



RETAIL AGENT AGREEMENT

M-Pesa Limited,
11th Floor, Vodacom Tower, Ursino Estate,
Plot No. 23, Bagamoyo Road,
P. O. Box 2369, Dar es Salaam, Tanzania.
vodacom.co.tz

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Directors: E Mbete^{***} (Tanzania), C Williamson^{**}, E Lyimo^{***}
Company Secretary: C. Mduma^{***}
[*Kenyan, **British, *** Tanzanian]
Reg. No. 138001296

C2: VODACOM GENERAL

This Agency Agreement for Provision of M-PESA Services is made

BETWEEN

M-PESA Limited a limited liability company incorporated under the company laws of Tanzania with its registered offices at 11th Floor, Vodacom Tower Ursino Estate Plot No. 23, Bagamoyo Road of P.O. Box 2369 Dar es Salaam, Tanzania (hereinafter referred to as "M-PESA Limited" which description shall where the context so permits include its successors and permitted assigns) of the one part,

AND

the Agent (which description shall where the context so permits include its successors and permitted assigns) on the other part.

(Each a "Party" and together the "Parties")

PREAMBLE

- A. Whereas M-PESA Limited is a licensed electronic money issuer issuing electronic money;
- B. Whereas M-PESA Limited appoints the Agent to provide services on its behalf and the Agent is desirous to provide such Retail M-PESA services;

NOW THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION:

In this Agreement, unless context otherwise requires, the following words and expressions shall have the following meanings:

- 1.1. "Agent" or "M-Pesa Agent" means an individual or entity whose particulars are described in Annexure A, appointed by M-Pesa Limited directly or through an Aggregator to provide M-Pesa Services on behalf of M-Pesa Limited;
- 1.2. "Agent's Commission Account" means the account established by the Agent for the payment of Commission
- 1.3. "Agreed Float Value" means the aggregate value of all the M-PESA's Floats to be maintained by the Agent as specified by M-Pesa Limited from time to time;
- 1.4. "Business Day" means a day on which M-Pesa Limited is deemed to be to the general public open for business and excludes weekends and public holidays
- 1.5. "Cash Float" means the cash provided by the Agent at each Outlet for the provision of M-PESA Services;
- 1.6. "Confidential Information" shall mean all information, know-how, ideas, customer data or transactions or transactions value, concepts, technology, industrial, marketing and commercial knowledge of a confidential nature (whether in a tangible or intangible form) relating to or developed in connection or in support of the M-PESA business of all or any of M-Pesa Limited, including the terms and conditions of providing M-PESA Services or any matter concerned with or arising out of an Appointment;
- 1.7. "Customers" means all users of M-PESA Services. For the avoidance of doubt Customers shall include both of Vodacom Tanzania Limited mobile phone subscribers and non-Vodacom mobile phone subscribers;
- 1.8. "Data Subject" shall mean an identified or identifiable natural person who is the subject of Personal Data such as a name or MSSIDN.
- 1.9. "Data Protection Laws" shall mean [the relevant data protection and privacy law, regulations and other regulatory requirements to which parties are subject, and any guidance or statutory codes of practice issued by the relevant Regulatory Authority/ies].
- 1.10. "E-Money" means the electronic value issued by the M-Pesa Limited and representing an entitlement to an equivalent amount of the cash monies;
- 1.11. "Effective Date" shall mean the date of execution of these Agreement by an Agent (both existing and new);
- 1.12. "Equipment" means all the equipment provided to the Agent by M-Pesa Limited for the purposes of providing the M-PESA Services and shall include without limitation the unique SIM and where applicable GSM handset and related accessories, which may include point of sale branding material, Agent Manuals and instructions for the provision of the M-PESA Services;
- 1.13. "E-Money Account" means the record of a Customer's holding of E-Money within the M-PESA system;
- 1.14. "Float Balancing" means the balancing of M-PESA Floats across all Outlets operated by the Agent in accordance with clause 8 herein;
- 1.15. "ID" means a person's original Passport, voter's registration card, and/or any other valid identification document clearly detailing a person's full name, date and place of birth;
- 1.16. "Money Laundering" is the engagement of a person or persons, directly or indirectly in conversion, transfer, concealment, disguising, use or acquisition of money or property known to be of illicit origin and in which such engagement intends to avoid the legal consequence of such action;

- 1.17. **"M-PESA or M-PESA Services"** means the proprietary cellular phone money transfer service which is marketed, managed, and operated exclusively by M-Pesa Limited in the United Republic of Tanzania;
- 1.18. **"M-PESA Account"** means the M-PESA Bank Accounts maintained by M-Pesa Limited into which all M-PESA Payments will be paid
- 1.19. **"M-PESA Agency Manual"** or **"Agency Manual"** means the manual issued to the Agent which records methods of operation, procedures, and other practical matters relevant to the provision of M-PESA Services as updated by the M-Pesa Limited from time to time. For the avoidance of doubt, in the event of conflict between these Terms and Conditions and any M-PESA Agency Manual, the terms of these Terms and Conditions shall prevail.
- 1.20. **"M-PESA Float(s)"** means the sum of E-Money held by the Agent for the provision of M-PESA Services from each Outlet;
- 1.21. **"M-PESA Operator"** means each person within an Outlet authorised by the Agent to operate M-PESA Services using the Equipment;
- 1.22. **"M-PESA Payment"** means the sums paid by the Agent into an M-PESA Account in respect of the purchase by a Customer from the Agent of E-Money;
- 1.23. **"M-PESA System"** means the mobile money transfer system operated by M-Pesa Limited providing the M-PESA Services and includes the instruments and procedures that relate to the system-
- 1.24. **"M-PESA Web Page"** means the web page situated at www.vodacom.co.tz
- 1.25. **"Outlet(s)"** means the physical address(es) of each place of business from which the Agent may provide M-PESA services to Customers;
- 1.26. **"Personal Data"** means any information relating to an identified or identifiable natural person as defined by the Applicable Privacy Law and including the M-Pesa Customer/Personal Data such as names, MSSIDN, location and identity card/ID number.
- 1.27. **"PIN"** means each M-PESA Personal Identification Number associated with the operation of an E-Money Account by each M-PESA Operator/Agent;
- 1.28. **"Predicate Offence"** means the offences listed under Section 3 of the Tanzania Anti Money Laundering Act No 12 of 2006.
- 1.29. **"Vodacom's Network"** means the GSM Telecommunications Network operated by Vodacom Tanzania PLC in Tanzania;
- 1.30. **"SIM"** means the unique subscriber identity module through which a connection is provided to the Agent to facilitate the M-PESA Services;
- 1.31. **"SMS"** means short messaging services;
- 1.32. **"Super-Agent"** A wholesale agent that is a registered corporate and has the capacity, competence and internal controls to perform the agency services that may include electronic money distribution, retail agent management and any other services that may be approved from time to time.
- 1.33. **"Suspicious Activity"** is where an individual suspects or has grounds to suspect that funds or property are proceeds of crime, or are related or linked to or are to be used for commission or continuation of predicate offence or has knowledge of a fact or an activity that may be an indication of money laundering or predicate offence.
- 1.34. **"Terrorist financing"** is the provision of, or making available such financial or other related services to a terrorist, group or entity which is concerned with terrorist act. It includes also the entering into or facilitation, directly or indirectly, of any financial transaction related to dealing in property owned or controlled by or on behalf of any terrorist or any entity owned or controlled by a terrorist;
- 1.35. **"Trademarks & Trade names"** means the M-PESA name and logo which belongs to M-Pesa Limited Tanzania Limited and which may only be used by the Agent in accordance with the terms of this Agency Terms and condition;
- 1.36. **"Transaction Limits"** means the limits placed on the Transactions that may be effected by Agents from specific Outlets as specified in Annexure B;
- 1.37. **"Web Interface"** means the internet interface through which M-PESA Accounts details including Transactions and M-PESA Float balances can be viewed.
- 1.38. **"Force Majeure"** means anything outside the reasonable control of a Party including pandemic, quarantine restrictions, an act of war or terrorism, the mobilization of armed forces, civil commotion or riot, natural disaster, industrial action or labor disturbance (excluding industrial action by employees of the Party or its subcontractors), currency restriction, embargo, or a failure of a public utility or telecommunications carrier or system failure/outage, interruption in the processing of the transaction, or delays resulting from circumstance beyond our reasonable control (include power failure and delays in communication with supplier point of sale, internet or other system include your device failure).
- 1.39. **"Consumer protection"** means a phenomenon associated with the operation of markets and protection of consumers against unfair trade practices.
- 1.40. **"Fees"** means the Fees applicable for the Services and include;
- 1.41. **"We," "our," and "us,"** means M-Pesa Limited and (where applicable) the Trustee;
- 1.42. **"You"** or **"your"** means the Customer and includes the Customer's personal representatives and assigns.
Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2. **APPOINTMENT OF AGENT**

- 2.1. M-Pesa Limited hereby appoints the Agent to provide or continue to provide (as the case may be) M-PESA Services and other M-Pesa Limited Services in the United Republic of Tanzania for period of two years (2) from date of accepting these terms and conditions unless terminated as provided in these Agreement.

- 2.2. In absence of a formal renewal after two years stated above, these Agreement shall be treated as renewed automatically from year to year unless terminated as provided in these Agreement.
- 2.3. Notwithstanding anything to the contrary, these Agreement supersedes and replaces all negotiations and or terms and conditions between the parties falling on the same subject matter.
- 2.4. Upon appointment as Agent, each M-PESA Operator/Agent will be issued with a PIN for use when effecting Transactions using the equipment in accordance with these Agreement and any M-PESA Agency Manual to be provided. Agent and Agent's Operator shall be 18 years and above, and M-Pesa Limited reserves the right to verify Agents details from various sources including M-Pesa Account(s).

3. THE AGENT'S DUTIES AND WARRANTIES

- 3.1. The Agent hereby warrants and represents that it has the full capacity and authority to enter into and to provide the Services under these Agreement and any other Terms and Conditions and shall perform its obligations per the terms set herein in good faith.
- 3.2. Without prejudice to what is stated above, the Agent:
 - 3.2.1. Shall only provide M-PESA Services using the tariffs programmed in the Equipment as may be varied by M-PESA LIMITED and notified to the Agent from time to time;
 - 3.2.2. Shall not provide M-PESA services to any Customer except as in accordance with these Agreement and the M-PESA Agency Manual and or any other written instructions from M-Pesa Limited from time to time;
 - 3.2.3. Shall not, in providing the M-PESA services make any representations or give warranties other than those contained in these Agreement, the M-PESA Agency Manual and/or upon the written instructions of M-Pesa Limited;
 - 3.2.4. Shall be solely responsible for the safekeeping and proper use of the Equipment and for keeping the PIN secret and secure. The agent shall further ensure that the PIN does not become known or come into possession of any unauthorised person. M-Pesa Limited shall not be liable for any disclosure of the PIN to any third party and the Agent hereby agree to indemnify and hold M-Pesa Limited harmless from any losses resulting from any PIN disclosure.
 - 3.2.5. Shall only use the M-PESA Trademarks and Trade names for the purpose of promoting and providing M-PESA Services during the subsistence of the Agreement and for no other purpose whatsoever;
 - 3.2.6. Will receive cash payments from customers in exchange credit E-Money to the customers E-Money Accounts with a corresponding debit to the Agents M-PESA Float;
 - 3.2.7. Will pay out cash to Customers in accordance with SMS instructions received from M-PESA Limited in return for the transfer to the Agent's M-PESA Float of an equivalent amount of E-Money;
 - 3.2.8. will ensure that cash payments are only paid (i) upon sufficient sums being available in its Cash Float at the relevant Outlet, (ii) upon checking the accuracy and completeness of the information contained in the SMS from M-PESA and (iii) upon being reasonably satisfied that the recipient of the cash sums is the owner of the mobile phone on which the SMS message is being transmitted, by cross-checking the Customer's ID against the details provided in the SMS; (iv) shall only provide services to customers who physically appear at the Agent's Outlet.
 - 3.2.9. Shall complete the log book provided by M-Pesa Limited recording type of transactions and customers who carried out the transactions;
 - 3.2.10. Shall decline the transaction in the event it has insufficient cash sums available in its Cash Float at the relevant Outlet to effect the Transaction;
 - 3.2.11. Will in all matters act loyally and faithfully to M-Pesa Limited and obey their orders or instructions in relation to the provision of M-PESA services;
 - 3.2.12. Will allow authorised officers of M-Pesa Limited to have access to the Agent's premises at all reasonable times for the purpose of inspecting the books and records and for the purpose of taking stock of all equipment at the Outlets;
 - 3.2.13. Shall not assign, transfer, change or in any manner make over or purport to assign, transfer, change or make over these Agreement or their rights thereunder or any part thereof without obtaining the prior consent in writing from M-Pesa Limited; Additionally, M-PESA Limited herein expressly prohibits any transfer of TILL numbers by way of sell or otherwise.
 - 3.2.14. Shall not use M-Pesa Limited's name or equipment given by M-Pesa Limited or Vodacom for other purposes other than the M-PESA services;
 - 3.2.15. Shall allow M-Pesa Limited to intervene in the event of any dispute arising between the Agent and a Customer;
 - 3.2.16. Shall comply with other M-Pesa Limited directions or procedure for delivering other M-Pesa Limited services such Subscriber registration, SIM Swap, vodafone vending and all other sales services as may be communicated by M-Pesa Limited from time to time.
 - 3.2.17. Agent hereby authorizes M-Pesa Limited to share its information/data with third parties when requesting services such as but not limited to M-Pesa Paybill on behalf of customer or Agent with an aim to ensure completion of the request.
 - 3.2.18. Agent shall be allowed to subscribe to any other products/services of M-PESA Limited subject to the terms and conditions of the said service and this Agreement.
 - 3.2.19. Agent shall bear the cost and any applicable taxes of all advertising in respect of Agent business undertaken by the Agent.

- 3.2.20. All advertising and other marketing of the Agent services performed shall be subject to the prior review and approval of M-Pesa Limited and Agent shall ensure that no usage of the trademarks of Vodacom/M-Pesa is contrary to the laws and regulations of the country.

4. M-PESA LIMITED RIGHTS AND OBLIGATIONS

- 4.1. M-Pesa Limited retains the right to temporarily or permanently disconnect the Agent SIM from its network at any time if it determines, in its sole discretion, that the connection has been used for purposes other than the M-PESA Services, or that the Agent is not complying with the terms of these Agreement and the terms of the M-PESA Agency Manual including suspension/cancellation of an agent in case of being inactive for 90 days.
- 4.2. M-Pesa Limited shall provide Agents with SIM-Card to enable the Agent to provide M-PESA services. The SIM-Card provided shall remain the property of M-Pesa Limited to be used at M-Pesa Limited's discretion. For the avoidance of doubt the SIM-Card is not transferrable and shall not be assigned to any third Party without M-Pesa Limited's consent.
- 4.3. M-Pesa Limited shall have the right at any time during the subsistence of these Agreement to inspect the Agent's business operations and its Outlets to ensure compliance with the terms of these Agreement.
- 4.4. M-Pesa Limited will ensure that:-
 - 4.4.1. Upon an M-PESA Payment being made by the Agent, M-Pesa Limited will reflect that M-PESA Payment by crediting an equivalent amount to the Agent's M-PESA Float within 12 hours;
 - 4.4.2. Upon E-Money being purchased by M-Pesa Limited Customers, that the E-Money Accounts are credited, recorded and monitored; and
 - 4.4.3. All or any Float Balance of M-PESA Floats shall be notified to each Outlet via SMS by M-PESA Limited
- 4.5. M-Pesa Limited may provide the Agents with Web Interface to:-
 - 4.5.1. Monitor the M-PESA Float balances at each Outlet on a daily and weekly basis and to redistribute M-PESA Float balances between Outlets, as levels of business demand;
 - 4.5.2. Monitor their M-PESA Payments into, and withdrawals from the M-PESA Account; and
 - 4.5.3. View and download basic reports about their Outlets' M-PESA Services activity.

5. RIGHTS RESERVED BY M-PESA LIMITED

M-Pesa Limited reserves the right notwithstanding anything to the contrary contained herein:-

- 5.1. To vary any aspect of the M-PESA services to be provided to Customers;
- 5.2. To change these Agreement and charges under which it offers the M-PESA Services as a direct result of new legislation, statutory instrument, Government regulations or licenses, rates of exchange, imposition or alteration of government tax or as a result of any review of the M-Pesa Limited's business planning, changes within the industry, recommendations from regulator bodies or for such other reason as it may in its sole discretion determine.

6. COMMISSION

- 6.1. In consideration for providing M-PESA Services, M-Pesa Limited will pay a Commission based on the number and type of transactions carried out by the Agent at the rates indicated in Annexure B hereof;
- 6.2. The Commission rates payable to the Agent may be varied by M-Pesa Limited at its own discretion by publication on the M-PESA Web Page or as may otherwise be notified to the Agent from time to time. The changes to the Commission payable shall be effective upon notification by M-Pesa Limited.
- 6.3. Commissions due to the Agent shall be credited at the time of the transaction into the Agent's Commission Account operated by the Agent for that purpose. M-Pesa Limited will then make payment to the Agent against Commissions accumulated in the Agent Commission Account at regular intervals subject to clause 7.4 herein below.
- 6.4. The Agent shall be responsible for any deductions or tax required to be paid by law on Commissions received. In the event that M-Pesa Limited shall be required by law to make any deductions or withholding tax then M-Pesa Limited shall comply with such applicable legislation and remit the amounts to the appropriate authorities.
- 6.5. No warranties or representations are made with regard to potential revenues that may be earned by the Agent from the provision of the M-PESA Services and no reliance should be placed on any statements or projections provided, whether verbally or in writing in this respect
- 6.6. The Agent shall be responsible for payment of other applicable government taxes for provision of services in this Agreement.
- 6.7. The Agent may authorize M-Pesa Limited to move commission earned from their Commission Account to its Float Account.

7. OPERATION AND MAINTENANCE OF THE M-PESA FLOAT

- 7.1. The Agent shall be required to provide M-PESA Services from its Outlet(s) and to provide and maintain the M-PESA Floats for at least the Agreed Float Value to cover all Transactions to be undertaken from each of the Outlets at all times during the subsistence of these Terms and Conditions.
- 7.2. Agents with multiple Outlets will manage M-PESA Float balances at various Outlets by the transfer of E-Money from one Outlet to the other by the use of Web Interface or by mobile phone and/or by the acceptance of M-PESA Payments or the paying out of cash payments.
- 7.3. The Agent shall undertake the management and maintenance of the M-PESA Floats and shall ensure that the Cash Float at each Outlet and the M-PESA Float for that Outlet are balanced daily as specified in the Agency Manual.
- 7.4. To maintain M-PESA Floats for transaction the Agent may make payments to the M-PESA Account in return for an equivalent amount of E-Money to bring the M-PESA Floats back to at least 100% of the Agreed Float Value as communicated by M-Pesa Limited from time to time. If the M-PESA Floats exceed the Agreed Float Value, the Agent may exchange an amount of E-Money equal to the excess for cash from the M-PESA Account to bring the M-PESA Floats back to the Agreed Float Value.
- 7.5. If the M-PESA Float falls below a critically low figure of around 25% of the Agreed Float Value, immediate remedial action (i.e. in the shortest time possible in hours) will be required to rectify the balance

8. FLOAT PROVISION

- 8.1. The M-PESA Float shall at all times during the period of these Agreement be the property of the Agent and shall vary in accordance with the Transactions effected by the Agent as specified in the M-PESA Agent Manual. Any E-Money outstanding in the M-PESA Float shall be exchanged for an equivalent amount of money from the M-PESA Account on expiry or early termination of the Terms and condition.

9. M-PESA OPERATOR REGISTRATION

- 9.1. The Agent will appoint M-PESA Operator within each Outlet.
- 9.2. The Agent shall be bound by and be responsible for all actions taken by each M-PESA Operator on its behalf. All actions taken by the M-PESA Operator shall be deemed to be actions taken by the Agent. The Agent shall indemnify M-Pesa Limited in respect of any loss or liability due to mistake, negligence or fraud of the M-PESA Operator appointed by the Agent to properly carry out the transactions.

10. TERMINATION OF AGREEMENT

- 10.1. Without prejudice to any other remedies the parties may have against each other, either party ('aggrieved party') shall have the right at any time by giving notice in writing to the other party ('defaulting party') to terminate this terms and condition forthwith in any of the following events;
 - 10.1.1. If the defaulting party commits a breach of these Agreement.
 - 10.1.2. If the defaulting party enters into liquidation whether compulsorily or voluntarily (otherwise than for purposes of amalgamation or reconstruction) or compound with their creditors or suffer any similar action in consequence of debt.
 - 10.1.3. If for any cause, the defaulting party is prevented from performing its duties hereunder for a period of One Month or for a total period of Ninety days in any one period of twelve calendar months.
 - 10.1.4. If the defaulting party is found to be responsible for any conduct that is considered fraudulent, unethical or may cause loss of reputation to the other party.
- 10.2. Either of the parties may terminate these Agreement at any time by giving the other party one month notice.
 - 10.2.1. Upon termination of these Agreement as per this Agreement, neither party shall be liable to the other party for consequential damage of any kind as a result of the termination or otherwise, whether as a result of loss of present or prospective profit, investment, commitment made in connection with this terms and conditions, goodwill or similar loss.
 - 10.2.2. Subject to any provision to the contrary, the termination of this Agreement howsoever caused shall be without prejudice to the continuation of any provision which expressly or by implication comes into operation or continues in force after the date of termination and shall be without prejudice to any rights and liabilities of the Parties which may have already accrued prior the date of termination

11. BRANDING & PROMOTIONAL MATERIALS & INTELLECTUAL PROPERTY RIGHTS

- 11.1. M-Pesa Limited shall provide branding and advertising support materials such as external signage, M-Pesa Limited posters, and internal point of sale material at no cost to the Agent. For the avoidance of doubt, materials that have been supplied to the Agent shall remain the property of M-Pesa Limited, returnable upon demand or upon termination of these Terms and Conditions.
- 11.2. The Agents shall only display all branding materials and other trade or service marks or copyright material as M-Pesa Limited may provide and stipulate from time to time. Other branding materials or service marks other than those authorized by M-Pesa Limited are strictly prohibited.

The Agent shall indemnify M-Pesa Limited upon breach of this provision and shall be responsible for all Government fees payable for such unauthorized branding materials or service marks.

- 11.3. The Agent shall not register or seek to register, in any territory or jurisdiction the M-PESA Marks or any other trade mark which is identical or similar to the M-PESA Marks or that constitutes any translation of those M-PESA Marks either as a trade mark, service mark (or other analogous right) or domain name.
- 11.4. The Agent will not do, cause or permit to be done any act or thing which will or may impair damage or be detrimental to the reputation or goodwill associated with the M-PESA Marks or may result in the rights of The Supplier therein becoming diluted or being brought into disrepute
- 11.5. The Agent agrees to indemnify M-Pesa Limited against any and all claims, demands, liabilities and damages (including reasonable legal fees and expenses) arising from or incurred in connection with the Agent's use of the M-PESA Marks in any manner otherwise than in accordance with terms and conditions
- 11.6. The Agent is permitted to use the M-PESA Marks for the M-PESA Purpose only. The Agent agrees and undertakes not to use the M-PESA Marks for any other purpose without The Supplier's prior written permission

12. NON- DISCLOSURE OF M-PESA LIMITED AFFAIRS

- 12.1. Unless otherwise required by law, the Agent shall not disclose any confidential information unless the disclosure is required in court of law or lawful enforcement agent of the government.

13. NOTICES

13.1. Notice:

- 13.1.1. M-Pesa Limited may send information to the Agent either through written notice, short messages (SMS), email or posting the matter on the M-Pesa Limited website www.vodacom.co.tz.
- 13.1.2. The communication from the Agent to the M-Pesa Limited shall be by a written notice upon which the Agent shall ensure that M-Pesa Limited receives it.
- 13.1.3. For avoidance of doubt, termination notice or any other notice can be sent through post office, courier services, dispatch, e mail, SMS (In case of M-Pesa Limited to Agent only), published on M-Pesa Limited Website and any other appropriate means.

14. CONSUMER PROTECTION

- 14.1. The operations of M-PESA Limited and its Affiliates are conducted in compliance in all material respects with all consumer protection requirements to which M-PESA Limited and its Affiliates are subject under applicable law, including, without limitation, to disclosure and publication of charges and fees for M-PESA Services. Any notice to Customers on disclosure and publication of charges and fees shall be delivered through electronic media and displayed in a conspicuous place at the agents outlets in a form and language easily understandable to Customers.
- 14.2. M-PESA Limited shall develop and publish a redress mechanism for all grievances about substandard, unsafe, unduly services, unfair claims and other unfair consumer practices which shall form part and parcel of this Agreement.

15. FLOAT MANAGEMENT

15.1. The Agent shall:

- 15.1.1. Request liquidity float (e-money) either by depositing cash equivalent to M-Pesa Limited trust account or by requesting such services with appointed Super-Agent.
- 15.1.2. Ensure all the liquidity float is used to servicing customers upon depositing requests initiated by Customers
- 15.1.3. Failure to utilizing the liquidity float in 15.1.2, Agent shall be full responsible for any and all charges and penalties once and when detected.
- 15.1.4. Agent shall ensure there is no harm/revenue loss to M-Pesa Limited for any deviations of float other than for purposes of servicing genuine customer requests.
- 15.2. M-Pesa Limited shall:
 - 15.2.1. Be responsible for growing & servicing distribution network of Super Agents for cash in and cash out and ensuring availability of liquidity in the market
 - 15.2.2. Ensure and validate all transactions credited and debited from and to Agents to ensure the stabilisation of liquidity in the market.

- 15.2.3. Shall trigger a transaction(s) fee charges to an Agent in case of violations of Clause 15.1.2.
- 15.2.4. Shall impose an additional fee charge of 0.5% of each transaction or cumulative transactions or Claw back commission once detected for violations of this Clause.

16. RECORD KEEPING

- 16.1. All Agents are required to keep proper records in relation to their provision of M-PESA Services, including the registration particulars of each Customer in the form annexed hereto.
- 16.2. All M-PESA Transactions shall be recorded in the Agent Log Books as described in the Agent Manual as follows:-
 - 16.2.1. Date;
 - 16.2.2. M-PESA Operator
 - 16.2.3. M-PESA Transaction ID (from the electronic receipt);
 - 16.2.4. Transaction type;
 - 16.2.5. Transaction Value;
 - 16.2.6. Customer Name, ID type and ID number;
 - 16.2.7. M-PESA Float balance (from the electronic receipt); and
 - 16.2.8. Customer's signature.
- 16.3. Upon affecting a Transaction the Agent will get an SMS confirmation of the Transaction to be effected, and only upon receipt of such SMS confirmation will the Agent complete the Transaction.

17. FRAUD MANAGEMENT

- 17.1. The Agent shall not directly or indirectly engage in any fraud against M-Pesa Limited or affiliates of M-Pesa Limited. The Agent shall supervise its staff to ensure that they do not engage in any fraud against M-Pesa Limited or M-Pesa Limited affiliates. For purposes of this terms and condition, fraud shall include without limitation, theft, deception, unlawful transaction or unauthorized use or sale of M-Pesa services or any services and or product provided by M-Pesa Limited
- 17.2. Any fraudulent activities by the Agent, the staff of the Agent or any person or entity associated with the Agent or using the systems of the Agent shall constitute a material breach of these Agreement
- 17.3. The Agent shall immediately notify M-Pesa Limited of any incidents of fraud involving the M-PESA services or any other M-Pesa Limited services and or products that comes within its attention. However such notification shall not exonerate the Agent in the event its involved in any way as stated in clause 18.1 above.
- 17.4. In the event M-Pesa Limited finds out that the Agent is involved in any fraud, M-Pesa Limited may penalize the Agent by withholding any commission due to such fraud and in addition may suspend the Agent or forthwith terminate this Agreement.

18. EXCLUSION OF LIABILITY

- 18.1. M-Pesa Limited shall not be responsible for any loss suffered by the Agent should the M-PESA service be interfered with or be unavailable by reason of (a) the failure of any Equipment or, (b) any other circumstances whatsoever not within M-Pesa Limited's control including, without limitation, force majeure or error, interruption, delay or non-availability of the systems, terrorist or any enemy action equipment failure.
- 18.2. M-Pesa Limited will not be liable for any losses or damage suffered by Agent as a result of or in connection with:-
- 18.3. Failure, malfunction, interruption or unavailability of the M-PESA system and/or M-PESA service, Equipment and the M-Pesa Limited Network;
 - 18.3.1. Agents failure to give proper or complete instructions for payments or transfers relating to the Agents M-PESA Services;
 - 18.3.2. Any fraudulent or illegal use of the M-PESA services, M-PESA systems and/or Equipment or;
 - 18.3.3. The Agent failure to comply with these terms and conditions and any document or information provided by M-Pesa Limited concerning the use of the M-PESA system and the services.
 - 18.3.4. Under no circumstances shall M-Pesa Limited be liable to the Agent 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 M-Pesa Limited.
- 18.4. Each Party shall be liable to the other Party for any direct damages arising out of or relating to its performance or failure to perform under these Agreement.

18.5. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

19. PREVENTION OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM

- 19.1. The movement of money through the M-PESA System which is or which forms part of the proceeds of any crime or which is intended to facilitate, aid or finance the commission of any crime is expressly prohibited.
- 19.2. The Agent shall ensure that all its staff and officers responsible for the agency business comply with all Anti-Money Laundering and Counter Terrorist Financing laws, regulations, standards or directives in force from time to time including any guidelines, policies and procedures to that effect as may be issued by M-Pesa Limited.
- 19.3. The Agent staff and officers shall adhere to the know your customer (KYC) and customer identification procedures during the registration processes and in the course of performing transactions requested by customers including accepting of deposits and effecting payments.
- 19.4. The Agent shall be responsible for ensuring that all its staff avail themselves for Anti-Money Laundering training before they start working for the services and remain adequately trained at all times.
- 19.5. M-Pesa Limited will monitor and report any suspicious activity by the agent and or the customers to its Money Laundering Reporting Officer (MLRO) who may eventually escalate the suspicious activity to the relevant law enforcement authority. Agent shall equally have a responsibility to monitor, report and promptly provide M-Pesa Limited with a notice of any Suspicious Activity.
- 19.6. Notwithstanding anything to the contrary contained in these Agreement, M-Pesa Limited shall be entitled to forthwith terminate these Terms and Conditions (without prejudice to any of M-Pesa Limited's rights in terms of the Terms and condition or at law including, but not limited to, any right to claim damages) in the event that M-Pesa Limited reasonably and in good faith determines that the agent has breached any of its obligations contained in this clause.
- 19.7. Upon termination of these Agreement by M-Pesa Limited pursuant to this clause the agent shall not be entitled to any further payment under the Terms and condition and shall have no claim of whatsoever nature against M-Pesa Limited arising out of such termination.

20. COMPLIANCE WITH ANTI-BRIBERY LAWS

- 20.1. The Agent (and any natural person or legal persons the Agent uses for the performance of services in connection with these Agreement, including employees, agents, consultants, contractors and subcontractors) shall:
 - 20.1.1. Comply with all Applicable Law relating to bribery and corruption including: Prevention and Combating of Corruption Act, 2007 and any other foreign law with extra territorial application
 - 20.1.2. Not do or omit to do anything likely to cause M-Pesa Limited to be in breach of any such Applicable Law;
 - 20.1.3. Not give, offer, promise, receive, or request any bribes, including in relation to any public official;
 - 20.1.4. maintain throughout the term of these Terms and Conditions a programme designed to ensure compliance with the Applicable Law by the Agent, including an education and training programme and measures reasonably calculated to prevent and detect violations of the Applicable Law;
 - 20.1.5. Allow M-Pesa Limited, whether itself or through an agent, to conduct an audit of records and information held by the Agent or its sub-contractors or any other relevant person in relation to the performance by the Agent of its obligations under these Terms and Conditions;
 - 20.1.6. If requested and at M-Pesa Limited's reasonable cost, provide M-Pesa Limited sufficient reasonable assistance to enable M-Pesa Limited to perform any actions required by any government or agency in any jurisdiction for the purpose of compliance with any Applicable Law or in connection with any investigation relating to the Applicable Law;
 - 20.1.7. Maintain adequate internal accounting controls and reasonably detailed books, records and accounts in respect of performance of services to M-Pesa Limited;
 - 20.1.8. Only be paid by M-Pesa Limited, for services performed, by wire transfer or other traceable instrument to a bank account in the Agent's name;
 - 20.1.9. Promptly notify M-Pesa Limited of any allegation of fraud, bribery or corrupt or unlawful practices made against the Agent in court, arbitration or administrative proceedings, or any investigation is commenced in respect of such allegations; at any time during the term of these Terms and Conditions;
 - 20.1.10. Ensure that any natural or legal person external to the Agent who is performing services in connection with these Agreement does so only on the basis of a written contract which secures from such persons terms equivalent to those imposed on the Agent in this clause. The Agent

shall be responsible for the observance and performance by such persons of these terms, and shall be directly liable to M-Pesa Limited for any breach

- 20.1.11. The Agent hereby indemnifies M-Pesa Limited and its directors, officers, employees, agents and affiliates against all losses which they have suffered as a result of breach of this clause by the Agent.
- 20.1.12. If M-Pesa Limited (acting in good faith) determines that there has been a breach by the Agent of this clause, such a breach shall be deemed a material breach of these Agreement, and M-Pesa Limited shall have the right to terminate these Terms and Conditions without prejudice to M-Pesa Limited's rights under these Terms and Conditions or at law.

21. CONFIDENTIALITY

- 21.1. The Parties acknowledge that any information supplied in connection with this Agreement or in connection with each other's technical, industrial or business affairs which has or may in any way whatsoever be transferred shall be considered confidential and the Parties undertake, as set out hereunder, that they shall not disclose or use this information other than in accordance with the provisions of this Agreement or with the express written consent of the other Party.
- 21.2. The undertaking and obligations contained in this clause 20 do not apply to information which -
- 21.3. is publicly available at the date of disclosure or thereafter becomes publicly available from sources other than the Parties;
- 21.4. is already in possession of the receiving party prior to its receipt by or disclosure to such receiving party;
- 21.5. is required by law or any regulatory authority to be disclosed;
- 21.6. After being disclosed to the receiving party is disclosed by any other person to the receiving party otherwise than in breach of any obligation of confidentiality.
- 21.7. The receiving Party may disclose the confidential information only to its professional advisors, directors, employees, agents, assignee, sub-contractor and then only to such professional advisors, directors, employees, agents, assignee and sub-contractor to whom such disclosure is reasonably necessary. The Parties shall take such precautions as may be necessary to maintain the secrecy and confidentiality of such material and information in respect of its professional advisors, directors, employees, agents any assignee or sub-contractor to whom any such confidential or proprietary data may have been or will be disclosed by ensuring that such party is either bound by general confidentiality undertakings no less stringent than those contained in this clause or agree, in writing, to be bound by the terms and conditions of this Agreement prior to such disclosure.
- 21.8. Save as may be expressly provided for in this Agreement or required by law or any regulatory authority, or any order of a Court of competent jurisdiction, no announcement or publicity of the existence of this Agreement or its content or the transaction embodied in this Agreement shall be made or issued by or on behalf of any party without the prior written agreement of the other Party.

22. SUSPENSION AND DISCONNECTION OF THE SERVICES/CLOSURE OF ACCOUNT

- 22.1. M-PESA Limited may suspend (bar), restrict or terminate the provision of the M-PESA Services (in whole or in part) and/or close the Agent's Account without informing the Agent and without any liability whatsoever (although, we will, where possible, try to inform the Agent that such action is or may be taken) under the following circumstances:-
- 22.1.1. If M-PESA Limited is aware or suspect or have reason to believe that the Agent Mobile Equipment or the MSIN/PIN number used in relation to the M-PESA Services is/are being used in an unauthorized, unlawful, improper or fraudulent manner or for criminal activities (or has been so used previously);
- 22.1.2. If Agent does not comply with any of the conditions relating to the M-PESA Services including these Agreement;
- 22.1.3. If Agent notifies M-PESA Limited that the Mobile Equipment or SIM Card has been lost or stolen or PIN has been lost or disclosed to any other party;
- 22.1.4. If Agent does anything (or allows anything to be done) with the Agent Mobile Equipment which M-PESA Limited think may damage or affect the operation or security of the Network or M-PESA Services;

23. SANCTIONS AND EXPORT CONTROLS

- 23.1. The parties shall each comply with the Applicable Laws relevant to this Agreement. Each party shall have an obligation to notify the other in the event of a breach of such laws or a change of status in respect of Sanctions and Trade controls. In such circumstances, each party shall have the right to suspend services or terminate the agreement with immediate effect and without liability.

23.2. Applicable Law means law, regulation, binding code of practice, rule or requirement of any relevant government or governmental agency, professional or regulatory authority, each as relevant to (i) M-Pesa Limited in the provision/receipt of the Services and/or (ii) The Agent in the receipt of the Services or the carrying out of its business. Such laws specifically include Sanctions and Export controls restrictive measures.

24. DATA PROTECTION

- 24.1. The parties shall comply with the provisions and obligations imposed on them by the Data Protection Laws at all times when processing Personal Data in connection with this Agreement, which processing shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purposes, and duration, set out in this Agreement.
- 24.2. Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws, and shall make such information available to any Data Protection Regulator or the other party on request.
- 24.3. If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.
- 24.4. Without prejudice to any other rights or remedies of either party, each party shall indemnify the other party against all losses suffered or incurred by the other party or for which the other party may become liable due to any failure by the indemnifying party or its sub-processors or other sub-contractors, staff or agents to comply with Data Protection Laws or any of its obligations in this clause 25.
- 24.5. Each party shall reasonably assist the other in complying with all applicable requirements of the Data Protection Laws. In particular, each party shall notify the other without undue delay on becoming aware of any breach of the Data Protection Laws.

25. GENERAL PROVISION


- 25.1. The waiver by any party of any provision of this terms and condition shall not prevent the subsequent enforcement of any other provision under this terms and condition.
- 25.2. This Agreement embodies the entire understanding of the Parties and there are no promises, terms, conditions or obligations oral or written, express or implied other than those contained herein, except as implied by statute.
- 25.3. This Agreement is personal to the Agent, which may not without the prior written consent of the M-Pesa Limited, assign or otherwise dispose of any of its rights or sub-contract or otherwise delegate any of its obligations under these Terms and Conditions.
- 25.4. Nothing in these Agreement shall create, or be deemed to create a partnership or relationship of employer and employee between the parties.
- 25.5. If any provision of these Agreement is held by any court or other competent authority to be void or unenforceable, in whole or in part, these Agreement shall continue to be valid as to the other provisions and the remainder of the affected provision.
- 25.6. This Agreement shall be governed by and construed in accordance with the Laws of the United Republic of Tanzania. Any dispute herein shall be amicably resolved, failure to do so, the Aggrieved Party shall refer the dispute to courts of competent jurisdiction and parties submit to the exclusive jurisdiction of the courts of United Republic of Tanzania.
- 25.7. Neither party (defaulting party) shall be liable to the other party (aggrieved party) in respect of any dispute unless the aggrieved party shall have served a notice to the defaulting party within thirty (30) days of the date it became aware of the dispute and or have instituted a suit in competent court of law within ninety (90) days of the date of dispute
- 25.8. Non-Exclusivity - This is not an exclusive agreement. It is expressly understood and agreed by the Parties hereto that the Agent may solicit for business from other electronic money transfer providers.
- 25.9. This Agreement may be executed in any number of counterparts, either electronically or manually, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this Agreement and shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law. Notwithstanding the foregoing and For avoidance of doubt, Agent acknowledges and agrees that he/she has had the opportunity to review this Agreement, and that by acknowledgment of receipt of this Agreement as shall be specified by M-Pesa Limited from time to time, Agent intends to be legally bound by all its terms.

IN WITNESS WHEREOF the parties hereto have executed this Agreement in the manner and on the days hereinafter appearing.

For M-Pesa Limited

Designation: _____,

Signature: _____,

ANNEXURE A AGENT'S PARTICULARS		
Agent Details		
The Agent's name		
Agent's principal office and address		
Agent's Postal address		
Agent's details Contact person		
Telephone number		
Aggregator Details		
Aggregator recruiting the Agent		
Aggregator Contact person		
Aggregator Telephone number		