

Terms and Conditions of Watu Credit Short Term Loan

1. TERMS AND CONDITIONS

1.1. This document sets out the complete Terms and Conditions (hereinafter called "these Terms and Conditions") which shall be applicable to Watu Credit Short Term Loan.

1.2. Watu Credit Short Term Loan is a short term personal loan product offered by Watu Credit for a period of one month subject to these Terms and Conditions (the "Loan").

1.3. These Terms and Conditions and any amendments or variations thereto shall remain in full force and effect and apply to all Loans made to the Customer from time to time until such time as these Terms and Conditions may be terminated in accordance with clause 15.1 below.

2. DEFINITIONS

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

2.1.2. "Credit Reference Bureau" means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations, 2008 to inter alia, collect and facilitate the sharing of customer credit information;

2.1.3. "Customer" means the person signing these Terms and Conditions as the borrower;

2.1.4. "Customer Registration Form" is annexed to these Terms and Conditions where you indicate your personal and financial details which will be used to evaluate your eligibility for a loan.

2.1.5. "E-Money" means the electronic monetary value depicted in your M-PESA Account representing an equal amount of cash;

2.1.6. "Equipment" means your mobile phone handset, SIM Card and/or other equipment which when used together enables you to access the Network;

2.1.7. "Extension" has the meaning given to it in clause 5.3;

2.1.8. "Extension Fee" has the meaning given to it in clause 5.3. The Extension Fee is subject to change from time to time at Watu Credit's sole discretion;

2.1.9. "Guarantor" means each of the individuals indicated in the above section "Watu Credit Short Term Loan Applicant Personal Details", who is cosigning these Terms and Conditions as "Guarantor" and guarantee to pay for the Customer's debt if the Customer defaults on any obligation under these Terms and Conditions.

2.1.10. "Interest" has the meaning given to it under clause 5.2. The Interest is subject to change from time to time at Watu Credit's sole discretion;

2.1.11. "IPRS" means the Integrated Population Registration System set up and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons;

2.1.12. "M-PESA Account" means your mobile money store of value, being the record maintained by Safaricom of the amount of E-Money from time to time held by you in the M-PESA System;

2.1.13. "M-PESA Service" means the money transfer and payments service provided by Safaricom through the M-PESA System;

2.1.14. "M-PESA System" means the system operated by Safaricom in Kenya for the provision of the M-PESA Service using the Network;

2.1.15. "M-PESA Pay Bill Account" means the account belonging to Watu Credit created in the M-PESA System;

2.1.16. "M-PESA PIN" means your personal identification number being the secret code used to access and operate the M-PESA System and your M-Shwari Account;

2.1.17. "Network" means the mobile cellular network operated by Safaricom in Kenya;

2.1.18. "Pay Bill Number" means a destination code created by Safaricom for the identification of M-PESA Pay Bill Account. At the time of signing these Terms and Conditions Pay Bill Number is **550819**;

2.1.19. "Penalty" means money payable by the Customer to Watu Credit in accordance with clause 5.9 which is pre-estimate the loss to be suffered by Watu Credit in funding the default of the Customer after failing to pay the Loan, Interest, the Extension Fee or other sums outstanding, due or owing by the Customer to Watu Credit;

2.1.20. "Phone Number" means telephone number within the Network you have indicated in Customer Registration Form the above section "Watu Credit Short Term Loan Applicant Personal Details" which is associated with your M-PESA Account;

2.1.21. "Safaricom" means Safaricom Limited incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya);

2.1.22. "Services" shall include any form of credit services or products that Watu Credit may offer you pursuant to these Terms and Conditions;

2.1.23. "SIM Card" means the subscriber identity module which when used with the appropriate mobile phone handset enables you to access the Network and to use the M-PESA System;

2.1.24. "SMS" means a short message service consisting of a text message transmitted from one mobile phone to another;

2.1.25. "System" means Watu Credit's electronic communications software enabling the Customer to communicate with Watu Credit for purposes of the Services;

2.1.26. "Watu Credit" means Watu Credit Limited incorporated in Kenya as a limited liability company with No. CPR/2013/118599 under the Companies Act (Chapter 486 of the Laws of Kenya) and includes subsidiaries, successors and assigns of Watu Credit as may from time to time be notified to you;

2.1.27. "We," "our," and "us," means Watu Credit and includes the successors and assigns of Watu Credit;

2.1.28. "You" or "your" means the Customer and includes the personal representatives, heirs and successors of the Customer;

2.2. The word "Customer" shall include both the masculine and the feminine gender as well as legal persons and entities;

2.3. Words importing the singular meaning where the context so allows include the plural meaning and vice versa.

2.4. Headings in these Terms and Conditions are for convenience purposes only and they do not affect the interpretation of these Terms and Conditions.

3. ACCEPTANCE OF THE TERMS AND CONDITIONS

3.1. By applying for a Loan, you agree to comply with and be bound by these Terms and Conditions. The Terms and Conditions will *ipso facto* apply to any future Loans issued to you by Watu Credit.

3.2. These Terms and Conditions may be amended or varied by Watu Credit from time to time and any new Loan application or Extension constitutes your agreement to be bound by the terms of any such amendment or variation.

4. APPLICATION FOR THE LOAN

4.1. After signing of these Terms and Conditions by the Customer and each Guarantor, you can apply for a Loan from Watu Credit. In order to apply for the Loan you should type *876# in your phone and follow the instructions on Unstructured Supplementary Service Data (USSD) menu.

4.2. When you apply for a Loan, your application will be evaluated according to the applicable loan evaluation processes of Watu Credit. Watu Credit reserves the right at its sole and absolute discretion and without giving any reason to approve, in full, in part, or decline your application for a Loan.

4.3. Subject to the approval of your loan application, Watu Credit shall disburse to you a Loan of an amount to be determined by Watu Credit in its sole discretion subject to a minimum amount of Kenya Shillings One Thousand (Kshs.1000) and a maximum amount of Kenya Shillings One Hundred Thousand (Kshs. 100,000) or such other minimum or maximum amount as Watu Credit may from time to time in its sole discretion determine.

4.4. Following the approval of your Loan application the proceeds of the Loan shall be credited into your M-PESA Account or other means deemed necessary by Watu Credit.

5. REPAYMENT AND EXTENTION OF THE LOAN

5.1. You shall repay the Loan within one month from the date of disbursement of the Loan.

5.2. In consideration of Watu Credit granting you the Loan, you shall pay Watu Credit an interest of 10% (ten per cent) of the Loan amount (the "Interest"). The Interest shall be paid by you within thirty (30) calendar days of the date of disbursement of the Loan.

5.3. You have the right to initiate the extension of the Loan repayment term for another calendar month (from the due date) (the "Extension") subject to following conditions: (1) you have repaid at least 10% (ten per cent) of the initial Loan amount and (2) you have paid an extension fee of 10% (ten per cent) of the aggregate of the Loan and the Interest due ("Extension Fee"). You may request no more than five Extensions after which you have to repay all the outstanding amounts due in full.

5.4. In order to apply for the Extension you should pay the **Extension Fee** into Pay Bill Account associated with **Pay Bill Number 550819** (valid at the moment of signing these Terms and Conditions but may be subject to changes). In the field "Account number" you should indicate "EXTENSION".

Example:

M-PESA

Lipa na M-PESA

Pay bill

Enter Business no: 550819

Enter Account no: EXTENSION

Enter amount: 5,500

Enter M-PESA PIN

Accept

(You have received a Loan in amount of Kshs. 50,000, and have to pay 10% Interest of Kshs. 5,000, which makes Kshs. 55,000 due in total. You have requested Extension and thus the Extension Fee is Kshs. 5,500)

5.5. When the payment is received, Watu Credit shall send to the Customer an SMS notification regarding approval or rejection of the Extension. If Watu Credit has approved the Extension then the payment made by the Customer is registered as the Extension Fee.

5.6. Watu Credit has the right to decline the Extension. Watu Credit does not have the obligation to substantiate the rejection of an Extension. In case the Extension is rejected, the received payment shall be utilized in accordance to Clause 5.13 of these Terms and Conditions.

5.7. You shall make all payments due from you to Watu Credit in respect of the Loan, including but not limited to the Loan repayment, Interest, Extension Fee and Penalty, using the M-PESA Service into Pay Bill Account associated with **Pay Bill Number 550819** unless otherwise agreed by Watu Credit in its discretion.

5.8. You may repay the Loan at any time before the due date or extended due date. However, this does not affect the amount of Interest or Extension Fee payable, which must be paid in full.

5.9. If you fail to repay the Loan and/or Interest or any other sum due or owing by you to Watu Credit on due time and the Loan has not been extended according to Clauses 5.3 and 5.4 you will be charged a late payment collection charge at the rate of **nought decimal seven five per cent (0.75%)** per day of any amount due ("Penalty") and Watu Credit shall be entitled to initiate legal action against you and/or any of the Guarantor(s) for the full recovery of the amounts due, and to refer your credit details to a Credit Reference Bureau. The Customer acknowledges, agrees and confirms that the aforesaid late payment collection charge represents a reasonable pre-estimate the loss to be suffered by Watu Credit in funding the default of the Customer.

5.10. In event of missing the repayment date you may request an Extension once the accrued Penalty has been paid in full which Extension may only be granted at the sole and absolute discretion of Watu Credit.

5.11. Watu Credit will likely reject extension and request full payment of outstanding loan balance and accrued penalty within 7 days if loan payment has been defaulted two times.

5.12. Nothing in clause 5.9 or clause 5.10 above shall entitle the Customer to withhold or delay any payment of any sum due under these Terms and Conditions after the date upon which the same fall due or in any way prejudice, affect or derogate from the rights of Watu Credit in relation to such delayed payment or non-payment.

5.13. Watu Credit shall apply all payments received according to these Terms and Conditions in following order: first: costs and expense payable under these Terms and Conditions, second: accrued and unpaid Penalty, third: the principal (Loan and Interest).

6. GUARANTOR

6.1. The persons signing these Terms and Conditions as Guarantor, irrevocably and unconditionally agree, undertake and guarantee as primary obligor and not merely as surety to:

(a) pay for any and all sums outstanding, due or owing by the Customer if the Customer defaults on any obligation under these Terms and Conditions;

(b) indemnify Watu Credit against any and all losses which Watu Credit may incur in the event of the whole or any part of the Customer's obligations hereunder or any actual or these Terms and Conditions or any purported contract, arrangement or instruction relating thereto or purporting to create or evidence any indebtedness or other liability of the Customer to Watu Credit, being invalid or being or becoming irrecoverable, unenforceable or void or being avoided for any reason whatsoever; and

(c) indemnify (on a full and unqualified indemnity basis) Watu Limited, forthwith on demand being made in writing by Watu Credit, against the amount of all costs, charges, liabilities, taxes and expenses now or hereafter incurred by Watu Credit in enforcing or attempting to enforce the payment or discharge of all or any of the Customer's obligations; and

6.2. The Guarantors agree to procure the punctual performance by the Customer of its obligations to Watu Credit in accordance with these Terms and Conditions;

6.3. Based on our procedures Watu Credit may inform the Guarantor on any approved Customer's Loan Request and may request the Guarantor's consent to the Loan from time to time. Nevertheless Watu Credit failure to send the notification or consent request, or the Guarantor's explicit rejection or the Guarantor's approval to the Customer's Loan does not limit the Guarantors obligations under these Terms and Conditions if Watu Credit issues the Loan.

6.4. The Guarantor acknowledges and understands that Watu Credit is not obliged to inform the Guarantor of any granted Extension. The Guarantor further acknowledges, confirms and agrees that these Terms and Conditions shall apply to any and all subsequent Loans granted to the Customer from time to time.

6.5. If there are several Guarantors under these Terms and Conditions, the obligations of the Guarantors shall be joint and several and Watu Credit may demand either full or partial repayment of the Customer's debt from one or several Guarantors at any proportion at Watu Credit's sole and absolute discretion.

6.6. In order for the Guarantor to pay for the Customer's debt the Guarantor should transfer the monies into the Pay Bill Account Number **550819** (valid at the moment of signing these Terms and Conditions but may be subject to changes). In the field "Account number" should be indicated Customer's surname.

Example:

M-PESA

Lipan na M-PESA

Pay bill

Enter Business no: 550819

Enter Account no: KATANA

Enter amount: Kshs.55, 000

Enter M-PESA PIN

Accept

(Ms. Katana has received a Loan in the amount of Kshs. 50,000, and has to pay 10% Interest of Kshs. 5,500, which makes Kshs. 55,000 due in total, she cannot repay the Loan and Interest on due date, thus the Guarantor pays the due amount instead of Ms. Katana)

6.7. Guarantor agrees and provides Watu Credit with the same rights, remedies, indemnity and exclusion of liability as provided by Customer under these Terms and Conditions *mutatis mutandis*.

7. FEES AND TAXES

7.1. All M-PESA Transaction Fees payable in connection with your use of the Services, including but not limited to repayment of Loan, Interest, Extension Fee and Penalty shall be borne by the Customer or the Guarantor (as the case may be).

7.2. You shall indemnify Watu Credit on a full and unqualified indemnity basis against:

7.2.1. any legal charges including, without limitation, advocate and client costs incurred by Watu Credit in obtaining legal advice in connection with the Loan, related to your dealings with Watu Credit or incurred by Watu Credit in any legal, arbitration or other proceedings arising out of any dealings in respect of the Loan; and

7.2.2. all other fees, expenses and taxes, duties, impositions and expenses incurred in respect of Loan.

7.3. You hereby agree to pay costs, charges and expenses incurred by Watu Credit in obtaining or attempting to recover the Loan, Interest, Extension Fee, Penalty or any other sum due from you.

7.4. All payments due to be made by the Customer and/or the Guarantors hereunder shall be made free and clear of and without deduction for or on account of any present or future taxes. If at any time, any regulatory requirement or any taxing authority requires the Customer and/or the Guarantor to make any deduction or withholding in respect of taxes from any payment due from them for the account of Watu Credit, the sum due from the Customer and/or the Guarantor in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, Watu Credit receives a net sum equal to the sum which Watu Credit would have received had no such deduction or withholding been required to be made and the Customer and/or the Guarantor shall indemnify Watu Credit against any losses or costs incurred by Watu Credit by reason of any failure of the Customer and/or the Guarantor to make any such deduction or withholding.

8. STATEMENTS

8.1. You may request for a statement in respect of your Loan from Watu Credit by sending SMS to number 40994 with text "STATEMENT". The statement will be provided by Watu Credit through SMS.

8.2. A Mini Statement shall provide details of the last 5 (five) transactions (or such other number of transactions as determined by Watu Credit) in respect of the Loan.

8.3. The Mini Statement shall not be sent to you in printed form but shall be delivered to you by SMS to the Phone Number or such other electronic means as Watu Credit may in its discretion determine. You shall be responsible for the payment of any charges levied by Safaricom in delivering the Mini Statement to you.

8.4. The Guarantor may request a statement from a Watu Credit representative in respect of the Loan to which he or she is a Guarantor and the Customer confirms and agrees that Watu Credit will be entitled to provide such statement to the Guarantor.

9. EXCLUSION OF LIABILITY

9.1. Watu Credit shall not be responsible for any loss suffered by you (a) if the Services are interfered with or be unavailable for any reason or (b) as a result of any fraudulent or illegal use of the Services, the System, your Phone Number and/or your Equipment or (c) resulting from any other circumstances whatsoever not within Watu Credit's control including, without limitation, force majeure, error, interruption, delay, terrorism, enemy action, equipment failure, loss of power, adverse weather or atmospheric conditions and failure, malfunction, interruption or unavailability of the Network or any telecommunication system.

9.2. Under no circumstances shall Watu Credit be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss or damage of whatever kind, howsoever caused arising including, without limitation those caused or arising out of or in connection with (a) the Services, (b) the rejection of an application for a Loan or an Extension, (c) any delay in confirming its approval or rejection of the application a Loan or an Extension or in disbursing the Loan following approval of the Loan application, (d) the termination of these Terms and Conditions, (e) the cancellation or calling in of the Loan pursuant to clause 11 and/or (f) the matters set out in clause 9.1 above even where the possibility of such loss or damage is notified to Watu Credit.

9.3. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

9.4. You acknowledge and agree that you have no claim against Watu Credit for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the Loan.

10. INDEMNITY

10.1. In consideration of the Services you undertake to indemnify Watu Credit and hold it harmless on a full and unqualified indemnity basis against any loss, charge, damage, expense, fee or claim which Watu Credit suffers or incurs or sustains thereby and you absolve Watu Credit from all liability for loss or damage which you may sustain from Watu Credit acting on your instructions or requests or in accordance with these Terms and Conditions.

10.2. For the purposes of Clause 10.1, the expression "your instructions or requests" means any instructions or requests received by Watu Credit from your Phone Number, whether or not such instructions or requests are made by you or someone else acting with or without instructions, it being acknowledged and agreed that Watu Credit shall be treat all such instructions or requests as made without the necessity of independent investigation or verification. In this regard, you irrevocably authorize Watu Credit to act on all instructions or authorization received by Watu Credit from your Phone Number and to hold you liable in respect thereof, notwithstanding that any such requests are not by you or authorized by you.

11. VARIATION AND TERMINATION OF RELATIONSHIP

11.1. Watu Credit may at any time, upon notice to you, terminate or vary its business relationship with you, and in particular Watu Credit may cancel or call in Loans which it has granted and require the repayment of outstanding debts resulting therefrom within such time as Watu Credit may determine.

12. DISCLOSURE OF INFORMATION

12.1. By signing these Terms and Conditions you and each Guarantor hereby expressly consents and authorizes Watu Credit to disclose, receive, record or utilize your and the Guarantor's personal information, and data relating to the Loan application, the Loan, the Loan repayment details and any other data or details within the limited permitted in law:

12.1.1. to and from any local or international law enforcement or competent regulatory or governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud;

12.1.2. to and from Watu Credit's service providers, dealers, agents, assignees or any other company that may be or become Watu Credit's subsidiary or holding company for reasonable commercial purposes relating to the Services;

12.1.3. to a Credit Reference Bureau;

12.1.4. to Watu Credit's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;

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

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

12.7. You and each Guarantor hereby agree and authorize Watu Credit to obtain and procure Personal Information contained in the IPRS from the Government of Kenya and you and each Guarantor further agree and consent to the disclosure and provision of such Personal Information by the Government of Kenya to Watu Credit.

12.8. You and Guarantor hereby expressly consent and authorize Watu Credit to request and receive any credit history data about you and Guarantor(s) from a Credit Reference Bureau.

13. MISCELLANEOUS

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

13.2. These Terms and Conditions and any rights or liabilities accruing thereunder may not be assigned by you or Guarantor to any other person. Watu Credit can at its sole discretion assign, novate and cede any rights, obligations and liabilities arising out of these Terms and Conditions to any third party.

13.3. Watu Credit may vary or amend at any time and without notice to you these Terms and Conditions, the Application Fees, the Interest, the Extension Fees and/or the Penalty. Any such variations or amendments may be published in Watu Credit's website and/or by any other means as determined by Watu Credit and any such variations and amendments shall take effect immediately upon publication. Your continued use of the Services will constitute your and each Guarantor's agreement to be bound by the terms of these Terms and Conditions as amended or varied from time to time.

13.4. The rights and remedies of Watu Credit herein provided are cumulative and not exclusive of any rights or remedies provided by law. No failure or delay by Watu Credit to exercise any right or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or exercise of any other right or remedy.

13.5. If any provision of these Terms and Conditions shall be found by any duly appointed arbitrator, court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.

14. NOTICES AND CHANGES IN CONTACT OR PAYMENT DETAILS

14.1. Watu Credit may send information concerning the Loan via SMS to your indicated Phone Number.

14.2. In event of changes in Watu Credit Pay Bill Number or other payment and contact details Watu Credit shall immediately inform the Customer. Watu Credit bears no responsibility for any damage, loss, delays, misunderstandings or any other irregularities if Customer would use the prior contact or payment details.

14.3. In event of changes in your Phone Number or that of any Guarantor you shall immediately inform Watu Credit's representative.

15. DURATION OF AGREEMENT

15.1. These Terms and Conditions will continue to bind indefinitely subject to the right of Watu Credit to terminate them at any time for any reason. The Customer or the Guarantor may request Watu Credit to terminate the binding effect of these Terms and Conditions if he/she has no outstanding obligations to Watu Credit.

15.2. Termination of these Terms and Conditions (howsoever occurring) shall not affect any accrued rights and liabilities of either party.

16. DISPUTE RESOLUTION, JURISDICTION AND ARBITRATION

16.1. Any dispute arising out of or in connection with these Terms and Conditions shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties, or in default of such agreement within 30 days of the notification of a dispute, upon the application of either party, by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch). Such arbitration shall be conducted in the English language in Nairobi/Mombasa in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995.

16.2. To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties hereto.

16.3. Clause 16.1 is for the benefit of Watu Credit only. As a result, Watu Credit should not be prevented from taking proceedings relating to a dispute arising out of or in connection with these Terms and Conditions in any courts.

16.4. These Terms and Conditions shall be governed by and construed in accordance with the laws of the Republic of Kenya.

Terms and Conditions of Watu Credit Short Term Loan. Version 2.0

Approved by the Board of Directors of Watu Credit on 28th December 2015