

# MoMoPay - Terms & Conditions

These Terms and Conditions together with the application form and the operational guidelines (together "the Agreement") contain the complete terms and conditions that apply to Merchant's participation in MTN's mobile payment system (hereinafter **Mobile Money Merchant Payments Services or MoMoPay**) and supersedes all other agreements entered into between the Merchant and MTN in relation to the provision of **Mobile Money Merchant Payments Services**. By executing this document You (also referred to as the **Merchant**) agree that You have carefully read and understood the terms and conditions set forth herein and agrees to be bound by the said terms and conditions.

## 1 DEFINITIONS AND INTERPRETATION

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

**"Business Day"** means any day of the week not being a weekend, gazetted public holiday or designated bank holiday within the Republic of Uganda;

**"Cash"** means the money denominated in Uganda Shillings which, as the context requires, may be offered by a Customer through the Customer's Mobile Money Account as a Payment through the Mobile Money system and subsequently credited to the Merchant's Mobile Money Account; and may be paid to the Merchant pursuant to a Withdrawal Request Instruction given by the Merchant to MTN;

**"Merchant's Mobile Money Account" or "Mobile Money Account"** means the MTN Mobile Money account operated by the Merchant and through which the Merchant receives Payments from Customers;

**"Confidential Information"** means, without limitation, all information, software, data, manuals, concepts relating to marketing methods, products, developments, business and financial affairs and trade secrets, and other information of value to a party and not generally known, (whether or not designated as "confidential information" by any Party and whether written, oral or in electronic form) and any other information clearly designated by a Party as "confidential information" or that is evidently confidential by its nature or the nature of its disclosure, and includes the terms of this Agreement;

**"Customer"** means a Mobile Money user who uses the MTN Mobile Money System to make Payments or perform Payments to the Merchant and "Customers" shall be construed accordingly;

**"Customer Mobile Money Account"** means the Mobile Money account operated by the Customer whose access is through the Mobile Money menu on the Customer's mobile phone and through which the Customer may effect Payment instructions to the Merchant;

**"EFT"** means any electronic means of funds held in trust for the Merchant from the Trust Account to the Merchant's designated bank account including without limitation, Electronic Funds Transfer and Real Time Gross Settlement;

**"Effective Date"** means the date first appearing on this Agreement;

**"E-Money"** means the electronic value issued by MTN and representing an entitlement to an equivalent amount of the Cash held by the Custodial Trustee in respect of the acquisition of such electronic value;

**"Escrow Account"** Means the trust account held by MTN in a licensed financial institution used to facilitate the Mobile Money transactions.

**"Intellectual Property Rights"** means, in respect of each Party, such Party's proprietary rights, title and interest in and to any and all names, logos, trademarks, copyrights, patents and all other intellectual property of whatever nature, description or form, vesting in that Party as at the Effective Date or acquired by such Party at any time after the Effective Date;

**"KYC Test"** means the Know Your Customer due diligence performed by the Merchant to ascertain the identity of Customers at the point of sale requiring the viewing and matching of ID information with the Mobile Money account from which a Payment originates;

**"Merchant Number"** means a destination code or numbering plan created by MTN for the identification of Mobile Money Merchant Accounts;

**"Mobile Money Merchant Service" or "Service"** means the Payment services provided by MTN which the Merchant will use in order to receive Payments from Customers and may be used for other transactions as necessary;

**"Operational Documents"** means the application form, and the Terms and conditions to be completed by the Principal / Merchant and/or Participants;

**"Payment"** means the transfer of money from a Customer to the Merchant for the payment of goods, services and merchandise by following prompts on the Merchant Payments section of the Customer's Mobile Money menu;

**"Mobile Money System" or "Mobile Money"** means the system operated by MTN to facilitate electronic commerce including providing the Mobile Money Merchant Services;

**"Mobile Money User" or "User" or "Mobile Money System Participant"** means either of the Merchant or the Customer or any other person including MTN participating in the Mobile Money System;

**"Mobile Money Website"** means the site located at <https://www.mtn.co.ug/Mobile%20Money/Pages/default.aspx>;

**"MSISDN"** means the Mobile Subscriber Integrated Services Digital Network number issued to the Mobile Money User which uniquely identifies the Mobile Money User on the MTN Network and is used to connect the Customer with other subscribers;

**"MTN Equipment"** means any component, or any equipment used, or owned by MTN pursuant to this Agreement.

**"Network"** means the Global System for Mobile telecommunication ("GSM") system operated by MTN and covering those areas within the Republic of Uganda as stipulated from time to time by MTN;

**"Transaction"** means (as the context requires) Payments made by Customers to the Merchant; and funds transfers from the merchant to other.

**"Trust Account(s)"** means the custodial account or accounts maintained in a commercial bank or banks into which Cash sums represented in the Mobile Money System are held in by the Custodial Trustee for and on behalf of all Mobile Money System Participants;

**"Web Interface"** means the Mobile Money website through which the Merchant's Mobile Money Account details including Transactions and account balances can be viewed and through which certain Transactions can be completed;

**"Withdrawal Request Instruction"** means an instruction given to MTN by the Merchant requesting MTN to facilitate the redemption of the Merchant's funds held in the Trust Account.

1.2 In this Agreement (including the recitals), unless the context otherwise requires:

1.2.1 Words denoting the singular shall include the plural and vice versa and reference to the masculine gender shall include a reference to the feminine gender and neuter and vice versa;

1.2.2 References to clauses are references to the clauses of this Agreement;

1.2.3 References to "Parties" shall mean the parties to this Agreement being MTN and the Merchant and to "Party" shall mean either of them as the context may indicate;

1.2.4 The expression "person" includes a natural person, body corporate, unincorporated venture, trust, joint venture, association, statutory corporation, state, state agency, governmental authority or firm; and

1.2.5 Headings to clauses are used for convenience only and shall not affect the construction and interpretation of this Agreement.

## 2. DURATION OF AGREEMENT

2.1 Subject to the provisions for earlier termination as provided in this Agreement, this Agreement shall be for an initial period of twelve (12) months (the "Initial Term") from the Effective Date.

2.2 Upon expiry of the Initial Term, this Agreement shall automatically be renewed by the parties for further renewal periods of twelve (12) months each (each period being a "Renewal Term") on the terms and conditions appearing herein or as may be amended in writing unless terminated in accordance with the terms of this Agreement.

## 3. OPERATION AND SCOPE

3.1 The Merchant hereby agrees to abide by the Mobile Money operational procedures as may be prescribed by MTN from time to time.

3.2 The use of the Mobile Money Service by the Merchant shall be subject to the terms of this Agreement, the Mobile Money Website Access Terms and Conditions as may be notified to the Merchant, the Customer Terms and Conditions and any guidelines or bulletins as may be published by MTN from time to time.

3.3 In the event of any conflict and/or inconsistencies between this Agreement and the Operational documents and Regulations, the terms of this document shall prevail.

3.4 MTN may suspend, improve, change, replace, withdraw and include as part of the Mobile Money Merchant Service any module from time to time, on reasonable notice to the Principal/Merchant and Participants

3.5 With effect from the Effective Date and for the duration of the Agreement, MTN shall:

3.5.1 Make available to Customers and the Merchant the Mobile Money Merchant Service by allocating a Merchant Number or Numbers through which Customers may make payments to the Merchant's Mobile Money Account through the Mobile Money Merchant Payments Service functionality. For the avoidance of doubt the Merchant Number or Numbers remain the property of MTN at all times and MTN may, with reasonable prior notice to the Merchant, re-number, re-assign, re-allocate or withdraw a Merchant Number or Numbers PROVIDED that MTN shall not tamper with the balances held in the Merchant's Mobile Money account (subject to clause 3.2.5);

3.5.2 Grant secure access rights to the Mobile Money Website through which the Merchant may manage its Mobile Money Account. For the avoidance of doubt the Mobile Money Website is proprietary and any material downloaded from it (including without limitation, statements, screen shots, etc.) shall be Confidential Information.

3.5.3 Provide support services to the Merchant and address any issues escalated by the Merchant in relation to Payments.

3.5.4 Credit the Merchant's Mobile Money Account with Payments received from Customers through the Mobile Money System;

3.5.5 Reserve the right, if required by law, to hold funds beyond the normal distribution period for Transactions that it reasonably deems suspicious in regards to money laundering, fraud and other criminal activities;

3.5.6 Provide Merchant service support to the Merchant for the resolution of Merchant issues including any escalated customer issues through the channels indicated on the Mobile Money website.

3.6 With effect from the Effective Date and for the duration of the Agreement, the Merchant shall:-

3.6.1 Reconcile payments received on the Mobile Money System through the Web Interface and MTN application upon Payment being made and in any event not later than twenty four (24) hours after Payment;

3.6.2 Publish the prevailing charge applicable for Payments (if the Customer is responsible for bearing the Transaction Charges or a portion thereof);

3.6.3 Decline any Payment failing the KYC Test;

3.6.4 Initiate Withdrawal Request instructions to MTN for redemption of accumulated funds in the Merchant Mobile Money Account;

3.6.5 Authorize MTN to debit charges and commissions to the Merchant Mobile Money account for providing the Mobile Money Merchant Service;

3.6.6 Provide first line customer service support to Customers making Payment including, without limitation, provide customers a help line through which Customers may escalate matters relating to payments made to the Merchant through the Mobile Money System.

3.7 The Merchant undertakes that it shall at all times comply with the Website Access Terms and Conditions and such other reasonable guidelines as may be communicated to the Merchant by MTN in writing or published on the MTN website from time to time.

## 4 ACTIVATION OF MERCHANT PAYMENTS ACCOUNT

4.1 This agreement comes into effect upon activation of the MoMoPay Account by MTN following the passing of all KYC vetting procedures conducted on the Merchant by MTN.

4.2 Prior to activation of the MoMoPay Account, the Merchant shall ensure it has provided MTN with the necessary Know Your Customer (KYC) documents as may be prescribed by MTN.

4.3 MTN shall carry out the necessary due diligence following which, if satisfied as to the sufficiency of the KYC documents provided by the Merchant, shall activate the Merchant's Merchant Payments Account. If the Merchant fails to produce the necessary KYC documents as set out in 4.2 above, or fails to satisfy the minimum KYC requirements, MTN will refuse to activate the Mobile Money Merchant Payments account and accordingly advise the Merchant as such (in which case this Agreement shall be null and void). For the avoidance of doubt, MTN's refusal to activate the Mobile Money Merchant Payments account shall neither confer on the Merchant any right to contest MTN's decision nor give rise to any legal claim against MTN under this Agreement.

4.4 Any MTN supplied equipment or equipment provided in terms of MTN's obligations hereunder (whether by its agents, contractors or otherwise) and used for the establishment and provision of the merchant services shall remain the exclusive property of MTN and unless expressly stated herein, shall not be construed as granting the merchant any right in the MTN supplied equipment or equipment provided in terms of MTN's obligations hereunder. Such equipment may be repossessed by MTN at its discretion.

## 5 REVERSALS

5.1 The Merchant shall within a reasonable period initiate and complete reversal transactions where a payment made to it is manifestly made in error or otherwise. Where the two parties fail to agree on the reversal, MTN may at its own discretion mediate to resolve the disagreement.

## 6. TRANSACTION RANGE & CHARGES

6.1 The Service shall be subject to the Charges and Transaction Values set and communicated by MTN from time to time. MTN may by notice from time to time vary the charges.

6.2 MTN may by notice and from time to time vary the Charges and Transaction Values.

6.3 Amounts to be transacted by Customers using the Mobile Money System are subject to transaction and account limits set on the Mobile Money System as published by MTN (*Charges and Transaction Values*) or as may be varied by MTN in writing from time to time.

## 7. CONFIDENTIALITY

7.1 Each party undertakes and warrants that it will treat as confidential all information related to and received from the other party, which it acquires as a result of the operation of this Agreement and to afford it the same degree of confidential treatment as it affords to its own confidential information.

7.2 Neither party will reveal any confidential information of the other to any third party, without the express written consent of the disclosing party, except where such information is already in the public domain, has been legally acquired by the third party, or where disclosure of the confidential information is ordered by a court or other competent authority.

7.3 The Merchant agrees that all customer Information is and shall remain the exclusive property of MTN. No right, title or interest other than the right to access the Information subject to these Terms is conveyed or transferred to the Merchant. The Merchant shall not make any representation or do any act which may be taken to indicate that the merchant has any such right, title or interest.

7.4 MTN may, however disclose all of the information collected from Merchants or former merchants to its affiliates or to companies that perform marketing services on its behalf or to financial institutions with whom MTN has written joint marketing agreements for financial products or services. The contracts entered for this purpose require these service providers, companies and/or financial institutions to protect the confidentiality of your personal information to the same extent that MTN must do.

## 8. WARRANTIES, INDEMNITIES & LIMITATIONS OF LIABILITY

8.1 Each of the Parties represents and warrants that none of its senior officers or directors (i) has ever been convicted of any crime (other than minor traffic offences); and (ii) has ever been charged, convicted of (or pleaded guilty or no contest to) any crime relating to fraud, embezzlement, theft, money laundering, financing terrorism or terrorist organizations, receiving stolen property, or illegal drugs or other controlled substances. Each Party shall, if required, notify the other in writing within 48 hours after any of these representations and warranties ceases to be true.

8.2 The Merchant warrants that it has obtained all the necessary management, board or, where necessary, regulatory approvals to use the Mobile Money Merchant Service for the receipt of Payments from Customers.

8.3 Each party shall indemnify the other, and keep each other indemnified, from and against any and all loss, damage or liability, whether criminal or civil, suffered, any legal fees and costs incurred by the other resulting from a material breach of this Agreement by the party at fault including breaches caused by any act, neglect or default of a party or any third party claim in respect of any matter arising from any person's conduct, provided that the liability has not been incurred directly through any default either party in relation to its obligations under this Agreement.

- 8.4 Without prejudice to the foregoing, the Merchant shall indemnify and keep MTN indemnified from, defend MTN against, and pay any final judgment awarded against MTN, resulting from third party claims arising from the use of the Services leading to loss or damage (including consequential loss or damage) where the proximate cause of such loss or damage is attributable to the Merchant's negligence, recklessness, indifference, delay or failure to receipt or acknowledge a Customer's Payment after the Customer has effected a Merchant Transaction to the Merchant on the Mobile Money System.
- 8.5 The Merchant shall have no claim against MTN where MTN acts on the instructions including faxes, email or letters purported to be given by persons acting on behalf of the Merchant and/or Mobile Money System Participants, as the case may be.
- 8.6 MTN shall not be liable to the Merchant or any other person where;
- 8.5.1 The Transaction amount sought by the Customer is below the minimum or above the maximum limits for transactions on the Mobile Money System set by MTN from time to time (*Charges & Transaction Values*);
- 8.6.2 The Customer has entered incorrect details and the payment is made to the wrong Mobile Money System Participant;
- 8.6.3 The Merchant's hardware, software or internet provider's service is not functioning properly;
- 8.6.4 The transaction is suspicious or fraudulent resulting in losses to a third party;
- 8.6.5 The transaction details received do not contain the correct information;
- 8.6.6 The Merchant's receipt of funds is intercepted by legal process or other encumbrance restricting the transfer; or
- 8.6.7 Unforeseen circumstances prevent the execution of a Transaction despite any reasonable precautions taken by MTN.
- 8.7 Without prejudice to any other provisions of this Agreement, each of MTN and the Merchant undertakes to indemnify the other party and keep the other party indemnified on demand for and against all proceedings, costs, claims, damages, expenses and liabilities of whatsoever nature howsoever suffered or incurred arising out of or by reason of:
- 8.7.1 any breach or non-compliance with any terms of this Agreement; or;
- 8.7.2 any infringement or alleged infringement of any intellectual property rights relating to the use of any software by any person.
- 8.8 MTN shall use all endeavours to ensure that the Service is functioning in accordance with the Operational Regulations, however, MTN accepts no liability for downtime and unavailability of the Service;

## 9 SUSPENSION

- 9.1 MTN may, with reasonable notice where practicable, suspend the availability of the Service to the Merchant wholly or partially for any valid reason, including without limitation, where (i) the Service is used in a manner contrary to the representations made to MTN by the Merchant or in a manner inconsistent with the conditions of any regulatory approval granted to the Merchant; (ii) investigations are contemplated or ongoing and MTN reasonably believes that suspension of the service is likely to facilitate the investigations; (iii) Any regulatory approval for the Service granted to the Merchant is subsequently revoked or expires.
- 9.2 In the event of suspension MTN shall give the Merchant reasonable notice to remedy the cause of the suspension failure to which MTN shall be at liberty to issue a Termination Notice.
- 9.3 Upon the receipt of a Suspension Notice from MTN, the Merchant shall issue a statement or other appropriate written communication to its Customers which shall be in terms substantially consistent with the Suspension Notice received and shall inform its Customers of the impending unavailability of the Service.
- 9.4 Upon the issuance of a Suspension notice, MTN shall promptly facilitate the redemption of all accumulated funds in the Merchant's Mobile Money Account.

## 10 TERMINATION

- 10.1 Termination on Notice
- 10.1.1 If either of the Parties commits a breach of any material obligation imposed on it in terms of this Agreement (hereinafter the "Defaulting Party"), and fails to remedy such breach within a period of 30 (thirty) days from the date on which written notice is given to the Defaulting Party by the other Party (hereinafter the "Aggrieved Party") requiring the Defaulting Party to remedy the breach, then the Aggrieved Party shall be entitled to terminate this Agreement on the expiry of such written notice and the Aggrieved Party shall be entitled to hold the Defaulting Party liable in damages as a result of such termination.
- 10.1.2 Either Party may terminate the agreement by giving thirty (30) days prior written notice irrespective of whether the other Party is in material breach of this Agreement.
- 10.1.3 MTN may terminate the agreement if the Merchant Payments account remains inactive for a period of six (6) months. For the avoidance of doubt, an "inactive" Merchant Payments account is one which has not had any credit entries over a continuous period of six (6) months.
- 10.2 Effect of Termination
- 10.2.1 Upon the receipt of a Termination Notice from MTN, the Merchant shall issue a statement or other appropriate written communication to its Customers informing them of the impending unavailability of the Service.
- 10.2.2 Upon termination, the Merchant shall return all equipment supplied by MTN as part of this agreement.
- 10.2.3 The expiration or termination of this Agreement shall be without prejudice to all accrued rights and obligations of the Parties under this Agreement and to all obligations under this Agreement expressed to continue or take effect after expiration or termination.

## 11 TAXES

- 11.1 The Merchant undertakes to declare all income resulting from or in consequence of using the Mobile Money Merchant Payments Services to the relevant tax authority and to pay all taxes levies and fees due on such income. MTN shall not be liable to the Merchant for any disclosure to the relevant tax authority and the Merchant hereby indemnifies MTN from any loss or damage arising from such disclosure to the relevant taxing authority.
- 11.3 Where withholding tax applies to this Agreement, MTN has a duty to deduct such tax and any other amount required by law at the point of payment from any amount payable to the Merchant.
- 11.4 Without prejudice to the generality of clause 11.1, any taxes, charges, impositions or levies imposed on a Party or on a Party's performance of

its obligations under this Agreement shall be paid by that Party, it being solely that Party's obligation to collect and remit such taxes to the relevant tax authority.

## 12 PROHIBITED USAGE & CONDUCT

- 12.1 You agree to not use the Mobile Money Merchant Payments service to:
- Conduct any business that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
  - Impersonate any person or entity, including, but not limited to, an MTN official, fellow user, or falsely utter or otherwise misrepresent your affiliation with a person or entity;
  - Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service;
  - Conduct any business that causes or permits the uploading, posting, emailing, transmission or otherwise making available any content or information that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
  - Conduct any business that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party;
  - Conduct any business whether unsolicited or not, relating to or remotely connected to SPAM, junk mail, pyramid schemes, pornography, gambling or any other form of solicitation;
  - Conduct any business that causes or permits the uploading, posting, emailing, transmission or otherwise making any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
  - Conduct any business that interferes with or disrupts the Service or servers or networks connected to the Service, or disobeys any requirements, procedures, policies or regulations of networks connected to the Service;
  - Conduct any business that intentionally or unintentionally violates any applicable local, or international law, including, but not limited to, laws and regulations promulgated by the Uganda Communications Commission, the Central Bank of Uganda or any regulations having the force of law;
  - Collect or store personal data about other users without their express authority.
- 12.2 It is hereby acknowledged and agreed that MTN may preserve the Merchant's Confidential Information and may also disclose the Merchant's Confidential Information if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the terms of this Agreement; (c) respond to claims that the Merchant's use of the Mobile Money Service violates the rights of third-parties; or (d) protect the rights, property, or personal safety of MTN, its subscribers and the public.
- 12.3 You shall not make available to any third party any Confidential Information (including without limitation, customer names, MSISDN, transaction data, etc.) unless compelled by law to do so.

## 13 DISPUTE RESOLUTION

- 13.1 The Parties shall use their best efforts to amicably settle any dispute or claim, arising out of or in connection with this Agreement (including any question regarding its interpretation, existence, validity or termination). In the event of any dispute or claim, whether based on contract or tort, arising out of or in connection with this Agreement, the parties will endeavor to resolve such dispute through good faith negotiations as follows:
- 13.1.1 The Parties representatives will attempt to resolve the matter within fourteen (14) days of the matter being referred to them, or such other period as shall be agreed between the parties;
- 13.1.2 If the matter is not resolved under the provisions of 13.1.1 above, the matter will be referred to the Parties' Chief Executive Officers, or their duly appointed representatives, who will attempt to resolve the matter within a further period of seven (7) days, or such other period as shall be agreed between the parties.
- 13.1.3 If the matter is not resolved under the provisions of 13.1.2 above, the matter shall be referred to arbitration by a single arbitrator to be appointed by agreement between the Parties or in default of such agreement within fourteen (14) days of the notification of a dispute, upon the application of either Party, by the Center for Arbitration and Dispute Resolution.
- 13.1.4 Such arbitration shall be conducted under the provisions of the Arbitration and Conciliation Act, cap 4, Laws of Uganda
- 13.1.5 Save for the arbitral award, each party shall bear its own costs in relation to the arbitration proceedings.
- 13.1.6 The language of the arbitration shall be English
- 13.1.7 Nothing in this Agreement shall prevent or delay a Party from making claims or seeking injunctive or interlocutory relief in the High Court of Uganda.
- 13.2 The Merchant shall provide Customers with customer service assistance and/or a customer service helpdesk for first line resolution of customer issues relating to their payments.
- 13.3 The Merchant undertakes to comply with any guidelines or bulletins on customer dispute resolution and consumer protection as may be issued by MTN from time to time.

## 14 AMENDMENT

This Agreement, including the form and operating guidelines may be amended by MTN by way of bulletin, and notices. The Merchant acknowledges that such bulletin or notices shall be binding and shall have full legal force as if they were contained in this Agreement.

## 15 ASSIGNMENT

This Agreement may not be assigned by either party, by operation of law or otherwise, without the prior written consent of the other party.

## 16 NOTICES

Except as otherwise specified in the Agreement, all notices, requests, approvals, consents and other communications required or permitted under

this Agreement shall be in writing and shall be personally delivered or sent by mail, registered or certified, return receipt requested, postage pre-paid, courier service to the address specified above. Notices shall be deemed given on the day actually received by the party to whom the notice is addressed.

## 17 COUNTERPARTS

This Agreement may be executed simultaneously in two counterparts, each of which shall be deemed an original, but all of which together constitute one and the same agreement.

## 18 WAIVER

No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the party waiving its rights.

## 19 SEVERABILITY

Any provision of this Agreement held by a court of competent jurisdiction to be contrary to any law shall be severed from the agreement, but such severance shall not render the remaining provisions of this agreement ineffective. The remaining provisions of this Agreement will remain in full force and effect.

## 20 NO THIRD PARTY BENEFICIARIES

Each party intends that this Agreement shall not benefit, or create any enforceable right or cause of action in or on behalf of, any person or entity other than the MTN and the Merchant.

## 21 FORCE MAJEURE

21.1 Notwithstanding any provision contained in this Agreement, neither Party shall be liable to the other Party for any delay or failure to perform its obligations under the Agreement as a result of revolution or other civil disorders; belligerent aggression by an enemy or war; strikes; lack of available resources from persons other than parties to this Agreement; labour disputes; electrical equipment or system availability delay or failure; fires; floods; acts of God; government or regulatory intervention; or, without limiting the foregoing, any other causes not within its control, and which by the exercise of reasonable diligence it is unable to prevent, whether of the class of causes hereinbefore enumerated or not.

21.2 Upon the occurrence of any Force Majeure event, the affected party will promptly give written notice to the other party and will use commercially reasonable efforts to minimize the impact of such Force Majeure event.

## 22 GENERAL

- 22.1 The parties shall comply with all legal requirements applicable to their role in effecting Transactions.
- 22.2 Legal or regulatory requirements may require MTN to obtain and report certain information about the operation of the Merchant's account. In order to comply with any such legal or regulatory requirements, MTN may at any time submit such information as it may have in its possession to the legal or regulatory authority. The Merchant shall assist MTN in complying with any such legal or regulatory requirements and shall deliver promptly any information that MTN reasonably requests for the purposes of complying with such legal or regulatory requirements.
- 22.3 None of the Parties shall at any time publish or cause to be published orally or in writing to any other person whatsoever (including to the public or any section of the public) any information concerning this Agreement or any other information of any nature whatsoever concerning either Party or any other matter regarding the internal affairs of either Party, whether such information or matter is stated to be confidential or not, without the express written permission of the other Party. This covenant is given by the Merchant and MTN on their own behalf and the parties also undertake to ensure that they will take all reasonable steps to enforce obligations in like form against its directors and personnel.
- 22.4 Each of the Parties shall, at its expense, obtain and renew, in accordance with any law or regulations for the time being in force, all permits, licenses and authorizations required for the performance of its obligations under this Agreement.
- 22.5 Where the Merchant integrates its Point of Sale terminal with the Mobile Money System, MTN may, at its expense, conduct by itself, or commission a third party to conduct, a systems audit to test the system integrity of the Merchant's platform.

## 23 GOVERNING LAW AND JURISDICTION

The validity, construction and interpretation of this Agreement and the rights and duties of the parties hereto shall be governed by the laws of Uganda.