

## GENERAL PROVISIONS of the Mobile Phone Financing Loan Agreement

### 1. DEFINITIONS AND INTERPRETATION

<b>Agreement</b>	means the Mobile Phone Financing Agreement concluded between Mogo and the Borrower and which is constituted of the Special Provisions and these General Provisions, and all the relevant annexes, amendments and other elements which form a part of the Agreement;	<b>Mogo</b>	means Mogo Loans SMC Limited, a limited liability company incorporated in the Republic of Uganda under Registration Number 80020001522601 and having its registered office Lugogo Office Park, Plot 54, Lugogo Bypass in Kampala, Uganda and of Post Office BOX is 106848
<b>Asset</b>	means the mobile phone defined in the Special Provisions of the Agreement for the purchase of which Mogo finances and hence provides a Loan to the Borrower and which serves as security for the fulfilment of the Borrower's obligations under the Agreement;	<b>Terms and Conditions (T&amp;C)</b>	mean these General provisions of the Agreement, which govern all other terms and conditions of provision and repayment, the Loan Facility and cost of insurance of the asset etc., and which are an integral part of the Agreement;
<b>Loan amount (Loan)</b>	means the amount specified in the Mobile Phone Financing Agreement, that Mogo lends to the Borrower in accordance with the provisions of the Agreement and which the Borrower is obliged to repay to Mogo in accordance with the provisions of the Agreement;	<b>Parties or Party</b>	means Mogo and/or the Borrower, jointly or separately as the case may be;
<b>Balloon Instalment</b>	includes the remaining outstanding Loan Facility under the Agreement for the entire period, specified in Clause 2.2.3 of this T&C regardless of the payment date of the instalment. The Balloon Instalment replaces the corresponding consecutive twelve (multiple of twelve) standard Monthly Instalments. Upon payment, the Borrower repays all its outstanding Loan Facility amount obligations under the Agreement in accordance with the provisions of Clause. 2.2 of this T&C;		

<b>Borrower</b>	means the party as defined in the Special Provisions of the Agreement;	<b>Credit Reference Bureau</b>	means all registered credit reference being utilized by Mogo from time to time;
<b>Business Day</b>	means a day other than a Sunday or gazette public holiday on which banks are open for general business in Uganda;	<b>Weekly Instalment</b>	means the weekly payment that are due and payable in accordance with the Repayment schedule;
<b>Loan Facility</b>	means the aggregate amount of the Loan Amount, the interest, issuance fee, administration fee and all other fees and costs that Borrower is obliged to pay to Mogo in accordance with the Agreement;	<b>Repayment schedule</b>	means the schedule listing the due dates and amounts of each weekly Instalment the Borrowers should pay to Mogo. The Repayment schedule is attached to the Special Provisions of the Agreement as it Schedule 1;
<b>Day</b>	means a calendar day and in the calculation of days, the first day is excluded and the last day is included;	<b>Loan Term</b>	means the term in which the Borrower shall repay the Loan Facility to Mogo, as defined, and agreed in the Special Provisions of the Agreement;
<b>Foreign Exchange Rate</b>	means exchange rate announced by Oanda (or any other regulated financial services provider or central bank) on daily basis. In case where the exchange rate is not announced for the given date, the previous period exchange rate shall be effective;	<b>Special Provisions</b>	mean the Mobile Phone Financing Agreement, which indicate basic information about the Parties of the Agreement, the Loan amount, information on collateral/security instruments, if any, the Loan Term, and other information related to the Loan Facility. The Special Provisions are an integral part of the Agreement;

**2. CONTRACTUAL PAYMENTS**

2.1. The Borrower hereby COVENANTS with Mogo as follows:

2.1.1. the Borrower will pay the Loan Facility including the interest and any other charges and costs at the times and in the manner stated in the Agreement being in tenor and total amount payable or by such revised weekly Instalments or such revised repayment period as Mogo may require until the whole of the Loan Facility amount with interest thereon and all other charges and costs shall be fully paid;

2.1.2. the Borrower shall make each such weekly Instalment punctually on the said respective days so appointed to Mogo (details set out in the Repayment schedule) and shall perform and observe all the covenants, conditions, and stipulations herein contained or implied and on the part of the Borrower to be performed and observed;

2.1.3. if any weekly Instalment shall not be paid by the Borrower to Mogo on the date due for payment, that total amount of principal sum and interest there on and the remaining outstanding Loan sum shall thereupon immediately become due and Mogo shall have administration rights over the product which will allow Mogo to restrict usage of and potentially disable the product Should the Borrower default on making payments as scheduled. These administration rights may be reactivated in the event of payment of the total outstanding instalments or sum. Attempt to alter administration rights granted to Mogo on the product shall be rendered breach of the intellectual property rights of Mogo and the product manufacturer and could void the warranty of the phone product.

2.1.4. the Borrower shall pay to Mogo after as well as before any judgment, interest at the rate agreed and provided in the Agreement; and such other costs incurred by Mogo.

2.2. The Balloon Payment:

2.2.1. For the agreements with the Loan Term of more than twelve (12) months where this is provided for in the Agreement, the Borrower may avail himself/herself of the right to pay a Balloon Instalment with which to repay early on its obligations under the Agreement.

2.2.2. The Balloon Instalment could be paid by the Borrower in the period from the day following the maturity of the respective eleventh (multiple of eleven) standard Monthly Instalment to the maturity of the respective twelfth (multiple of twelve) standard Monthly Instalments. The payment period and amount of the Balloon Instalment are explicitly stated in the Repayment schedule.

2.2.3. To exercise its right to use Balloon Instalment, the Borrower shall pay the Balloon Instalment to the specified amount and within the specified period explicitly indicating the following text in the description of the bank transfer payment order: "Balloon Instalment under (Agreement number)".

2.2.4. The right to Balloon Instalment does not limit the Borrower's right to repay the obligations under the Agreement in advance at any other time of the Loan Term.

2.2.5. The payment of the Balloon Instalment does not relieve the Borrower from its obligations to repay all remaining contractual payments.

### **3. CURRENCIES**

3.1. Uganda shillings

### **4. INTEREST**

4.1. **Loan repayment:** The Borrower shall be required to pay interest on the Loan Facility and the principal on the frequency as set out in the Repayment schedule which is enclosed to the Special provisions of the Agreement.

4.2. **Interest rate:** The rate of interest on the Loan Facility is set in the Special provisions of the Agreement.

4.3. **Calculation:** Subject to the provisions of the section 2 of the T&C, interest in respect of the Loan Facility will be calculated as set out in the Repayment schedule.

4.4. **Default:** Save as may otherwise be provided herein, if the Borrower does not pay any sum payable hereunder on its due date for payment, the Borrower shall (without prejudice to the exercise by Mogo of any other right or remedy in favour of Mogo) pay to Mogo (as well after as before any demand or judgment or the liquidation of the Borrower) interest and a fine for defaulting (herein after referred to as "the Default Rate") being the rate specified by Mogo in writing to the Borrower as the rate to be charged on default, and which rate shall apply on all monies due from (and including) the date of the same becoming due until actual payment of such monies (together with all accrued interest) in full, or such rate as may be applied by Mogo in its sole discretion from time to time.

4.5. The Borrower hereby acknowledges and agrees that the Default Rate represents a reasonable pre-estimate of the loss to be suffered by Mogo in funding the default of the Borrower.

4.7. **Alteration of interest:** Due to market conditions, Mogo may alter the interest charges by giving the Borrower advance notice as specified in the Special Provisions of the Agreement.

4.8. **Debt collection costs:** All costs (including all debt collection costs including without limitation, sending of SMS, letters, phone calls, costs of debt collection service providers, advocates or other professional or technical advisers of Mogo in respect of their costs, fees and disbursements for services rendered), charges, expenses, claims, damages, and other amounts properly paid or incurred by Mogo in obtaining or attempting to obtain payment of any outstanding amounts, shall be paid by the Borrower to Mogo.

## 5. DURATION AND REPAYMENT

5.1. **Loan Term:** The Loan Facility is granted for a maximum repayment period set out in the Special Provisions of the Agreement.

5.2. **Undertaking:** The purpose of the Loan Facility is to provide asset finance to the Borrower for the purchase of the Asset, and in that regard, the Borrower undertakes:

5.2.1. to do all and whatever is necessary to proceed with and finalize the registration of the Asset transfers or security rights and charge registrations envisaged herein and in the Security Agreement without delay;

5.2.2. to co-operate fully with Mogo and require the co-operation of the Seller to resolve any issues that may arise without limitation, in respect of the Loan Facility, the Asset, the sale transaction;

5.2.3. subject to any other provision for earlier repayment, to repay the Loan Facility in full within the aforesaid Loan Term.

5.3. **Extension:** Notwithstanding the provisions of clause 5.2 of the T&C, the borrower agrees to Mogo extending the aforesaid Loan Term.

5.4. **Priority of payments:** Any payment received by Mogo, in respect of the Loan Facility, including in the event of a default by the Borrower, will go firstly towards costs, thereafter interest and thereafter any outstanding Loan Facility amount.

5.5. **Early repayment:** The Borrower is entitled to repay the full outstanding balance on the Loan Facility account at any stage without any penalty on condition that he/she shall notify Mogo at least thirty (30) days in advance of their intention.

5.6. **Non-retention:** All payments by the Borrower shall be without retention, set-off, deduction, counterclaim, condition, or restriction and be free and clear of and without deduction whether for or on account of any present or future taxes or otherwise in the currency of the Loan Facility disbursed.

5.7. **Taxes:** If the Borrower is legally compelled to retain or to deduct any type of tax including value added tax, customs duty, excise duty or any type of duty or other statutory charges or costs from any amount payable to Mogo including the debt collection costs, any indemnity, the amounts payable by the Borrower must be increased as such to ensure that Mogo receives the full amount provided for herein.

5.8. **Prepayments:** if the Borrower pays for more than two Monthly Instalment invoices ahead of time, Mogo will recalculate the Repayment schedule only upon specific request by the Borrower.

## 6. SECURITY

6.1. **Provision of security:** The Borrowers agrees that the Secured Asset shall serve as collateral for the loan advanced and authorizes Mogo to install all security applications and ability to lock the phone in the event of default. The Borrower further irrevocably and unconditionally accepts that these administration rights may be reactivated in the event of payment of the total outstanding instalments or sum.

## 7. THE BORROWER'S WARRANTIES

7.1. The Borrower hereby represents and warrants to Mogo as at the date of the Agreement that:

7.1.1. he/she have not been induced to enter into the Agreement and he/she is not for any other reason relying upon any statement of fact or opinion or any representation, collateral contract or other assurance or warranty save as expressly contained or referred to in the Agreement or any document referred to in the Agreement and irrevocably and unconditionally waives any right the Borrower may have to claim damages for any representation (whether or not contained in the Agreement) for any breach of any warranty not contained in the Agreement unless such misrepresentation or warranty was made or given fraudulently; and or to rescind the Agreement;

7.1.2. his/her obligations under the Agreement are his/her legal, valid and binding obligations, enforceable against him/her in accordance with their respective terms;

7.1.3. he/she has the power to enter into and perform and comply with his/her obligations under the Agreement;

7.1.4. all actions, conditions and things required to be taken, fulfilled, and done (including the obtaining of any necessary consents and authorizations) for his/her entry into and performance of the Agreement have been taken, fulfilled, and done; and

7.1.5. his/her entry into and/or performance of or compliance with his/her obligations under the Agreement does not and will not violate any law to which he/she is subject.

**7.2. Information:** The Borrower warrants that all information which may be submitted to Mogo from time to time is and will be, to his/her knowledge and belief, complete and correct. In case of any material change in any information submitted to Mogo, or if the Borrower becomes aware of any circumstances which will or may prevent any of the transactions envisaged hereunder to be finalized, the Borrower will inform Mogo immediately in writing thereof.

**7.3. Revocation:** The Borrower undertakes not to revoke any of the executions undertaken herein and necessary to give effect to any of the transactions contemplated hereunder.'

## **8. BREACH**

**8.1. Events of default:** Mogo may, without prejudice to any other rights it may have (including termination hereof), refuse to make any amounts available under the Loan Facility, and to claim immediate payment of all amounts outstanding under the Loan Facility, all which amounts will then become due and payable in full, if:

8.1.1. the Borrower fails to comply with any provisions of the Agreement and/or the Security Agreement, all of which are material;

8.1.3. the Borrower fails to pay any contractual payment due in terms of the Agreement,

8.1.4. the Borrower fails to pay the full deposit amount and/or in time;

8.1.5. any representation or warranty made in connection with the Agreement or any documentation supplied by or on behalf of the Borrower is, in Mogo's opinion, materially incorrect;

8.1.6. any guarantor commits any breach of their obligations to Mogo, whether as guarantor or otherwise;

8.1.7. a provisional or final order is passed placing the Borrower:

8.1.7.1. under sequestration (where the Asset is placed in the hands of a trustee for the benefit of Borrower's creditors) or any other legal disability;

8.1.7.2. in liquidation or under judicial management;

8.1.8. any compromise or arrangement between the Borrower and his/her creditors is sanctioned or otherwise becomes effective;

8.1.9. warrant of execution issued by any competent court attaching any of the Borrower's assets remains unsatisfied for more than seven (7) days after the date on which it is issued;

8.1.10 the Asset's sale and purchase, or transfer transaction referred to hereinabove fails;

8.1.11 in Mogo's sole opinion, any deterioration occurs in the Borrower's financial position during the term of the Agreement;

8.1.12. the Borrower commits any act of bankruptcy;

8.1.13. the Borrower transfers any assets in favour of any of his/her creditors or attempts to make any arrangement, compromise, or settlement of any nature with any creditors;

8.1.14. the Borrower made any incorrect or untrue statement or representation in respect of the Loan Facility or his/her financial affairs or does anything which may prejudice Mogo's rights in terms of the Loan Facility or allows it to be prejudiced; or

8.1.15. the Borrower fails to maintain the Asset as required by Mogo.

8.1.16 Attempt to alter administration rights granted to Mogo on the product shall be rendered breach of the intellectual property rights of Mogo and the product manufacturer and could void the warranty of the phone product.

8.2. **Consequence of Termination:** The full balance due under the Agreement together with any penalty, interest and all other charges and expenses owing to Mogo shall become immediately due and payable to Mogo and without giving notice to the Borrower or affecting any of Mogo's rights under the Agreement.

8.3. **Damages:** Mogo may elect to claim damages in lieu of any penalty provided for herein.

## 9. INFORMATION

9.1. **Statements:** The Statements in respect of the Loan Facility account will be made available to the Borrower, at his/her cost, as and when requested.

## 10. DISPOSAL, GIFTING OR CHARGING OF ASSET

10.1. The Borrower shall not sell, transfer, dispose, gift, charge or in any way further alienate, burden, encumber or give up possession of the Asset or any part of it without the prior written consent of Mogo.

10.2. The Borrower may not use the Asset or any part thereof for purposes other than the intended use notified to Mogo at the time that the Loan Facility was granted, without the prior written consent of Mogo.

## 11. NOTICES

11.1. **Form of Notice:** Any notice given under the Agreement shall be in writing and may be served personally or by registered or recorded delivery mail or by facsimile transmission or electronic mail or electronic means with confirmed delivery.

11.2. **Address:** Each Party's address for services of notice shall be the one mentioned in the Special Provisions of Agreement, or such other address as one Party may specify by written notice to the other.

11.3. **Determination of service:** A notice shall be deemed to have been served:

11.3.1. if it was served in person at the time of service; and

11.3.2. if it was served by facsimile transmission or electronic mail, at the time of transmission provided an error free transmission report is received by the sender.

## **12. COSTS**

12.1. The Borrower shall solely be responsible for paying all costs and expenses of any nature incurred by Mogo in taking steps to enforce its rights under the Agreement and the Security Agreement, in the Asset as the collateral.

## **13. BORROWER'S CONSENT TO DISCLOSURE OF CONFIDENTIAL INFORMATION**

13.1. The Borrower hereby irrevocably consent to Mogo (and other companies in AS Eleving Solis) collecting, receiving, compiling, and retaining any customer credit information on the Borrower from any licensed Credit Reference Bureau (hereinafter referred to CRB) or any other source for purpose of:

13.1.1. assessing the Borrower's creditworthiness;

13.1.2. deciding whether to grant the Borrower credit; and

13.1.3. filing Mogo customer credit information with the CRB.

13.2. The Borrower hereby expressly consent and authorize the receipt, utilization, disclosure, sharing, provision, and exchange of data (both positive and negative information regarding his payment record) by Mogo relating to the Borrower:

13.2.1. with CRB and with other financial institutions through the CRB;

13.2.2. with any law enforcement or competent regulatory or governmental agencies;

13.2.3. to and from Mogo's service providers, dealers, agents or associated entities;

13.2.4. to Mogo's professional advisors or to any court;

13.2.5. to affiliates and service providers of Mogo who have entered into confidentiality agreements with Mogo and outside for the purposes of determining credit worthiness of the Borrower among others;

13.2.6. for reasonable commercial purposes connected to the Loan Facility, such as marketing and research;

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

13.3. Mogo acknowledges that in performing its obligations in this Agreement, it will process Personal Data, including, without limit, transferring it outside the country in which it is collected and/or disclosing it to third parties. All such processing shall adhere to the privacy policy available at [www.mogo.co.ug/privacy-policy](http://www.mogo.co.ug/privacy-policy).

## **14. ASSET RETURN**

14.1. If the Asset returned by the Borrower is not usable then Mogo shall not refund the down payment.



14.2. Mogo shall not repair the phone unless it is based on the warranty terms and conditions provided by the manufacturer of the Asset.

## **15. GENERAL**

15.1. **Cross-Default:** A default by the Borrower of a material term, covenant, warranty or undertaking of any transaction document including the Agreement or other agreement to which the Borrower and Mogo are parties, or the occurrence of a material event of default under any such other agreement which is not cured after any required notice and/or cure period, shall entitle Mogo recall with immediate effect the whole of the monies remaining payable hereunder by the Borrower to Mogo on demand or to repudiate the Agreement if no monies have been disbursed and no costs have been incurred by Mogo as the case may be.

15.2. **No Waiver:** The Borrower agrees that no indulgence, assent, express or implied, to any breach by Mogo of any one or more of the provisions of the Agreement shall constitute a waiver, abandonment, or novation of any other breach or of any of the rights of Mogo in terms of the Agreement.

### **15.3. Assignment:**

15.3.1. The Borrower's rights and obligations under the Agreement may not be assigned and transferred to a 3<sup>rd</sup> person, without the prior written consent of Mogo, which consent shall be discretionary to Mogo, provided however that in case the Borrower is deceased, the obligation to repay the outstanding Loan Facility shall be assigned to his/her legal successors, based on the law;

15.3.2. Upon signing of the Agreement, the Borrower hereby irrevocably grants his/her unconditional consent for Mogo to assign and transfer the Agreement, and any of its rights and obligations hereunder, to a third person, which will become the new creditor, subject to a written Notice to the Borrower on the occurred assignment and on the identity of the new creditor;

15.3.3. Upon signing of the Agreement, the Borrower hereby irrevocably grants his/her unconditional consent for Mogo to transfer (cede) claims or parts thereof arising from the Agreement to an unlimited number of third parties, having the right to re-assign such claims to an unlimited number of other parties (jointly the assignees), provided however that in these cases Mogo shall continue to manage the Agreement and remain the contractual party under the Agreement, acting as a creditor agent (trustee) of such assignees, and the Borrower shall remain obliged to make payments hereunder to Mogo directly. The Borrower does not object that Mogo discloses to assignees any information derived from the Agreement, and the Borrower agrees and understands that Mogo is not obliged to inform the Borrower about Mogo's assignment of claims to assignees pursuant to this clause.

15.3.4. The Borrower agrees that Mogo offering (advertising) to third parties the possibility to assign the claims arising from the Agreement, is entitled to publicly disclose to third parties,

including by publishing on the website the following information about the Borrower and the Asset: the gender of the Borrower, location, monthly net revenues, expenses, credit history, age, model of the Asset, colour, manufacture year, engine capacity, mileage, value, images and other information about the Borrower and the Asset. By public disclosure (promoting) of the possibility to assign claims arising from the Agreement pursuant to clause 15.3.3 of the T&C, Mogo undertakes not to disclose publicly the Borrower's name, personal ID number, telephone number, email address, address, and picture, as well as the Asset state registration number.

**15.4. Accrual of Liabilities:** Termination of the Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect of any act or omission prior to such termination.

**15.5. Entire Agreement:** The Agreement and the documents referred to in it contain the whole Agreement between the Parties relating to the transactions contemplated by the Agreement and supersedes all previous agreements, assurances, warranties, understandings, arrangements, promises or representations between the Parties whether written or oral, relating to its subject matter.

**15.6. Loss or Damage:** The Borrower acknowledges and understands that even if the Asset gets lost, stolen or damaged out-of-warranty that they will be responsible for paying the regular weekly instalment and the Total Purchase Price for the Asset.

**15.7. Severability:** Each of the provision of the Agreement is severable and distinct from the others. If any provision of the Agreement shall to any extent be held, in whole or in part, to be illegal or unenforceable under any enactment or rule of law, that provision shall to that extent be deemed not to form part of the Agreement and the enforceability of the remainder of the Agreement shall not be affected thereby. In case any conflict arises between the Special Provisions of the Agreement and the General Provisions of the Agreement regarding the same matter, the provisions of the Special Provisions shall prevail.

**15.8. Governing Law:** The Agreement shall be governed by and interpreted based on the Laws of Uganda.

**15.9. Jurisdiction:** By executing the Agreement, both Parties consent to the exclusive jurisdiction of the courts of law of the Republic of Uganda to settle any issue, dispute, claim, controversy, difference, question or claims for compensation or otherwise, between them and waive any right to challenge jurisdiction or venue in such courts regarding any suit, action, or proceeding under or in connection with the Agreement.