



MAISHA  
MICRO FINANCE BANK

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**TERMS AND CONDITIONS**  
**M-Fanisi Safaricom**

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## THE TERMS AND CONDITIONS

### 1. THE AGREEMENT

This Agreement sets out complete terms and conditions hereinafter called "these Terms and conditions") which shall be applicable to the M-Fanisi Account (as hereinafter defined) opened by you (as hereinafter defined) with the Bank (as hereinafter defined). These Terms and conditions and any amendments or variations thereto take effect on their date of publication

### 2. DEFINITIONS

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

- 2.1.1 "Bank" means Maisha Microfinance Bank Limited incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) and duly licensed as a bank under the Microfinance Act.
- 2.1.2 "Credit Reference Bureau" means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations, 2013, as amended, revised or promulgated from time to time, to inter alia, collect and facilitate the sharing of customer credit information;
- 2.1.3 "Customer" means the person in whose name the M-FANISI Account with the Bank is Existing
- 2.1.4 "Customer Care Centre" means any Safaricom Retail Shops or Bank Branch or such other Bank Agent or Agents as may be notified to the Customer by the Bank from time to time;
- 2.1.5 "Equipment" includes your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access the Network;
- 2.1.6 "IPRS" means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons and its successors;
- 2.1.7 "M-FANISI Account" means a bank account held by a Customer with the Bank and which is opened and operated in accordance with the Terms and Conditions herein contained;
- 2.1.8 "M-FANISI Products" means the other Bank accounts, products or services offered to the Customer to complement the M-FANISI Account;
- 2.1.9 "M-FANISI PIN" means your personal identification number being the secret code used to access and operate the M-FANISI Account;
- 2.1.10 "M-pesa Subscriber" means any person registered to use the Mpesa System to send or receive money or make payments;
- 2.1.11 "Network" means the mobile cellular network operated by Safaricom
- 2.1.12 "Request" means a request or instruction received by the Bank from you or purportedly from you through the Network and the System and upon which the Bank is authorized to act;
- 2.1.13 "Services" shall include any form of financial services or products that the Bank may offer you pursuant to this Agreement and as you may from time to time subscribe to and "Service" shall be construed accordingly;
- 2.1.14 "SMS" means a short message service consisting of a text message transmitted from one mobile phone to another;
- 2.1.15 "Transaction Fees" includes the any fees and charges payable for the use of the Services as published by the Bank on the Bank's website and/or Safaricom website and/or the daily newspapers in Kenya or by such other means as the Bank shall in its sole discretion determine. Transaction Fees are subject to change at any time at the Bank's sole discretion;
- 2.1.16 "We," "our," and "us," means the Bank and includes the successors and assigns of the Bank;
- 2.1.17 "You" or "your" means the Customer and includes the personal representatives of the Customer;
- 2.1.18 The word "Customer" shall include both the masculine and the feminine gender as well as juristic persons

### 3. ACCEPTANCE OF THE TERMS AND CONDITIONS

- 3.1 Before applying to open the M- FANISI Account via Safaricom you should carefully read and understand these Terms and conditions which will govern the use and operation of the M- Fanisi Account.
- 3.2 If you do not agree with these Terms and conditions, please click "Decline" on the M- Fanisi Menu.
- 3.3 You will be deemed to have read, understood and accepted these Terms and Conditions:
  - 3.3.1 Upon clicking on the "Accept" option on the M- Fanisi Menu requesting you to confirm that you have read, understood and agreed to abide with these Terms and Conditions; and/or
  - 3.3.2 By using or continuing to use and operate the M- Fanisi Account and/or the Services.
- 3.4 By applying to open the M- Fanisi Account with the Bank, you agree to comply with and be bound by these Terms and Conditions for the time being and from time to time in force governing the operation of the M- Fanisi Account and you affirm that these Terms and Conditions herein are without prejudice to any right that the Bank may have with respect to the M- Fanisi Account in law or otherwise.
- 3.5 These Terms and Conditions may be amended and/or varied by the Bank from time to time with prior notice of the Bank's intention to do so being provided to you and it shall be understood and agreed by both parties that your continued use of your M- Fanisi Account and/or the Services after such notification being issued by the Bank shall constitute your agreement to be bound by the terms of any such amendment or variation.

### 4. ACCOUNT OPENING

- 4.1 In order to open M-FANISI Account with the Bank, you must be at least 18 years old and a registered and active Safaricom Mpesa Subscriber. The Bank reserves the right to verify with Safaricom the authenticity and status of your Mpesa Account.
- 4.2 You may open M-FANISI Account solely by way of an electronic application made by you using your Equipment via the M-FANISI Menu.
- 4.3 You hereby agree and authorize the Bank to request Safaricom for your personal information held by Safaricom pursuant to the agreement between you and Safaricom for the provision of Safaricom products and services and Mpesa Service including your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Bank to identify you and comply with the regulatory "Know Your Customer" requirements (together the "Personal Information"). You also hereby agree and authorize the Bank to request Safaricom for information relating to your use of the Mpesa Service, Mpesa System and Safaricom Services as the Bank shall require for purposes of providing you the Services ("Mpesa Information"). You hereby consent to the disclosure of the Personal Information and the Mpesa Information by Safaricom to the Bank and to the aforesaid use of the Personal Information and the Mpesa Information by the Bank.
- 4.4 You hereby agree and authorize the Bank to obtain and procure your Personal Information contained in the IPRS from the Government of Kenya and you further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to the Bank.
- 4.5 You hereby further acknowledge and authorize the Bank to verify your Personal Information received from Safaricom against the information received from the Government of Kenya in your respect as contained in the IPRS
- 4.6 The Bank reserves the right to decline your application for a M-Fanisi Account or to revoke the same at any stage at the Bank's sole discretion and without assigning any reason or giving any notice thereto.

### 5. M- FANISI ACCOUNT

- 5.1 As a holder of a M- Fanisi Account, you will be entitled, subject to these Terms and Conditions, to transfer money from your Mpesa and/or make withdrawals from /into your Mpesa, and/or to borrow money from the Bank as follows:
- 5.2 You may make deposits into your M- Fanisi Account or withdraw funds therefrom using the M- Fanisi Account Menu on your Equipment.

- 5.3 You will not be required to notify the Bank in advance of making a deposit or withdrawal into or from your M- Fanisi Account.
  - 5.4 The Bank shall channel withdrawals from your M- Fanisi Account into your Mpesa account
  - 5.5 Transaction Fees and applicable Bank fees, commissions and other charges will be charged on all transactions between your other Bank account (s) and your M- Fanisi Account, as well as on any transactions on your M- Fanisi Account facilitated through Maisha bank.
  - 5.6 There will be no restrictions on the number of deposits into your M- Fanisi Account over any period of time subject to a minimum deposit of Ksh. 1.
  - 5.7 Subject to availability of sufficient funds to your credit, the Bank shall impose no restrictions on the number of withdrawals you may make from your M- Fanisi Account over any period of time. You may withdraw up to the maximum allowable limit under the Safaricom service
  - 5.8 Through the M- Fanisi Account Menu on your Equipment, you may establish standing orders and instruct the Bank to make loan repayments and establish term deposits using funds from your M- Fanisi Account.
  - 5.9 As a holder of a M- Fanisi Account, you may, subject to these terms and conditions, apply for a loan from the Bank using The M- Fanisi Account Menu on your Equipment.
  - 5.10 Overdrawing Your M- Fanisi Account
  - 5.11 No Overdraft will be allowed on your M- FANISI Account.
  - 5.12 The Bank is entitled to demand repayment of any money overdrawn from your account together with interest and penalties.
6. M-FANISI TRANSACTIONAL ACCOUNT
- 6.1 The maximum savings limit on your MPESA Transaction Account shall be Kshs. 1,000,000/= or such other minimum or maximum amount as the Bank may from time to time in its sole discretion determine. If you however wish to save any amount above Kshs. 250,000 in your M-Fanisi Transaction Account, you must provide the Bank with such further documentation and comply with any other or further conditions as may be required by the Bank
  - 6.2 The Maximum savings transfer into your M-Fanisi Transaction Account from Mpesa shall be a maximum of Kshs. 140,000 per day.
  - 6.3 The maximum deposit transfer into your M-Fanisi Transaction Account from Mpesa shall be Kshs. 70,000 per deposit transaction.
  - 6.4 Deposit via Bank Branches will have no maximum limit on deposit.
  - 6.5 The Minimum deposit for your M-Fanisi Transaction Account and minimum transferrable amount from your M-Fanisi Transaction Account shall be Kshs. 1.
  - 6.6 You shall not be entitled to overdraw your M-Fanisi Transaction Account.
  - 6.7 In the event that your M-Fanisi Transaction Account does become overdrawn, debit interest shall accrue to the account on the debit balance. The debit interest shall be equal to the maximum unauthorized overdraft rate levied on Bank current accounts.
7. M-FANISI SAVINGS ACCOUNTS
- 7.1. To establish M-Fanisi savings Account, you must have a M-Fanisi Account.
    - 7.1.1. You may from time to time Request the Bank to open a savings Account in your name, into which you may save by making regular contributions or deposit

- 7.1.2. The savings account will be subject to interest as shall be determined by the Bank from time to time
- 7.1.3. You may deposit your contribution into your savings Account by a transfer from your M-Fanisi Account or Mpesa account at any time without restrictions.
- 7.1.4. No notice of withdrawal will be required prior to withdrawal of the funds from your savings Account.
- 7.1.5. You can only open one savings account at a time.
- 7.1.6. Withdrawals are unlimited to the extent of available account balance. The Customer will however earn interest based on the minimum balance for that month.

## 8. M- FANISI FIXED ACCOUNTS

- 8.1 You may from time to time Request the Bank to lock the deposits held in your M- FANISI Account as a term deposit for such specified duration, interest rate and other terms as may be agreed between you and the Bank.
- 8.2 Term Deposits are available for different durations (for instance 1 month, 3 months, 6 months or 1 year) and you shall select your desired duration through the M- FANISI Menu on your Equipment. The minimum term deposit period will be one (1) month.
- 8.3 We reserve the right to vary interest rates from time to time and will reasonably endeavor to give prior notice of the changes in the interest rates by way of SMS to your Equipment. If you do not receive such prior notice, we will not be prevented from changing the interest rate.
- 8.4 In order to affect your term deposit, you may deposit the agreed term deposit amount into your M- FANISI Account from your Mpesa Account or M- FANISI Account. You may also Request that the amount held in your M- FANISI Account or part thereof be locked as a Term Deposit
- 8.5 The minimum term deposit will be Kshs. 500/= and the maximum term deposit amount shall be fixed or such other minimum or maximum amount as the Bank may from time to time in its sole discretion determine.
- 8.6 Your Term Deposit will mature on the relevant anniversary of the date the deposit was opened, or if this is a non-business day, the next business day. Once your deposit matures it will be automatically credited to your M-fanisi transactional account.
- 8.7 The rate of interest will be fixed at the time of issue of the Term Deposit.
- 8.8 Interest on the Term Deposit is calculated on the principal investment amount and will not be compounded (unless you are advised otherwise in writing). Interest will only be paid on the maturity date of those Term Deposits of a period of one (1) year or less. Where the Term Deposits run for a period of above one (1) year interest will be paid at agreed intervals within the term of the Term Deposit. However, you have the option to have the interest paid on the maturity date upon notifying the Bank of such Request.
- 8.9 Early withdrawal of fixed savings will be permitted on condition that the entire interest accrued will be forfeited. There will be no requirement for a notice of withdrawal of the term deposit and the funds held in term deposit will be transferred to your M- FANISI Account upon your Request. Please note that you must withdraw the entire Principal amount as partial withdrawals are not allowed.
- 8.10 The Bank reserves the right either to decline or open a Term Deposit.
- 8.11 Funds held in term deposit will be taken into account in determination of your credit limit.

## 9. LIEN

- 9.1 The Bank shall have a general lien over all your property/assets in its possession in the event that you owe any money to the Bank including but not limited to cash, goods, securities or valuables deposited for safe custody as security, cheques presented, bills and any other movable or immovable property charged to secure repayment of any money, whether or not that money has been repaid, and also over all property in respect of which, by the general law, the Bank has lien

- 9.2 Where you are indebted to the Bank in circumstances giving the Bank a right of set off, all property held under lien in terms of sub-clause above hereof shall be deemed to be held as security for the debt.
- 9.3 The Bank may at any time give you notice in writing that if an accrued debt is not paid within a period being not less than 14 days (or such other period specified in the notice) from the date of receipt by you of the notice then the Bank may, without further notice, realize sufficient of your assets to discharge the debt. Any part payment made will be accepted strictly on account and without prejudice to the Bank's rights.
- 9.4 You hereby constitute us as your attorney for the purposes of any transaction will be held on your behalf in relation to your assets for purposes of discharging the debt.

#### 10. SET-OFF

- 10.1 The Bank may, upon notice, combine/consolidate your M- FANISI Account with any of your other accounts held in the Bank, whether current, loan, savings, deposit, term deposit, joint or any other type and thereafter set off any amount held to your credit against any indebtedness you owe to the Bank.
- 10.2 The Bank may, upon notice to you, set off your M- FANISI Account against any other account or indebtedness in respect of which you are liable, notwithstanding that some other person may also be liable in respect thereof. In such circumstances, upon receipt of an indemnity acceptable to the Bank (against costs) and at your expense, the Bank will give you any assistance necessary in obtaining a refund
- 10.3 If the set off is for debt recovery, the Bank will provide you with a detailed breakdown of the costs and expenses recovered from you together with a justification for such costs and expenses.

#### 11. M- FANISI LOANS

##### 11.1. In order to qualify for a M- FANISI Loan, you must be at least 18 years old:

- 11.1.1. Upon opening your M- FANISI Account, you will receive a confirmation message bearing your credit limit. You may thereafter, subject to these terms and conditions, apply for an emergency loan or device financing loan using the request loan menu on the M- FANISI Menu on your Equipment. The Transaction Fees payable for transactions effected in respect of your M- FANISI Account from time to time will apply to any transactions effected in respect of your M- FANISI Loan.
- 11.1.2. Customers who do not have an allocated credit limit will be required to save and build a history to get a credit score.
- 11.1.3. The loans will have a loan repayment period of 30 calendar days.
- 11.1.4. Your M- FANISI Loan application will be appraised according to the applicable loan appraisal processes of the Bank. The Bank reserves the right at its sole discretion and without assigning any reason to approve or decline your application for a loan.
- 11.1.5. Acceptance or rejection by the Bank of your application for a M- FANISI Loan shall be done via SMS sent to the Mobile Phone Number associated with your M- FANISI Account.
- 11.1.6. The Bank will directly credit the loan proceeds into your M- FANISI transactional Account subject to any deductions on account of applicable Transaction Fees and interest charges.
- 11.1.7. In consideration of the Bank granting you the loan, you shall pay the Bank interest at such rates as determined by the Bank from time to time, of which prior notice of such rates shall be notified to you by the Bank through such means as the Bank may deem appropriate.
- 11.1.8. The customer will receive the applied loan amount which will be credited to the M-Fanisi transactional account
- 11.1.9. You shall make all payments due from you to the Bank in respect of the loan and Transaction Fees through your Mpesa Account, your M- FANISI Account

- 11.1.10. In the event that you do not repay the loan in full within the agreed repayment period, the Bank will automatically roll over any outstanding amount in respect of the loan for a further period equivalent to tenure of the earlier loan and in addition impose a penalty on the full amount rolled over at such rates as the Bank may determine from time to time, which such penalty rates shall be notified to you by the Bank by such means as the Bank may deem appropriate. You hereby agree to pay costs charges and expenses incurred by the Bank in obtaining or attempting to obtain payment of any loan owed under your M- FANISI Loan Account.
- 11.1.11. The Bank shall be entitled to terminate this Agreement and close your M- FANISI Account without prejudice to any of its rights accruing hereunder if you fail to repay the loan and/or the Transaction Fees due thereon within the agreed repayment period.
- 11.1.12. The Bank shall utilize funds in any other accounts opened and operated by you to offset any amounts outstanding and due from you to the Bank in respect of your loan.
- 11.1.13. Subject to prior notice being given by the Bank to you in such form as the Bank may in its sole discretion deem acceptable, the Bank reserves the right to vary the terms of the loan including the interest rate and fees payable thereon from time to time having regard to the prevailing rules and regulations of the Central Bank of Kenya and the policies of the Bank.
- 11.1.14. You hereby expressly consent and authorize the Bank to disclose, respond, advise exchange and communicate the details or information pertaining to your M- FANISI Account and or loan to Credit Reference Bureaus or any regulator or authority as required under the Banking Act, the Banking Act (Credit Reference Bureau Regulations), 2013 and the Microfinance Act 2006 (Act 19 of 2006) as published, amended or revised from time to time or any other law.
- 11.1.15. You also hereby expressly consent and authorize the Bank to disclose, respond, advise exchange and communicate the details or information pertaining to your M- FANISI Account and or loan to third parties involved in the administration of your M- FANISI Account and or loan, underwriting of insurance policies, updating of databases, or provision of user support.

## 12. DISCLOSURE

- 12.1 You hereby expressly consent and authorize the Bank to disclose receive record or utilize your personal information or information or data relating to your M- FANISI Account and any details of your use of the Services:
- 12.2 to and from the Bank's service providers, dealers, agents or any other company that may be or become the Bank's subsidiary or holding company for reasonable commercial purposes relating to the Services to a Credit Reference Bureau; to the Bank's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings to Safaricom in connection with the Mpesa Service and the Services; for reasonable commercial purposes connected to your use of the Services, such as marketing and research related activities; and in business practices including but not limited to quality control, training and ensuring effective systems operations
- 12.3 You authorize the Bank to disclose any information relating to your M- FANISI Account to any local or international law enforcement or governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud or to any other institution or third party as required by the laws of any country and as the Bank may deem necessary.
- 12.4 In the event of death, your estate administrator will be granted access to your M- FANISI Account
- 12.5 upon production of administration letters from a competent authority or confirmed grant of letters of administration or confirmed grant of probate by your legal representatives duly appointed by the Court.



### 13 CUSTOMER COMPLAINTS

- 13.1 Complaints may be made in person, in writing, by post, fax, email or by telephone.
- 13.2 The Bank will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with the Bank's complaints handling procedures, which are available on request from any Bank Branch or the Customer Care. Where a notification regarding your complaint or any other matter is expected from the Bank but not received, the complaint must be made within a reasonable time after non-receipt of such notification.
- 13.3 Applicable tariffs will be charged by your telephone and internet service provider (s) when communicating with the Customer Care

### 14. NOTICES

- 14.1 The Bank may send information concerning the M-Fanisi Account via SMS to the Safaricom Phone number associated with your Mpesa Account.

### 15. INDEMNITY

- 15.1 In consideration of the Bank complying with your instructions or Requests in relation the M-Fanisi Account, you undertake to indemnify the Bank and hold it harmless against any loss, charge, damage, expense, fee or claim which the Bank suffers or incurs or sustains thereby and you absolve the Bank from all liability for loss or damage which you may sustain from the Bank acting on your instructions or requests or in accordance with these Terms and conditions.
- 15.2 In furtherance of clause 15.1 and subject to the provisions of clause 15.3 you agree to defend, indemnify, hold harmless and or make/ or make whole the Bank (and its officers, employees and agents), including costs and Advocate's fees with respect to any and all claims, demands, loss, damage, expenses, or liability due or arising out of, but not limited to the use of the M-Fanisi Account. This indemnification applies in so far as any and all claims, demands, loss, damage, expenses, or liability can be attributed to you as a result of any act or omission. This shall include, but not be limited to:
  - 15.2.1. Any loss or damage that may arise from your use, misuse, abuse or possession of any third party software, including without limitation, any operating system, browser software or any other software packages or programs
  - 15.2.2. Any unauthorized access to your M-Fanisi Account or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your Equipment;
  - 15.2.3. Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these Terms and conditions; and Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the particular circumstance is within your control.
- 15.3. The Bank may not require you defend, indemnify, hold harmless and or make/ or make whole the Bank (and its officers, employees and agents), including costs and Advocate's fees with respect to any and all claims, demands, loss, damage, expenses, or liability due or arising out of, but not



limited to the use of the M-Fanisi Account. Insofar as any and all claims, demands, loss, damage, expenses, or liability cannot reasonably be attributed to you.

15.4 The Bank (which shall include but not be limited to its employees, shareholder, directors and duly appointed agents) shall not be liable to you for any indirect, incidental, special, exemplary, punitive or consequential damages, including lost profits, lost data, personal injury or property damage, relating to, in connection with:

- 15.4.1. The Bank acting or not acting on any Request or arising from the malfunction of failure or unavailability of any hardware, software or equipment;
- 15.4.2. The loss or destruction of any data;
- 15.4.3. Power failures;
- 15.4.4. Corruption of storage;
- 15.4.5. Natural phenomena;
- 15.4.6. Riots, acts of vandalism, sabotage and terrorism;
- 15.4.7. Any other event beyond the Bank's control, interruption or distortion of communication links; or
- 15.4.8. Arising from reliance on any person or any incorrect, illegal, incomplete or inaccurate information or data contained in any Request received by the Bank.

15.5 The limitations and disclaimers set out above, do not purport to limit or alter your rights under any applicable law.

## 16. VARIATION AND TERMINATION RELATIONSHIP

- 16.1. The Bank may at any time, upon notice to you, terminate or vary its business relationship with you and close your M-FANISI Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credits which it has granted and require the repayment of outstanding debts resulting there from within such time as the Bank may determine.
- 16.2. Without prejudice to the Bank rights under clause 16.1, the Bank may at its sole discretion suspend or close your M-FANISI Account:
  - 16.2.1. If you use the M-FANISI Account for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services;
  - 16.2.2. If your M-FANISI Account or agreement with Safaricom is terminated for whatever reason;
  - 16.2.3. if the Bank is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;
  - 16.2.4. If the Bank reasonably suspects or believes that you are in breach of these terms and conditions (including non-payment of any Loan amount due from you where applicable);
  - 16.2.5. where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;
  - 16.2.6. To facilitate update or upgrade the contents or functionality of the Services from time to time;
  - 16.2.7. Where your account becomes inactive or dormant;
  - 16.2.8. If the Bank decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion, provided that the Bank shall provide prior notification to you of its intention to do so, using such means of communication as the Bank may deem appropriate.
- 16.3. You may close your M-FANISI Account at any time at any Customer Care Centre.
- 16.4. If your M-FANISI Account has any credit balance at the time of its closure, we will return any such balance to you, less any applicable fees. If your M-FANISI Loan Account is in arrears at the time of closure of your M-FANISI Account, you agree to pay to us immediately all amounts you owe us.
- 16.5. Termination shall however not affect any accrued rights and liabilities of either party.

16.6. If the Bank receives notice of your demise, the Bank will not be obliged to allow any operation or withdrawal from your M-FANISI Account by any person except upon production of administration letters from a competent authority or confirmed grant of letters of administration or confirmed grant of probate by your legal representatives duly appointed by the Court.