



VODACOM M-PESA CONSUMER TERMS & CONDITIONS OF USE

1 THE AGREEMENT

These are the terms and conditions upon which you may use the M-PESA Services (as defined herein) provided by Vodafone M-PESA, SA (“**Conditions of Use**”) the acceptance of which constitutes a binding contract between yourself, Vodacom (VM, SA) and Vodafone M-Pesa, SA (as the Trustee), an independent financial services company incorporated to provide electronic money financial services and to hold monies received from you on trust to your order. When you register as an M-PESA Customer by signing the Registration Form annexed hereto you agree to abide by these Conditions of Use. You therefore need to read and fully understand these Conditions of Use and if you do not agree with them, you must not proceed to register for and/or use the M-PESA Services.

2 DEFINITIONS

The following definitions relate to these Conditions of Use:

- 2.1 “**Account**” means your M-PESA Account, being the record maintained by us of the amount of E-Money from time to time held by you and represented by an equivalent amount of cash held by the Trustee on your behalf.
- 2.1.1 “**Agent(s)**” means person(s) registered by Vodafone M-PESA, SA to provide M-PESA Services, details of which may be obtained from Vodafone M-PESA, SA’s Head Office.
- 2.2 “**Agreement**” means these Conditions of Use together with the Registration Form.
- 2.3 “**Charges**” means the Tariffs and other charges payable under this Agreement for the M-PESA Services.
- 2.4 “**Conditions of Use**” means these terms and conditions as may be varied by us from time to time.
- 2.5 “**Credit Balance**” means the amount of E-Money from time to time standing to the credit of your Account. ¹
- 2.6 “**Credit Transaction**” means any transaction which results in your Account being credited with E-Money as verified by M-PESA;
- 2.7 “**Customer**” means you and every other person in whose name an Account for the M-PESA Services is registered.
- 2.8 “**Customer Care Centre**” means Vodacom Customer Care Centre situated on Rua dos Desportistas nº 649 or any regional Customer Care Centre
- 2.9 “**Debit**” means the movement of funds out of your Account.
- 2.10 “**Debit Transaction**” means any transaction which results in a Debit of E-Money from your Account as verified by M-PESA.
- 2.11 “**Designated Payee**” means any person (including yourself, another customer, an Agent or Authorized Retailer) who is designated by you by SMS, to be the recipient of E-Money from your Account.
- 2.12 “**E-Money**” means the electronic money issued by Vodafone M-PESA, SA and representing an entitlement to an equivalent amount of cash monies held by the Trustee in respect of the purchase of such electronic value;
- 2.13 “**Goods and Services**” means such goods and services as may be purchased from Authorized Retailers using the M-PESA System.
- 2.14 “**ID Number**” means the number associated with the form of identification provided
- 2.15 “**Mobile Equipment**” means your Mobile Phone and SIM Card or other equipment which when used together allows access to M-PESA Services and, in each case, is approved for use within the Mozambican Territory by the relevant authority.

- 2.16 **“Mobile Phone”** means your mobile phone handset.
- 2.17 **“M-PESA Retailer”** means a seller of Goods and Services who accepts E-Money in payment for Goods and Services.
- 2.18 **“M-PESA Services”** means the services provided by Vodafone M-PESA, SA for the issue and redemption of E-Money and the transfer of E-Money between Customers on the basis of Transfer Instructions including the recording of all Transactions, verifying and confirming all Transactions concluded and updating Customer Account records.
- 2.19 **“M-PESA System” or “M-PESA”** means the proprietary cellular phone money transfer service which is marketed, managed, and operated exclusively by Vodafone M-PESA, SA in the Mozambican Territory.
- 2.20 **“M-PESA Website”** refers to the M-PESA section on website address **www.vm.co.mz/mpesa**.
- 2.21 **“MSIN”** means the mobile station identification number issued to you with the SIM Card and corresponding identity number and PUK for accessing the Vodacom network.
- 2.22 **“Network”** means the Global System for Mobile telecommunication (“GSM”) system operated by Vodacom and covering those areas within the Mozambican Territory as stipulated from time to time by us.
- 2.23 **“Network Service Provider”** means the provider of mobile phone services.
- 2.24 **“Outlet Operator”** means the assistant dealing with you at an Outlet.
- 2.25 **“Outlet”** means any shop, unit or other retail premises operated by an Agent.
- 2.26 **“Payments”** means money paid to an Agent, for the purchase of an equivalent amount of E-Money sums credited to your Account, any such monies thereafter being held by the Trustee on trust for you as specified herein.
- 2.27 **“PIN”** means your personal identification number being the secret code you choose to access and operate your Account.
- 2.28 **“Pre-paid Airtime”** means mobile phone calling credit on Vodacom’s Network.
- 2.29 **“Registration Form”** means the registration form containing registration details and acceptance of these Conditions of Use by you in the form annexed hereto;
- 2.30 **“SIM Card”** means the subscriber identity module which when used with the appropriate Mobile Equipment enables you to use the M-PESA Services.
- 2.31 **“SMS”** means a short message service consisting of a text message transmitted from one Mobile Phone to another.
- 2.32 **“Start Key”** means the one-time 4-digit PIN sent to you on registration for the purpose of activating your Account.
- 2.33 **“Tariffs”** means actual charges for use of the M-PESA Services as published in the M-PESA Web-Site.
- 2.34 **“Tariff Guide”** means a catalogue published for the Tariffs payable for the M-PESA Services, as updated from time to time.
- 2.35 **“Transactions”** means any of the transactions specified in Clause 8.5.
- 2.36 **“Transfer Instructions”** means instructions given via SMS for the transfer of E-Money from one Customer to another.
- 2.37 **“Trustee”** means Vodafone M-Pesa, SA which holds the aggregate of all Payments and sums equivalent to all transfers of E-Money into your M-PESA Account from other Customers on trust for you in the Trustee Account.
- 2.38 **“Trustee Account”** means the Bank Account maintained by the Trustee into which all Payments are made and held by the Trustee on behalf of Customers.
- 2.39 **“User Manual”** means a document describing the M-PESA System and its use.
- 2.40 **“we” or “us” or “our”** means Vodafone M-PESA, SA and (where applicable) the Trustee.
- 2.41 **“you” or “your”** means the Customer.

3. APPLICATION FOR ACCOUNT

- 3.1 Any Vodacom Mozambique customer may register for the M-PESA service provided they have an active Vodacom Mozambique SIM.
- 3.2 The M-PESA service is limited to one account per customer, irrespective of how many Vodacom SIMs are held by a customer.

- 3.3 You will be liable to pay your Mobile Phone Network Service provider for all network costs incurred while using the M-PESA Service. You will also be liable to pay applicable Tariffs for your use of the M-PESA Services and such Tariffs may be deducted directly from your M-PESA Account.
- 3.4 You may register for M-PESA Services with any M-PESA Agent in the Mozambican Territory.
- 3.5 Upon registering as a Customer, you will be required to provide the following information for inclusion in the Registration Form to be signed by you:-
 - 3.5.1 The identification number associated with the form of acceptable identification provided
 - 3.5.2 Your full name
 - 3.5.3 Your physical address
 - 3.5.4 Your date of birth
 - 3.5.5 Your Nationality
 - 3.5.6 Your mobile number.
- 3.6 All information provided must be complete and accurate in all respects.
- 3.7 We may decline your application at our sole discretion.
- 3.8 We may refuse to open an Account for you if we are not satisfied with proof of your identity.
- 3.9 Upon activation of your Account by the input of the Start Key you will upon choosing a secret PIN, be entitled to use the M-PESA Services with immediate effect.

4 THE M-PESA SERVICES

- 4.1 The M-PESA Services are made available to you subject to these Conditions of Use:-
 - 4.1.1 Although we will try to ensure that you are able to make full use of the Network to access M-PESA Services within the coverage area, we do not guarantee that the M-PESA Services will be available at all times and we will not be responsible or liable for any loss whatsoever or howsoever arising as a consequence of any non-availability of the M-PESA Services. The M-PESA Services are not fault free and factors including (but not limited to) natural disasters , geographical topography, weather conditions, planned maintenance or rectification work on the Network may interfere adversely with the quality and provision of the M-PESA Services.
 - 4.1.2 In the event of damage to, loss or theft of the SIM, you are obliged to inform us immediately of such damage, loss or theft. We will then disable such damaged, lost or stolen SIM Card so as to prevent further use of the M-PESA Services until the same has been replaced. A replacement fee will be applicable and you will be responsible for all Charges and Transactions effected up to the time of receipt by us of your notification of the damage, loss or theft. Notification of any such damage, loss or theft may be given by telephoning the Customer Care Centre. You will be required to indemnify us against any claims made in respect of any Transactions effected with your Mobile Phone and SIM prior to such notification being received.
 - 4.1.3 Please note that the confidentiality of your communications *via* our Network is not guaranteed. You are advised that for reasons beyond our control, there is a risk that your communications may be unlawfully intercepted or accessed by those other than the intended recipient. We cannot accept any liability for any loss, injury or damage whether direct or consequential arising out of any such compromise of confidentiality.
 - 4.1.4 You accept that we may disclose or receive personal information or documents about you:-
 - 4.1.4.1 to and from local and international law enforcement or any competent regulatory or governmental agencies to assist in the prevention, detection or prosecution of criminal activities or fraud;
 - 4.1.4.2 to and from our service providers (including the Trustee), dealers, agents, or any other company that may be or become our subsidiary, parent company or partner, for reasonable commercial purposes connected to your use of the mobile service or the M-PESA Services, such as marketing and research related purposes;
 - 4.1.4.3 to facilitate our ability to carry out any activity in connection with a legal, governmental or regulatory requirement;
 - 4.1.4.4 to our lawyers or auditors or to the applicable court in connection with any legal or audit proceedings (notwithstanding that

any such proceedings may be of a public nature).

- 4.1.5 You must comply with any instructions that we may give you from time to time about the M-PESA Services.
- 4.1.6 With the exception of calls made to our Customer Service Hotline numbers (which will be provided to you upon registration) and to other designated toll free numbers, a minimum call charge may be levied in accordance with the applicable Tariff.
- 4.1.7 Your calls, emails or SMS's may be monitored or recorded for use in business practices such as quality control, training, ensuring effective systems operation, prevention of unauthorised use of our telecommunications system and detection and prevention of crime.

5 ACCEPTANCE AND COMMENCEMENT OF CONDITIONS OF USE

- 5.1 You are deemed to have accepted these Conditions of Use as amended from time to time and which take effect:-
 - 5.1.1 Upon Registration; or
 - 5.1.2 Upon the initial activation of the M-PESA System by use of your Start Key.

6 SUSPENSION AND DISCONNECTION OF THE SERVICES/CLOSURE OF ACCOUNT

- 6.1 We may suspend (bar), restrict or terminate the provision of the M-PESA Services (in whole or in part) and/or close your Account without informing you and without any liability whatsoever (although, we will, where possible, try to inform you that such action is or may be taken) under the following circumstances:-
 - 6.1.1 if we are aware or have reason to believe that your Mobile Equipment or the MSIN/PIN number used in relation to the M-PESA Services is/are being used in an unauthorised, unlawful, improper or fraudulent manner or for criminal activities (or has been so used previously);
 - 6.1.2 if you do not comply with any of the conditions relating to the M-PESA Services including these Conditions of Use;
 - 6.1.3 if you notify us that your Mobile Equipment has been lost or stolen or your PIN has been lost or disclosed to any other party;
 - 6.1.4 if you do anything (or allow anything to be done) with your Mobile Equipment which we think may damage or affect the operation or security of the Network or the M-PESA Services;
 - 6.1.5 for reasons outside of our control;
 - 6.1.6 Where we close your Account under Clause 6.2.
- 6.2 To access the M-PESA Services, your SIM must be operational ("active") at all times. If your SIM is inactive for a consecutive period of 3 months your M-PESA Account will automatically be closed by Vodafone M-PESA, SA and any E-Money standing to the Credit of your Account will be paid to you in the manner provided in clause 6.4.
- 6.3 We will also close your Account upon receipt of your request to close your Account.
- 6.4 Where the use of your PIN has been suspended or disconnected or your Account closed any Credit Balance in your Account will be repaid to you in cash upon your presenting yourself at our Customer Care Centres. You will only be paid any Credit Balance in cash upon satisfactory evidence of your identity being produced.
- 6.5 We will not be responsible to you for any direct, indirect, consequential or special damages arising from any act or omission by us or any third party for whom we are responsible, whether arising in contract, or statute, if we close or suspend your Account in terms of this clause 6.

7. TARIFFS

- 7.1 Tariffs as published are payable to M-PESA for each Transaction effected from your Account. The Tariff Guide is available from M-PESA Agents, the Vodafone M-PESA, SA Head Office or by accessing the **M-PESA Website**.
- 7.2 Tariffs payable on each Transaction will be deducted from your M-PESA Account by M-PESA on conclusion of each Transaction and your new balance on conclusion of the Transaction shall be notified to you by SMS.
- 7.3 Tariffs exclude Value Added Tax but are subject to other applicable levies and taxes at the then prevailing rates.
- 7.4 All Charges payable by you in connection with the use of the M-PESA Services may be debited from your Account without further reference to you.

8. TRANSACTIONS

- 8.1 All Debit Transactions from your Account will be effected by Transfer Instructions authorized with the PIN which you choose when you register, or by such other method we may prescribe from time to time. Proof of ID will be required before any Transaction can be effected and the ID presented will be recorded by the Agent on each Transaction.
- 8.2 Your Account will be credited when you purchase E-Money by making Payments or when E-Money is transferred to your M-PESA Account from another Customer and all such amounts will be held by the Trustee to your order.
- 8.3 You may not effectuate any Transactions from your Account in the event that you do not have sufficient E-Value in your Account to meet the value of the Transaction and Charges applicable thereto.
- 8.4 The M-PESA System will verify and confirm all Transactions effected from your Account by SMS to you. The M-PESA System records will be taken as correct unless the contrary is proved.
- 8.5 On being provided with an Account, you will be able to effect the following transactions:-
- 8.5.1 Effectuate a Credit Transaction by making a Payment in cash directly to an Agent in exchange for an equivalent amount of E-Money to be credited into your Account. Upon a Credit Transaction being made, the M-PESA System shall credit your Account accordingly.
- 8.5.2 Effect a Debit Transaction by:-
- 8.5.2.1 The exchange of E-money for cash at any Agent by sending a Transfer Instruction to M-PESA pursuant to which the Agent will pay the equivalent amount of cash to you.
- 8.5.2.2 The transfer of E-money to another Customer by sending Transfer Instructions to M-PESA for the account of such Customer, specifying the amount to be transferred.
- 8.5.2.3 The purchase of Vodacom Pre-paid Airtime by sending a recharge instruction to Vodacom and giving a Transfer Instruction for the corresponding amount of E-Money to Vodacom as the Designated Payee.
- 8.5.2.4 The purchase of Goods and/or Services from Authorized Retailers by Transfer Instructions via M-PESA of the amount to be transferred to the Authorized Retailer's Account in settlement for the Goods and/or Services purchased.
- 8.5.2.5 Upon any Credit Transaction and Debit Transaction being effected, the M-PESA System shall credit or debit your Account once the sum is actually credited to, withdrawn or transferred by you from your Account.
- 8.5.3 Any Transaction which is not concluded within 7 days of the Transfer Instructions first being given for that transaction will automatically be cancelled and an SMS notification sent via M-PESA of the cancellation shall be given to the Customer giving the Transaction Instructions.
- 8.5.4 The M-PESA System will confirm every Transaction made by way of SMS together with an updated balance of your Account.
- 8.5.5 Any Debit Transactions given using the PIN will be charged to the Account. You acknowledge that, unless and until Vodafone M-PESA, SA receives notice from you that your PIN Secret Word, is no longer secure and/or that your Mobile Equipment has been lost or stolen, Vodacom may rely on the use of the PIN as conclusive evidence that a Debit Transaction has been authorized by you, even if it is actually made without your authority. Vodacom shall not require any written confirmation of any Transaction Instruction.
- 8.5.6 We are unable to reverse or charge-back any Transfer Instruction for any reason including in the event of any dispute with any other Customer or an Authorized Retailer. You are responsible for resolving any disputes arising with any other Customer or an Authorized Retailer without recourse to Vodafone M-PESA, SA.
- 8.5.7 Your Account may only be operated by the use of Agents/Retailers in the Mozambican Territory.
- Each Transaction will be issued with a unique receipt number that is included in the confirmation SMS sent to you with an updated balance of your Account. This receipt number is used to track & identify all Transactions carried out on your Account.

9 SECURITY AND UNAUTHORISED USE

- 9.1 Only one PIN Number can be linked to your Account at any time.
- 9.2 Only you may use your Mobile Phone and PIN Number.
- 9.3 You are responsible for the safekeeping and proper use of your Mobile Equipment, for keeping your PIN, your Start Key and Secret Word and for all Transactions that take place on your account using your PIN.
- 9.4 You may not disclose your PIN to any person including the staff at the Customer Care Centre.

10. YOUR RESPONSIBILITIES

- 10.1.1. You will be responsible for all applicable Charges at the applicable Tariffs for any Transaction effected including calls made on our Network using the Mobile Equipment whether those calls were made by you or someone else with or without your authority or knowledge.

You are solely responsible for any transmitted material and or communication, which is classified as defamatory, illegal or in breach of any copyright and shall indemnify and keep us indemnified against any claims and expenses made against us in respect thereof.

You must not use the M-PESA Services to commit any offence(s) against Mozambican Law.

11. VARIATIONS

We reserve the right to vary at any time and without prior notice to you these Conditions of Use or the Tariffs. Variations will be notified by way of advertisement in a daily newspaper, SMS, or through our Website and or by using any other suitable means **PROVIDED THAT** you shall be deemed to have been notified of any such variations regardless that the same may not have actually come to your attention.

By continuing to use the M-PESA Services you shall be deemed to have agreed to the variations contemplated in clause 11 above. If you do not accept any of the variations then you must not continue to make any Transactions otherwise you will be deemed to have accepted such modifications.

12. TRUSTEE RESPONSIBILITY

The Trustee hereby declares that it holds all Payments received in respect of the Purchase of E-Money or transfers of E-Money into your Account (the "**Trust Amounts**") on trust for you and for your benefit and that you shall be beneficially entitled to all those Trust Amounts standing to the credit of your Account. You agree that the Trustee may treat the records of the M-PESA System as conclusive evidence of the amount of E-Money at any time standing to the credit of your Account and the Trustee is not bound to make any independent investigation of your beneficial entitlement to the Trust Amounts. You further acknowledge that, in relation to any payment to you in respect of your entitlement to Trust Amounts, we may act on instructions given by you using your PIN or instructions purported to be given by you using your PIN even if they are actually given by a third party.

You acknowledge that the Trustee shall have no obligation to invest the Trust Amounts other than by way of holding the same in the Trust Account. You further acknowledge that, to the extent that any interest accrues on the Trust Amounts, you shall have no beneficial entitlement to such interest and the Trustee shall be entitled to retain such interest to defray its own costs and expenses and/or to pay the same to Vodacom towards the costs and expenses of operating the M-PESA System and/or to pay the same to such charitable cause(s) as the Trustee may in its absolute discretion determine.

13. LIABILITY AND EXCLUSIONS

In the event that we are compelled to change or reassign your telecommunications numbering to meet regulatory requirements or for any other reason our liability will be limited to retaining your Account and where possible, transferring your Account to a new MSIN, failing which you will be paid out the Credit Balance standing in your Account in cash.

To the maximum extent permissible by law we exclude warranties of all kinds, either express or implied.

All Agents are no more than independent outlets authorised by Vodafone M-PESA, SA or an approved M-PESA agent aggregator to provide M-PESA Services and no agency relationship exists between Vodafone M-PESA, SA and the Agents

and we accordingly bear no responsibility or liability for any default or negligence on the part of the Agents in providing the M-PESA Services

We shall not be liable for any loss which you suffer unless it is directly caused by our being negligent or deliberately acting wrongly. If we do act negligently or wrongly, we shall only be liable for the amount of the loss that a normal Customer in your position would have suffered and not any loss which results from your particular circumstances; even if we know that your circumstances are unusual.

14. MISCELLANEOUS

This Agreement (as from time to time may be amended) forms a legally binding agreement, binding on you and your personal successors and assigns.

This Agreement may not be assigned to any other person.

No failure or delay by either of us in exercising any right or remedy hereunder 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 the exercise of any other right or remedy.

The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

If any provision of these Conditions of Use 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 and all provisions not so affected by such invalidity or unenforceability shall remain in full force and effect.

15. STATEMENTS

You may obtain a balance enquiry from your Mobile Equipment and query any transactions effected using your Mobile Equipment.

Printed statements of your Account will not be provided.

We will close your Account on receiving a request from you.

16. FAILURE OR MALFUNCTION OF EQUIPMENT

We are not responsible for any loss arising from any failure, malfunction, or delay in any cell phone Networks, cell phones, the Internet or terminals or any of its supporting or shared networks, resulting from circumstances beyond our reasonable control.

17. NOTICES

We are entitled to send information to you via SMS to the contact Mobile Phone number supplied on your application form. These SMS's are for information purposes only.

You should send any legal notice to us at our chosen address: M-PESA Service, Vodacom, Rua dos Desportistas nº 649, Maputo, Mozambique.

18. GENERAL

You must pay all our expenses in recovering any amounts you owe us including legal fees, collection fees and tracing fees.

A certificate signed by any of our managers (whose appointment need not be proved) showing the amount you owe us is sufficient proof of the facts stated on the certificate, unless the contrary is proved.

We will not be responsible to you for any indirect, consequential or special damages arising from any act or omission by us or any third party for whom we are responsible and whether arising in contract or statute.

You must notify us immediately of any change of your details in your Registration Form.

You agree that your information, including your personal information, your conversations with our Customer Care Centre and your Transactions will be recorded and stored for record keeping purposes for 7 years from date of closure of your Account.

All copyright, trademarks and other intellectual property rights used as part of the M-PESA Services or contained in our

documents are owned by Vodafone M-PESA, SA or its licensors. You agree that you acquire no rights thereto.

19. JURISDICTION AND ARBITRATION

This Agreement is governed by Mozambican Law.

Any disputes arising from or in connection with the present Agreement shall first be resolved through amicable solution failure in which the same shall be finally resolved in accordance with the provisions of the Mozambican Arbitration Laws. Each party shall appoint one arbitrator and the two arbitrators so appointed shall jointly appoint an Umpire, within 60 days of the notification of a dispute. Such arbitration shall be conducted in Maputo in accordance with the Rules of Arbitration, as amended from time to time.

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

Nothing herein contained shall preclude any of the parties to this agreement from approaching any court of competent jurisdiction for an interdict or for relief on an urgent basis.