

## TRUSTGRO SCA LIMITED

### GOVERNMENT PAYROLL PRODUCT TERMS & CONDITIONS

#### 1. Definitions

- 1.1 In these terms and conditions, the following terms and expressions shall have the following meaning:
- 1.1.1 **"Borrower's Account"** means bank account held by the Borrower with a financial institution licensed by the Central Bank of Kenya which the Borrower has indicated as his/her bank account;
  - 1.1.2 **"Borrower's Phone Number"** means the mobile telephone number within the Network which the Borrower has indicated as his mobile line number;
  - 1.1.3 **"Credit Reference Bureau"** means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations to inter alia, collect and facilitate the sharing of customer credit information;
  - 1.1.4 **"Deduction Authorization"** written authorization and instructions issued by the Borrower to the Employer to deduct monthly Loan instalments from the Borrower's salary or remuneration;
  - 1.1.5 **"E- Till Number"** means a unique number that is created for the purpose of receiving payments number commonly known as a till number provided by mobile network operator in Kenya;
  - 1.1.6 **"Employer"** string means the Borrower's employer who has entered into an arrangement with the Lender to deduct the monthly Instalments and/or Total Repayments from the remuneration of the Borrower through check-off system;
  - 1.1.7 **"Event of Force Majeure"** means an event beyond the Lender's control including but not limited to act of God, acts of war, acts of terrorism, civil war, riot, strikes, or disorder;
  - 1.1.8 **"Interest"** means the effective annual interest specified in Part B payable by the Borrower to the Lender on the Loan in accordance with these terms and conditions;
  - 1.1.9 **"Instalment"** means the periodic amounts required to be paid by the Borrower to the Lender to repay the Loan;
  - 1.1.10 **"Loan"** means the payroll loan that the Lender may offer the Borrower pursuant to these terms and conditions and as the Borrower may from time to time subscribe to;
  - 1.1.11 **"Mobile Money Account"** means Borrower's electronic money store of value for purposes of receiving and sending payments provided by the mobile network operator in Kenya such as but not limited to MPESA, Airtel money, T-Cash;
  - 1.1.12 **"Network"** means the mobile cellular network operated by a registered mobile service provider;
  - 1.1.13 **"SMS"** means a short message service consisting of a text message transmitted from one mobile phone to another;
  - 1.1.14 **"Total Repayments"** means, at any given time, the amount set out in Part B being the aggregate of the outstanding Loan whether due or not, Interest, all charges and fees which are payable by the Borrower to the Lender in accordance with these terms and conditions;
  - 1.1.15 **"Website"** means the official website of the Lender accessible at the following address [www.trustgro.com](http://www.trustgro.com)

## **2. Conditions Precedent**

Notwithstanding any other provisions herein contained the Lender shall not be bound to make available or continue to make available the Loan or any part thereof unless and until the following conditions precedent have been fulfilled to the full satisfaction of the Lender: -

- 2.1 furnishing all documentary proof as may be requested by the Lender;
- 2.2 there shall exist no potential event of default or event default and all representations and warranties contained herein shall be true and correct in all material respects;
- 2.3 the Borrower has made the authorization for the Employer to effect such deductions from salary and other income of the Borrower in settlement of the Instalments or the Loan (as the case may be) PROVIDED THAT such authorization shall not bar the Lender to implement alternative arrangement to recover Instalments in the event that payroll deduction fails for any reason whatsoever.
- 2.4 there are no circumstances which in the opinion of the Lender would adversely affect the Lender's ability, decision or willingness to grant or continue to grant the Loan to the Borrower; and
- 2.5 in case the Loan is for refinancing of a loan earlier availed to the Borrower from another bank/financial institution, the following additional conditions shall have been complied with:
  - 2.5.1 submission of a certified true copy of a settlement letter issued by such other bank/financial institution to the Borrower clearly indicating the amount to be settled; and
  - 2.5.2 submission of a letter from the other bank/financial institution confirming that the amount received from the Lender has fully settled the specific loan being refinanced by the Borrower.

## **3. Application and Approval/Refusal**

- 3.1 The Borrower applies for the Loan by contacting the Lender's representative, submitting the requested information and signing this Agreement.
- 3.2 The Lender, shall on the balance of the available information at the time the credit decision is made, including the Borrower's credit history, consider whether the Borrower is able to satisfy in a timely manner all the obligations under this Agreement.
- 3.3 When the Lender approves and disburses the Loan, Parts A - E will constitute a binding Agreement between the Lender and the Borrower.
- 3.4 The Lender shall, on request of the Borrower, advise in writing the reasons for: -
  - 3.4.1 declining to enter into a loan agreement with the Borrower;
  - 3.4.2 reducing the amount of Loan applied by the Borrower; and
  - 3.4.3 varying the Instalment or term of the Loan.

## **4. Interest, Charges and Fees**

- 4.1 The Borrower agrees and undertakes that he/she shall pay Interest, all charges and fees as specified in Part B.
- 4.2 Interest shall be charged on the Loan shall be at a fixed rate, calculated and capitalized over the term of the Loan as stated in Part B.
- 4.3 All legal fees and such other reasonable costs, expenses, disbursements, and taxes incurred by the Lender in creating, perfecting and enforcing Lender's rights under these terms and conditions or otherwise in administering, demanding and collecting payment of any monies due under these terms and conditions including but not limited to legal costs and any goods and tax thereon shall be borne by the Borrower on a full indemnity basis.
- 4.4 To the extent not contrary to applicable law, the Lender may at any time at its absolute discretion and upon written notice to the Borrower, vary the amount of Interest, any charges or fees payable by the Borrower as stated in Part B. Such change(s) shall take effect from the date stated in the notice, which shall be no less than 30 days from the date of the notice.

## 5. Mode of Disbursement

- 5.1 The disbursement of the Loan or any part thereof by the Lender, may at the Borrower's election, paid to the Borrower's Bank account or Mobile Money Account, provided that the Lender shall not be responsible for any damage or loss arising from disbursement of the Loan as directed by the Borrower.
- 5.2 In case the Loan being availed to the Borrower is for the refinancing of a loan earlier availed to the Borrower from another bank/financial institution, the disbursement of the Loan amount or any part thereof by the Lender may be, subject to clause 2.5, made in the first instance to such other bank/financial institution and to the Borrower and the balance of the Loan amount remaining, if any, to the Borrower.

## 6. Repayment

- 6.1 Upon disbursement of the Loan Amount to the Borrower, in accordance with the Borrower's election, the Borrower will owe the Lender Total Repayments which must be repaid in equal monthly instalments as set out in Part B.
- 6.2 The Borrower shall be required to make repayment of the Loan on the First Instalment Date as set out in Part B, and every calendar month thereafter until the Total Repayments are fully repaid.
- 6.3 The Loan shall be paid by the Borrower, together with any interest accrued, and all applicable charges, fees and/or other amounts payable, which may be required to be paid by the Borrower as set out in Part B.
- 6.4 The Borrower shall allow the Lender to collect Instalments directly from his/her Employer.
- 6.5 The Borrower shall be responsible for the accuracy and correctness of the Instalments as captured by the Employer in its payroll.
- 6.6 The Borrower shall ensure all payments due to the Lender in respect of the Loan together Interest if any, accrued thereon, all additional charges, fees and amounts payable, are made in full without any deduction whatsoever.
- 6.7 The Borrower may prepay the entire Loan or portion thereof before the relevant due at no additional cost which amount for avoidance of doubt shall include: -
  - 6.7.1 Total Repayments as at the date of prepayment;
  - 6.7.2 accrued Interest and interest for the notice period referred to in clause 6.9 below along with accrued charges, and any accrued fees payable for the remaining term of the Loan;
  - 6.7.3 costs associated with originating the Loan, including but not limited to the commissions paid to agents and staff, at the rate of 10% of the principal outstanding Loan; and
  - 6.7.4 costs incurred as a direct result of enabling the prepayment which will be reflected as a charge.
- 6.8 Subject to clause 6.7 the administration fees set out in Part B are non-refundable and therefore not discounted upon early settlement of the Loan before the due date.
- 6.9 For purposes of clause 6.7 before making any prepayments the Borrower shall give the Lender prior irrevocable 30 day's written notice of his/her intent to prepay and seek from the Lender written confirmation on the total amount required to fully settle his/her obligations with the Lender.
- 6.10 Any cash payments made by the Borrower to the Lender shall be made to the Lender's bank account or E-Till Number as advised by the Lender from time to time. The Borrower shall not make any cash payments to any employee or agent or officer of the Lender and the Lender takes no responsibility for any such payments.
- 6.11 Payments received by the Lender shall be used to reduce the obligations of the Borrower in the following order: -
  - 6.11.1 legal or other costs incurred in enforcing the lender's rights under these terms and conditions;
  - 6.11.2 insurance;
  - 6.11.3 charges;
  - 6.11.4 fees;
  - 6.11.5 interest; and
  - 6.11.6 amount due and owing on the principal amount of the Loan.

## **7. Events of Default**

Without prejudice to the other rights or remedies available to the Lender under the law the Borrower shall immediately repay, on-demand, the entire Total Repayments upon any of the following events of a default happening:

- 7.1 commits or threatens to commit any breach of these terms and conditions;
- 7.2 if a cumulative number of three (3) Instalments are not paid when due;
- 7.3 any other obligation that the Borrower owes the Lender under these terms and conditions is not paid when due;
- 7.4 if bankruptcy proceedings are taken against the Borrower or a receiver and/or a manager is appointed to administer over any of the property or assets of the Borrower;
- 7.5 a criminal proceeding is conducted against the Borrower which in the opinion of the Lender may have a significant adverse effect on the Borrower's ability to perform his obligations under these terms and conditions;
- 7.6 the Borrower is declared bankrupt, dies, or becomes totally incapacitated;
- 7.7 any representation or warranty made by the Borrower hereunder for the purpose of obtaining the Loan being incorrect in any material respect as of the date of which it is made or deemed to be made;
- 7.8 ceases to be employed by the Employer for whatever reason; and
- 7.9 does anything that prejudices the Lender's rights under these terms and conditions.

## **8. Representations, Warranties and Indemnity**

- 8.1 The Borrower hereby represents and warrants to the Lender that all information furnished by the Borrower in connection with the Loan does not contain any untrue statement or omit to state any fact the omission of which makes any statements made therein in the light of the circumstances under which they are made, misleading, and the Borrower is not aware of any material facts or circumstances that have not been disclosed to the Lender which might if disclosed, adversely affect the decision of a person considering whether or not to provide finance to the Borrower;
- 8.2 In consideration of the Lender complying with the Borrower's instructions or requests, the Borrower undertakes to indemnify the Lender and hold the Lender harmless on a full and unqualified indemnity basis against any loss, charge, damage, expense, fee or claim which the Lender suffers or incurs or sustains thereby and the Borrower absolves the Lender from all liability for loss or damage which the Borrower may sustain from the Lender acting on the Borrower's instructions or requests or in accordance with these terms and conditions.
- 8.3 For the purposes of Clause 8.2, the expression "the Borrower's instructions or requests" means any instructions or requests received by the Lender from the Borrower's Phone Number, email address whether or not such instructions or requests are issued by the Borrower or someone else acting with or without instructions, it being acknowledged and agreed that the Lender shall treat all such instructions or requests as issued by the Borrower without the necessity of independent investigation or verification. In this regard, the Borrower irrevocably authorizes the Lender to act on all instructions or authorization received by the Lender from the Borrower's Phone Number and email address and to hold the Borrower liable in respect thereof, notwithstanding that any such requests are not by the Borrower or authorized by the Borrower.

## **9. Statements**

- 9.1 A statement of Total Repayments signed by the Lender's officer shall be deemed conclusive evidence of the Borrower's indebtedness to the Lender and such statement shall be emailed to the Borrower free of charge. However, the Lender shall, at the request of the Borrower, provide such printed statement at a reasonable charge as notified by the Lender from time to time.

## **10. Variation and Termination of Relationship**

10.1 Without prejudice to the Lender's rights under these terms and conditions, the Lender may vary or terminate the relationship if any of the below events occur:

10.1.1 if the Borrower is in breach of these terms and conditions (including non-payment of any Monthly instalment due from the Borrower where applicable);

10.1.2 if the variation or termination is required to comply with an order or instruction from the government, court, regulator, or other competent authority; and

10.1.3 where the Lender reasonably suspects that the Loan is being used to perpetuate illegality or unethical activities or the Borrower is engaged in illegality or unethical activities.

10.2 Termination shall however not affect any accrued rights and liabilities of either Party.

10.3 The Lender may at any time, upon notice to the Borrower, terminate or vary its business relationship with the Borrower, and in particular the Lender may cancel any Loan which it has granted and require the repayment of all monies owing thereunder together with all charges (if any) thereon shall immediately become due and payable on demand outstanding debts resulting therefrom within such time as the Lender may determine.

## **11. Exclusion of Liability**

To the extent not contrary to applicable law, the Lender shall not be responsible for any loss or damage which the Borrower or any other person(s) may suffer or incur: -

11.1 due to any delay or refusal of the Lender to grant or to continue to grant the whole or part of the Loan to the Borrower and shall not be obliged to give any reason for such delay or refusal.

11.2 without prejudice to the foregoing, in respect of any revision of the amount, suspension, cancellation or termination of the Loan, changes to any of these terms and conditions herein or any other exercise of the Lender's rights under these terms and conditions, at law or in equity;

11.3 In case the Loan is for the refinancing of a loan earlier availed to the Borrower from another bank/financial institution, the correctness or accuracy of the amount indicated by such bank/financial institution as total outstanding; or

11.4 the termination of these terms and conditions.

## **12. Credit Life Cover**

The Lender requires life insurance cover ("Credit Life Cover") for the Loan in order to protect the Borrower against any risks of payment incapacities in case of disability/death. The following provisions shall apply: -

12.1 The premium of Credit Life Cover, if opted, may be paid either separately by the Borrower or included in the Loan.

12.2 The Credit Life Cover shall be taken with an underwriter approved by the Lender and with the Lender's interest noted as first loss payee.

12.3 The Borrower has the option to exercise their right to select an underwriter of their choice to arrange the Credit Life Cover or to authorize the Lender to arrange Credit Life Cover with a pre-approved underwriter and to include the insurance premiums payable in the Loan amount.

### **13. Disclosure of Information**

- 13.1 By signing these terms and conditions the Borrower hereby consents and authorizes the Lender to disclose, receive, record, or utilize the Borrower's personal information, and data disclosed by the Borrower in this Agreement including any other data or details within the limits permitted by law:
- 13.1.1 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;
  - 13.1.2 to and from a Credit Reference Bureau;
  - 13.1.3 to and from the Lender's service providers, dealers, agents, assignees, or any other company that may be or become the Lender's subsidiary or holding company for reasonable commercial purposes;
  - 13.1.4 to the Lender's lawyers, auditors, or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;
  - 13.1.5 for reasonable commercial purposes, such as marketing and research-related activities; and
  - 13.1.6 in business practices including but not limited to quality control, training and ensuring effective systems operation.
- 13.2 The Borrower's attention is drawn to Article 13 of Regulation (EU) 2016/679 of the European Parliament and is deemed to be aware of the same.
- 13.3 The Borrower hereby expressly consents and authorizes the Lender:-
- 13.3.1 to contact anyone to verify that the information provided by the Borrower in applying for the Loan or Policy is correct;
  - 13.3.2 to request and receive any details from any party regarding the Borrower's financial status including credit history data from a Credit Reference Bureau;

### **14. Miscellaneous**

- 14.1 These terms and conditions (as may be amended from time to time) form a legally binding agreement and are binding on the Borrower.
- 14.2 The Lender may at any time vary or amend these terms and conditions, the Interest Rate and the Default Interest. Any such variations or amendments shall be published on the Website and/or by any other means as determined by the Lender and any such variations and amendments shall take effect immediately upon publication.
- 14.3 The continued making of Loan application(s), acceptance of Loan offer(s) and/or enjoyment of Loan shall constitute the Borrower's agreement to be bound by the terms of such amendments.
- 14.4 Any amendments or variations made to these terms and conditions shall be published on the Website and shall take effect on the date of their publication or as otherwise provided in such amendment or variation.
- 14.5 These terms and conditions and any amendments or variations thereto shall remain in full force and effect and apply to the Loan until such time as these terms and conditions may be terminated in accordance with clause 10.
- 14.6 Any failure by the Lender to exercise, or any delay in exercising, any of its rights under these terms and conditions or under any applicable law will not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any such right will not preclude any other or further exercise of that or any other such rights, and no act or course of conduct or negotiation on the part of the Lender shall preclude the Lender from exercising any such right or constitute a suspension or any variation of such right.
- 14.7 If at any time any provision is or becomes or is found to be illegal, invalid, defective, or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.
- 14.8 Any addition or alteration to these terms and conditions may be made from time to time by the Lender and of which notice has been given to the Borrower by way of publication as provided in clause 14.2 above shall be binding upon the Borrower as if the same were contained in these terms and conditions.

14.9 Without any prejudice to either Party's right under these terms and conditions, the Lender shall attempt to resolve any dispute within [thirty (30) days] in accordance with dispute resolution policy of the Lender published by the Lender from time to time. The Lender shall upon consideration of the dispute confirm in writing whether the dispute is resolved or not.

14.10 These terms and conditions shall be read together with the voice contract between the Lender and the Borrower.

## **15. Notices**

15.1 Any notice, document, information, or communication under or in connection with these terms and conditions shall be delivered by SMS, WhatsApp, e-mail, registered mail, physical delivery or comparable means of communication as the Lender may deem necessary in its discretion to the addresses given in these terms and conditions or at such e-mail address or at such other address as the Borrower may have notified to the other party herein in writing. Any notice or communication given as provided in this Clause shall be deemed received by the party to whom it is addressed:

15.1.1 if delivered by hand, when so delivered;

15.1.2 if sent by registered post, on the third (3rd) Business Day after posting; and

15.1.3 if sent by SMS, WhatsApp, e-mail, within twenty-four (24) hours of transmission (from the time it was sent) if sent to the correct address and no notice of delivery failure is received.

15.2 No change in the address of service howsoever brought about shall be effective or binding on the Lender unless the Borrower has given to the Lender actual notice of the change of address for service out.

## **16. Governing Law**

These terms and conditions shall be governed by and construed in accordance with the laws of the Republic of Kenya.

## **17. Assignment**

The Lender shall have the right at any time to sell, assign or transfer all or a portion of its rights title interest under this Agreement.

## **18. Acceptance of the terms and conditions**

18.1 Upon such acceptance, these terms and conditions shall *ipso facto* constitute a binding contract between the Lender and the Borrower.

18.2 The Borrower shall accept (and shall be deemed to have read and explained to him/her and understood in English (or in a language understood by him/her) full version of these terms and conditions made accessible to the Borrower or sent to the Borrower by the Lender via e-mail by either:-

18.2.1 Signing a physical copy of these terms and conditions; or

18.2.2 entering the one-time password (OTP) 1 sent to the Borrower's Phone Number in the digital version of these terms and conditions or such other acceptance methods prescribed by the Lender and/or the Lender's authorized representative.

18.3 By accepting these terms and conditions as set out in clause 18.2, the Borrower agrees to comply with and be bound by these terms and conditions and affirms that the terms and conditions are without prejudice to any other rights that the Lender may have with respect to the matters contemplated in these terms and conditions in law or otherwise.