respect thereof shall be to re-establish the Service as soon as reasonably practicable or, at the Bank's option, to provide to the Customer alternative banking facilities which need not be electronic FCB facilities.
9.5. Save as provided in subparagraph 8.4, the Bank shall not be liable to the Customer for any interference with or unavailability of the Service, howsoever caused.
9.6. Under no circumstances shall the Bank be liable to the Customer for any loss of profit or anticipated savings or for any indirect or consequential loss of whatever kind, howsoever caused, arising out of or in connection with the Service.
9.7. Except in respect of death or personal injury caused by the negligence of the Bank, the Bank shall be under no liability whatsoever in respect of any terms of this Agreement or their performance thereof or any transactions effected by the Bank in response to any Request:
9.7.1. In the case of any claim relating to a transaction, within thirty (30) days from the date of the alleged transaction on which such claim is based; and
9.7.2. In all other cases within one (1) year of the date of the alleged action or inaction by the Bank on which such claim is based.
9.8. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

10. AMENDMENTS

The Bank may amend the, or change the agreement at any time. If the change adversely affects the Customer, the Bank will give the Customer notice prior to the effective date of the amendment.

11. TERMINATION

11.1. Notwithstanding anything contained in this agreement, the agreement may be terminated at any time by either party giving the other one calendar month's notice, PROVIDED that in the event of any change in any law or the application thereof, or any other event which, in the judgment of the Bank, would have the effect of prejudicing the Bank should it continue with the rendering of the Service to the Customer, the Bank shall be entitled to terminate the agreement at any time without notice to the Customer.
11.2. If the Customer terminates the agreement, the Bank may continue to make transfer of funds and other transactions that the Customer would have previously authorized until such time as the Bank will have had a reasonable opportunity to act on the Customer's notice of termination.
11.3. The termination of this Agreement shall not, in itself, terminate or affect the relationship of Banker and Customer between the Bank and the Customer.
11.4. Paragraphs 8, 12.3, 12.5 and 13 and shall survive termination of this Agreement.

12. GENERAL PROVISIONS

12.1. The Customer shall not assign the benefit of this Agreement or any rights arising hereunder without the prior written consent of the Bank.
12.2. No waiver by the Bank of any breach by the Customer of any of the terms of this Agreement shall be effective unless it is an express
waiver in writing of such breach. No waiver of any such breach shall waive any subsequent breach by the Customer.
12.3. The Customer acknowledges:
12.3.1. that it has not relied upon any representation, warranty, promise, statement of opinion or other inducement made or given by or on behalf
of or purportedly by or on behalf of the Bank in deciding to enter into this Agreement; and that;
12.3.2. no person has or has had authority on behalf of the Bank whether before, on or after the signing of this Agreement to make or give any such
representation, warranty, promise, statement of opinion or other inducement to the Customer or to enter into any collateral or side agreement of any kind
with the Customer in connection with the Service.
12.4. This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the
parties relating to the subject matter hereof. For the avoidance of doubt, nothing herein shall vary, discharge or in any other way affect or prejudice any
security granted by the Customer or any third party in favour of the Bank in relation to any obligations of the Customer which may arise if any Request from the Customer hereunder is acted upon by the Bank.
12.5. Any notice required to be given in writing under this Agreement and/or the schedules or parts of this Agreement shall be sufficiently served if sent by
registered post, stamped and properly addressed;
12.5.1. to the Manager of the Branch or of the Bank at the address of the Branch or the Bank set out in Part II of the schedule if to be served on the Bank; or
12.5.2. to the Customer at the address given for the Customer in Part I of the schedule to this Agreement, if to be served on the Customer and shall be deemed
to have been served five banking days after posting.
A copy of any notice served on a Branch shall also be sent by registered post to the Bank at the address set out at the end of this Agreement or such other address as the Bank may notify to the Customer from time to time for this purpose. Failure to send such a copy shall not invalidate any notice served on Branch.

13. CONFIDENTIALITY AND DISCLOSURE

13.1. You undertake to maintain the confidentiality of the PIN &/or its ID, access code and Password and any other information and materials of any nature supplied to it/you by the Bank in relation to the Service. You agree to notify your nominated user, agents, employees and/or sub-contractors of the provisions of this paragraph and to impose this confidentiality requirement on its nominated user, agents, employees and/or sub-contractors entering into separate agreements, if necessary. You shall be fully liable to the Bank for any breach of the provisions of this paragraph by yourself, your nominated user, your employees, your agents and/or sub-contractors.
13.2. You authorise us to collect, retain and use personal information about you for certain purposes as detailed in such data protection and privacy policies as FCB Bank may issue from time to time.
13.3. You agree that we are authorised to disclose any necessary information (including any personal data) regarding you and the status of your accounts (including deposit accounts) with us or any Bank Member obtained under this Agreement or any other agreement with us or with a Bank Member to any or all of:
13.3.1. your holding company or any other group company of yours;
13.3.2. any office/branch/division of any Bank Member;
13.3.3. any agent, contractor or third party provider or service provider or professional adviser who provides administrative, telecommunications, computer, payment, collections, security, clearing, credit reference or checking, or other services or facilities to us in connection with the operation of our business;
13.3.4. any person to whom we are required to make disclosure to under the requirements of any law, regulation or practice;
13.3.5. any financial institution with which you propose to have any dealings, and
13.3.6. any actual or proposed participants or sub-participants in, or assignee, novatee or transferee of, any of our rights in relation to you:
13.3.7. and to use such information in connection with the administration and operation of the Services.

14. INTELLECTUAL PROPERTY RIGHTS

14.1. The Customer acknowledges that the intellectual property rights in the System (and any amendments or enhancements thereto from time to
time) and all associated documentation that the Bank provides to the Customer 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. The Customer shall not infringe any such intellectual property rights.
14.2. The Customer shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Bank.

15. DISCLOSURE

15.1. The customer(s) agrees and consents that the Bank may disclose any information in the possession of the Bank relating to account details to any and all agents used by the Bank in the course of the operation of the account including but not limited to agents appointed by the Bank to manage the account.
15.2. The customer(s) agrees and consent that the Bank may disclose any information in the possession of the Bank relating to this application and or account to any third party (including other institutions licensed under the Banking Laws of the Republic of Kenya and Credit Reference Agencies) if in the Bank's opinion such disclosure is necessary for the purpose of evaluating any application made to the Bank by customer(s) maintaining an account with the Bank or for other purposes but within the strict confinements of the laws of Kenya.
15.3. The customer(s) agrees and confirm that the Bank may disclose any information in the possession of the Bank relating to this account details of the account holder to any third party (including other institutions licensed under the Banking laws of the Republic of Kenya and Credit Reference Agencies) for the purpose of evaluating the applicant(s) credit worthiness or for any other lawful purpose.
15.4. The customer (s) consents that the Bank may obtain any information relating to the customer from any third party including Credit Reference institutions licensed under the laws of the Republic of Kenya if in the Bank's opinion such disclosure is necessary for the purpose of evaluating any application made to the Bank by the customer or for any other purpose as maybe prescribed by any existing law.

16. GOVERNING LAW

This Agreement shall be governed by and shall be construed according to the Laws of Kenya. The parties hereby irrevocably submit to the jurisdiction of the Courts of Kenya, but the Bank shall be at liberty to enforce anywhere a judgment in any jurisdiction where the Customer carries on business or has any asset.

17. ACCEPTANCE

I/we have read and fully understood the terms and conditions governing the use of FCB Mobile &/or FCB Online Banking services offered by FCB Bank Limited and I/We hereby accept them and will abide by them. I/we further confirm that we have independently verified the terms and conditions noted above and where necessary we have consulted other persons independent from the Bank's officials.

1. _____
(Signature)

_____
(Name)

Dated this _____ day of _____ 20_____

2. _____
(Signature)

_____
(Name)

Dated this _____ day of _____ 20_____

3. _____
(Signature)

_____
(Name)

Dated this _____ day of _____ 20_____

4. _____
(Signature)

_____
(Name)

Dated this _____ day of _____ 20_____

ONLINE BANKING APPLICATION FORM (RETAIL)

First Community Bank
driven by ethics

BRANCH: _____ DATE: ____ / ____ / _____

CLIENT ACCOUNT DETAILS

First Name: _____ Second Name(s): _____ Third Name(s): _____
P.O. Box: _____ Postal Code: _____ Town: _____
Tel Number(s): _____ Mobile Number(s): _____
CIF Account No: _____
E-mail Adress: _____

ACCESS DETAILS

I would like to have the following services (Tick (✓) appropriately)

☐ Balance enquiry & account activity ☐ Requests* ☐ Utility Payments
☐ Statement viewing/printing/downloading ☐ Funds Transfers ☐ Bulk Payments

*Requests constitute instructions to the bank in regards to stopping of cheques, cheque book ordering, ATM Card ordering and blocking

ACCEPTANCE

I/We (the 'Customer') confirm having read and fully understood the Terms & Conditions set out herein governing the use of online banking services offered by First Community Bank and also agree to indemnify the Bank against any loss or claims arising out of the service. I/We also declare that the information provided in this document is true and accurate according to my/our knowledge.

Signed:

1. _____ _____ _____
Name ID/Passport Number Signature

2. _____ _____ _____
Name ID/Passport Number Signature

3. _____ _____ _____
Name ID/Passport Number Signature

4. _____ _____ _____
Name ID/Passport Number Signature

FOR OFFICIAL USE

	Name	Signature	Date
Signature & Account details verified by:			
Branch Authorization by:			
User ID Created by:			
Password Created by:			

FIRST COMMUNITY BANK LTD

AGREEMENT FOR THE PROVISION OF ONLINE BANKING SERVICES

1. THE AGREEMENT

This is an agreement between the Customer and First Community Bank Limited "the Bank", a limited liability company incorporated in the Republic of Kenya and licensed as a Bank under the Banking Act Chapter 488 Laws of Kenya, having its registered office at Nairobi and care of Post Office Box 26219-00100, Nairobi and includes such Branch or Subsidiaries of the Bank as may from time to time be specified by the Bank to the Customer.

2. DEFINITIONS AND INTERPRETATION

2.1. In this Agreement, including the Schedule, the following definitions shall have the following meanings:

"Bank" First Community Bank Limited;

"Banking Day" A day on which the counters of the Branch and/or the Bank Subsidiary (as applicable) are open for the transaction of ordinary business;

"Branch" A branch or branches of the Bank which may from time to time be specified by the Bank to the Customer;

"Bank Account" The Customer's current and savings deposit account(s), current overdraft facility account(s) and term and call deposit accounts (as the case may be) with the Bank;

"Channel" Means all or any system, medium or channel (including telephone and facsimile), whether Internet based or not, which may be established by us from time to time to enable our customers access and utilise banking and other services provided by us from time to time;

"Channel Services" Means the provision by us to you of access to one or more Channels pursuant to the terms of this Agreement enabling you to utilize one or more of the Product Services;

"Customer" or "You" Means the person who has signed this agreement and includes any person authorised to give instructions on behalf of any such person to us and whose details are set out in Part I of the schedule. "Your" shall be construed accordingly;

"Customer Group" Means the Customer; and where the Customer is a company, its holding company (if any) and their respective subsidiaries from time to time;

"Deposit Account" Any Bank Account with a credit balance;

"Password FCB Online" Thesecret password known only to the Customer or the Customer's Nominated User for access to the System. The Customer or its nominated user may change the password at will;

"Nominated User(s)" The representative or representatives of the Customer authorised by the Customer to hold and change the Password and hence to access the System and Service on behalf of the Customer;

"Service" Means FCB Online Banking Service specified in paragraph 5 of this agreement as the Customer may from time to time subscribe to and "Services" Shall be construed accordingly and shall include channel services and such other internet related services in this agreement;

"System" The commutations software access FCB banking enabling the Customer to communicate with the Bank for the purposes of the Service. The System Service will for the purpose of this agreement be accessed through the internet via the Bank's website www.firstcommunitybank.co.ke or accessfcb.co.ke for FCB Online Banking;

"Request" request or instruction received by the Bank from the Customer or purportedly from the Customer through the System and upon which the Bank is, by virtue or subparagraph 4.1, authorized to act;

"Alert" These are the customized messages sent either by short messaging service/text ("SMS" over the Customer's mobile phone, email, or fax or any other modes of communication);

"The Facilities" Means the communication line, modem connection or other software, hardware or equipment provided and used by you for the transmission and/or receipt of any information sent electronically or by telephone for the purposes of or in connection with any of the services;

"MSP" Any mobile service provider through whom the Customer or the Bank receives the mobile services as notified by the Bank.

"Electronic Bill Payment" This is a service that allows you to send money from your account to a creditor or vendor such as public utilities, telephone, electric water bills also including telegraphic transfers (TT) to be credited against a specific account;

"Electronic Banking"
Means FCB Online Banking Service or the performance of transactions, payments etc. over the internet through the Bank's secure website;

"Security Procedures"
Means the security measures and procedures set out in the user guides and/or Service Supplements (including without limitation, provisions relating to customer identification and user identification) and any other instructions we may give concerning security from time to time;

"Us" Means the Bank and "we" and "our" shall be construed accordingly.
2.2. In this Agreement:
2.2.1. References to "the Bank" shall include the Bank, its successors and assigns;
2.2.2. References to "the Customer" shall include the Customer, his successors and permitted assigns and references to a "subsidiary" shall mean a subsidiary undertaking within the meaning of Section 154 of the Companies Act, Cap 486 of the Laws of Kenya;
2.2.3. Where "the Customer" is more than one person, references to "the Customer" shall include all and/or any of such persons and the obligations of the Customer shall be joint and several;
2.2.4. Words in the singular shall include the plural and vice versa and words importing any gender shall include all other genders;
2.2.5. "Person" shall include a body of persons, corporate or incorporate;
2.2.6. References to paragraphs, subparagraphs and Schedules shall mean paragraphs, subparagraphs and Schedules of this Agreement;
2.2.7. The Customer's use of the Service is also governed by the applicable current, savings, term and call and overdraft accounts agreement(s) and the Bank's General Terms and Conditions which the Customer has already signed

3. SYSTEM USAGE AND MATERIALS

3.1. The Bank will maintain the whole Banking system, (hereinafter referred to as "the System"), as well as the website, www.firstcommunitybank.co.ke or access fcb.co.ke (hereinafter referred to as "the Site"), to provide the Customer with information about the Bank services and products, including the FCB Mobile Banking & FCB Online Banking services, and to facilitate communication with the Bank. If, as a visitor to the Site or the System, the Customer wishes to take on the Service, they will be required to read the terms and conditions of this agreement and their subsequent use of the Site &/or System for purposes of the service constitutes their agreement to all such terms and conditions. However it should be noted that, visitors to the Site &/or the System must first register to enable them access any of the material under FCB Online &/or FCB Mobile Banking service.
3.2. Once the Bank has formally approved the Customer and the Customer has been maintained as an authorised user of the Service, the Customer will provide to the System a unique (PIN) &/or (identification and ID and a secret password – Online Banking), known only to the Customer, (and/or the nominated user for Online Banking), and then only shall the Customer be afforded use of the Service. The (PIN) and/or (ID and Password), will form a unique link to each specific Customer's profile(s).
3.3. Further services and profiles may be added from time to time by the Bank, and the Bank reserves the right to modify, replace or withdraw any Service and/or profile at any time, for any reason whatsoever, without prior notice to the Customer.

4. CUSTOMER'S RESPONSIBILITIES

4.1. The Customer shall at his own expense provide and maintain in safe and efficient operating order such hardware, software and other facilities (including access to any public telecommunications systems), and any communications network necessary for the purpose of accessing the System and the Service.
4.2. The Customer shall be responsible for ensuring proper performance of the phone and/or Facilities including any losses or delays that may be
caused by the MSP &/or Facilities. The Bank shall neither be responsible for any errors or failures caused by any malfunction of the Customer phone &/or Facilities, and nor shall the Bank be responsible for any virus or related problems that may be associated with the use of the System/Phone, the Service and the phone/Facilities. The Customer shall be responsible for charges due to any service provider providing the
Customer with connection to the internet and the Bank shall not be responsible for losses or delays caused by any such service provider.
4.3. The Customer shall abide with any applicable regulations and/or obtain all licences and contents necessary to have access to and use of the System and shall ensure that all persons it allows to have access to the System shall comply with all laws and regulations applicable to the use of the System and follow all instructions, procedures and terms contained in this Agreement and any document provided by the Bank concerning the use of the System and Service.
4.4. The Customer shall prevent any unauthorised access to or use of the phone/System and Service by way of keeping their PIN and/or access code and Password a secret at all times. The Customers shall ensure that the PIN, access code and Password do not become known or come into possession of any unauthorised person.
4.5. The Customer shall take all reasonable precautions to detect any unauthorised use of the phone/System and Service. To that end, the Customer shall ensure that all communications from the Bank are examined and checked by or on behalf of the Customer as soon as practicable after receipt by the Customer in such a way that any unauthorised use of and access to the phone/System will be detected.
4.6. The Customer shall immediately inform the Bank by telephone with a written confirmation sent the same day in the event that:
4.7. The Customer shall not send or attempt to send any Request to the Bank through their System if the Customer has reason to believe that for any Reason such Request may not be received by the Bank or may not be received accurately and intelligibly.
4.8. The Customer shall at all times follow the security procedures notified to the Customer by the Bank from time to time or such other procedures as may be applicable to the Service from time to time including those that may be contained in the Bank's internet website; The Customer acknowledges that any failure on the part of the Customer to follow the recommended security procedures may result in a breach of the Customer's profile confidentiality and may lead to unauthorised transactions in accounts linked to the Customer's Service subscription with the Bank. In particular, the Customer shall ensure that the Service is not used or Requests are not issued or the relevant functions are not performed by anyone other than a person authorised to do so.
4.9. The Customer shall not at any time: Operate or use the Service in any manner that may be prejudicial to the Bank.
4.10. For FCB Online Banking, the Customer understands and accepts that it may link a business account or an account requiring multiple signatures to the Customer's profile on this Service only if the Customer has submitted to the Bank an original written standing mandate to the effect that the Bank is authorised to process transactions not exceeding a certain specified amount, and it will be the responsibility of the Customer to ensure that no unauthorised persons have access to these accounts.
4.11. The Bank shall be entitled and authorised to debit the Customer's accounts with the amounts of the transactions effected via the Service as well as debit the Customer's account with the amount of any fees applicable to the Service from time to time.
4.12. The Customer shall be responsible for the Acts and Omissions for the use of the facility &/or of its nominated user thus, the Bank shall not be responsible for any loss that arises thereof.

5. INSTRUCTIONS BY CUSTOMERS

5.1. The Bank is irrevocably authorised by the Customer to act on all Requests received by the Bank from the Customer (or purportedly from the Customer) through the System and to hold the Customer liable thereof, notwithstanding that any such requests are not authorised by the Customer or are not in accordance with any existing mandates given by the Customer. If the Customer requests the Bank to cancel any transaction or instruction after a Request has been received by the Bank from the Customer, the Bank may at its absolute discretion cancel such transaction or instruction but shall have no obligation to do so.
5.2. 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 reference to the Customer being necessary.
5.3. The Bank shall not be obliged to accept or to act upon any Request if to do so would require access to, action by, or information from the Branch, or any subsidiary or the Bank located in any jurisdiction where it is not a Banking Day at the relevant time when such access, action or information is required or would cause a breach of any existing mandate facility limit or agreement between the Bank, the Branch and/or any subsidiary of the Bank (as applicable) and the Customer. In the event that the Bank does accept or act upon any such Request, the Customer shall remain liable thereof.
5.4. For the purposes of carrying out any instruction, you may:
5.4.1. Authorise us to transmit payment instructions on your behalf and to act for these purposes as instructing financial institution (or procure any other Bank Member or third party so to act). You acknowledge that we will be acting as your agent for the purpose of transmitting or procuring the transmission of any such Instructions and that we or any other Bank Member or third party being the recipient of any such Instructions shall be authorised and entitled to act upon them as if they had been given directly by you to such recipient, and
5.4.2. Agree to authorise any relevant third party to provide account and other information to us.
5.5. For the avoidance of doubt:
5.5.1. You agree that we are authorised to record all telephone conversations made between us in writing or by tape or other means as we may determine;
5.5.2. where any Instruction is given by fax, email, or SMS followed by delivery of the original Instruction, the fact that the same had been given by fax, email or SMS and the date of the facsimile shall be annotated on the original copy (where possible). In the absence of such annotation, you agree that we shall not be liable for any consequences including (without limitation). In the case of payment Instructions, any losses arising from any duplication of payment or fund transfer, and;
5.5.3. As between us, and in the absence of manifest error, our records (whether in paper, electro FCB, data or other form) of each Instruction or other communication with you shall be conclusive evidence of the fact of receipt or non-receipt of such Instruction or communication and of the contents of an instruction or communicate.
5.6. In the event of any conflict between any terms of any Request from the Customer and the terms of this Agreement, the terms of this Agreement shall prevail.

6. FCB ONLINE BANKING SERVICE AND TRANSACTIONS

6.1. Services and Transactions Offered Depending on the subscription applied for by the Customer and approved by the Bank, the transactions that a Customer is able to perform may vary. The services and transactions allowed may include but are not limited to the following:-
6.1.1. FCB Online Banking
• General Customer interaction - news, advice, Bank products etc
• Online application for Bank products.
• Obtaining account information like current balances, account activity and other details.
• Electronic bill payment for telephone bills, electricity bills etc.
• Requests for printed bank statements and cheque books.
• Stop cheque requests.
• Requests for change of Customer profile particulars like phone number, address, etc.
• Payroll processing and wire transfer of salaries to the employees' bank' accounts.
• Inquiries on foreign exchange rates and interest rates.
• Change of password- done by the Customer.
• Internal Transfer of funds - between different accounts of the Customer.
• Transfer of Funds to external bank accounts of the Customer or third parties.
• Giving instructions to the Bank to open a term deposit.
• Initiating a number of bank transactions including Letter of Credit, bank guarantee, Loan application and others as the Bank may facilitate online
from time to time.
• Application for letters of credit.
6.1.2. Customer Subscription
The Customer will subscribe for specific services and/or transaction types and its profile shall be customised to allow performance of only those
Services subscribed for.
6.2. Limits of FCB on-line Banking Transactions
6.2.1. The Customer may transfer or effect a payment for any amount subject to the provision on paragraph 4.10 of this agreement, as long as the transaction does not cause the balance in the deposit account to be less than zero unless the Customer has either an overdraft facility for the affected deposit account or a term deposit account pledged with the Bank to cover excesses that may arise in the affected deposit account from time to time in which case the two accounts are linked in the System for that purpose.
6.2.2. If the Customer has an overdraft facility or a term deposit account linked to the payment deposit account, the transfers and/or electronic bill payments using the Service should not exceed the approved overdraft facility or the pledged term deposit amount

7. SERVICE CHARGES

7.1. The Customer shall pay or procure the payment of our service tariffs, fees and charges (including any cancellation fees or termination charges) for providing the services and any software and system materials provided or licensed by us to you in accordance with the service charges agreement in addition to transaction service charges applicable to various transaction types as advised by the Bank from time to time. The charges herein shall also apply to any legal or recovery fees in relation to the account. The applicable legal fees shall be as provided for in the Advocates Act and/or Auctioneers Act and any other law(s) that shall be applicable from time to time.
7.2. The Customer, whenever applicable, shall pay any tax chargeable upon any sums payable by the Customer to the Bank and also any other charges or duties levied on the Customer or the Bank by any governmental or statutory body relating to the provision of the Service.
7.3. The Bank is hereby irrevocably authorised from time to time to debit any amounts payable by the Customer under the provisions of subparagraphs 7.1 and 7.2 against any account in any currency maintained by the Bank, the Branch and/or the Bank subsidiaries (as applicable) in the name of the Customer. In addition to the fees payable under this agreement, the charges and fees applicable to the Customer's Bank Accounts will apply..

8. EXCLUSION OF LIABILITY

The Bank will not be responsible or liable for:
8.1. any indirect or consequential losses or economic loss or loss of profit or business incurred by you in connection with the services notwithstanding our awareness of the possibility or likelihood of you incurring the same;
8.2. any loss in connection with any unforeseeable acts or omissions or neglect acts on the part of our service providers, contractors, agents or employees;
8.3. any losses arising in connection with us acting upon Instructions sent by you or by reason of us failing or refusing to so act if, acting in good faith, in our opinion there is or are reasonable ground(s) for such failure or refusal (other than as caused by our gross negligence or willful default);
8.4. The Bank shall not be responsible for any loss suffered by the Customer should the Service be interfered with or be unavailable by reason of;
(a) any industrial action,
(b) the failure of any of the Customer's facilities, or
(c) any other circumstances whatsoever not reasonably 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;
8.5. any losses caused as a result of or in connection with any laws or regulations of countries where transactions are settled or cleared where any negotiable instrument or receivable is collected or any exchange control restrictions which are imposed from time to time unless caused by our breach of such laws and regulations;
8.6. if any losses suffered by you by reason of:
8.6.1. the shut-down or delay in the availability of the Mobile Service Provider (MSP) and/or Website;
8.6.2. any viruses, Trojan horses, worms, logic software, other bombs or other similar programs or routines (including hacking) affecting any Website, Service or System Materials; or
8.6.3. Incomplete messaging.
8.7. any damages or losses arising from unauthorised access to any Service by a third party using the PIN &/or any Customer Identification or User Identification or access code unless we have received prior notification from you in accordance with the User Guides and/or the relevant notification that no further access to the relevant Service shall be granted to any person using such Customer Identification or User Identification or Access code with effect either from receipt of such notification or such later date as may be specified in such notification; or
8.8. The consequences of any misuse of any Channel and/or Website by you, (or your Authorized Persons), or any use of any Website or Channel by
you, (or your Authorized Persons), not related to any of the Services. For the avoidance of doubt, any other limitation of liability contained shall be in addition to and shall not derogate from the above
8.9. Without prejudice to clause 8.1 above, our maximum aggregate liability to you for any claim arising from or in connection with any Service is limited to the aggregate amount of service charges paid by you for the relevant Service in the three months preceding such claim.
8.10. Whilst we will use all reasonable endeavours to ensure that all financial information available through the Services is accurate when initially made available, we shall not be liable for any loss incurred or damage suffered by you by reason or in consequence of your using financial information which is not up to date
8.11. Save as otherwise provided in this Agreement, all terms, conditions and warranties implied by law regarding the quality or fitness for purpose or
otherwise of the Services or the System Materials are excluded to the fullest extent permitted by applicable law.
8.12. To be valid, any claim that you have against us under the Agreement or otherwise in connection with any Service or any ancillary service must be notified to us within thirty (30) days after you have become aware or should have become aware of the facts on which it is based.

9. INDEMNITY.

9.1. The Customer shall indemnify and keep the Bank indemnified against; (a) any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss caused by (a), (b) and/or (c) of subparagraph 8.4 where the particular circumstance is within the Customer's control; and (b) any loss which may be incurred by the Bank as a consequence of any breach by the Customer of the terms of this Agreement.
9.2. The Customer shall indemnify and keep indemnified the Bank against any demand, claim or action relating to or in connection with the Service, whether directly or indirectly, unless such demand, claim or action arose as a direct consequence of the gross negligence or willful misconduct of the Bank or any of its employees.
9.3. The Customer shall indemnify and keep indemnified the Bank against the following:-
9.3.1. 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.
9.3.2. Any loss or damage that may arise from the Customer's 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.
9.3.3. Any unauthorised access to the Customer's accounts or any breach of security or any destruction or accessing of the Customer's data or any destruction or theft of or damage to any of the Customer's equipment.
9.3.4. Any loss or damage occasioned by the failure by the Customer to adhere to any terms and conditions applicable to the Service 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.
9.4. If for any reason other than a reason mentioned in subparagraph 7.4 the Service is interfered with or unavailable, the Bank's sole liability under this Agreement in