or communication is forthwith sent by prepaid post as set out herein) or ten (10) days after being deposited in the post, postage prepaid, by the quickest mail available and by registered mail if available (in the case of a letter) to such party at its address or facsimile number specified below, or at such other address or facsimile number as such party may hereafter specify for such purpose to the other by notice in writing.

12.2 The addresses of the Parties are:

12.2.1 in the case of a notice given to 4G - CAPITAL:

4G - CAPITAL Kenya Limited

PO Box 4916 - 00100 Nairobi, Kenya.

12.3 A notice or other communication received on a day other than a Business Day, in the place of receipt shall be deemed to be given at 9.00 a.m. on the next following Business Day in such place.

13. NO WAIVERS, REMEDIES CUMULATIVE

13.1 No failure or delay on 4G - CAPITAL's part to exercise any power, right or remedy under this letter shall operate as a waiver thereof nor shall any single or partial exercise by 4G - CAPITAL of any power right or remedy preclude any other or further exercise thereof or the exercise of any other power right or remedy. The remedies provided in this letter are cumulative and are not exclusive of any remedies provided by law.

13.2 No delay or omission on the part of 4G - CAPITAL in exercising any right or remedy under this Agreement shall impair that right or remedy or operate as or be taken to be a waiver of it or preclude any other or further exercise of this Bank's right under this Agreement

14. SEVERANCE

If at any time any of the provisions of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity and enforceability of such provision under the law of any other jurisdictions shall affect the validity or enforceability of such provision as a result.

15. COMPLIANCE WITH THE LAW

15.1 This Agreement arising hereof out of the Borrower's acceptance of the Agreement, subject however to applicable provisions of the prevailing applicable legislation as may be amended from time to time in Kenya, shall be governed by and construed in all respects with the Laws of Kenya.

15.1.1 Nothing contained in this clause shall limit the right of 4G - CAPITAL to take proceedings against the Borrower in any other Court of competent jurisdiction nor shall the taking of proceedings at one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

16. ACCEPTANCE

16.1 I hereby authorize collection of references, from any source whatsoever, concerning my person, conduct and commercial credit. I further authorize the issuance of reports regarding my credit history to 4G - CAPITAL Kenya Ltd and hereby absolve the reporting party of all responsibility.

16.2 Upon receipt of a Disbursement Request 4G - CAPITAL may accept, reject or vary the loan sum requested, the Disbursement Date and the Repayment date and inform the customer accordingly.

16.3 This Agreement may be amended from time to time by a supplementary Loan Agreement to the effect and extent only as may be set out in such supplementary Loan Agreement.

17. TERMINATION

17.1 4G - CAPITAL may at any time suspend or terminate the Borrowers membership of Smart Cash.

Please signify acceptance of the foregoing by consenting to the terms and conditions.