



FINNLEMM SACCO LIMITED

FINN-PESA

## Finn-Pesa Terms and Conditions



## 1. Definitions

- 1.1 The following words shall have the following meanings in this agreement:-
- 1.2 “The “Sacco” means Finnlemm Sacco Limited;
- 1.3 “Agreement” means this document [terms and conditions], the Operational documents and Regulations and any other appendices hereto;
- 1.4 “Application Form” means the application form completed by the member requesting to access and use the Finnlemm Mobile Banking Service;
- 1.5 “Finn-Pesa” means the Mobile banking solution service;
- 1.6 “Business day” means with the exception of public holidays,:
- i. On any day falling between Monday to Friday the period between 08.00 Hours to 17.00 Hours (all inclusive); and
  - ii. On Saturdays, the period between 08.30 Hours to 13.00 Hours (all-inclusive).
- Business Days shall be construed accordingly
- 1.7 “Confidential Information” means, without limitation, all information, software, data, manuals, concepts relating to marketing methods, products, developments, business and financial affairs and, 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;

1.8 “Customer instructions” means any request or instructions from a customer to the Sacco via the mobile banking platform;

1.9 “Pin” means any confidential password, code or number, normally 4 digits that may be used to access the Finn-Pesa service;

1.10 “Transaction fees” means the Finn-Pesa transaction charges;

1.11 “Finn-Pesa platform and App” means the systems operated by Finnlemm Sacco for provision of the Finnlemm Mobile Banking Services including but not restricted to the Finnlemm Network;

1.12 “Finnlemm Mobile Banking User” means the Customer accessing and using the Finnlemm Mobile Banking Service;

1.13 “Operational Documents and Regulations” means the procedures and regulations, set out by Finnlemm Sacco for purposes of operating the Finnlemm Mobile Banking Service as

amended or revised by Finnlemm Sacco from time to time;

1.14 “Transaction” means any movement of cash from the Customer to the Sacco or from the Sacco to the Customer pursuant to instructions initiated on the Finnlemm Mobile Banking Service

## 2. Introduction

- 2.1. Finnlemm Sacco will provide to the customer mobile banking services as explicitly set out in this Agreement.

## 3. Duration of the Agreement

- 3.1 This Agreement will commence on the date when Finnlemm activates the customer on the Finnlemm Mobile Banking Service and will continue until terminated by either Party in accordance with the provisions of this Agreement

## 4. Activation of The Finnlemm Mobile Banking Service

- 4.1 Finnlemm shall activate the Mobile Banking Service for the customer upon completion of applicable due diligence including but not restricted to Know Your Customer (KYC) due diligence.
- 4.2 For the avoidance of doubt, Finnlemm’s refusal to activate the Finnlemm Mobile Banking Service for the customer shall neither confer on the customer any right to contest Finnlemm’s



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decision nor give rise to any legal claim against Finnlemm

### 5. The Finnlemm Mobile Banking Service

- 5.1 The Finnlemm Mobile Banking Service shall consist of different stages as fully described below:
- 5.1.1 The customer shall by registration authorize Finnlemm to receive payments and lend money to him through the Finnlemm Business Number (s) mapped to the member Sacco Account;
- 5.1.2 Payments made by Customers shall be credited to the member's Sacco Account
- 5.1.3 Finnlemm shall provide statements to the Customer through any of its interfaces to ensure that the customer can reconcile payments made, and loans acquired;
- 5.1.4 Finnlemm shall investigate and resolve any complaints and requests received from the Customers;

### 6. The Parties shall:

- 6.1 In addition to this Agreement, comply with such other Agreement(s) between the Parties relating to products which are delivered via or utilize the Finnlemm Mobile Banking Service;
- 6.2 Comply with all applicable laws;

### 7. Finnlemm shall:

- 7.1 Not be liable for any losses suffered by the Customers or any other person unless caused directly by the negligent or unlawful act or omission of Finnlemm Sacco or any of its employees, servants and agents;
- 7.2 Use all reasonable endeavors to ensure that the Finnlemm Mobile Banking Service is functioning in accordance with the Operational Documents and Regulations
- 7.3 Process all instructions, including payments, and transfers, by the action date in accordance with the Operational Documents and Regulations;
- 7.4 Reject instructions including Transactions, payments, and loan requests that are incorrect, incomplete, or not in accordance with the Operational Documents and Regulations, or inconsistent with any arrangement between the customer and Finnlemm;
- 7.5 Use its best endeavors to ensure that all information available through use of the Finnlemm Mobile Banking Service is correct;
- 7.6 In its absolute discretion and without incurring any liability, refuse to implement any instruction for any reason and notify the customer of its decision to do so.

### 8. Transaction limits and Fees

- 8.1 The Finnlemm Mobile Banking Service shall be subject to the minimum/maximum Transaction values appointed by Finnlemm Sacco from time to time. Finnlemm Sacco may by notice from time to time vary the charges and minimum/maximum transaction values. The minimum transaction values are accessible in the Operational Documents and Regulations and online at [www.finnlemm.com](http://www.finnlemm.com)
- 8.2 The customer shall pay Finnlemm Transaction Fees and any other related charges. These may be debited from the customer's Accounts held by the customer in Finnlemm.
- 8.3 Finnlemm reserves the right to adjust the Transaction Fees from time to time. Finnlemm shall give the customer at least thirty (30) days' advance notice before effecting any changes to the Transaction Fees

### 9. Prohibited Usage and Conduct

- 9.1 The customer agrees to not use the Finnlemm mobile Banking Service to:
- 9.1.1 Conduct anything that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable or criminal;
- 9.1.2 Impersonate any person or entity, including, but not limited to, a Finnlemm Sacco official, fellow



user, or falsely utter or otherwise misrepresent its affiliation with any person or entity

- 9.1.3 Forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Finnlemm Mobile Banking Service;

## 10. Warranties and indemnities

### 10.1 Finnlemm Warrants that

10.1.1 It will deliver the Finnlemm Mobile Banking service in accordance with the standards set forth in this Agreement;

10.1.2 It has the requisite skills, expertise and resources to perform its obligations under this Agreement.

## 11. Confidentiality

11.1 Each Party warrants that it will treat in confidence all Confidential Information, which it acquires because of the operation of this Agreement, and to afford it the same protection afforded to its own Confidential Information.

11.2 Neither Party will reveal any Confidential information to any third party (including public statements) without the 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.

11.3 Finnlemm may disclose the customer'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 regulatory requirements
- (b) Legal process;
- (c) Enforce the terms of this Agreement;
- (d) Protect the rights, property, or personal safety of Finnlemm, its customers and the public.

Where such information is required for any of the purposes above, the customer shall provide such assistance as may be reasonably required by Finnlemm to ensure compliance.

## 12. Force Majeure

The failure by any Party to perform due to circumstances not reasonably within its control, including, without limitations, acts of God, civil commotion, riots, fire, governmental embargoes ("force majeure"), shall not be regarded as breach and the non-performing Party shall not be liable for any delay or loss or damage arising therefrom, provided that performance is resumed as soon as is reasonably possible and provided that written notice of such event shall be given within forty eight (48) hours by the affected Party.

## 13. Breach

Should any Party, ("the defaulting Party") commit a breach of any provision of this Agreement and fail to remedy such breach within fourteen (14) days of receiving a written notice from the other Party ("the aggrieved Party") requiring the defaulting Party to do

so, the aggrieved Party shall be entitled, in addition to its other remedies in law or in terms of this Agreement, to cancel this Agreement forthwith and without prejudice to its rights to claim damages

## 14. Termination

14.1 Finnlemm may terminate this Agreement by issuing to the customer one (1) calendar month's written notice.

14.2 Finnlemm may, acting reasonably, suspend all or any part of the Finnlemm Mobile Banking service without incurring liability to the customer.

14.3 The customer may at any time cancel or unsubscribe from Finnlemm mobile banking services.

14.4 Payments made by means of Finnlemm service are irrevocable.

14.5 Termination of this Agreement will not relieve a Party of obligations imposed upon such Party by statute or regulation or by this Agreement

## 15. Limitation of Liability

15.1 Notwithstanding anything to the contrary contained in this Agreement, except to the extent attributable to the negligence or misconduct of Finnlemm or its employees Finnlemm shall not be liable to the customer or any other person for any loss or damage that the customer or other person may suffer in connection with the Finnlemm Mobile Banking Service in the following circumstances:



- 15.1.1 Where it directly or indirectly results from any errors or omissions in or delay, breakdown or interruption in or improper operations of or inaccuracies in the operations of the Finnlemm Mobile Banking Service nor for any loss of use howsoever caused;
- 15.1.2 Where the customer's hardware, software or internet or mobile telephone provider's service is dysfunctional;
- 15.1.3 In case of any breach of confidentiality resulting directly from the customer's use of the Finnlemm Mobile Banking Service;
- 15.1.4 If the transaction is suspicious or fraudulent resulting in losses to a third party;
- 15.1.5 Where the customer's transaction is intercepted by legal process or other encumbrance restricting it;
- 15.1.6 Where the transaction is prevented by unforeseen circumstances despite the reasonable precautions taken by Finnlemm Sacco;
- 15.1.7 Where it directly or indirectly results from any matter arising from causes beyond Finnlemm's control.

## 16. Governing Law

The Laws of Kenya shall govern this agreement and the courts of Kenya shall have exclusive jurisdiction.

## 17. Use of Personal Identification Number (PIN) and Lost Sim cards

- 17.1 Finnlemm Mobile Banking subscribers shall receive an SMS informing them of their registration and PIN;
- 17.2 The subscriber shall be required to change the PIN before using the Finnlemm Mobile banking Services;
- 17.3 The subscriber shall exercise due care to ensure the secrecy of the PIN at all times and prevent use of PIN by any third party;
- 17.4 If a PIN is forgotten, the subscriber is required to contact the Sacco to request for a new PIN;
- 17.5 If the subscriber loses his/her sim card line registered with Finnlemm Mobile Banking services, the subscriber must notify the Sacco immediately to block the Finn-Pesa Service
- 17.6 The subscriber shall be liable in respect of any transactions or instructions affecting his/her Sacco account that is given with a valid PIN.
- 17.7 If report of loss or theft of sim card registered for Finn-Pesa service is communicated by someone other than the

subscriber, the Sacco shall not be held liable of any damage thereto.

## 18. General

- 18.1 Finnlemm Sacco may amend this Agreement, including the Operational documents and Regulations by way of bulletin and notices. The customer acknowledges that such bulletins or notices shall be binding and shall have full legal force as if they were contained in this Agreement;
- 18.2 The parties shall comply with all legal requirements applicable to their role in effecting transactions;
- 18.3 This Agreement may be accepted electronically in accordance with the provisions of the Kenya Information and Communications Act or any other applicable law
- 18.4 This Agreement may be signed in any number of counterparts, all of which shall constitute the same instrument.