

TERMS AND CONDITIONS FOR THE ENROLLMENT AND USE OF FAULU MOBILE BANKING SERVICES

1. THE AGREEMENT

- 1.1 This Agreement sets out the complete Terms and Conditions (hereinafter called "these Terms and Conditions") which shall be applicable to the Faulu Digital Account (as hereinafter defined) opened by you (as hereinafter defined) with the Bank (as hereinafter defined).
- 1.2 These Terms and Conditions and any amendments or variations thereto take effect on their date of publication.
- 1.3 The Customer accepts and acknowledges that this is a legal and binding agreement between the Customer and the Bank once accepted by both parties.

2. DEFINITIONS

In these Terms and Conditions, the following words and expressions (save where the context requires otherwise) bear the following meanings:

- 2.1 "**Mobile Banking Account**" means a Bank account held by a Customer with the Bank and which is opened and operated in accordance with the terms and conditions herein contained;
- 2.2 "**Bank**" or "**Faulu MFB**" means Faulu Microfinance Bank of Kenya Limited incorporated in Kenya as a Limited Liability Company under the Companies Act and duly licensed as a Bank under the Microfinance Act (Number 19 of 2006 of the Laws of Kenya) and includes subsidiaries of the Bank as may from time to time be specified by the Bank to you;
- 2.3 "**Customer**" means the person in whose name the Faulu Digital Account with the Bank is existing;
- 2.4 "**Contact Centre**" means the Bank's Customer Care Centre, branches or such other retail outlets or outlets as may be notified to the Customer by the Bank from time to time;
- 2.5 "**Equipment**" includes your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access the Network;
- 2.6 "**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;
- 2.7 "**KYC**" means Know Your Customer.
- 2.8 "**Mobile Banking Menu**" means the Menu on the Mobile Money System;
- 2.9 "**Mobile Banking PIN**" means your personal identification number being the secret code used to access and operate the Mobile Banking system and your Mobile Banking Account;
- 2.10 "**Mobile Banking Service**" means the money transfer and payments service provided by the Bank through the Mobile Banking System;

- 2.11 “**Mobile Banking Subscriber**” means any person registered to use the Mobile Banking platform to send or receive money or make payments;
- 2.12 “**Mobile Banking Wallet**” means the system operated by the Bank for the provision of the Mobile Banking Service using the Network;
- 2.13 “**Mpesa**” means the Safaricom Kenya Limited mobile money transfer and payments service provided by the Bank through the Safaricom network;
- 2.14 “**Mpesa PIN**” means your personal identification number being the secret code used to access and operate the Safaricom Mobile Money System;
- 2.15 “**Network**” means the mobile cellular network operated by various mobile telecommunications networks;
- 2.16 “**Request**” means a request or instruction received by the Bank from you or purportedly from you through the Network and the System and upon which the Bank is authorized to act;
- 2.17 “**Services**” shall include any form of banking services or products that the Bank may offer you pursuant to this Agreement as shown in Appendix A and as you may from time to time subscribe to and “**Service**” shall be construed accordingly;
- 2.18 “**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 Mobile Money System;
- 2.19 “**SMS**” means a short-customized message service consisting of a text message transmitted from one mobile phone to another;
- 2.20 “**USSD**” (Unstructured Supplementary Service Data) means a Global System for Mobile Communications (GSM) protocol that is used to send text messages
- 2.21 “**System**” means the Bank’s electronic banking and communications software enabling the Customer to communicate with the Bank for purposes of the Services. The System and the Services will for the purpose of this Agreement be accessed through the Mobile Banking platform;
- 2.22 “**Transaction Fees**” includes the Mobile Banking charges payable for the use of the Services as published by the Bank on the Bank’s website and/or the daily newspapers in Kenya and/or in the Bank’s branches outlets or by such other means as the Bank shall in its sole discretion determine. The Transaction Fees are subject to change at any time at the Bank’s sole discretion;
- 2.23 “**We,**” “**our,**” and “**us,**” means the Bank and includes its successors in title and assigns;
- 2.24 “**You**” or “**your**” means the Customer and includes your personal representatives and heirs;
- 2.25 The word “**Customer**” shall include the masculine and the feminine gender as well as juristic persons;

- 2.26 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.27 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 operating the Faulu Digital Account via the Mobile Banking platform you should carefully read, understand and accept these Terms and Conditions which will govern the use and operation of the Faulu Digital Account.
- 3.2 If you do not agree with these Terms and Conditions, click "No" on the Mobile banking Menu and you will not be allowed to open the Faulu Digital Account.
- 3.3 You shall be deemed to have read, understood and accepted these Terms and Conditions:-
- 3.3.1 Upon clicking on the "Yes" option on the Mobile Banking 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 Mobile Money Wallet.
- 3.4 By applying to open the Faulu Digital Account with the Bank, 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 Faulu Digital Account and you affirm that these Terms and Conditions herein are without prejudice to any right that the Bank may have with respect to the Faulu Digital Account in law or otherwise.
- 3.5 These Terms and Conditions may be amended or varied by the Bank from time to time and the continued use of your Faulu Digital Account constitutes your agreement to be bound by the terms of any such amendment or variation.
- 3.6 You acknowledge and accept that the Bank offers the Faulu Digital Account only electronically and you agree to do business with the Bank and to operate the Faulu Digital Account only via the Mobile Banking Platform. Any query and complaint you may have relating to the Services shall be addressed to the Bank through the Contact Centre and through any Faulu MFB Branch. 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 Faulu Digital Account at any branch or branches of the Bank, or via the Bank's system unless and until you go through the stipulated KYC requirements or otherwise advised by the Bank in its sole discretion. You further acknowledge and accept that the Customer Care Centre is not a branch of the Bank or the Bank's Agent for purposes of conduction of banking business or transactions and that it will not act as such.

4. ACCOUNT OPENING

- 4.1 In order to open a Faulu Digital Account with the Bank, you must be at least Eighteen (18) years old with legal capacity to contract, and a registered and active Mobile Subscriber with a mobile

service provider with which the Bank has an agreement with for the provision of this service. The Bank reserves the right to verify with the IPRS the authenticity of your details.

- 4.2 You may open a Faulu Digital Account solely by way of an electronic application made by you using your Equipment via the Account Opening Menu on the Mobile Banking System or on USSD (*339#)
- 4.3 You hereby agree and authorize the Bank to request IPRS for your personal information held by IPRS pursuant to the agreement between you and Faulu MFB for the provision of Mobile Banking products and services including your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Bank to identify you and comply with the regulatory KYC requirements (together the "Personal Information"). You also hereby agree and authorize the Bank to request IPRS for information relating to your ID as the Bank shall require for purposes of providing you the Services. You hereby consent to the disclosure of the Personal Information by IPRS to the Bank and to the aforesaid use of the Personal Information by the Bank.
- 4.4 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 Bank.
- 4.5 You hereby further acknowledge and authorize the Bank to verify your Personal Information received from Mobile Network pursuant to Clause 4.3 against the information received from the Government of Kenya in your respect as contained in the IPRS.
- 4.6 The Bank reserves the right to request for further information from you pertaining to your application for Faulu Digital Account at any time. Failure to provide such information within the time required by the Bank may result in the Bank declining to accept your application for Faulu Digital Account.
- 4.7 Acceptance by the Bank of your application for a Faulu Digital Account shall be done via SMS sent to the Mobile Phone Number associated with your Mobile Money Account. You acknowledge and accept that the acceptance by the Bank of your application for a Faulu Digital Account does not create any contractual relationship between you and the Mobile Network beyond the terms and conditions that apply to your Faulu Digital Account from time to time.
- 4.8 The Bank reserves the right to decline your application for a Faulu Digital Account or to revoke the same at any stage at the Bank's sole discretion and without assigning any reason or giving any notice thereto.

5. TYPES OF ACCOUNT

As a holder of a Faulu Digital Account, you will be entitled, subject to these Terms and Conditions, to operate a Faulu Digital deposit account (hereinafter the "Faulu Digital Deposit Account") into which you may transfer money from your Faulu Digital Account and/or make withdrawals there from into your Faulu Digital Account, and/or to borrow money from the Bank as follows:

5.1 Faulu Digital Deposit Account

- 5.1.1 As a holder of the Faulu Digital Deposit Account, you may make deposits into or withdrawals from and transact on your Faulu Digital Deposit Account using the Mobile Banking Menu on your Equipment. The transaction fees payable to the Bank and/or Mobile Network for transactions effected in respect of your Faulu Digital Account from time to time will apply to any transactions effected in respect of your Faulu Digital Account using the Mobile Banking System.
- 5.1.2 You may from time to time Request the Bank to lock the deposits held in your Faulu Digital Deposit Account as a term deposit for such specified duration, interest rate and other terms as may be agreed between you and the Bank.
- 5.1.3 Term deposits are available for the following terms:
- a) 1 month
 - b) 3 months
 - c) 6 months
 - d) 12 months
- 5.1.4 The interest rate applicable to your fixed savings shall be our prevailing interest rate on Faulu Digital Deposit Account at the time when we receive your application to establish the lock savings. This is the interest rate that will be applied throughout the term of your lock savings.
- 5.1.5 For avoidance of doubt, the rate of interest will be fixed at the time of issue of the term deposit or fixed savings. You may refer to <https://www.faulukenya.com> to access our prevailing term deposit and lock savings interest rates for your further guidance.
- 5.1.6 We reserve the right to vary interest rates from time to time and will reasonably endeavor to give prior notice of the changes in the interest rates by way of SMS to your Equipment. If you do not receive such prior notice we will not be prevented from changing the interest rate.

5.2 Faulu Digital Loan Account

- 5.2.1 As a holder of the Faulu Digital Loan Account, you may, subject to these Terms and Conditions, apply for a loan from the Bank using the Mobile Banking Menu on your Equipment.
- 5.2.2 Where you apply for a loan from the Bank, your application shall be appraised according to the applicable loan appraisal processes of the Bank. The Bank reserves the right at its sole discretion and without assigning any reason to approve or decline your application for a loan.
- 5.2.3 Subject to approval of your application for a loan the Bank shall disburse to you a loan of an amount to be determined by the Bank in its sole discretion subject to a minimum and maximum amount as indicated in Appendix B hereinafter or such other minimum or maximum amount as the Bank may from time to time in its sole discretion determine (the "Loan"). The Loan disbursed shall be pegged to the loan product applied for and advanced to the Customer.

- 5.2.4 The proceeds of the Loan shall be credited into your Faulu Digital Loan Account or Faulu Digital Account as applicable subject to any deductions on account of applicable Transaction Fees.
- 5.2.5 You shall repay the Loan within the stipulated number of days after disbursement of loan as per the Appendix B below.
- 5.2.6 In consideration of the Bank granting you the Loan, you shall pay the Bank a facility fee being a percentage of the Loan amount as indicated in Appendix B (the "Facility Fee"). The Facility Fee shall either be recovered upfront or in arrears in addition to the Loan, dependent on the Loan product.
- 5.2.7 You shall make all payments due from you to the Bank in respect of the Loan and Transaction Fees using the Mobile Banking Service and the System only unless otherwise agreed by the Bank in its discretion.
- 5.2.8 In the event that you do not repay the Loan/ any monthly installment in full within stipulated period per product as per Appendix B, The Bank will automatically demand the immediate payment of the outstanding amount due in respect of your Loan.
- 5.2.9 The Bank shall be entitled to terminate this Agreement and close your Faulu Digital Accounts in accordance with the provisions of Clause 13 without prejudice to any of its rights accruing hereunder if you fail to repay the Loan and/or the Transaction Fees due thereon on the due date of the Loan and shall have no option but to exercise any of the remedies below against you, to recover the said outstanding amount at your risk as to costs and expenses arising without further reference to you;
- 5.2.9.1 Appoint External Debt Collectors
- 5.2.9.2 File suit against you.
- 5.2.10 The Bank shall hold your funds in your Faulu Digital Deposit Account as collateral and security for any amounts outstanding and due from you to the Bank in respect of your Faulu Digital Loan Account. You hereby agree and confirm that the Bank is entitled in its discretion to prevent or restrict you from withdrawing in whole or in part the funds in your Mobile Money Deposit Account for so long as and to the extent of the amount outstanding in respect of your Mobile Money Loan Account without the Bank giving any notice to you and/or without incurring any liability to you whatsoever in that connection.
- 5.2.11 The Bank reserves the right to vary the terms of the Loan including the fees payable thereon from time to time having regard to the prevailing rules and regulations of the Central Bank of Kenya and the policies of the Bank.
- 5.2.12 The Bank shall have a right of lien and set off over funds held by you in your Faulu Digital Account and/or any other account held by you in the Bank. The bank also has the discretion to consolidate your Faulu Digital loan with any other existing loan facility you may have with the Bank

5.2.13 You hereby expressly consent and authorize the Bank to disclose, respond, advise exchange and communicate the details or information pertaining to your Faulu Digital Account to Credit Reference Bureaus as required under the Banking Act.

5.2.14 You are responsible for the safeguarding of your PIN number and any other relevant information pertaining to your account. It is your responsibility to report to the bank any breach of the sanctity of that information. Unless otherwise advised to the bank and the advice officially acknowledged, it will be taken that any transactions and instructions from your registered devices are instructions from you and as such, the bank will not be held liable should any dispute arise.

5.2.15 You hereby accept not to hold the bank liable for technical and/or system related challenges/break downs whether from the bank or any other 3rd party in provision of the service that may cause the transactions requested to delay or be cancelled.

6. PIN RESET

6.1 The PIN reset process will entail a digital KYC process that will enable users to automatically reset their PIN through a 'Forgot PIN' prompt in the Mobile Banking Menu.

6.2 The 'Forgot PIN' prompt will direct you to the Reset My PIN sub menu which initializes the validation process using your Mpesa PIN.

6.3 Once your Mpesa PIN is validated, you shall be prompted to provide your intended new PIN and subsequently validate the same.

6.4 The PIN reset shall then be confirmed as successful via SMS notification.

6.5 The Bank reserves the right to change the process and/or update the requirements for automatic PIN resets.

6.6 You hereby accept not to hold the bank liable for technical and/or system related challenges/break downs whether from the bank or any other 3rd party in provision of this service that may cause the PIN reset requested to delay or be cancelled.

7. FEES

7.1 You hereby agree to pay all Fees payable in connection with your use of the Services.

7.2 You shall pay to the Bank and the Bank is entitled to deduct from your Faulu Digital Account (without further reference to you):

7.2.1.1 any Transaction Fees payable in respect of the Mobile Banking Services;

7.2.1.2 any Facility or Interest Fees payable in respect of the Mobile Banking Services;

7.2.1.3 any legal charges including advocate and client costs incurred by the Bank in obtaining legal advice in connection with your Faulu Digital Account and your dealings with the Bank or incurred by the Bank in any legal, arbitration or other proceedings arising out of any dealings in respect of your Mobile Banking Account; and

7.2.1.4 all other fees, expenses and taxes, duties, impositions and expenses incurred in complying with your Requests

8. TAXES

8.1 All payments to be made by you in connection with these terms and conditions are calculated without regard to any taxes payable by you. If any taxes are payable in connection with the payment, you must pay the Bank an additional amount equal to the payment multiplied by the appropriate rate of tax. You must do so at the same time as making the payment.

8.2 Amounts in your Faulu Digital Account may be subject to withholding tax in accordance with applicable law.

8.3 You consent and agree that the Bank may withhold amounts in your Faulu Digital Account or any other of your accounts held in the Bank at any time, if any tax authority requires the Bank to do so, or the Bank is otherwise required by law or pursuant to agreements with any tax authority to do so, or if the Bank needs to comply with internal policies or with any applicable order or sanction of a tax authority.

9. SET-OFF

9.1 The Bank may, upon notice, combine/consolidate your Faulu Digital Account with any of your other accounts held in the Bank, whether current, loan, savings, deposit, term deposit, joint or any other type and thereafter set off any amount held to your credit against any indebtedness you owe to the Bank.

9.2 The Bank may, upon notice to you, set off any amount held to your credit on your Faulu Digital Account against any indebtedness you owe to the Bank.

9.3 The Bank may, upon notice to you, set off your Faulu Digital Account against any other account or indebtedness in respect of which you are liable, notwithstanding that some other person may also be liable in respect thereof. In such circumstances, upon receipt of an indemnity acceptable to the Bank (against costs) and at your expense, the Bank will give you any assistance necessary in obtaining a refund.

9.4 If the set off is for debt recovery, the Bank will provide you with a detailed breakdown of the costs and expenses recovered from you together with a justification for such costs and expenses.

10. OVERDRAWING YOUR FAULU DIGITAL ACCOUNT

10.1 Overdraft will be allowed on your Faulu Digital Account.

10.2 The Bank is entitled to demand repayment of the money overdrawn from your account together with interest and penalties where applicable.

11. STATEMENTS

11.1 You may request for a statement or activity report in respect of your Faulu Digital Account from the Bank using your Equipment ("Mobile Money Mini Statement").

11.2 The Account Mini Statement shall provide details of the last 5 (five) transactions (or such other number of transactions as determined by the Bank) in your Faulu Digital Account initiated from your Equipment.

- 11.3 The Account Mini Statement shall not be sent to you in printed form but shall be delivered to you either by SMS to the Mobile Phone Number associated with your Faulu Digital Account or such other electronic means as the Bank may in its discretion determine. You shall be responsible for the payment of any charges levied by the Bank in delivering the Mobile Money Mini Statement to you.
- 11.4 You may obtain printed Account Mini Statements or a printed bank statement pertaining to your Mobile Banking Account from the Customer Care Centre. You shall be responsible for the payment of any charges levied by the Customer Care Centre for such printed statements.
- 11.5 Save for a manifest error, any Mobile Banking Mini Statement or bank statement issued to you aforesaid in respect of your Faulu Digital Account shall be conclusive evidence of the transactions carried out on your Mobile Banking Account for the period covered in the Account Mini Statement and/or bank statement.

12. CUSTOMER COMPLAINTS

- 12.1 Complaints may be made in person, in writing, by post, email or by telephone.
- 12.2 The Bank, on receiving your complaint, shall provide you with a prompt written acknowledgement within Forty-Eight (48) hours and resolve the complaint in Seven (7) working days. For any complaints not resolved within Seven (7) working days, written updates will be forwarded to yourself on the progress in resolving the complaint, once in every Seven (7) days.
- 12.3 All complaints will be handled in accordance with the Bank's complaints handling procedures which are available on request from any Bank Branch or the Customer Care Centre.
- 12.4 Applicable tariffs will be charged by your telephone and internet service provider(s) when communicating with the Customer Care Centre.

13. INOPERATIVE AND DORMANT ACCOUNTS

- 13.1 Your Faulu Digital Account will automatically be classified as inactive if you do not initiate any transactions on the account for a continuous period of Three (3) months.
- 13.2 The Bank shall make reasonable endeavors to inform you of the intended classification of your Faulu Digital Account as inactive at least One (1) month before such classification. The Bank shall, no later than seven (7) days from the date of such classification, inform you of such classification by way of SMS alerts addressed to your mobile telephone number.
- 13.3 Your Faulu Digital Account will be classified as Dormant if it remains inactive for a further period of Three (3) months.
- 13.4 You will not be allowed to transact on an inactive or dormant account, but the Bank shall, upon your written (e.g. letter/email) request, inform you of the procedure to be followed to activate your inactive/dormant account.
- 13.5 The Bank may (including without limitation) apply any one or more of the following conditions to your Faulu Digital Account upon its classification as Dormant:
- 13.5.1 Confirm the validity and authenticity of the first transaction reactivating the account;

- 13.5.2 Suspend the payment of interest (if applicable);
- 13.5.3 suspend the issuance of statements;

13.6 If your Faulu Digital Account will not have any transactions initiated by you for a continuous period of Five (5) years or if you shall not have communicated with us for a continuous period of five (5) years regarding your Faulu Digital Account, such account will be presumed abandoned and transferred to the Unclaimed Financial Assets Authority as such.

14. IRREVOCABLE AUTHORITY OF THE BANK

- 14.1 It is your sole responsibility to familiarize yourself with the operating procedures for the service as will be provided by the Bank upon your registration to the Service. The Bank will not be liable for any losses incurred as a result of your errors either of commission and/or omission.
- 14.2 You hereby irrevocably authorize the Bank to act on all Requests received by the Bank from you (or purportedly from you) through the System and to hold you liable in respect thereof, notwithstanding that any such requests are not authorized by you or are not in accordance with any existing mandates given by you.
- 14.3 If you request the Bank to cancel any transaction or instruction after a Request has been received by the Bank from you, the Bank may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.
- 14.4 The Bank shall be entitled to accept and to act upon any Request, even if that Request is otherwise for any reason incomplete or ambiguous if, in its absolute discretion, the Bank believes that it can correct the incomplete or ambiguous information in the Request without any reference to you being necessary.
- 14.5 The Bank is authorized to effect such orders in respect of your Faulu Digital Account as may be required by any court order or competent authority or agency under the applicable laws.
- 14.6 In the event of any conflict between any terms of any Request received by the Bank from you and these Terms and Conditions, these Terms and Conditions shall prevail.

15. CUSTOMER'S EQUIPMENT AND CUSTOMER'S RESPONSIBILITIES

- 15.1 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.
- 15.2 You shall be responsible for ensuring the proper performance of your Equipment. The Bank shall neither be responsible for any errors or failures caused by any malfunction of your Equipment, and nor shall the Bank 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 Bank shall not be responsible for losses or delays caused by any such service provider.
- 15.3 You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the Bank concerning the use of the System and Services.
- 15.4 You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Equipment and for keeping your Mobile Money PIN and Mpesa PIN secret and secure.

You shall ensure that your Mobile Banking PIN and/or Mpesa PIN does not become known or come into possession of any unauthorized person. The Bank shall not be liable for any disclosure of your Mobile Money PIN and/or Mpesa PIN to any third party and/or transactions effected by them and you hereby agree to indemnify and hold the Bank harmless from any losses resulting from any Mobile Money PIN and/or Mpesa PIN disclosure.

- 15.5 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 Bank 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.
- 15.6 You shall immediately inform the Bank through the Contact Centre in the event that:
- 15.6.1 You have reason to believe that your Mobile Banking PIN is or may be known to any person or has been reset by any person not authorized to know the same and/or has been compromised; and/or
- 15.6.2 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.
- 15.6.3 You shall at all times follow the security procedures notified to you by the Bank 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 Mobile Banking 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.
- 15.6.4 You shall not at any time operate or use the Services in any manner that may be prejudicial to the Bank.

16. EXCLUSION OF LIABILITY

- 16.1 The Bank 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 Bank's control including, without limitation, force majeure or error, interruption, delay or non-availability of the System, terrorist or any enemy action equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system.
- 16.2 The Bank will not be liable for any losses or damage suffered by you as a result of or in connection with:-
- 16.2.1 Unavailability of sufficient funds in your Faulu Digital Account and/or in your Mobile Banking Account;
- 16.2.2 Failure, malfunction, interruption or unavailability of the System, your Equipment, the Network, Mobile Banking System and/or Mobile Banking Service;

- 16.2.3 The money in your Faulu Digital Account being subject to legal process or other encumbrance restricting payments or transfers thereof;
 - 16.2.4 Your failure to give proper or complete instructions for payments or transfers relating to your Mobile Banking Account;
 - 16.2.5 Any fraudulent or illegal use of the Services, the System and/or your Equipment; or
 - 16.2.6 Your failure to comply with these Terms and Conditions and any document or information provided by the Bank concerning the use of the System and the Services.
- 16.3 If for any reason other than a reason mentioned in subparagraphs 16.1 or 16.2, the Services are interfered with or unavailable, the Bank's sole liability under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practicable.
- 16.4 Save as provided in subparagraph 16.3 the Bank shall not be liable to you for any interference with or unavailability of the Services, howsoever caused.
- 16.5 Under no circumstances shall the Bank be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss or damage of whatever kind, howsoever caused, arising out of or in connection with the Services even where the possibility of such loss or damage is notified to the Bank.
- 16.6 All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

17. 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 Bank provides to you through the System or otherwise are vested either in the Bank or in other persons from whom the Bank has a right to use and to sub-license the System and/or the said documentation. 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 Bank.

18. INDEMNITY

- 18.1 In consideration of the Bank complying with your instructions or Requests in relation the Mobile Banking Account, you undertake to indemnify the Bank and hold it harmless against any loss, charge, damage, expense, fee or claim which the Bank suffers or incurs or sustains thereby and you absolve the Bank from all liability for loss or damage which you may sustain from the Bank acting on your instructions or requests or in accordance with these Terms and Conditions.
- 18.2 The indemnity in clause 18.1 shall also cover the following:

- 18.2.1 All demands, claims, actions, losses and damages of whatever nature which may be brought against the Bank 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 Bank'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 Bank.

18.2.2 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.

18.2.3 Any unauthorized access to your Faulu Digital 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.

18.2.4 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 Bank as a consequence of any breach of these Terms and Conditions.

18.2.5 Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the circumstance is within your control.

19. TERMINATION

19.1 The Bank may at any time, upon notice to you, terminate or vary its business relationship with you and close your Faulu Digital Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credits which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine.

19.2 Without prejudice to the Bank rights under clause 13.1, the Bank may at its sole discretion suspend or close your Mobile Banking Account/Faulu Digital Account:

19.2.1 if you use the Faulu Digital Account for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;

19.2.2 if your Faulu Digital Account or agreement with Mobile Network is terminated for whatever reason;

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

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

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

19.2.6 to facilitate update or upgrade the contents or functionality of the Services from time to time;

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

19.2.8 If the Bank decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.

19.3 You may close your Faulu Digital Account at any time at any Faulu MFB Branch.

19.4 If your Faulu Digital Account has any credit balance at the time of its closure, we will return any such balance to you, less any applicable fees.

19.5 Termination shall however not affect any accrued rights and liabilities of either party.

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

20. DISCLOSURE OF INFORMATION

20.1 Further to Appendix C below, You hereby expressly consent and authorize the Bank to disclose receive record or utilize your personal information or information or data relating to your Faulu Digital Account/Mobile Banking Account and any details of your use of the Services:

20.1.1 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;

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

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

20.1.4 to Mobile Network in connection with the Mobile Money Service and the Services;

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

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

21. MISCELLANEOUS

21.1 These Terms and Conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.

21.2 This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.

21.3 The Bank 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 posters or pamphlets available at Mobile Network's Agents outlets, in the daily newspapers, on the Bank and/or Mobile Network's website and/or by any other means as determined by the Bank and any such variations and amendments shall take effect immediately upon publication.

21.4 No failure or delay by either yourself or the Bank 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.

21.5 The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

21.6 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.

21.7 Any addition or alteration to these Terms and Conditions may be made from time to time by the Bank and of which notice has been given to you by way of publication as provided in subparagraph 21.3 shall be binding upon you as fully as if the same were contained in these Terms and Conditions.

22. NOTICES

22.1 The Bank may send information concerning the Faulu Digital Account via SMS to the Mobile Network Mobile Phone number associated with your Mobile Banking Wallet.

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

23. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

23.1 You may contact the Contact Centre to report any disputes, claims or Faulu Digital Account discrepancies.

23.2 Any dispute arising between the parties and which is not amicably resolved shall be subject to the Courts of Kenya at the election of either party.

APPENDIX A

Mobile Banking Services

Agent Withdrawals	School Fees Payment	
ATM Cash Withdrawal (Cardless)	Change PIN	
Agent Withdrawal	Loan Balance Enquiry	
Cash Deposits	M-pesa to Bank (Paybill)	
Balance Enquiry	KPLC Postpaid Payments	
Mini Statement	KPLC Tokens Purchase	
Internal Funds Transfer	Nairobi Water Payment	
Airtime Top- up (Safaricom)	Startimes Payment	
Chap Chap Digital Loans	Dstv/Gotv Payment	
Bank to M-pesa	ZUKU Payment	

APPENDIX B

Our tariff guide and Key Facts Document are available on <https://www.faulukenya.com>

APPENDIX C

CUSTOMER DATA PROTECTION NOTICE, CONSENT AND RIGHTS

This Data Protection Notice ("Notice") sets out the basis by which, We, Faulu MFB may collect, use, disclose or otherwise process personal data of our customers in accordance with the Personal Data Protection Act 2019 (DPA). This Notice applies to personal data in our possession or under our control, including personal data in the possession of organizations/third party which we have engaged to collect, use, disclose or process personal data for our purposes.

PERSONAL DATA

1. As used in this Notice:

1.1 "**Customer**" means an individual who (a) has contacted us through any means to find out more about any Banking and Financial Services we provide, or (b) may, or has, entered into a contract with us for the supply of any goods or services by us; and

1.2 "**Personal data**" means data, whether true or not, about a customer who can be identified (a) from that data; or (b) from that data and other information to which we have or are likely to have access.

2. Depending on the nature of your interaction with us, some examples of personal data which we may collect from you include your name and identification information such as your ID number, contact information such as your address, email address or telephone number, nationality, gender, date of birth, marital status, photographs and other audio-visual information, employment information and financial information such as credit card numbers, debit card numbers or bank account information.
3. Other terms used in this Notice shall have the meanings given to them in the Data Protection Act, 2019 (where the context so permits).

COLLECTION, USE AND DISCLOSURE OF PERSONAL DATA

4. We generally do not collect your personal data unless (a) it is provided to us voluntarily by you directly or via a third party who has been duly authorized by you to disclose your personal data to us (your "authorized representative") after (i) you (or your authorized representative) have been notified of the purposes for which the data is collected, and (ii) you (or your authorized representative) have provided written consent to the collection and usage of your personal data for those purposes, or (b) collection and use of personal data without consent is permitted or required by the Data Protection Act, 2019 or other laws. We shall seek your consent before collecting any additional personal data and before using your personal data for a purpose which has not been notified to you (except where permitted or authorized by law).
5. We may collect and use your personal data for any or all of the following purposes:
- 5.1 Performing obligations in the course of or in connection with our provision of the Banking and Financial services requested by you;
 - 5.2 Verifying your identity;
 - 5.3 Responding to, handling, and processing queries, requests, applications, complaints, and feedback from you;
 - 5.4 Managing your relationship with us;
 - 5.5 Processing payment or credit transactions;

- 5.6 Sending you marketing information about our goods or services including notifying you of our marketing events, initiatives and promotions, lucky draws, membership and rewards schemes and other promotions;
 - 5.7 Complying with any applicable laws, regulations, codes of practice, guidelines, or rules, or to assist in law enforcement and investigations conducted by any governmental and/or regulatory authority;
 - 5.8 Any other purposes for which you have provided the information;
 - 5.9 Transmitting to any unaffiliated third parties including our third party service providers and agents, and relevant governmental and/or regulatory authorities, whether in Singapore or abroad, for the aforementioned purposes; and
 - 5.10 Any other incidental or legitimate business purposes related to or in connection with the above and within the confines of Data Protection Act 2019 tenets.
6. We may disclose your personal data:
- 6.1 Where such disclosure is required for performing obligations in the course of or in connection with our provision of Banking and Financial services requested by you; or
 - 6.2 To third party service providers, agents and other organizations we have engaged to perform any of the functions listed in clause 5 above for us.
7. The purposes listed in the above clauses may continue to apply even in situations where your relationship with us (for example, pursuant to a contract) has been terminated or altered in any way, for a reasonable period thereafter (including, where applicable, a period to enable us to enforce our rights under any contract with you).

WITHDRAWING YOUR CONSENT

8. The consent that you provide for the collection, use and disclosure of your personal data will remain valid until such time it is being withdrawn by you in writing. You may withdraw consent and request us to stop using and/or disclosing your personal data for any or all of the purposes listed above by submitting your request in writing or via email to our Customer Service Department at the contact details provided below.
9. Upon receipt of your written request to withdraw your consent, we may require reasonable time (depending on the complexity of the request and its impact on our relationship with you) for your request to be processed and for us to notify you of the consequences of us acceding to the same, including any legal consequences which may affect your rights and liabilities to us. In general, we shall seek to process your request within ten (10) business days of receiving it.
10. Whilst we respect your decision to withdraw your consent, please note that depending on the nature and scope of your request, we may not be in a position to continue providing our Banking and Financial Services to you and we shall, in such circumstances, notify you before completing the processing of your request. Should you decide to cancel your withdrawal of consent, please inform us in writing in the manner described in clause 8 above.
11. Please note that withdrawing consent does not affect our right to continue to collect, use and disclose personal data where such collection, use and disclose without consent is permitted or required under applicable laws.

ACCESS TO AND CORRECTION OF PERSONAL DATA

12. If you wish to make (a) an access request for access to a copy of the personal data which we hold about you or information about the ways in which we use or disclose your personal data, or (b) a

correction request to correct or update any of your personal data which we hold about you, you may submit your request in writing or via email to our Customer Service at the contact details provided below.

13. Please note that a reasonable fee may be charged for an access request. If so, we will inform you of the fee before processing your request.
14. We will respond to your request as soon as reasonably possible. Should we not be able to respond to your request within thirty (30) days after receiving your request, we will inform you in writing within thirty (30) days of the time by which we will be able to respond to your request. If we are unable to provide you with any personal data or to make a correction requested by you, we shall generally inform you of the reasons why we are unable to do so (except where we are not required to do so under the Data Protection Act 2019).

PROTECTION OF PERSONAL DATA

15. To safeguard your personal data from unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks, we have introduced appropriate administrative, physical and technical measures such as up-to-date antivirus protection, encryption and the use of privacy filters to secure all storage and transmission of personal data by us, and disclosing personal data both internally and to our authorized third party service providers and agents only on a need-to-know basis.
16. You should be aware, however, that no method of transmission over the Internet or method of electronic storage is completely secure. While security cannot be guaranteed, we strive to protect the security of your information and are constantly reviewing and enhancing our information security measures.

ACCURACY OF PERSONAL DATA

17. We generally rely on personal data provided by you (or your authorized representative). In order to ensure that your personal data is current, complete and accurate, please update us if there are changes to your personal data by informing our Customer Service Officers in writing or via email at the contact details provided below.

RETENTION OF PERSONAL DATA

18. We may retain your personal data for as long as it is necessary to fulfil the purpose for which it was collected, or as required or permitted by applicable laws.
19. We will cease to retain your personal data, or remove the means by which the data can be associated with you, as soon as it is reasonable to assume that such retention no longer serves the purpose for which the personal data was collected, and is no longer necessary for legal or business purposes.

TRANSFERS OF PERSONAL DATA OUTSIDE OF SINGAPORE

20. We generally do not transfer your personal data to countries outside of Kenya. However, if we do so, we will obtain your consent for the transfer to be made and we will take steps to ensure that your personal data continues to receive a standard of protection that is at least comparable to that provided under the Data Protection Act, 2019.

CONTACT DETAILS

21. You may contact our Customer Service Department if you have any enquiries or feedback on our personal data protection policies and procedures, or if you wish to make any request, in the following manner:

Faulu Microfinance Bank Limited
Ngong lane, off Ngong Road
P.O Box 60240-00200
Nairobi, Kenya.
Cell Phone No
+254 711 074 000 or
+254 711 074 074
Email Address
[CustomerService@faulukenya.com.](mailto:CustomerService@faulukenya.com)

EFFECT OF NOTICE AND CHANGES TO NOTICE

22. This Notice applies in conjunction with any other notices, contractual clauses and consent clauses that apply in relation to the collection, use and disclosure of your personal data by us.
23. We may revise this Notice from time to time without any prior notice. You may determine if any such revision has taken place by referring to the date on which this Notice was last updated. Your continued use of our services constitutes your acknowledgement and acceptance of such changes.

DISCLAIMER

This publication provides sample clauses and templates with a focus on the client's Data Protection Act 2019. The contents herein are not intended to be an authoritative statement of the law or a substitute for legal or other professional advice. Faulu MFB and its employees shall not be responsible for any inaccuracy, error or omission in this publication or liable for any damage or loss of any kind as a result of any use of or reliance on this publication. The contents of this publication are protected by copyright, trademark or other forms of proprietary rights and may not be reproduced, republished or transmitted in any form or by any means, in whole or in part, without written permission