



## APPLICATION FOR OPENING ACCOUNT OF A COMPANY/SOCIETY/CLUB

**Branch** \_\_\_\_\_ **Account Number** \_\_\_\_\_

I/We wish to open the following account(s) with M Oriental Bank Limited as per the following details:

**Company/Organisation Name** .....

Mailing Postal Address		Post Code		Town															
Email Address																			
Mobile Number		Other Number																	
Physical Address																			
Primary Contact*	Email Address																		
	Mobile Number		Other Number																
Date of Incorporation/Registration	D	D	M	M	Y	Y	Y	Y	PIN Number										
Registration Certificate Number									Country of incorporation										

### Type of business (✓ where applicable)

Sole Proprietorship		Partnership		Society/Association/Club		Limited Company		Others (Specify)	
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Description of business activity		
Number of Employees	Less than 100	100 or more
Annual Turnover	Less than Kshs 500 million	Kshs 500 million and above
Balance Sheet Size (Total Assets)	Less than Kshs 500 million	Kshs 500 million and above
Purpose of Account		

### Other Accounts held with MOBL or other banks

Bank Name	Branch	Account Number

### First Signatory

Mr/Mrs/Ms	First Name	Middle Name	Last Name
Nationality		Identification Type	Identification Number
		National ID <input type="checkbox"/> Passport No. <input type="checkbox"/>	
Gender	F(✓) <input type="checkbox"/> M(✓) <input type="checkbox"/>	PIN	Date of Birth
Resident	Y(✓) <input type="checkbox"/> N(✓) <input type="checkbox"/>	Postal Address	
Email Address		Mobile Number	
Position in the company/Organisation			

### Second Signatory

Mr/Mrs/Ms	First Name				Middle Name				Last Name											
Nationality				Identification Type				Identification Number												
				National ID <input type="checkbox"/>		Passport No. <input type="checkbox"/>														
Gender	F(√)		M(√)		PIN							Date of Birth	D	D	M	M	Y	Y	Y	Y
Resident			Y(√)		N(√)		Postal Address													
Email Address													Mobile Number							
Position in the Company/Organisation																				

### Third Signatory

Mr/Mrs/Ms	First Name				Middle Name				Last Name											
Nationality				Identification Type				Identification Number												
				National ID <input type="checkbox"/>		Passport No. <input type="checkbox"/>														
Gender	F(√)		M(√)		PIN							Date of Birth	D	D	M	M	Y	Y	Y	Y
Resident			Y(√)		N(√)		Postal Address													
Email Address													Mobile Number							
Position in the Company/Organisation																				

### Fourth Signatory

Mr/Mrs/Ms	First Name				Middle Name				Last Name											
Nationality				Identification Type				Identification Number												
				National ID <input type="checkbox"/>		Passport No. <input type="checkbox"/>														
Gender	F(√)		M(√)		PIN							Date of Birth	D	D	M	M	Y	Y	Y	Y
Resident			Y(√)		N(√)		Postal Address													
Email Address													Mobile Number							
Position in the Company/Organisation																				

Account type

☐

Current Account

☐

Saving Account

☐

Fixed/ Call Deposit Account

☐

Recurring Deposit Account

### Currency (√ where applicable)

<input type="checkbox"/>	Kshs	<input type="checkbox"/>	USD	<input type="checkbox"/>	GBP	<input type="checkbox"/>	Euro	<input type="checkbox"/>	Other (Name)	<input type="text"/>	
Initial Deposit Details						Period (in case of Term Deposit)					
Purpose of Account											

Kindly issue a Cheque Book of

☐

25 Leaves

☐

50 Leaves

☐

100 Leaves

**Request for other Facilities** (✓ as needed)\* - (Primary contact will be used for the below facilities)

<input type="checkbox"/> MOBL Corporate Internet Banking User Name _____	<input type="checkbox"/> MOBL Mobile Banking	<input type="checkbox"/> MOBL PesaLink (KITS)
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**Notify me by SMS (chargeable) for transactions of the following amount and above (in Kshs) minimum KShs 5,000).**

Debit (Kshs)		Credit (Kshs)	
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Request for emailed statements in lieu of physical statement (optional):

Frequency ✓ (only one option)\* ☐ Daily ☐ Weekly ☐ Monthly ☐ Quarterly

**PEP Declarations for Directors**

Is any of the Directors entrusted with a prominent public office locally or in a foreign country, including any member of your immediate family or close associates? Yes ..... No....

If yes, kindly, ask for a detailed questionnaire and complete it.

**FATCA DECLARATION (Foreign Account Tax Compliance Act)**

On an annual basis, the Bank will report information on financial accounts held directly or indirectly by U.S Persons. In certain circumstances and where customers fail to provide the appropriate documentation, the Bank may be required to apply 30% US withholding tax on certain types of US income paid to such customers.

Do you have a US Postal Address?	Y(✓)		N(✓)		Do you have subsidiaries in the US?	Y(✓)		N(✓)
Do you have a US Telephone Address?	Y(✓)		N(✓)		Is the entity registered in the US?	Y(✓)		N(✓)
Do you have any income from the US?	Y(✓)		N(✓)		Does the entity have US Partners/ Signatories/Directors?	Y(✓)		N(✓)

**Introducer**

Name			
Address		MOBL Bank A/C No	
	Introduction letter attached Yes (.....) No(.....)		

**Certificate by Introducer**

I confirm that I have known the above account applicant for \_\_\_\_\_ years and the physical location and address indicated herein is correct. I also confirm that I consider the new account holder to be respectable and trustworthy to operate the Bank Account with M Oriental Bank Limited.

Date \_\_\_\_\_ Signature \_\_\_\_\_ Account Number \_\_\_\_\_

**Documents Required**

Introduction Reference	<input type="checkbox"/>	Recent Colour Passport Photographs of all Authorised Signatories	<input type="checkbox"/>
ID/Passport Copy/PIN Card Copy of all Authorised Signatories (of all applicants)	<input type="checkbox"/>	Memorandum & Articles of Association of Company/ by-laws or Constitution of Organisation (certified copy)	<input type="checkbox"/>
Certified Copy of Latest Annual Returns or Letter from Auditor/Co. Secretary Certifying names of Existing Directors	<input type="checkbox"/>	Copy of Certificate of Incorporation/Registration	<input type="checkbox"/>
Copy of PIN Card of Company/Organisation	<input type="checkbox"/>	Board resolution/Extracts of Committee Meeting Signed by Chairman and Secretary/Partner's Resolution Signed by all partners.	<input type="checkbox"/>
Proof of residence; either by recent utility bill, tenancy agreement, etc.	<input type="checkbox"/>		<input type="checkbox"/>

I/We the undersigned request you to open an account or accounts as detailed above and at any time subsequently to open such further account(s) of whatever nature as I/We may direct. I/We confirm that all of the above details are correct and that I/We have read, understood and agree to the M Oriental Bank Limited General Terms and Conditions, the Terms and Conditions Governing the Use of Internet Banking Facility..

Account Operations Mandate

☐ Singly                      ☐ Jointly All                      ☐ Jointly Any \_\_\_\_\_ ☐ Special Mandate (Specify) \_\_\_\_\_

Other Signing Instructions \_\_\_\_\_

Name of 1 <sup>st</sup> Signatory	Passport Photograph	Signature
Name of 2 <sup>nd</sup> Signatory	Passport Photograph	Signature
Name of 3 <sup>rd</sup> Signatory	Passport Photograph	Signature
Name of 4 <sup>th</sup> Signatory	Passport Photograph	Signature
Name of 5 <sup>th</sup> Signatory	Passport Photograph	Signature

FOR OFFICIAL USE ONLY

Information Data Input					
Sector Code		Bank Director related (Y/N)		PEP (Y/N)	
Scheme Code		Branch			
Sub Sector Code		Business Line			
Economic Sector Code		Detailed Economic Sector Code			

Compliance Check List	Initials		Initials
Valid Identification Documents Obtained & Authenticated		Exception (Give reasons)	
Reference Confirmed			
CEO's Approval			
Account Opened by (Name & Initials)			
Authorised by (Name & Initials)		Exception Approved by	

STAFF DETAILS	
Name of Sales Staff/RM/BM	
Staff Number	
Branch Name	

## **GENERAL TERMS AND CONDITIONS**

### **INTRODUCTION AND ACCEPTANCE**

We thank you for choosing to open an account with M Oriental Bank Limited. Please note, however, that it is important you read through the following Terms and Conditions before you access our site and Services. These conditions become effective when you choose to open an account with us for the first time and constitute a binding agreement between us -M Oriental Bank Limited and yourself, and the said terms will always prevail. The current version of these conditions will govern our respective rights and obligations.

M Oriental Bank Limited reserves the right to update or modify these Terms and Conditions from time to time without prior notice.

Subject to any other agreement made in writing between the Bank and the Customer, the relationship between the Bank and the Customer shall be governed by the following general terms and conditions (the "General Terms and Conditions"):

### **1. DEFINITIONS**

- (a) "Account" means any type of account held by a Customer with the Bank (including without limitation) any account in relation to any advance, deposit, contract, product, dealing or service established and operated between the Bank and the Customer;
- (b) "Available Balance" means the amount in the Account which can be drawn by the Customer without any restriction by the Bank (such restricted amounts including without limitation any unconfirmed credit(s), any amount(s) credited to the Account in error and/or any amount(s) which the Bank has a right of Set-Off);
- (c) "Application Form" means the Bank's form completed by the Customer in respect to the establishment and operation of an Account;
- (d) "Authorised Signatory" means the Customer and/or in relation to the Customer any person(s) authorised as specified in writing by the Customer to the Bank to operate the Account on the Customer's behalf;
- (e) "Bank" means M ORIENTAL BANK LIMITED;
- (f) "Bank's Branches" means (including the main registered office of the Bank) all places in the Republic of Kenya where the Bank's business is operated and conducted;
- (g) "Business Day" means any day on which the Bank is open for all classes of banking business (excluding statutory and other public holidays) as the Bank may determine from time to time;
- (h) "Banking Hours" means the hours for which the Bank is generally open for all classes of business as may be determined by the Bank in respect of each of the Bank's Branches from time to time;
- (i) "Bank's Tariffs" means (including but not limited to) the schedule of the charges and fees levied by the Bank in relation to the Account;
- (j) "Cheque" means the cheque forms issued by the Bank to the Customer and forming part of the Cheque book;
- (k) "Cheque book" means the serially numbered Cheques bound together and issued by the Bank to the Customer;
- (l) "Cheque book Terms and Conditions" means the Specific Terms and Conditions relating to the use of the Cheques and the Cheque book by the Customer;
- (m) "Customer" means a holder of the Account;
- (n) "Debt" means all moneys, obligations and liabilities whatsoever whether principal, interest or otherwise in Kenya Shillings or in Foreign Currency which may be due, owing or incurred by the Customer to the Bank whether present or future, actual or contingent;
- (o) "Foreign Currency" means any currency howsoever denominated other than Kenya Shillings;
- (p) "Kenya Shillings" means the lawful currency of the Republic of Kenya;
- (q) "Mandate" means the mode of operation of the Account as specified by the Customer in the Application Form;
- (r) "Security" means (including but not limited to) any agreement, mortgage, charge, pledge, lien, guarantee, indemnity, debenture and/or other security securing in whole or in part any Debt of the Customer with the Bank;
- (s) "Specific Terms & Conditions" means the particular terms and conditions relating to a specific type of Account;
- (t) "Tax" means all taxes levies duties charges imposts or withholdings (including, without limitation, compensating tax, drought levy, value added tax, stamp duties, service charges, National Social Security or Hospital Insurance Fund payments) together with all penalties charges and interest relating to any of them.

### **2. ELIGIBILITY**

The Bank may, at its sole and absolute discretion, upon due application by the Customer and subject to the General Terms and Conditions as well as any Specific Terms and Conditions in respect of an Account, open an Account for a Customer. The Bank shall not open an Account for any Customer whose name appears in any blacklist(s) (whether local or international) issued, circulated or otherwise available to the Bank from time to time.

Availability

### **3. CUSTOMER'S ADDRESS**

The address specified by the Customer in the Application Form shall be deemed by the Bank to be the registered address of the Customer and all postal communication to the Customer shall be sent by the Bank to the said address. The Customer must notify the Bank in writing of any changes to this address.

### **4. CUSTOMER'S NAME**

The Account shall be operated by the Customer under the name(s) specified in the Application Form and all documents provided there under. The Bank shall have the right, at its sole and absolute discretion, to request the Customer for all necessary proof of the Customer's name and any change thereof and the Bank shall be at liberty to decline to act on any or all of the Customer's instructions until such request is met to the sole and absolute satisfaction of the Bank.

### **5. CUSTOMER INFORMATION**

The Bank reserves the right, at its sole and absolute discretion, at any time during the tenure of the Account to request the Customer for any information and/or documentation that the Bank may require for the establishment and/or operation of the Account.

The customer is also required to update the bank of any changes which may be affecting KYC compliance. Companies should provide the bank with copies of their annual returns annually or at any given time when the directorship changes.

### **6. CUSTOMER'S INSTRUCTIONS**

- (a) the Bank shall only be bound to act upon the Customer's original duly executed instructions and/or documents drawn or accepted in accordance with the Mandate until such time as the Customer shall give the Bank due written notice to the contrary;
- (b) instructions received after Banking Hours or on a non-Business Day shall be processed on the next Business Day. The Customer may cancel instructions provided that the Bank is not otherwise irrevocably bound to act upon such instructions and provided further that the Bank has confirmed in writing that such instructions have not yet been acted upon. The Bank shall be entitled to levy a charge as per the Bank's Tariffs for cancelling instructions;
- (c) the Bank may, subject to such requirements as it shall in its sole and absolute discretion deem necessary and upon prior written request from the Customer, act upon oral, facsimile, electronic or any other forms of unwritten communication. The Bank shall however not be liable and the Customer shall indemnify and hold the Bank harmless if the Bank acts on instructions which have been corrupted or improperly transmitted or if the information contained in the said communication is not received or is delayed; and

(d) the Bank may refuse to act on the Customer's instructions, if the instructions are not clear and/or if the Bank has reason to believe that the Customer did not give the instruction and/or if the Bank believes that a law, regulation, code or other duty which applies to the Bank may be broken by acting on the instructions.

## **7. SPECIMEN SIGNATURES**

The Customer shall give to the Bank, in a form acceptable to the Bank at the Bank's sole and absolute discretion, a specimen of the signature of each Authorised Signatory. The Bank may require a fresh specimen signature in the event of a change in the Customer's name.

## **8. DEPOSITS & CREDITS**

(a) the Customer may deposit for credit to the Account cash, cheques and/or other instruments drawn in a manner and of a form acceptable to the Bank. The Bank shall not accept any liability for cash sent through the post. All cheques and/or other instruments sent through the post must be crossed and marked 'Account Payee Only/Not Negotiable' and must be made payable to the name of the Customer's Account;

(b) any negotiable or non-negotiable instrument of whatsoever nature, shall be accepted by the Bank for deposit or collection at the sole risk of the Customer. The Bank reserves the right without prior notice to reverse any entries in the Account and debit any amounts credited in the Account in respect of any promissory notes, bills of exchange, cheques or other instruments credited to the Account which are subsequently returned unpaid for any reason whether or not the Bank has advised the Customer of such entries and credits. The reversal of such entries and debit of such amounts does not affect the right of the Bank to retain such unpaid notes, bills, cheques or instruments and to exercise in its favour all rights relating to such instruments;

(c) the Bank assumes no responsibility and shall not be liable for the value given to funds by a beneficiary or corresponding bank provided that the Bank has acted according to the Customer's instructions;

(d) the Bank acts only as the Customer's collecting agent and assumes no responsibility for the realisation of any items deposited with the Bank for collection; and

(e) the negotiation and collection of negotiable instruments denominated in a Foreign Currency, shall be subject to the International Chamber of Commerce Uniform Rules of Collection as presently enacted or subsequently varied and/or amended.

## **9. PAYMENT OF CASH**

(a) the Bank shall only pay cash to the Customer upon the presentation of a cheque, where the cheque is duly signed by an Authorised Signatory;

(b) where a cheque presented by any party other than the Customer for the payment of cash, the Bank may require confirmation from an Authorised Signatory(ies) before it makes payment to such party; and

(c) where the Authorised Signatory requests the Bank to make a payment under sub paragraph (b) above the Customer shall indemnify the Bank on a full and unqualified basis in respect of all payments made to the bearer of the cheque whether or not the money is received by the Customer and whether or not the order for payment is in fact the order of the Customer.

## **10. WITHDRAWAL AND PAYMENTS**

(a) subject to daily withdrawal limits (if any), a sufficient Available Balance and the Specific Terms and Conditions of the Account, the Customer may make withdrawals and/or payments from the Account; and

(b) the Customer shall not be permitted to draw against, and the Bank shall not be obliged to make payment against a cheque or other payment which has not been cleared.

## **11. SIMULTANEOUS ORDER OF FUNDS**

Where the Bank receives several instructions from the Customer for withdrawals and/or payments from the Account at approximately the same time such that the aggregate amount sought to be withdrawn and/or paid exceeds the Available Balance, the Bank may in its sole and absolute discretion comply with such of the said instructions in such order and/or manner as it deems fit.

## **12. BANK CHARGES AND EXPENSES**

The Bank shall be entitled to be paid by the Customer and shall be at liberty to debit the Account with:

(a) all expenses incurred by the Bank in clearing or attempting to clear any cheque or other payment to be credited to the Customer's Account;

(b) interest (including default and/or additional interest if any) on any overdrawn account, loan account or on any other credit facility extended by the Bank to the Customer, at such per annum rate and computed and compounded in such manner as shall be determined by the Bank in its sole discretion (subject to the limits permitted by law). The Customer shall however be given a 30 day notice prior to any variation of the applicable interest rate.

(c) legal and/or professional charges charged, where applicable, on an advocate/client basis and incurred by the Bank in obtaining any legal and/or professional advice in connection with the Account, the preparation of any documents relating to the Customer's credit facilities and/or any dealings by the Customer with the Bank;

(d) processing fees, commitment fees, commission charges etc. at such rates, at such times and in such manner as the Bank may from time to time decide; and

(e) all other expenses and charges levied by the Bank as more particularly set out in the Bank's Tariffs (a copy of which is available online and in any of our branches).

## **13. STATEMENTS OF ACCOUNT**

(a) the Bank shall provide the Customer with a statement of the Account on a regular basis covering all the transactions made in the Account. The Bank may also (upon the Customer's written request and payment of the requisite fee) provide the Customer with an additional statement(s) and/or provide the statement to the Customer at such intervals as the Customer and the Bank may agree;

(b) the contents of any statement issued by the Bank to the Customer, to which the Customer has not objected to within twelve (12) days of receipt thereof, shall be deemed to be accepted by the Customer and shall, in the absence of any manifest error, be conclusive evidence of all the transactions made in the Account and shall not be subject to challenge by the Customer on any ground, whatsoever; and

(c) for all purposes, including any legal proceedings, a certificate signed by any director, manager and/or any authorised signatory of the Bank as to any matter relating to the Account and/or any Debt shall, in the absence of any manifest error, be conclusive evidence against the Customer in respect of the said matter and/or Debt.

## **14. STANDING ORDERS/DIRECT DEBITS**

The Bank may permit the Customer to effect automatic debits or withdrawals (such as Direct Debits or Standing Orders) from the Account unless the Specific Terms and Conditions of the Account state otherwise. All such transactions shall be effected at the Bank's discretion and the Bank reserves the right not to effect any instructions relating to a Direct Debit or Standing Order where there is an insufficient Available Balance.

## **15. ACCOUNTING & TRANSMISSION ERRORS**

(a) the Bank reserves the right without prior notice to the Customer, to debit any amount(s) credited to the Account in error and/or reverse any entry made to the Account in error. The Bank accepts no responsibility for the consequences of such debits and/or reversals. Any amount(s) credited by the Bank to the Account in error and utilised by the Customer must be repaid to the Bank together with all applicable interest accrued thereon within twenty-four (24) hours of demand being made by the Bank to the Customer; and

(b) payment orders, exchange operations and sales and purchases of securities in Kenya or elsewhere, undertaken by the Bank for the account of the Customer shall be at the Customer's own expense. Neither the Bank nor any of its correspondents nor any of its employees shall be liable for any mutilation, corruption (including without limitation, cables, airlines, courier services, electronic mail, telex or facsimile systems) howsoever occurring.

## **16. INTEREST**

(a) Interest shall only be payable on the credit balance in an interest earning Account. Interest shall be calculated at such rate as the Bank may determine and vary from time to time subject to the Banking (Amendment) Act 2016 as may be amended from time to time;



- (b) interest shall be paid and credited to the Account in such manner as specified in the Specific Terms and Conditions of the Account; and
- (c) interest shall be calculated on gross and any Tax that the Bank is required to pay shall be debited from the Account.

#### **17. CREDIT FACILITIES EXTENDED BY THE BANK TO THE CUSTOMER**

Upon due application by the Customer, the Bank may, at its sole and absolute discretion, extend credit facilities to the Customer in such manner and upon such terms and conditions as the Bank may determine. The Bank shall be entitled to debit the Account with all interest, commission, costs, expenses and other charges (including banking and legal charges) incurred in connection with the extension of such credit facilities.

#### **18. REPAYMENT OF OVERDRAWN ACCOUNTS**

(a) the Customer must not draw the Account below the prescribed minimum balance of the Account (or exceed the limit of any overdraft facility extended and approved by the Bank in respect of the Account) without the Bank's prior written consent. The Bank shall be at liberty at its sole and absolute discretion to refuse to honour a cheque, make a payment and/or allow a withdrawal if the effect of the same would be to either cause the Account to be drawn below its prescribed minimum balance or the said overdraft limit to be exceeded; and

(b) if the Account is drawn below its prescribed minimum balance or the approved overdraft limit is exceeded without the Bank's prior written consent the Customer shall (including without limitation) pay such fees as the Bank may prescribe as well as pay additional interest on the particular amount drawn below the prescribed minimum balance or the particular amount in excess of the approved overdraft limit (in this paragraph together called the "outstanding amounts") at such rate or rates and computed and compounded in such manner as may be determined by the Bank in its sole and absolute discretion until the outstanding amounts are paid in full. The Bank shall also be at liberty to demand from the Customer the immediate repayment, in full, of the entire outstanding amounts together with all interest accrued thereon as well as all other costs, charges and expenses arising there from.

#### **19. BANKS' LIEN**

(a) in the event of a Debt, the Bank shall have a general lien over all the property of the Customer in the Bank's possession, including, but not limited to, cash, goods, securities or valuables held by the Bank, cheques presented for payment, bills and any other property (movable or immovable) charged in whatever manner by the Customer in favour of the Bank to secure the repayment of the Debt; and

(b) the Bank may, at any time, give the Customer notice in writing that if the Debt is not repaid to the Bank within a stipulated period of time, the Bank, may without any further notice to the Customer, enforce any of its rights and remedies under any Security so as to redeem the Debt.

#### **20. BANK'S RIGHT OF SET-OFF**

All operations between the Bank and the Customer of whatsoever nature shall be considered and treated by the Bank for all purposes as a single integral and indivisible account and the Bank may:

(a) without notice utilise any credit balance in the Account (whether current, loan, savings, time deposit or any other type of account or in the account of any other person for whom the Customer has agreed to act as surety) to pay any Debt due to the Bank from the Customer or any other person whom the Customer has agreed to act as guarantor and/or surety. This right of Set-Off shall be in addition to, and shall not impair or affect, any of the Bank's other rights of recovery;

(b) convert, at the Bank's prevailing rates of exchange, any money held by the Bank in a Foreign Currency which is subject to the Bank's lien and thereafter exercise the Bank's right of Set-Off. The Bank accepts no liability for any loss caused by such currency conversion; and

(c) liquidate a time deposit (including those denominated in Foreign Currency and/or for a given period of time) and exercise the Bank's right of Set-Off against the Debt notwithstanding that the time period of the deposit has not expired or interest accrued.

#### **21. VARIATION OF RELATIONSHIP & CLOSURE OF THE ACCOUNT**

(a) the Customer may, upon prior issuance to the Bank of a thirty (30) day written Notice or such Notice as the Bank may deem fit close the Account subject to the settlement of any Debt;

(b) the Bank may at any time, upon giving a 14 days' notice to the Customer, terminate or vary its business relationship with the Customer and/or close the Account and may require the repayment by the Customer of any Debt resulting from such determination, variation and/or closure; and

(c) if the Bank terminates or varies its relationship with the Customer and/or closes the Account, it shall be the Customer's sole responsibility to notify any other party regarding such termination, variation and/or closure.

#### **22. FREEZING OF THE ACCOUNT**

The Bank in its sole discretion may at any time, refuse to accept any instructions in regard to the Account, if and for so long as:

(a) there is any dispute between the Customer and the Bank; or

(b) the Bank has any reason to suspect that a fraud has been or is likely to be committed; or

(c) the Account is being or is likely to be operated by the Customer for any illegal and/or unlawful transaction; or

(d) the Bank has any doubt for any reason that either the Customer is not the person entitled to operate the Account or that there is any dispute in respect of the Mandate; or

(e) the Bank is under a legal obligation to do so.

#### **23. CHEQUEBOOKS**

(a) the Chequebook shall be issued by the Bank to the Customer at the Bank's sole discretion, subject to the Chequebook Terms and Conditions which are set out in this paragraph and on the inside cover of the Chequebook;

(b) the Bank may charge a fee for the issuance of a Chequebook and any other additional Chequebooks issued to the Customer;

(c) the Bank may refuse to make payment to the Customer or any other third party on any cheque which is not drawn in the manner specified by the Chequebook Terms and Conditions set out below:

(i) the Customer must write, date and sign the Cheque in clear handwriting using legible ink (preferably blue or black) in the currency of the Account for an amount not exceeding the Available Balance;

(ii) when drawing a Cheque:

(a) the amount should be stated in both words and figures in such a manner as to prevent the insertion of any other word or figure and/or to prevent any fraudulent alterations;

(b) the Cheque must be signed by an Authorised Signatory as per the terms of the Mandate;

(c) any alteration to the Cheque must be counter-signed by an Authorised Signatory as per the terms of the Mandate;

(d) any un-crossing of the Cheque must be done by an Authorised Signatory as per the terms of the Mandate;

(e) no incomplete Cheque is given to any person; and

(f) all uncompleted Cheques are kept in safe custody at all times.

(iii) the Customer must count the number of Cheques contained in the Chequebook at the time the Customer is issued with the Chequebook and periodically throughout the use of the Chequebook. If any Cheque is found to be lost or missing, the Customer must inform the Bank immediately;

(a) the Bank may refuse to honour a Cheque where the date of the Cheque is more than six (6) months old (stale) or where the date is in the future (post-dated cheques);

(b) where the Customer wants the Bank to stop payment on a Cheque, the Customer must immediately request the Bank in writing to do so. Upon receipt of a written notice from the Customer to stop payment of a Cheque, the Bank shall record the notice and stop the payment provided that such notice is received before the transaction sought to be stopped has occurred. The Bank reserves the right to charge an administration fee for stopping the payment of a Cheque(s);

(c) the Bank shall not be liable to the Customer in any way and the Customer shall fully indemnify the Bank against any claims by any third party should the Bank make payment against a Cheque on the Customer's behalf, where the Cheque is presumed to be issued by the Customer but the signature or content of the Cheque and/or written instruction has been forged if:

(i) the Customer has facilitated such forgery; or



(ii) there has been a previous forgery of the Customer's Cheque or note of instruction without the Customer having previously objected to the payment;

(a) the Bank acts only as the Customer's collecting agent and if the Customer's Cheque or any other third party instrument is lost or stolen while in the custody of the Bank the Bank shall not be liable for any loss of profit or opportunity suffered by the Customer or any other person and/or for any charges incurred by the Customer or any other person in stopping payment thereof even where the Bank has been negligent.

## **24. JOINT ACCOUNTS**

The following Specific Terms and Conditions shall apply to Joint Accounts:

- (a) where a Joint Account is operated by a Mandate designated as 'Either/or Survivor', each Customer to the Joint Account is authorised to operate the Joint Account individually and it shall be deemed that the instructions given by one Customer to the Joint Account regarding the Joint Account are authorised by the other Customer(s) to the Joint Account;
- (b) where a Joint Account is operated on a Mandate designated as 'Jointly', each Customer to the Joint Account is only authorised to operate the Joint Account together with all other Customers to the Joint Account (or as specified in the Mandate). The Bank shall not be held liable for refusing to act or for any delay in accepting the instructions which are not issued by all Customers to the Joint Account;
- (c) if any Customer to the Joint Account gives instructions that conflict or appear to conflict with instructions given by another Customer(s) to the Joint Account, the Bank may refuse to act on any such instructions until the conflict is resolved to the Bank's sole satisfaction; and
- (d) each Customer to the Joint Account shall be jointly and severally liable to repay any Debt in respect of the Joint Account.

## **25. FIXED DEPOSITS**

The Bank may at its sole discretion, accept funds in specified currencies from the Customer to be placed in an interest earning deposit Account for a fixed period of time. Such Specific Terms and Conditions as may be set by the Bank in respect of such Accounts shall apply and if there is any difference between these General Terms and Conditions and such Specific Terms and Conditions, the Specific Terms and Conditions shall apply.

## **26. FOREIGN CURRENCY ACCOUNTS**

Subject to any exchange regulations (where applicable):

- (a) the Bank may operate the Account in a Foreign Currency;
- (b) the Bank may at the request of the Customer, credit or debit the Account with a currency which is not the designated currency of the Account and may convert such amount debited or credited at the Bank's prevailing rate of exchange; and
- (c) the Foreign Currency Account shall be operated by the Customer at the Customer's risk including but not limited to the consequences of any legal, fiscal or other measures affecting the Foreign Currency Account.

## **27. DORMANT ACCOUNTS**

- (a) the Account shall be deemed to have become Dormant where the Account has remained inoperative for six (6) months or as may be specified by the Specific Terms and Conditions of the Account or as may be determined by the Bank from time to time; and
- (b) the Bank may (including without limitation) apply any one or more of the following conditions to an Account upon its classification as Dormant:
  - (i) confirm the validity and authenticity of the first transaction reactivating the Account;
  - (ii) suspend the payment of interest (if applicable);
  - (iii) suspend the issuance of Account Statements; and
  - (iv) charge a maintenance fee as may be determined by the Bank from time to time.
- (c) The account, if inactive for a period of 5 years, shall be subject to the custody of the Unclaimed Financial Assets Authority as unclaimed assets pursuant to the provisions of the Unclaimed Financial Assets Act (No. 40 of 2011). The Bank shall however make prior reasonable efforts to locate you and notify you using the communication channels such as post, telephone or email.

## **28. DEDUCTIONS**

All payments required to be made by the Customer to the Bank pursuant to these General Terms and Conditions or otherwise shall be made in immediately available funds without any set-off, counterclaim or deduction of any Tax whatsoever, unless required by law in which event the Customer shall simultaneously while making the relevant payment pay to the Bank such additional amount as shall result in the receipt by the Bank of the full amount which would otherwise have been receivable by the Bank.

## **29. COMPLAINTS**

The Bank may require that any complaint made by the Customer in relation to the Account be made in writing. The Bank shall act upon such complaint, as soon as is reasonably possible, after receipt of the complaint by the Bank.

## **30. LIABILITY**

- (a) the Bank shall not be liable to the Customer for:
  - (i) any loss of profit or opportunity or any consequential loss or damage to the Customer's reputation. The Bank shall not be liable in any way to the Customer or to any third party for making payment on the Customer's behalf or acting upon any written instructions presumed to be issued by the Customer even negligently, where the signature or content of the written instruction has been forged if the Customer has facilitated such forgery and/or if there has been a previous forgery of the Customer's cheque or note of instruction to which the Customer has not previously objected to and/or if the Bank has exercised due care and acted in good faith in making such payment;
  - (ii) any act or omission including any breach of its obligations under these General Terms and Conditions caused by circumstances beyond the Bank's reasonable control including but not limited to fire, strike, insurrection or riot embargo, terrorist or any enemy action, theft or burglary, delays in transportation or the requirement or regulations of any civil or military authority; and
  - (iii) (where the Bank is operating the Account by means of a software package or other accounting system) for the non-performance of the software which shall have occurred directly or indirectly as a result of (including without limitation) adverse power fluctuations or damage resulting from fire, water, accidents, spillage of fluids, connections to improper power supplies, faulty or incorrect electrical wiring or connection;
- (b) subject to these General Terms and Conditions, where the Bank is found to be liable to the Customer for any loss, injury or damage resulting from any wilful or negligent delay or error in carrying out the Customer's clear and unequivocal instructions, the Bank's liability shall be the lower of:
  - (i) the amount of such loss, injury or damage; or
  - (ii) the amount of any interest not received, or any interest that the Customer has to pay as a result of such failure, delay or error.

## **31. VALIDITY OF DOCUMENTS**

The Bank is not responsible for the authenticity, validity, regularity or value of documents including but not limited to bills of lading, delivery orders, consignment documents, receipts, warrants and insurance policies.

## **32. COMMUNICATIONS**

- (a) any written communication from the Bank to the Customer, including but not limited to, any notice given pursuant to these General Terms and Conditions shall be deemed to have been received by the Customer:
  - (i) if delivered personally, at the date and time of delivery;
  - (ii) if sent by post, on the fourth day from the date of posting;
  - (iii) if sent by airmail, on the seventh day from the date of posting;
  - (iv) if sent by SWIFT, when the acknowledged SWIFT message is received;
  - (v) if sent by SMS/Email/ facsimile, on completion of the transmission and in the case of posting it shall be sufficient to prove that the letter containing the communication was properly stamped and addressed notwithstanding that it be undelivered or returned undelivered; and
  - (vi) the Customer shall have no claim against the Bank for damages resulting from loss, delay, misunderstanding, mutilation, duplication, or any other

irregularity due to the transmission of any communication whether to or from the Customer, the Bank or any third party, by delivery, post, fax, telegraph, telephone, telex or any other form of cable communication.

### **33. INDULGENCES**

Any concession which may be granted to the Customer by the Bank shall not affect the Customer's obligations to the Bank or the Bank's rights as against the Customer.

### **34. CONFIDENTIALITY**

(a) the Bank values the Customer's privacy and has a policy to hold in confidence information and/or documentation relating to the Customer and/or the Account. However, the Bank may in certain circumstances disclose such information and/or documentation to any person in connection with any actual or likely event of default by the Customer. This right to disclose includes disclosing information under these General Terms and Conditions (including the assignment or transfer of all the Bank's rights and obligations under these General Terms and Conditions);

(b) the Customer authorises the Bank to respond, if it shall so choose, to any and all inquiries (including without limitation any bank's references) received from any other bank, financial institution or person providing credit or financial services, concerning the Account without any reference to the Customer;

(c) the Bank may also disclose information and/or documentation relating to the Account in the following circumstances:

(i) to any credit reference, scoring or rating agencies;

(ii) to any persons providing information or services to the Bank, (including without limitation a holding or group companies, subsidiaries or related parties) on the understanding that the information shall be confidential and may not be further disseminated; and

(iii) where the Bank is under a legal or contractual obligation to do so (including but not limited to the Bank's legal and/or contractual obligations to prevent money laundering and related offences) and/or where it is in the interest of the public.

### **35. ASSIGNMENT**

The Bank shall have a full and unfettered right to assign and/or transfer all or any of its rights, benefits and obligations under these General Terms and Conditions and/or under any Specific Terms and Conditions, to any person at any time without notice to the Customer.

### **36. INTERPRETATION**

(a) the expression the "Customer" and/or "person" and or "party" shall include any natural person, firm, partnership, incorporate or corporate body, state, state agency, governmental authority in whatever name of style and when there are two or more included in the expression the "Customer" and/or "person" and/or "party" such expression shall include either one severally and/or both or all of them jointly;

(b) references to words denoting the singular number shall include the plural and vice versa and reference to the masculine gender includes a reference to the feminine gender and neuter and vice versa;

(c) any obligation imposed by or resulting from these General Terms and Conditions which is undertaken by more than one person shall be a joint and several obligations of each of the persons who has undertaken it whether as principal, guarantor, indemnifier, surety or otherwise; and

(d) each of the provisions of these General Terms and Conditions is severable and distinct from the others. If at any time any of the General Terms or Conditions hereof is or becomes illegal, invalid or unenforceable in any respect neither the legality, validity nor enforceability of the remaining General Terms and Conditions shall in any way be affected or impaired thereby.

### **37. VARIATION**

(a) the Bank may vary these General Terms and Conditions, any Specific Terms and Conditions and/or the Bank's Tariffs (either in whole or in part) at any time. Notification of any such variation may be given to the Customer either in writing or by publication thereof by such means as the Bank may decide but any variation whether notified or not shall be binding on the Customer; and

(b) the Bank may introduce a new type of Account for which Specific Terms and Conditions shall apply. Where there is any conflict between these General Terms and Conditions and any Specific Terms and Conditions, the Specific Terms and Conditions shall apply.

### **38. INDEMNITY**

The Customer hereby agrees to indemnify and keep the Bank indemnified against all claims, demands, losses, costs, damages, liabilities and expenses whatsoever (including any Taxes, legal and/or statutory fees (billed, where applicable, on an advocate/client basis)) incurred, sustained or suffered by the Bank (or by any other person on the Bank's behalf) in connection with:

(a) the negotiation, preparation, execution, delivery, stamping or registration (whether in whole or in part) of any Security;

(b) any preservation or exercise (or attempted preservation or exercise) of any of the Bank's rights under or in connection with the enforcement (or attempted enforcement) of these General Terms and Conditions, any Specific Terms and Conditions and/or any Security;

(c) any actual or proposed amendment of or waiver to any Security;

(d) any discharge or release of any Security; and

(e) any dealing with or obtaining of professional and/or other advice about any matter or question arising out of or in connection with these General Terms and Conditions, any Specific Terms and Conditions and/or any Security.

### **39. MONEY LAUNDERING**

The parties to these General Terms and Conditions shall cooperate in the interest of compliance with the law, rules and regulations for the time being in force relating to the prevention of money laundering. If the Bank suspects that the presumed purpose of the given order or service is money laundering, it shall proceed in accordance with the laws, rules and regulations and its internal rules and procedures. Upon entering into any business relationship with the Customer and in any other cases defined by the applicable law and regulations, the Bank shall duly verify the identity of the Customer, provided that the Customer had not previously been identified in connection with another transaction.

### **40. INTERNET BANKING AND MOBILE PAYMENT CHANNELS**

I/we do hereby confirm that I/we understand the risks involved in Internet Banking, and further confirm that we understand that the Bank shall not be obliged to ascertain the authenticity of the transmission or seek any further or other confirmation or ratification from me/us with regard to the genuineness of the instructions prior to taking any action on the basis of the instructions. I/we do hereby therefore indemnify and hold you indemnified against any claims, liability, loss or damage that may arise or be caused as a result of your acting on the basis of instructions received by you from I/we using the Internet banking platform.

### **41. GOVERNING LAW**

These General Terms and Conditions and any Specific Terms and Conditions shall be governed by the laws of the Republic of Kenya and the Customer hereby submits to the non-exclusive jurisdiction of the Courts of Kenya.

### **TO: M - ORIENTAL BANK LIMITED**

These are the General Terms and Conditions referred to in the Account Opening mandate signed by me/us dated the..... day of..... 20..... and which I/We accept.

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Signed (the Customer)



