

## ELEVATE CREDIT LIMITED

### INVOICE DISCOUNTING PRODUCT TERMS & CONDITIONS

#### 1. Definitions

1.1. In these terms and conditions, unless inconsistent with the context: -

- 1.1.1. **“Credit Reference Bureau”** means a credit reference bureau duly licensed under the Banking Act Cap 488 pursuant to the Banking (Credit Reference Bureau) Regulations 2020 to *inter alia*, collect and facilitate sharing of borrower credit information.
- 1.1.2. **“Borrower”** means the person at whose request Elevate Credit Ltd will advance a loan facility;
- 1.1.3. **“Mobile Number”** means the mobile telephone number within a mobile telecommunication network;
- 1.1.4. **“Merchant”** means the Off-Taker who has entered into an arrangement with the Elevate Credit Ltd to provide Invoice to supplier(s) and Commit to pay all the Total Invoice amount to Elevate Credit Ltd Account.
- 1.1.5. **“E- Till Number”** means a unique number that is created for the purpose of receiving payments commonly known as a till number provided by a Mobile Operator in Kenya;
- 1.1.6. **“Event of Force Majeure”** means an event beyond the control of Elevate Credit Ltd including but not limited to act of God, acts of war, acts of terrorism, civil war, riot, strikes, or disorder;
- 1.1.7. **“Fees”** means the fees applicable for the Invoice Discounting Loan published by Elevate Credit Ltd on its website or by such other means as Elevate Credit Ltd shall in its sole discretion determine and include: -
  - a) a facility fee of Five percent (5%) per month of the Invoice Discounting Loan amount subject to a minimum sum of Kenya Shillings Five ThousandKshs. 100,000/-
  - b) any other fees for the Invoice Discounting Loan as communicated by us from time to time in accordance with this Agreement and includes any

charges, and applicable taxes thereon under the laws of Kenya.

- 1.1.8. **“Instalment”** means the amounts required to be paid by the Borrower to Elevate Credit Ltd to repay the entire Invoice Discounting Loan together with the Fees.
- 1.1.9. **“Mobile Phone”** means the mobile handset together with requisite accessories, and equipment attachments.
- 1.1.10. **“Mobile Money Account”** means Borrower’s electronic money store of value for purposes of receiving and sending payments provided by the mobile network operator in Kenya such as but not limited to MPESA, Airtel money, T-Cash
- 1.1.11. **“Mobile Operator”** means mobile telecommunication network operator that among others issues Mobile Numbers to subscribers.
- 1.1.12. **“Products”** means the various loan products and Services offered by Elevate Credit Ltd.
- 1.1.13. **“Personal Information”** refers to the information about the Yourself obtained by Elevate Credit Ltd or a Mobile Operator in connection with the respective services being provided by them including but not limited to the information collected by Elevate Credit Ltd from other third parties;
- 1.1.14. **“Invoice Discounting Financing”** means Invoice loan product that Elevate Credit Ltd may offer to the Borrower pursuant to these terms and conditions and as the Borrower may from time to time subscribe.
- 1.1.15. **“Invoice Discounting Loan T & Cs”** means these terms and conditions for the Invoice product.
- 1.1.16. **“MOU”** memorandum of understanding entered into between Elevate Credit Ltd and The Merchant for provision of Invoice Discounting Loan by Elevate Credit Ltd to eligible Suppliers;
- 1.1.17. **“Request”** means an instruction received by Elevate Credit Ltd from Borrower and upon which Elevate Credit Ltd is authorized to act.
- 1.1.18. **“Service”** means the service we offer by which a Borrower can digitally, physical or in any other manner Request for any of our Products.
- 1.1.19. **“SMS”** stands for Short Message Service consisting of a text message transmitted to a mobile phone.
- 1.1.20. **Elevate Credit Ltd** Means Elevate Credit Ltd a limited liability company

incorporated in accordance with the Laws of Kenya and having its registered office at Sameer Park Block E 1 1<sup>st</sup> floor, Mombasa Road Nairobi and of Post Office Box 59491 - 00200, Nairobi, which expression shall where the context so admits include its successors and assignees;

1.2. **"We" "our" and "us"** or its variants means Elevate Credit Ltd and includes the successors and assigns of Elevate Credit Ltd.

1.3. **"You" or "Your"** or its variants means the Borrower.

1.4. In this Invoice Discounting Loan T&Cs save where the context otherwise requires:

1.4.1. references to an individual or individuals shall include his or their respective personal representatives;

1.4.2. the singular includes the plural and vice versa and any gender includes any other gender;

1.4.3. references to 'Borrower' and 'You' and shall include both the masculine and the feminine gender as well as the juristic persons.

1.4.4. In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any legislation is to that legislation as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder headings in these Invoice Discounting Loan T&Cs are for convenience purposes only and they do not affect the interpretation of this Agreement.

## **2. APPLICABILITY OF TERMS AND CONDITIONS**

This Invoice Discounting Loan T&Cs form the contract between You as the Borrower and Elevate Credit Ltd as the lender in respect of the Invoice Discounting Loan and shall be in addition to and not in derogation of other terms and conditions for use of our Services.

## **3. ACCEPTANCE OF THE INUA Loan T&Cs**

3.1. Before applying for the Invoice Discounting Loan you should carefully read and understand these Invoice Discounting Loan T&Cs also available at our website located at [www.elevatecredit.africa](http://www.elevatecredit.africa) (the "Website").

3.2. By subscribing or continuing to subscribe to the Invoice Discounting Loan, you are considered to have read, understood and voluntarily accepted these Invoice Discounting Loan T&Cs and to be legally bound by them for your own benefit.

3.3. You affirm that these Invoice Discounting Loan T&Cs are without prejudice to any right that we may have with respect to the Invoice Discounting Loan in law or

otherwise.

3.4. We may amend these Invoice Discounting Loan T&Cs from time to time and Your continued subscription of the Invoice Discounting Loan constitutes Your agreement to be bound by such amendment or variation.

#### **4. CONDITIONS PRECEDENT**

Notwithstanding any other provisions herein contained we shall not be bound to make available or continue to make available the Invoice Discounting Loan or any part thereof unless and until the following conditions precedent have been fulfilled to the full satisfaction of Elevate Credit Ltd:

- 4.1. completion of application for of Invoice Discounting Loan;
- 4.2. Acceptance of these Invoice Discounting Loan T&Cs;
- 4.3. your Buyer has an Invoice Discounting MOU;
- 4.4. the amount of the Invoice Discounting Loan borrowed is repayable in one (1) month
- 4.5. you have an active Mobile Money Account registered with a Mobile Operator;
- 4.6. you are over Eighteen (18) years but not older than Sixty (60) years as at date of application for Invoice Discounting Loan;
- 4.7. you have submitted the following information which has been verified by your Buyer;
  - 4.7.1. full names;
  - 4.7.2. Supply terms;
  - 4.7.3. date of birth;
  - 4.7.4. national identity card number or passport number;
  - 4.7.5. postal address;
  - 4.7.6. Mobile Number;

- 4.7.7. Physical address.
- 4.8. you have no arrears in respect of any of our other Products;
- 4.9. furnishing all documentary proof as may be requested by us;
- 4.10. there shall exist no potential event of default or event default and all representations and warranties contained herein shall be true and correct in all material respects;
- 4.11. You have made the authorization for the Buyer to effect Payments of the Invoice Discounting Loan (as the case may be) PROVIDED THAT such authorization shall not bar us to implement alternative arrangement to recover Payments in the event that Invoice Proceeds fails for any reason whatsoever; and
- 4.12. there are no circumstances which in our opinion would adversely affect our ability, decision or willingness to grant or continue to grant the Loan to You.

## **5. APPLICATION, APPROVAL AND DISBURSMENT OF INVOICE DISCOUNTING LOAN**

- 5.1. Your Request for Invoice Discounting Loan shall be appraised according to our loan appraisal process. We reserve the right at our sole discretion and without assigning any reason to approve or decline your Request.
- 5.2. We reserve the right to request for further information from You pertaining to your Request. Failure to provide such information within the time we require may result in declining your Request.
- 5.3. Upon Your choice and acceptance of the Invoice Discounting Loan amount and tenure these Invoice Discounting Loan T&Cs shall apply and take effect and we shall credit the proceeds of the Invoice Discounting Loan to your Mobile Money Account or Bank Account at your cost.
- 5.4. The Invoice Discounting Loan Payments shall be deducted by your Lender from your proceeds remitted to us.

## **6. OTHER MATTERS**

The Borrower's attention to the following matters: -

- 6.1. all transactions shall be denominated in Kenya Shillings;
- 6.2. You acknowledge that Invoice Discounting Loan does not constitute banking nor a deposit-taking business;
- 6.3. the minimum amount of Invoice Discounting Loan is Kenya Shillings one Hundred Thousands (Kes 100,000/-)
- 6.4. the Invoice Discounting Loan tenure is one (1) month

6.5. You hereby authorize us to access any information available to assess your Request; and

6.6. You hereby expressly consent and authorize us to disclose, respond, advise, exchange and communicate the details or information pertaining to Invoice Discounting Loan advanced to You to any Credit Reference Bureau, and You waive any claim you may have against us in respect of such disclosure.

## **7. STATEMENTS**

A statement in respect of the Invoice Discounting Loan shall be deemed conclusive evidence of Your indebtedness to us and such statement shall be emailed to You free of charge. However, we shall, at Your request, provide such printed statement at a reasonable charge as we shall notify from time to time.

## **8. FEES, CHARGES AND EXPENSES**

8.1. You agree and undertake to pay all applicable Fees in respect of the Invoice Discounting Loan as published in the Website as well as information pamphlets.

8.2. All Fees are payable upfront before disbursement.

8.3. You hereby agree to pay all costs and other expenses payable in obtaining or attempting to obtain settlement of sums advanced herein including but not limited to all legal fees and such other reasonable costs, expenses, disbursements, and taxes incurred by the us in creating, perfecting and enforcing our rights under these Invoice Discounting Loan T&Cs or otherwise in administering, demanding and collecting payment of any monies due under these Invoice Discounting Loan T&Cs including but not limited to legal costs and any goods and tax thereon shall be borne by You on a full indemnity basis.

8.4. To the extent not contrary to applicable law, we may at any time at its absolute discretion and upon written notice to You, change the amount of Fees payable by You. Such change(s) shall take effect from the date stated in the notice, which shall be no less than thirty (30) days from the date of the notice.

8.5. The Fees applicable to the Invoice Discounting Loan are set forth in a separate fee schedule available on receipt of your Request for Invoice Discounting Loan and as may be published by on our Website from time to time; and

8.6. All payments to be made by you in connection with Invoice Discounting Loan are calculated without regard to any taxes payable by you. If any taxes are payable in connection with the payment, you must pay Elevate Credit Ltd an additional amount equal to the payment multiplied by the appropriate rate of tax.

## **9. PAYMENT OF INVOICE DISCOUNTING LOAN**

The Borrower agrees to the following: -

- 9.1. To expressly write to merchant the assignment of receivables.
- 9.2. that we shall have the right to get full invoice value directly from buyer in accordance with the Invoice Discounting MOU.
- 9.3. by accepting these Invoice Discounting Loan T&Cs You unconditionally authorize us to deduct all monies owing to us on account of the Invoice Discounting Loan, Fees, charges and expenses from any invoice, other than the committed Invoice
- 9.4. we reserve the right to engage third party debt collectors to recover outstanding Invoice Discounting Loan, charges and expenses at your cost.
- 9.5. Any cash payments made to us shall be made to our bank account or E-Till Number as advised by us from time to time. You shall not make any cash payments to any of our employees or agents or officers and we shall take no responsibility for any such payments; and
- 9.6. Payments made by banker's cheque shall be deemed to have been received on the date funds are cleared, and not on the date the cheque is deposited.
- 9.7. You are responsible for the accuracy and correctness of the Payments as captured by Your Employer in its payroll.
- 9.8. You may prepay the entire Invoice or portion thereof before the relevant due date at no additional cost which amount for avoidance of doubt shall include: -
  - 9.8.1. Outstanding Invoice Discounting Loan amount as at the date of prepayment;
  - 9.8.2. Unpaid and accrued Fees; and
  - 9.8.3. Any Fees paid are non-refundable and therefore not discounted upon early settlement of the Invoice Discounting Loan before the due date.
  - 9.8.4. For purposes of this clause 9.9 before making any prepayments You shall give us prior irrevocable written notice of Your intent to prepay and seek from us written confirmation on the total amount required to fully settle Your obligations with us.
- 9.9. Payments received by the Lender shall be used to reduce the obligations of the Borrower in the  
\_\_\_\_ following order: -
  - 9.9.1. legal or other costs incurred in enforcing the lender's rights under these terms and conditions;
  - 9.9.2. Fees; and
  - 9.9.3. The principal amount outstanding of the Invoice Discounting Loan.

## 10. EVENTS OF DEFAULT

10.1. Without prejudice to the other rights or remedies available to us under the law You shall immediately repay, on demand, the entire Invoice Discounting Loan together with any outstanding Fees, charges and expenses upon any of the following events of a default happening ("**Events Default**"):

- 10.1.1. You commit or threaten to commit any breach of these Invoice Discounting Loan T&Cs;
- 10.1.2. any other obligation that You owe us under these Invoice Discounting Loan T&Cs is not paid when due (whether demanded or not);
- 10.1.3. if bankruptcy proceedings are taken against the You or a receiver and/or a manager is appointed to administer over any of Your property or assets;
- 10.1.4. criminal proceedings are conducted against You which in the opinion of the Lender may have a significant adverse effect on Your ability to perform your obligations under these Invoice Discounting Loan T&Cs;
- 10.1.5. You are declared bankrupt, die, or become totally incapacitated;



- 10.1.6. any representation or warranty made by You hereunder for the purpose of obtaining the Invoice Discounting Loan being incorrect in any material respect as of the date of which it is made or deemed to be made;
  - 10.1.7. You cease to be a Supplier by the Buyer for whatever reason; and
  - 10.1.8. You do anything that prejudices our rights under these Invoice Discounting Loan T&Cs.
- 10.2. Upon happening of any of the Events Default we shall, without prejudice to other remedies we are entitled to, we shall (but not obliged) to terminate this agreement.

## **11. REPRESENTATIONS, WARRANTIES AND INDEMNITY**

- 11.1. By submitting a Request for Invoice Discounting Loan you hereby represent and warrant to us that all information furnished by You in connection with the Invoice Discounting Loan does not contain any untrue statement or omit to state any fact the omission of which makes any statements made therein in the light of the circumstances under which they are made, misleading, and You are not aware of any material facts or circumstances that have not been disclosed to us which might if disclosed, adversely affect our decision on whether or not to provide finance to You;
- 11.2. In consideration of us complying with your Requests, You undertake to indemnify us and hold us harmless on a full and unqualified indemnity basis against any loss, charge, damage, expense, fee or claim which we may suffer or incur or sustain thereby and You absolves us from any and all liability for loss or damage which You may sustain from us acting on Your Requests in accordance with these INUA Loan T&Cs.

## **12. TERMINATION OF RELATIONSHIP**

- 12.1. Without prejudice to our rights under these Invoice Discounting Loan T&Cs, we may vary or ~~terminate~~ this Agreement if any of the below events occur:
  - 12.1.1. if you are in breach of these Invoice Discounting Loan T&Cs (including non-payment of any amount due from You where applicable);
  - 12.1.2. if termination is required to comply with an order or instruction from the government, court, regulator, or other competent authority; and
  - 12.1.3. where we reasonably suspect that the Invoice Discounting is being used to perpetuate illegality or unethical activities or You are engaged in illegality or unethical

activities.

12.2. Termination shall however not affect any accrued rights and liabilities of either Party.

12.3. We may at any time, upon notice to You, terminate or vary our business relationship with You, and in particular we may cancel any Invoice Discounting Loan which we have granted and require the repayment of all monies owing thereunder. All Fees, charges and expenses (if any) thereon shall immediately become due and payable on demand within such time as we may determine.

### **13. EXCLUSION OF LIABILITY**

To the extent not contrary to applicable law, we shall not be responsible for any loss or damage which You or any other person(s) may suffer or incur: -

13.1. due to any delay or refusal by us to grant or to continue to grant the whole or part of the Invoice Discounting Loan to You and we shall not be obliged to give any reason for such delay or refusal.

13.2. without prejudice to the foregoing, in respect of any revision of the amount, suspension, cancellation or termination of the Invoice Discounting Loan, changes to any of these Invoice Discounting Loan T&Cs herein or any other exercise of our rights under these Invoice Discounting Loan T&Cs, at law or in equity;

13.3. the termination of these Invoice Discounting Loan T&Cs.

### **14. CONSOLIDATION**

We may at any time and without notice or demand combine or consolidate the Invoice Discounting Loan with any of our Products and set off any payments received from You towards satisfaction of any of Your obligations or liabilities thereunder to us whether such liabilities be present future actual contingent.

### **15. NOTICES**

15.1. We may give You notices under these Invoice Discounting Loan T&Cs, by SMS to the Your Mobile Number. In addition, we may also publish notices of general nature, which are applicable to all subscribers of the Invoice Discounting Loan on the Website. Such notices will have the same effect as a notice served individually to You.

15.2. Any notice or communication given in the aforesaid manner shall be deemed received by You within twenty four (24) hours of transmission by SMS or publication on our Website (as the case may be).

## **16. VARIATION**

We shall at any time be entitled to amend, supplement or vary any of these Invoice Discounting Loan T&Cs as may be required by law or as the case may be. Such amendment, supplement or variation shall be binding on You. An updated version of the Invoice Discounting Loan T&Cs shall be made available on our Website or any other medium that we may adopt from time to time. On publication of an updated version of these Invoice Discounting Loan T&Cs on our Website or any other medium, You are deemed to have read the same and consent to such modification. We shall determine the privileges attached to the use of the Service and shall have absolute discretion to change, vary add or amend these privileges and conditions attached thereto from time to time as we deem fit.

## **17. ASSIGNMENT**

17.1. Your rights, duties or obligations under these Invoice Discounting Loan T&Cs is personal and not assignable.

17.2. We have the right to assign, transfer, sell, negotiate, pledge or otherwise hypothecate the Invoice Discounting Loan and any of our rights. You hereby agree that all of our rights and remedies in connection with the interest so assigned shall be enforceable against You by such assignee with the same force and effect and to the same extent as the same would have been enforceable by us but for such assignment.

## **18. GOVERNING LAW AND JURISDICTION**

18.1. These Invoice Discounting T&Cs shall be governed by and construed in accordance with the laws of the Republic of Kenya.

18.2. We shall **submit** to the exclusive jurisdiction of the courts of the Republic of Kenya.

## **19. COMPLAINTS AND DISPUTE RESOLUTION**

19.1. In the **event** You **have** any complaint regarding any transaction, the same should be brought to our attention immediately at our 24-hour support Centre on 0114 496184 or [info@elevatecredit.africa](mailto:info@elevatecredit.africa)

19.2. You shall bring to our notice any error, discrepancy or omission in transactions noted by You.

19.3. Without any prejudice to either Party's right under these Invoice Discounting Loan T&Cs, we shall attempt to resolve any dispute within thirty (30) days in accordance with our dispute resolution policy published by us from time to time. We shall upon consideration of the dispute confirm in writing whether the dispute is resolved or not.

## **20. GENERAL**

- 20.1. If any clause **or** part of these Invoice Discounting Loan T&Cs is found to be in conflict with any applicable law such clause will be severed and subject to amendment, modification or deletion by us without affecting the validity or enforceability of the remaining terms and conditions.
- 20.2. These Invoice Discounting Loan T&Cs constitute the entire agreement between us with respect to Invoice Discounting Loan.
- 20.3. You may not assign any right or obligation that may arise under these terms and conditions without our consent.
- 20.4. You agree that our rights will not be lessened or restricted or denied because of any leniency or restraint extended by us to You by any delay in exercising or failure to exercise any of our rights unless provided to You in writing and signed by our duly authorized representative. No waiver by us of any breach of these terms and conditions by Yourself shall operate as a waiver of any subsequent breach.
- 20.5. Nothing in these Invoice Discounting Loan T&Cs shall be read as preventing any party from pursuing any other remedy available to it under law.