



Bongapay Limited Terms & Conditions.

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Please read the terms and conditions carefully before registering, accessing or using the Services (defined below). The terms and conditions is a legal contract ("Agreement") between You and Bongapay Limited ("Bongapay") .You agree and acknowledge that you have read the terms and conditions set forth below. If you do not agree to these terms and conditions or do not wish to be bound by these terms and conditions, you may not use the Services and/or immediately terminate the Services.

We may amend the terms and conditions at any time by posting an updated version at www.bongapay.co.ke ("Bongapay Site"). The updated version of the Terms of Service shall take effect immediately upon posting. . It is Your responsibility to review these Terms of Use periodically for updates / changes. Your continued use of Bongapay App following the posting of changes will mean that You accept and agree to the revisions including additional Terms or removal of portions of these Terms, modifications etc. . As long as You comply with these Terms of Use, We grant You a personal, non-exclusive, non-transferable, limited privilege to enter and avail the Services.

USING BONGAPAY APP or WEBSITE INDICATES YOUR AGREEMENT TO ALL THE TERMS AND CONDITIONS UNDER THESE TERMS OF USE, SO PLEASE READ THE TERMS OF USE CAREFULLY BEFORE PROCEEDING. By impliedly or expressly accepting these Terms of Use, You also accept and agree to be bound by Bongapay Policies (including but not limited to Privacy Policy available on the Bongapay website www.bongapay.co.ke as amended from time to time.

Terms of Service

Bongapay Limited is a digital wallet solution which facilitates store of your money digitally and acts as such by creating, hosting, maintaining and providing Services to you via the Internet. Bongapay provides its Services to customers through 'Bongapay' mobile app application ("Bongapay App/ Website"), which acts as a container for various payment instruments including but not limited to Wallet, Debit/Credit card, and External Wallets (hereinafter collectively referred to as "Services"). Bongapay provides its Services to businesses by enabling them to accept virtual money transfer and services from its customers for the products and/or services on their platform via Bongapay App or Website.

Bongapay Limited facilitates storage or transfer of money (virtually) and services in connection with online transactions for products or services concluded on and through the Bongapay App and website, or any third party merchant app, website, physical store or any individual both within and outside the Bongapay network.

By using the Services, you acknowledge and agree that Bongapay is not a bank or Money transfer and the Services should in no way be construed as the provision of banking services.

Services:

Bongapay Limited offers its services in on mutual consent of the user and it's not regulated by any law but operate on mutual consent of service provider and the user.

Bongapay App comprises of the following payment instruments/services:

- **Bongapay Wallet:**
"Bongapay Wallet" is a Semi-Closed Pre-paid Payment If you do not have sufficient wallet balance to make a purchase you can combine it with Credit/Debit Card, Merchant/Agent top-up and MPESA.
- **Debit/Credit Cards:**
You can make merchant payments, recharge/bill payments and other In-App category purchases using Debit/Credit cards which are digitally stored in our ecosystem. We have partnered with multiple banks which follow the standard regulations and safety standards to enable our solution.

Eligibility

Bongapay Services are currently available to customers with an active Kenyan mobile number (Registered by respective service providers as per law), a smartphone and having a bank account in Kenya or Mobile money accounts.

Bongapay Services is available only to people:

- Who have provided the same mobile number to Bongapay (during registration) as the one registered with their respective bank or respective mobile money companies.

Registration

In order to use the full spectrum of Bongapay Services, You need to register on the Bongapay App and provide Us with accurate and complete information. You are also required to keep your accounts and contact information complete and updated at all times. Any account found to contain incorrect and/or outdated information will be suspended.

Mobile Number

Upon downloading the Bongapay App or registering on web , you have to necessarily allow permission to Bongapay to send an SMS from your smartphone to Bongapay's Virtual mobile number, which allows Bongapay to verify your mobile number and register Your device details against your Bongapay account. This is a mandatory security step, and You accept that Bongapay has the sole right to not allow you to use your Bongapay app without the completion of this step.

It is your responsibility to provide your correct mobile number so that we can communicate with you via SMS. You understand and agree that if we send you an SMS but you do not receive it because your mobile number on file is incorrect or out of date, blocked by your service provider, or you are otherwise unable to receive SMS, We shall be deemed to have provided the communication to you effectively. Please note that if you use a spam filter that blocks or re-routes SMSes from senders not listed in Your contacts, you must ensure that Bongapay SMSes are marked as trusted as 'not-spam', so that you will be able to view the communications we send to you.

The mobile number provided by you should be the same as registered with your bank against your bank account or Mobile Money. Bongapay will not be liable for any such mismatch leading to your failure to access transactions on Bongapay app.

Email Address

It is your responsibility to keep your primary email address up to date so that we can communicate with you electronically. You understand and agree that if we send you an electronic communication but you do not receive it because your primary email address on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic communications, We shall be deemed to have provided the communication to you effectively. Please note that if you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add Bongapay to your email address book so that you will be able to view the communications we send to you.

You can update your primary email address at any time by logging into the Bongapay App. If your email address becomes invalid such that electronic communications sent to you by us is returned, We may deem your account to be inactive, and you will not be able to transact any activity using your Bongapay Account until we receive a valid, working primary email address from you.

Device Information

The device (smartphone) on which you download Bongapay App and use during registration, shall become your registered device and its details shall be stored by us. The moment you log into your Bongapay account from a different device using the Bongapay app, You will be asked to allow Bongapay to send an SMS from the new device, after which the new device becomes the registered device.

You will not be able to access your Bongapay account or authorize your transactions using your previous device until you re-login and re-authorize yourself on that device.

Any Other information

We may ask for and store additional information to either extend more services or even as additional requirement for continuing the existing Services or sub-services.

Terms of Use of Payment Instruments/Services

By agreeing to this Agreement you hereby agree to the Bongapay Terms of Use for its services, which may be updated by Bongapay from time to time. All transactions concluded by users using Bongapay on the Bongapay the platform of any of its affiliates and partners, or any third party platform, which can accept payments and services from Bongapay users, will be in accordance with the Bongapay Terms of Use.

Privacy

We collect, hold, use and transfer Your personal data in accordance with Our Privacy Policy. By agreeing to the Terms of Service, You hereby agree to Our Privacy Policy, which may be updated by Us from time to time. You understand and agree that, to the extent permitted by applicable law, any data provided by You in connection with the Services may be shared with Our affiliates or partners. Please refer to the link below for detailed terms and conditions on Our [Privacy Policy](#).

User Responsibilities

Beneficial Owner

You must be the beneficial owner of the account, and conduct business only on behalf of you.

Username and Password

You must be the beneficial owner of the account, and conduct business only on behalf of you.

- A set of username and password is unique to your use of the service and you shall not share, assign or permit the use of your username, transaction PIN and password to any other persons. You acknowledge that sharing of your username and password with other persons (collectively, "multiple use") may cause irreparable harm to Bongapay. You shall indemnify Bongapay against any loss or damage suffered by Bongapay as a result of such multiple use. You undertake to notify Bongapay immediately of any unauthorized use of your username or password or any other breach of security. You agree that Bongapay shall NOT be liable for any loss or damage arising from your failure to comply with this section.

- You shall be solely responsible for:
 - a) Maintaining the confidentiality of Your Bongapay username, transaction PIN and password
 - b) Maintaining the confidentiality of Your Bank account details and OTP messages
 - c) Maintaining the confidentiality of any credentials or/and information using which, one can impersonate you.
 - d) All transactions and activities that occur under your username and password
 - e) All consequences of use or misuse of your username transaction PIN and password.
 - f) Never sharing any of the above credentials with anyone including anyone claiming-from or from bank, Bongapay Limited etc.

- If you are a business entity, you agree that all officers, employees, agents, representatives and others having access to the username, transaction PIN and/or password have been duly authorized by you to use the services on your behalf and to legally bind you. You shall be responsible for all actions by current and former officers, employees, agents, representatives and others, regardless of whether authorized by you, that access the services using the business' user name and password.

You must be the beneficial owner of the account, and conduct business only on behalf of yourself.

Wallet User Obligations

- You must ensure the availability of sufficient funds before executing any transaction from your Account.
- If you have submitted KYC documents to us, You shall intimate us about change in your address, if any, in writing along with such proof of address as per the KYC documents.
- Your Bongapay wallet might be a trusted instrument with certain merchants after validating your identity, in such cases misuse of wallet because of auto-authentication on same device because of lost/theft/misuse of device or information will be solely user's responsibility.

You authorize Bongapay to forward to your bank, your request to debit your linked bank account when You link your account with Bongapay App. You are solely responsible for complying with any terms set by your bank or with respect to your account, including any fee terms, such as non-sufficient fund or overdraft fee terms.

Charges

Membership is free for Users. Bongapay does not charge its Users any fee for creating an Account or use of Services. Bongapay reserves the right to change its fee policy from time to time. In particular, Bongapay may at its sole discretion introduce new services and modify some or all of the existing services offered on the website. In such an event, We reserve the right to introduce fees for the new services offered or amend/introduce fees for existing services, as the case may be. Changes to the fee policy shall be posted on the website/app and such changes shall automatically become effective immediately after they are posted. Unless otherwise stated, all fees shall be quoted Kenyan Shillings.

Your bank may charge you a nominal transaction fee transfers- please check with your bank for any such charges.

Terms of Use of Bongapay Wallet

Your use of the Bongapay Services and related tools are governed by the following terms and conditions ("Terms of Use") which are incorporated herein by way of reference. For the purpose of these Terms of Use, wherever the context so requires 'You/Your' or "User" shall mean any natural or legal person who has registered for Bongapay Wallet and who has accepted these Terms of Use. The term "We", "Us", "Our" shall mean Bongapay Private Limited Further, the term "Merchant" shall include any establishment and/or entity who accepts the Bongapay wallet as a payment method for online or offline purchase of goods and/or services. Similarly, the term "Buyer" shall refer to the person who purchases any of the goods or services provided online or offline by the Merchants.

If You transact using the Bongapay wallet or Bongapay app or any Merchant Website/ Merchant Platform, these conditions will be applicable. By mere use of the Bongapay wallet, You shall be contracting with Bongapay and these terms and conditions including the policies constitute Your binding obligations, with Bongapay.

We reserve the right, at Our sole discretion, to change, modify, add or remove portions of these Terms of Use, at any time without any prior written notice to You. It is Your responsibility to review these Terms of Use periodically for updates / changes. Your continued use of Bongapay wallet following the posting of changes will mean that You accept and agree to the revisions including additional Terms or removal of portions of these Terms, modifications etc. . As long as You comply with these Terms of Use, We grant You a personal, non-exclusive, non-transferable, limited privilege to enter and avail the services.

USING BONGAPAY WALLET INDICATES YOUR AGREEMENT TO ALL THE TERMS AND CONDITIONS UNDER THESE TERMS OF USE, SO PLEASE READ THE TERMS OF USE CAREFULLY BEFORE PROCEEDING. By impliedly or expressly accepting these Terms of Use, You also accept and agree to be bound by Bongapay Policies (including but not limited to [Privacy Policy](#) as amended from time to time.

Your Account and Registration Obligations

- You shall be able to register by:
 - a) Creating a Bongapay account at Bongapay App (“Bongapay Platform”) any Merchant platform (“Merchant Account”) and activating your Bongapay wallet by providing the required details, authorizing yourself by an OTP verification, providing basic details based e-KYC details and agreeing to the Bongapay Terms & Conditions.
- Kindly note that the Bongapay login ID created by you shall be used to access all your instruments including but not limited to Bongapay Wallet, Credit/Debit Cards, and other 3rd Party Wallets.

Loading/Topping-up of Bongapay wallet:

- Bongapay wallet can be loaded or topped-up a debit card, MPESA or through our agents that might arise due to cancellations and returns of Your transactions at third party partner Merchant Platforms or by Bongapay. Bongapay wallet will be displayed as an option on the order return/cancellation screen for all such refunds on the Merchant Platforms. Bongapay has the sole discretion to not allow Refunds into the Bongapay wallet for purchases made through any particular payment method.
- KYC wallet limit*
- *These limits are based on Bongapay Risk Rules.
- Basic Details wallet limit

Purchases through Bongapay wallet

- Bongapay wallet can be used to purchase products and services online or offline on any Merchant platform. Bongapay wallet can be used by selecting it as the payment mode at the time of payment.
- Bongapay wallet is one of the payment options available to the Users on Merchant platform and We take no responsibility for the products purchased using the Bongapay wallet and any liability thereof is expressly disclaimed.
- Purchase Limits for KYC wallets*
- These limits are based on Bongapay Risk Rules.
- Purchase Limits for Basic Details wallets

Withdrawals from Bongapay wallet

- The User will be allowed to withdraw his/her Bongapay wallet balance to his/her bank account or through an agent anytime. In all cases, the top-up amount shall be reversed only to the bank account linked to the Bongapay app.
- Withdrawing money from Bongapay wallet in the form of cash is allowed. Its also, user can link his/her bank account to Bongapay app and transfer money from Bongapay wallet to the bank account anytime, subject to limits issued by Central Bank. The User shall be solely responsible for providing the updated and correct details of his/her bank details.

- The User shall be solely responsible for providing the updated and correct details of his/her bank details.
- Withdrawal limits for KYC wallets*
- Withdrawal is not allowed for Basic details or no KYC wallets.
- *These limits have been set based on Bongapay Risk rules

Cash back / Wallet Balance Limit

If you are entitled for cashback, you agree to receiving the same as a gift voucher.

The gift vouchers will be valid for 1 year and is subject to a maximum limit of KSh.10,000 per gift voucher. Bongapay reserves the right to impose additional amount limits within the overall applicable limit.

Bongapay reserves the right to award offers and related benefits as per internal policy decided by Bongapay from time to time.

Charges

Membership is free for Users. Bongapay does not charge its Users any fee for creating an Account or use of Services. Bongapay reserves the right to change its fee policy from time to time. In particular, Bongapay may at its sole discretion introduce new services and modify some or all of the existing services offered on the website. In such an event, We reserve the right to introduce fees for the new services offered or amend/introduce fees for existing services, as the case may be. Changes to the fee policy shall be posted on the website and such changes shall automatically become effective immediately after they are posted on the website. Unless otherwise stated, all fees shall be quoted in Kenyan Shillings.

Validity & Forfeiture Policy

- Your Bongapay wallet Account will be valid for 12 months from the time of activation or 12 months from the time of the last transaction whichever is later. Please note that Bongapay reserves the right to terminate Your Bongapay wallet Account in case of violation of any policy or Terms of Use and in such event, any balance in Your Bongapay wallet Account shall be credited back to Your bank account linked to the Bongapay app. or any rule/policy issued by the CBK or Government of India or any other concerned body. In such an event, Bongapay shall report the matter to the concerned body and may freeze your Bongapay wallet until given a clearance by the concerned body.
- Bongapay shall caution You during the sixty (60) days period prior to the expiry of the validity period of the Bongapay wallet by way of sending SMS, e- mail, post etc.

Deactivation of Wallet

We may choose to deactivate your wallet if we suspect any fraudulent activities until we confirm some details without your prior notice.

Inactive Wallet

Any wallet without a single transaction for 12 months will be treated as Inactive Wallet. You can reactivate the wallet after OTP validation of the number with which the wallet is created.

Suspension of Wallet

If you are holding a basic details wallet and once they approach 365 days/1 year in operation from the date you have provided basic details you must do a KYC else will be moved to pending KYC state.

- Once a basic details wallet is moved to 'Pending KYC' state then wallet will be suspended. The associated mobile number will not be allowed to create a basic details wallet ever.
- However you can activate the wallet by completing KYC..

PCI-DSS Compliance

Bongapay is PCI-DSS Compliant, PCI-DSS (Payment Card Industry - Data Security Standard) is an information security standard for companies that store customer Debit/Credit card information.

Saving Card details

Please note that you can make Debit/Credit Card payments on Bongapay either by saving or without saving your card.

If you accept to Save the card on Bongapay please note that the card details - Card Number, Expiry Date will be saved in a secured encrypted zone which is PCI-DSS compliant.

Please note that we do not store sensitive information such as OTP, 3D-Secure Password, ATM PIN etc.

Refund/Reversals

Any refund/reversals initiated by the merchants in case of non-fulfillment or return of orders will be refunded back to the customer.

Terms of Use of External Wallet

- External wallets are third party pre-paid payment instruments which are enabled inside Bongapay Application.
- Bongapay is only facilitating
 - a) the usage of External wallet balance at various merchants.
 - b) Loading of External wallet balance by using instruments saved on Bongapay.

Bongapay in no way is responsible for creation or regulatory adherence of external wallets for the above use cases.

- By agreeing to link your 'External Wallet' on Bongapay, you are confirming that you have read and agreed to all terms and conditions as set-out by the respective wallet companies on their websites/Applications.
- By linking your External Wallets to Bongapay, you are authorizing Bongapay to perform multiple operations on your External Wallets which includes, but is not limited to, debiting amounts against payments due to merchants, checking balance, crediting refunds and loading your External Wallet Balance etc.
- Bongapay reserves the right to disable the 'External wallet' option during payments.
- Bongapay reserves the right to de-link the 'External Wallet' from Bongapay at any point in time without prior intimation.
- Loading of External wallets inside Bongapay App is subject to KYC Terms & conditions and wallet limits defined by respective External wallets
- In case of failure of wallet loading and if Bongapay receives the money the amount would be refunded back to the source.
- If you do not have sufficient external wallet balance to complete a merchant payment you can combine it with Bongapay Wallet, Debit/Credit Card, Merchant or MPESA.

Other Responsibilities

- You shall promptly inform us for any unauthorized usage of your account, lost/stolen/misplaced/ device or account details, and any other circumstances which may lead to unauthorized usage of your account. The responsibility of any transaction prior to intimation will solely be on the registered user.
- You agree and understand that when you acquire goods or any other services from a Merchant platform through Bongapay Services, we are not a party to the contract between you and the Merchant.
- We do not endorse any advertiser or Merchant linked to its website or app. Furthermore, we are under no obligation to monitor the Merchant's service used by you; the Merchant alone will be responsible for all obligations under the contract including (without limitation) warranties or guarantees. Any dispute with or complaint against any Merchant must be directly resolved by the User with the Merchant. It is clarified that We shall not be responsible or liable for any deficiency in goods and/or services purchased using Bongapay Services. You are instructed to satisfy yourself regarding the quality, quantity and fitness of any good and/or service before purchasing the same.

- In case any amount is transferred erroneously by the you to any Merchant or any other person, Bongapay shall not be liable to refund such amount to you under any circumstances.
- Any web-link on the website to a third party site is not an endorsement of that web-link. By using or browsing any such other web-link, you shall be subject to the terms and conditions in each such web-link.
- In the event of any dispute, Bongapay records shall be binding as the conclusive evidence of the transactions carried out through use of Bongapay Services.
- Bongapay shall send all customer communications by SMS and/or email and they shall be deemed to have been received by you after they have been submitted for delivery to the SMS/email service providers.
- You agree to receive all commercial message including transactional messages from Bongapay/Merchant.
- You will use the Services in good faith and in compliance with all applicable laws and regulations.
- The information and material you provide in connection with the use of the Services is true, lawful and accurate, and is not false, misleading or deceptive.
- You should be solely responsible for payment of any taxes, duties or other governmental levies or any financial charges that may be imposed on any products or services purchased or supplied through the Services or otherwise arising from online transactions.
- You shall not use Bongapay Services for any purpose that might be construed as contrary or repugnant to any applicable law, regulation, guideline, judicial dicta, Terms of Use or for any purpose that might negatively prejudice the goodwill of Bongapay.
- You shall ensure that the Bongapay Services are not used for Transactions in foreign currency. Bongapay services are issued & shall be valid only in Kenya and shall be used at Merchants only in Kenya.

Prohibitions

You shall not:

- a) Use the Services to defraud Bongapay, our affiliates or other members or users, or engage in other unlawful activities (including without limitation dealing in products or services prohibited by law).
- b) Impersonate any person or entity, falsely claim or otherwise misrepresent an affiliation with any person or entity, or access the accounts of others without permission, forge other persons digital signatures or perform any other fraudulent activity.
- c) Post or transmit any message, image or data which is pornographic in nature.
- d) Purchase anything (products or services) using fraudulent funds
- e) Use the Services in a manner that may result in complaints, disputes, imposition of fines, penalties, chargebacks or any other liability to Bongapay.
- f) Use Bongapay services for money laundering, tax evasion or any other illegal activities.

Consent to Electronic Communications and Transactions

By registering with Us, you consent to conduct transactions and receive communications, notices and information from us electronically, whether sent by e-mail or other electronic means. Electronic communications shall be deemed to have been received by you when We send the electronic communication to the email address/mobile number that as per our records, or when We post the electronic communication on the website. The requirements for such electronic transactions and communications following: you must have access to the Internet, mobile web, applications and a valid e-mail address. You can withdraw your consent at any time by contacting Us, but We reserve the right to terminate your Account upon such withdrawal. Withdrawal of your consent will not affect the legal validity and enforceability of any notice, statement or disclosure previously received electronically. You agree to notify us promptly if your email address, phone number or other contact information changes by updating your account information or contacting us.

Anti-Money Laundering Policy

Bongapay strongly condemns and prohibits money laundering and any activity that facilitates money laundering or financing of terrorist or criminal activities. At Bongapay the directors, officers, employees and any other individuals or organizations associated with Bongapay are supposed to adhere to the applicable law.

Unauthorized Transactions

An unauthorized transaction occurs when a payment is made from your account that you did not authorize. For example, if someone makes a transaction from your account using a stolen password, an unauthorized transaction has occurred. If you provide access to your account to a third party (by disclosing your login or/and Password or PIN information or any other information) and they conduct transactions without your knowledge or permission, you are responsible for any resultant use. The liability of any misuse is solely Yours, until you report the issue to Bongapay.

In the event of an unauthorized transaction in your account, you should immediately notify Bongapay if you believe:

- there has been an Unauthorized Transaction or unauthorized access to your account;
- there is an error in your account history statement (you can access your account history statement by logging into your app and go to transaction history section);
- your Bongapay username and password and/or PIN has been compromised;
- your device with the Bongapay App has been lost, stolen or deactivated;

For unauthorized transactions or errors in your Account, notify us by Calling us on +254 772 984 708 or by sending an email to support@bongapay.co.ke

Bongapay Errors

We will rectify any error that we discover. If the error results in your receipt of less than the correct amount to which you are entitled, Bongapay may credit your account for the difference. If the error results in your receipt of more than the correct amount to which you are entitled, Bongapay may debit the extra funds from your account.

User Errors

If you erroneously send a payment to the wrong party, or send a payment for the wrong amount (for instance a typographical error at your end) your only recourse will be to contact the party to whom you have sent the payment and ask them to refund the amount. Bongapay will not reimburse you or reverse a payment that you have erroneously made.

No Refunds

All payments on Bongapay for mobile recharge, Bill Payment, P2P transfers are final. Such transactions cannot be refunded/ returned or cancelled once initiated.

Indemnification

You agree to indemnify and hold Bongapay, its affiliates, employees, directors, officers, agents and representatives and to hold them harmless, from any and all losses, damages, actions, claims and liabilities (including legal costs on a full indemnity basis) which may arise, directly or indirectly, from your use or misuse of the Services or from your breach of the Terms of use of the Services. Bongapay reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify Bongapay including right to settle, and you agree to co-operate with Bongapay defense and settlement of these claims. Bongapay shall use reasonable efforts to notify You of any claim, action or proceeding brought by a third party that is subject to the aforesaid indemnification.

Amendment

We will send notice of any change to You that involves an increase in fees or liability for You ("Material Change"), to the registered email address, and that Material Change will be effective 15 days from the earlier of posting it to our Website or otherwise communicating it to You. You will be deemed to accept any Material Change if you use the Website or Services after the 15-day notice period. We may make Material Changes without prior notice if immediate changes are necessary for security reasons.

Bongapay may suspend and/or terminate your Bongapay wallet anytime with or without prior notice due to any change in rules, regulations and laws by the relevant government authorities/regulators. In addition, your bank may suspend/ terminate card services at anytime with or without prior notice. Bongapay will not be responsible for such service outages.

Bongapay may revoke, suspend and/or terminate your Virtual Private Address (VPA) registered against your Bongapay account anytime with or without prior notice at its sole discretion.

Intellectual Property Rights

Intellectual Property Rights for the purpose of this Terms of Use shall always mean and include copyrights whether registered or not, patents including rights of filing patents, trademarks, trade names, trade dresses, house marks, collective marks, associate marks and the right to register them, designs both industrial and layout, geographical indicators, moral rights, broadcasting rights, displaying rights, distribution rights, selling rights, abridged rights, translating rights, reproducing rights, performing rights, communicating rights, adapting rights, circulating rights, protected rights, joint rights, reciprocating rights, infringement rights. All those Intellectual Property rights arising as a result of domain names, internet or any other right available under applicable law shall vest in the domain of Bongapay as the owner of such domain name. The Parties hereto agree and confirm that no part of any Intellectual Property rights mentioned hereinabove is transferred in the name of User and any intellectual property rights arising as a result of these presents shall also be in the absolute ownership, possession and Our control or control of its licensors, as the case may be.

Trademark, Copyright and Restriction

All material on this site, including images, illustrations, audio clips, and video clips, are protected by copyrights, trademarks, and other intellectual property rights. Material on Website is solely for Your personal, non-commercial use. You must not copy, reproduce, republish, upload, post, transmit or distribute such material in any way, including by email or other electronic means and whether directly or indirectly and You must not assist any other person to do so. Without the prior written consent of the owner, modification of the materials, use of the materials on any other platform or networked computer environment or use of the materials for any purpose other than personal, non-commercial use is a violation of the copyrights, trademarks and other proprietary rights, and is prohibited. Any use for which You receive any remuneration, whether in money or otherwise, is a commercial use for the purposes of this clause.

Limitation of Liability

IN NO EVENT SHALL BONGAPAY OR ITS AFFILIATED COMPANIES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR ANY RELATED PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF REVENUE OR PROFITS ARISING UNDER OR RELATING TO THESE TERM OF USE. TO THE EXTENT PERMITTED BY LAW, OUR MAXIMUM AGGREGATE LIABILITY TO YOU FOR ANY CAUSES WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (WHETHER LIABILITY ARISES DUE TO NEGLIGENCE OR OTHER TORT, BREACH OF CONTRACT, VIOLATION OF STATUTE, MISREPRESENTATION OR FOR ANY OTHER REASON) WHATSOEVER WILL AT ALL TIMES BE LIMITED KSH 10,000

Suspension or Breakdown of Systems

If You are unable to use the Services as a result of improper operation of the systems due to any of the following reasons, You agree you will not hold Bongapay and our affiliates liable for:

- System suspension which has been announced by Bongapay in advance through any mode of communication;
- Failure in data transmission due to breakdown in the telecommunications equipment and systems;
- Failure in system operations due to breakdown resulting from typhoon, earthquake, tsunami, flood, electricity blackout, war, terrorist attack, and other force majeure events which are beyond our reasonable control; or
- The Services are interrupted or delayed due to hacking, authority, website upgrade, banks, and other reasons.

Dispute Resolution; Governing Law; Jurisdiction

Dispute Resolution

If any dispute or difference of any kind whatsoever shall arise between the parties in connection with or arising out of the use of the Services (whether before or after the termination or breach of this Agreement) the concerned representatives of the parties shall promptly and in good faith negotiate with a view to an amicable resolution and settlement of the dispute.

In the event no amicable resolution or settlement is reached within a period of thirty (30) days, such dispute or difference shall be referred to a mutually acceptance single arbitrator or, upon the failure of the parties to agree upon a single arbitrator, within a period of ten (10) days, each party shall appoint one arbitrator each and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator under the provisions of the Kenyan Arbitration Laws. The arbitration proceedings shall be held at Nairobi.

The existence of any dispute or difference or the initiation or continuance of the arbitration proceedings shall not postpone or delay the performance by the parties of their respective obligations under this Agreement. It is agreed that the arbitrators shall also determine and make an award as to the costs of the arbitration proceedings. Notwithstanding anything contained herein, the parties shall have a right to institute legal proceedings to prevent any continuing breach and to seek an injunctive or any other specific relief.

Jurisdiction

Subject to the above clause, the Courts of Nairobi, Kenya alone shall have the jurisdiction to try and adjudicate all suits, legal proceedings, etc. arising out of this Agreement.

Governing Law

This Agreement and the rights and obligations thereunder and the relations of the parties and all matters arising under or in connection with this Agreement, including the construction, validity, performance or termination thereunder, shall be governed by and construed in accordance with the laws of the Republic of Kenya.

Disclaimer

- You agree that all risks arising from online transactions will be borne by You.
- Bongapay and third party partners make no warranty, express or implied regarding the quality of Services including but not limited to:
 - i) the Services will meet your requirements;
 - ii) the Services will be uninterrupted, timely or error free; or III) any products, information or material obtained by You in connection with the services will meet Your requirements.
- Except as expressly provided herein and to the full extent permitted by law, the Services are provided "as is", "as available" and "with all faults". All such warranties, representations, conditions, undertakings and terms, whether express or implied, are hereby excluded. It is Your responsibility to evaluate the accuracy, completeness and usefulness of the Services and other information provided by Bongapay or generally available. We do not authorize anyone to make any warranty on our behalf and You should not rely on any such statement.
- In no event will Bongapay be liable for any indirect, consequential, incidental, special or punitive damages, including without limitation damages for loss of profits or revenues, business interruption, loss of business opportunities, loss of data or loss of other economic interests, whether in contract, negligence, tort or otherwise, arising from the use of or inability to use the Services, however caused and whether arising in contract, tort, negligence, warranty or otherwise, exceed the amount paid by You for using the Services giving rise to the cause of action or whichever is less.
- If you have a dispute with other parties, you release Bongapay (and our affiliates and officers, directors, agents, and employees thereof) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes.

General Provisions

- If any provision of this Agreement is held to be invalid or otherwise unenforceable, then that provision shall be deleted and the remaining provisions shall remain valid and enforceable.
- Headings are for convenience purposes only and in no way define, limit, construe or describe the scope or extent of such section.
- Any failure by Bongapay to exercise any of our rights under this Agreement shall not constitute a waiver of such right or a waiver with respect to subsequent or similar breach. A waiver shall be effective only if made in writing.
- Bongapay shall have the right to assign this Agreement (including all of our rights, titles, benefits, interests, and obligations and duties in this Agreement) to any of our affiliates and to any successor in interest. Bongapay may delegate certain of

Bongapay rights and responsibilities under this Agreement to independent contractors or other third parties. You may not assign, in whole or part, this Agreement to any person or entity without our prior written consent which may be withheld at our sole discretion.

- If there is any conflict between the English version and another language version of this Agreement, the English version shall prevail.

THE END
