

## TERMS AND CONDITIONS OF PAYDAY LOAN

Pursuant to the online application ("**Online Application**") confirmed by the Borrower ("**you**" or "**Borrower**"), Kotak Mahindra Bank Ltd ("**Bank**"), has agreed to grant **Pay-Day Loan** (hereinafter referred to as "**Loan**"), and the Borrower agrees to borrow the sum as mentioned in the online Application, the details of which shall be sent to you by way of an email on your registered email ID along with the terms and conditions as confirmed and accepted by you in the online application. The Bank agrees to disburse the Loan amount subject to necessary deductions including towards payment of Stamp-duty to your Savings Account maintained with the Bank, which you confirm that it is operated by you singly including for applying for the Loan by you completing all requisite formalities and accepting these Terms and Conditions ("**Terms**").

In these Terms, unless there is anything repugnant to the subject or context thereof, the words and expressions listed below shall have the following meanings;

### **1. Definitions:**

- 1.1 "Credit Information"** means all information, documents, representations, financial information and clarifications which has been or may hereafter be furnished by you, to the Bank from time to time or which, whether furnished as aforesaid or by any other person, in the opinion of the Bank relates to or may have a bearing on your credit worthiness or financial condition, or your ability to pay the Loan Balance or any part thereof.
- 1.2 "Charges and Costs"** means and includes any charges in relation to loan in relation to installments, Prepayments, or charges in relation to documents, registration charges, and include any charge on interest (including overdue interest), surcharge, penalty or fine in connection therewith which may be payable as fully contained in the Fees and Charges. Any other cost in relation to the loan will be payable by you.
- 1.3 "Indebtedness"** means any past, present or future indebtedness of, or money or assets owed, payable or deliverable (and whether or not then due) by you to the Bank or to any holding company/ subsidiaries / affiliate of the Bank on any account whatsoever.
- 1.4 "Due Date"** means a date on which the whole or any part of the Loan Balance is due for payment under these Terms.
- 1.5 "Tax"** means GST, all taxes, levies, imposts, cesses, duties and other forms of taxation, which are applicable or may be applicable on any future date, corresponding to the loan.

### **2. Loan**

- 2.1** The Bank hereby agrees to lend and you agree to borrow the sum as specified in Online Application.

- 2.2 The tenure of the Loan shall be as **specified in the Online Application**, i.e. 11 months excluding the month of first disbursement. The repayment of each loan availed shall be as specified in the respective online application over the said period.
- 2.3 The Bank shall be entitled to at its sole discretion to withdraw the offer at any point of time, for any reason, including for reason of failure to comply with the terms and conditions herein specified.
- 2.4 The Loan amount along with interest shall be repayable in one installment as is set out in Online Application (hereinafter called "**repayment**"). Credit shall be given only on the date of realization of amount by the Bank.
- 2.5 You also undertake to pay to the Bank all expenses, interest and charges incurred by the Bank in relation to the Loan, for enforcement of the repayment and you shall pay them forthwith on demand by the Bank along with interest thereon from the date the same are incurred by the bank until paid by you to the Bank at the rate and rests mentioned in Online Application and subsequent confirmation sent by Bank to you containing the sanction terms of the loan.
- 2.6 In case you would like to avail the loan multiple times as per the available offer, you are requested to log in the mobile Application and follow the steps as specified therein.

**2.7 Taxes and other charges and expenses:**

You agree and undertakes to promptly (and in any event within 7 (seven) days of being so required by the Bank) pay (a) all present and future taxes which may include any duties, expenses and other charges whatsoever in relation to this loan, or any or any other charges or benefits hereunder including interest, overdue interest, penalty and (b) all other charges, costs and expenses from time to time specified by the Bank (including all costs and expenses incurred or paid by the Bank) in relation to this loan for recovery of the Loan Balance or any part thereof. If the Bank in its discretion or in terms of any statutory requirement makes such payments, or undertakes to the Bank within 7 (seven) days of being informed by the Bank of the same, along with interest thereon at the rate mentioned in respect of the Loan. In particular, you agree and undertake to pay the charges, costs and expenses as agreed by you and as provided in Fees and Charges in the Online Application within 7 (seven) days of the date of acceptance of these Terms.

**2.6 Repayment:**

You understand that no foreclosure/prepayment is allowed under this facility. Further the Bank reserves the right to revise the foreclosure/prepayment option/charges at its discretion. You undertake to pay to the Bank, the **repayment** in accordance with Online Application and all other dues and charges as set out in Fees and Charges (such balance of **repayment** and the other dues and damages hereinafter referred to as "Loan Balance"). However, on the happening of an Event of Default, the Loan Balance shall become payable in accordance with the provisions of Article 5.

You hereby authorise the Bank to recover the full **repayable** amount and all other dues under these terms from your Savings Account maintained with the Bank. Without prejudice to your liability to pay the Loan Balance as stated above, you may, and if so required by the Bank shall, arrange with your bank for automatic transfer of the **full amount** from your bank account to the Bank's account by way of the Electronic Clearing System available with banks.

You hereby agree and is aware that the Bank shall start debiting (via standard deduction) your bank account maintained with the Bank two days prior to the due date for a period of 10 days until the total loan amount is recovered in full.

**2.7 Overdue Interest:**

If you commits defaults or delay in payment/repayment of full repayable amount, the unpaid amounts shall carry interest @ 2%("Overdue Interest") and shall be computed from the respective due dates for payment and shall become payable upon the footing of compound interest with monthly rests.

**2.8 Cross Default:**

You agree, confirm and acknowledge that any default by you under any other agreement or arrangement or guarantee or security or other Indebtedness with the Bank or any of its subsidiary/associate/affiliate companies shall constitute an event of default hereunder and vice-versa. The said amounts shall be deemed dues under these Terms.

**2.9 Appropriation / Set off and enforcement of security:**

Without prejudice to what is stated hereinabove, you hereby expressly agree and confirm that in the event you fail to pay the outstanding amount under the Loan or any other loan/facility or commit default under any terms then the Bank shall, without prejudice to any of its rights under any other agreement with you, at its sole discretion and without notice to you, be at liberty to apply any other money or amounts standing to your credit in any other account with the Bank and / or any of its subsidiary/associate/ affiliate companies in or towards payment of your dues and such appropriation shall be final and binding upon you and you shall continue to remain liable to the Bank for payment of dues hereunder in respect of which such sums of money were so paid but were appropriated towards another agreement or transaction entered into by you towards any other Indebtedness.

In addition, notwithstanding the repayment of the Loan Balance, you hereby expressly and irrevocably authorize the Bank to take possession of, sell, transfer and/or otherwise dispose of any and all security created in favour of the Bank (or any subsidiary/associate/affiliate company of the Bank) under any other agreement entered into and between you and the Bank or any subsidiary/associate/affiliate company of the Bank (whether in relation to the Loan or otherwise) or any other security documents or security deposited with the Bank or under the possession or control of the Bank and appropriate the same towards payment and/or satisfaction of the Loan Balance and/or any amounts due to the Bank or any subsidiary/associate/affiliate company of the Bank on account of another agreement or transaction entered into by you or on account of your Indebtedness you. The provisions of these Terms shall apply to the manner of disposal of security and appropriation under this Article. The rights of the Bank under these Terms are in addition to other rights and remedies (including without limitation other rights or set-off) which the Bank may have.

**2.10 Recall of the Loan by the Bank:**

You agree that the Bank shall be entitled to, at any time, in its discretion, recall the Loan by giving you 3 (three) clear working days' notice in writing. It is specified that the repayment

schedule set out in the Online Application form and the subsequent confirmation email sent by the Bank is without prejudice to the Bank's right to recall the entire Loan and to demand payment of the Loan Balance.

## **2.11 General:**

**2.11.1** You acknowledge and accept that the rates of interest, overdue interest and all other amounts payable under the Fees and Charges are reasonable and the rates of overdue interest represent genuine pre-estimates of loss expected to be incurred by the Bank due to non-payment of dues by you. You acknowledge and accept that the Loan is a commercial transaction and specifically waive any defense under usury or other laws relating to or restricting the same.

**2.11.2** In case the Bank has granted any concessions or extended any benefit to you towards the Loan Balance payable by you, the Bank shall be entitled to appropriate/adjust any amounts or securities belonging to you and lying with the Bank or that may subsequently come into the possession of the Bank from time to time or at any time, towards such Loan Balance against the concessions / benefits so accorded by the Bank to you.

You agree and confirm the amounts payable by you in terms of these Terms under various heads towards diverse costs and charges and you are aware that all amounts so paid by you shall be treated by the Bank as conclusive payments by you towards those respective costs and charges.

You agree that if at any time it is discovered that there are any amounts due to the Bank for which credit was erroneously passed by the Bank, then notwithstanding any NOC etc. that may have been issued by the Bank, the Bank shall be entitled to claim such amounts from you and you shall make such payment on a demand by the Bank to that effect.

**2.11.3** You confirm having understood and agreed to the Bank's method of calculating installment and also its division into principal and interest.

**2.11.4** The repayment by you to the Bank of the Loan and payment of interest, additional interest and all other costs, expenses and charges payable to the Bank under this Agreement shall be secured, if requested by the Bank, by such security as may be acceptable to the Bank which shall constitute "**the Security**".

## **3. DISBURSEMENT:**

The Bank shall grant/disburse the loan amount in your Salary Savings Account with the Bank. You agree that the payment of all the amounts due to the Bank under the Loan can always be enforced against your estate.

## **4. EVENT OF DEFAULT:**

Each of the following events is an "EVENT OF DEFAULT".

- a) If you fail to repay the Loan Balance or fail to pay any sum due and payable by you as mentioned in the Fees and Charges
- b) If you violate any provision of these Terms;

- c) If any representation, warranty or statement made by you or any Credit information is or is found to be incorrect or misleading (whether by reason of omission to state a material fact or otherwise);
- d) If you have voluntarily or compulsorily become the subject of any proceedings under any bankruptcy or insolvency law or liquidator appointed in respect of himself or his assets or makes an application or refers himself to any authority for being declared as bankrupt or insolvent.
- e) In case of your death, lunacy or other disability ;
- f) If there is reasonable apprehension that you are unable to pay your debts or has admitted your inability to pay your debts, as they become payable;
- g) If you suffer any adverse material change in your financial position;
- h) If you are convicted under any criminal law in force;
- i) If you have default under any other Terms, arrangement or facility with the Bank is made by you;
- j) If any litigation or arbitration, conciliation, legal, quasi-legal, revenue or other proceedings are initiated against or orders or decrees are passed against or notices are received by you; or
- k) there exists any other circumstance, which in the sole opinion of the Bank, is prejudicial to the interests of the Bank;
- l) If you change your employer during the pendency of the loan, if you quit or resign from your job.

#### **5. Notice**

If any Event of Default or any event which after a lapse of time is capable of becoming an Event of Default take place, the Bank may give notice of 3 (three) days to you in writing specifying the nature of such Event of Default or of such event. If the Event of Default is capable of being cured or remedied you shall cure or remedy the default or such event before the expiry of the 3 day notice period to the satisfaction of the Bank failing which, on the expiry of the period of notice the Loan Balance, together with the prepayment interest and all other sums due and/or to become due hereunder for the full term of these Terms, shall immediately stand payable/repayable by you to the Bank and the Security shall immediately become enforceable. Notwithstanding the recall or any cancellation or termination of the Loan/the Loan Balance, all the provisions of these Terms shall continue in full force and effect as herein specifically provided till such time as the Loan Balance is repaid to the Bank in full.

#### **6. Assignment of Contract :**

- a) You, shall not be entitled to transfer or assign any of your rights or obligations hereunder to any person directly or indirectly without the prior written consent of the Bank.
- b) The Bank shall be entitled to grant/transfer/assign any or all of its rights, benefits, obligations, duties and liabilities under these Terms including the right to receive the installment and Loan Balance by way of sale, transfer, securitization, charge or as a security or otherwise to any person or entity and in such event you shall perform their obligations under these Terms to such assignee, transferee, grantee or other concerned person.

You expressly recognise and accept that the Bank shall be absolutely entitled and have full power and authority to sell, assign or transfer in any manner in whole or in part, all its rights and interest in or under these Terms in such manner and on such terms as the Bank may decide, including reserving a right to the Bank to retain its power hereunder to proceed against you on behalf of the Purchaser, assignee or transferee, to any third party of the Bank's choice, without reference to or without written intimation to you.

**7. REPRESENTATION AND WARRANTIES BY THE BORROWER:**

**7.1** You hereby declare, represent and warrant that:

- a) You are aware that the Bank is granting the Loan on the basis of the online loan application made by you and on the basis of your representations and on the belief that the same are true.
- b) You are not prohibited by any law from availing of the Loan;
- c) The Online Application has been duly submitted by you by accessing your net banking/mobile banking facility.
- d) Any agreement, document or schedule that may be executed by you, and the Bank after the acceptance of these Terms and in connection with these Terms shall be deemed to be a part of these Terms and shall be valid and binding on the Parties.
- e) You are not personally bankrupt, or legal proceedings have not been initiated or threatened against you or all or any of your assets or undertakings.
- f) As of the date of these Terms, there is no litigation, proceedings or disputes pending or threatened against them me, the adverse determination of which might affect my ability to repay the Loan Balance or have materially adverse effect on their financial condition:
- g) The acceptance, delivery and performance of the Terms does not:
  - i. Contravene any applicable law, statute or regulation of judgment or decree to which the Borrower is subject.
  - ii. Conflict or result in any breach of any covenants, conditions and stipulation under any existing agreement, to which the Borrower is a party;
- h) No event has occurred which shall prejudicially effect the interest of the Bank or effect my financial conditions, or affect my liability to perform all or any of my obligations under these Terms;

**7.2** You declare, assure and state that you are not a director or a specified near relative of a director and/or Senior Officer of the Bank:

**7.3** The term "Senior Officer" means an officer of the Bank who is in equivalent scale as an officer in senior management level in Grade IV and above in a nationalized bank. 10.2.2 The term "relative" shall mean and include any or all of the following persons; (a) Spouse (b) Father (c) Mother (including step-mother) (d) Son (Including step-son) (e) Son's wife (f) Daughter (including stepdaughter) (g) Daughter's husband (h) Brother (including step-Brother) (i) Brother's wife (j) Sister (including Step-sister) (k) Sister's husband (l) Brother (Including step brother) of the spouse (m) Sister (including step-sister) of the Spouse.

**7.4** You are making the above declaration solemnly and sincerely believing the same to be true and knowing fully well that on the faith and strength the correctness thereof the Bank has agreed to grant the Loan. You also agree/s that it is a condition of the grant of the Loan that if any statement made with reference to the above is found to be false at any time the Bank shall be at liberty and entitled to revoke the Loan.

- 7.5** You hereby expressly agree that during the subsistence of the credit limit/Loan, the Bank shall have the liberty to shift, at its discretion, without notice to it, from time apart or portion of the outstanding in the said credit limit/the Loan (hereinafter referred to as "the participation") to one or more scheduled Commercial Banks (hereinafter referred to as "the Participating Bank/s"). You further agrees that such Participations shall be governed by the terms of the Uniform Code Governing inter Bank Participations, 1988 and shall not affect the rights and obligations, inter se, You and the Bank in respect of the said credit limit/ the said loan.
- 7.6** You shall maintain adequate balance in your bank account maintained with the Bank for realization of repayment of total outstanding loan on or before the due dates for payment. You shall not (i) close the bank account/s from which the direct debit/ECS/SI mandate have been issued till the full repayment of the Loan (ii) issue any communication to the Bank for closure of the said Account and you shall continue to be indebted to the Bank for the Installment, as the case may be.
- 7.7** In the event of any dishonor of the Installment for lack of funds/funds insufficient in your Account, you shall be required to pay the Bank dishonor Charges of an amount specified in Agreement Schedule for every such dishonour.

**8. MISCELLANEOUS PROVISIONS:**

- 8.1** The Online Application form confirmed and accepted by you, for grant of the Loan is an integral part of these Terms and shall be considered to be part of the Credit Information.
- 8.2** The statement of accounts of the Bank duly certified by its authorized officer, shall be conclusive evidence of amounts due to the Bank and of payments received by the Bank. The Bank may at your risk and cost of engage one or more person(s) to collect your outstanding and may furnish to such person(s) such documents, information, facts and figures as the Bank thinks fit and may delegate to such person(s) the right and authority to perform and execute all acts, deeds, matter and things connected therewith or incidental thereto as the Bank thinks fit. If any default is committed by you, the Bank and the persons authorised by the Bank may approach your employer and/or other person(s) and inform it/him/her of the terms of this Loan and/or the default and/or other matters and receive from it/him/her any amount payable by it/him/her to you.
- 8.3** You irrevocably agree and consent to the Bank at any time and in any manner disclosing and/or making available to any agencies, bureaus (including credit bureaus specified by the Reserve Bank of India, which presently includes the Credit Information Bureau (India) Limited), affiliates or subsidiaries of the Bank, associations and other persons whosoever any information(including personal and financial information) and documents of or relating to you, in such cases where the Bank considers appropriate including where such disclosure is permitted or required by or under law, circular or guideline or where the Bank is of the view that the interests of the Bank require such disclosure of for furnishing such information and documents for preparation, publication and distribution of credit reports and credit opinion relating to you, to other persons including banks and financial institutions. The provisions of this clause shall survive even after the term/termination of these Terms and the repayment of all dues by you.

- 8.4** In addition to the provisions of clause, you, agree that if you commit any breach of these Terms or any default or delay in the payment/repayment of the Loan Balance, the Bank shall have the unqualified right to disclose or publish, in such manner as the Bank may deem fit, your name and particulars, particulars of your accounts, default and breach if any.
- 8.5** You, agree and confirm that, until you have paid the whole of the Loan Balance to the Bank, the Bank shall, in exercise of the right of general lien and set-off available to it in law, have a general lien and right of set-off on all monies belonging to you and standing to your credit in any account whatsoever, your securities, deposits and other assets and properties, from time to time in the possession of the Bank or its nominees whether the same is held by the bank for safe-custody or otherwise.
- 8.6** You agree, confirm and declare that the Bank and its affiliates is authorised to use information for marketing and administrative purpose; that the Bank, its group companies and their agents is authorised to exchange or share all information relating to me and my repayment history with banks, financial institutions, credit bureaus, agencies, statutory bodies etc. as may be required or as they deem fit; that the Bank is authorized to make any enquiries with any other finance company/bank/registered credit bureau regarding my credit history with them & also authorize Kotak Bank to provide details of my credit history to any other bank/finance company/registered credit bureau.
- 8.7** The Bank shall have a general lien on and be entitled to appropriate and set-off all monies, securities, deposits and other assets and properties belonging to you in the possession of the Bank, whether in or on account of the Bank or otherwise, whether held singly or jointly by you with another and may appropriate the same for the settlement of dues payable to the Bank hereunder or other Indebtedness.
- 8.8** You shall also pay and bear the GST and any other taxes and levies at the rates applicable from time to time.
- 8.9** In the event that any term, condition or provision of these Terms are held to be in violation of any applicable law, statute or regulation or for any reason a court of competent jurisdiction finds any provision of these Terms or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to give effect to the intention of the Terms, and the remainder of these Terms shall continue in full force and effect.
- 8.10** Nothing in these Terms shall make the Bank liable to lend to you beyond the Loan Amount, honour any cheques, allow any cash withdrawals (other than withdrawal of the Loan Amount subject to the terms of these Terms or meet any further requirements from you on any account. The Bank may in its discretion, and without assigning any reason, at any time decide not to disburse the Loan or any part thereof or decide to recall the Loan / Loan Balance.
- 8.11** No delay in exercising or omission to exercise any right, power or remedy accruing to the Bank under these Terms shall impair any such right, power or remedy or shall be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of the Bank in respect of such default or any acquiescence by it in any default, affect or impair any right, power or remedy of the Bank in respect of any other default.
- 8.12** Any notice or request to be given or made under these Terms to a Party shall be in writing and shall be deemed to be given and made (i) if required to be given or made



to the Bank, when delivered to its (or such other address as is subsequently notified by the Bank by notice to any of the other Parties) and (ii) if required to be given or made to any other Party if delivered at such Party's address as shown in the Online Application Form (or such other address as subsequently notified by the concerned Party to the Bank in writing). Such notice or request may be made through ordinary post, registered post or courier and shall be deemed to have been delivered on the expiry of three days after the posting or delivery to the courier company, as the case may be.

- 8.13** If one or more rights or provisions set forth in these Terms are invalid or unenforceable, it is agreed that the remainder of the Terms shall nevertheless be enforceable and that, to the extent permitted by law, the parties intentions, as reflected in any such right or provision that is invalid or unenforceable, shall be given effect to.
- 8.14** Unless the same falls within the jurisdiction of the Debts Recovery Tribunal established under the Recovery of Debts Due To Banks and Financial Institutions Act, 1993, any and all claims and disputes arising out of or in connection with these Terms or its performance shall be settled by arbitration by a single Arbitrator to be appointed by the Bank. The arbitration shall be held in Mumbai/Chennai in accordance with the provisions of the Arbitration and Conciliation Act, 1996.
- 8.15** In the event that the claim or dispute does not fall within the jurisdiction of the Debts Recovery Tribunal established under the Recovery of Debts Due To Banks and Financial Institutions Act, 1993, for the purposes of arbitration mentioned in clause 9.13, the courts at Chennai shall, subject to the provisions of law, have exclusive jurisdiction.
- 8.16** You agree that the payment of all the amounts due to the Bank hereunder can always be enforced against your estate and assets and these Terms shall be binding upon you.

**THE BORROWER ACKNOWLEDGES AND ACCEPTS THE FOLLOWING:**

- i. That on clicking the words "I Agree" in the Online System/Net-Banking/Mobile Banking of the Bank for availing payday Personal Loan, it shall be construed that the Borrower has read and understood these Terms and confirms to have duly accepted the contract formation in electronic form, and that the same is valid and enforceable against the Borrower by the Bank.
- ii. No other/further act, deed or writing on part of the Borrower shall be required for acceptance by the Borrower as above. There is no requirement of any signature or physical signature for the loan documents. The Bank also does not require to sign the loan documents in any physical form. The execution of these Terms shall be completed upon and the Bank shall be deemed to have accepted and confirmed this document online as soon as the Borrower electronically accepts these Terms and Conditions as above, without any act, deed or writing on part of the Bank. For the purpose of stamp duty, any association of a stamp paper or franked page (whether stamp duty/ franking done by Bank or Borrower), if any, associating the stamp paper or such franked page with this document will be as good as making the stamp paper/franked page an integral part of this document.
- iii. That the stamp duty is payable over the maximum amount of offer.

- iv.** The Bank may print paper copies or produce in any such form at its discretion this document/the loan documents, and the same shall be fully binding on the Borrower and the Borrower has no objection to such print-outs being produced by the Bank in evidence in any court, tribunal or otherwise, to prove the acceptance/execution as well as the contents of the contract.
- v.** The terms and conditions shall be valid, subsisting and binding for any subsequent amount/loan availed upto the maximum offer amount over the validity period of the loan irrespective of the fact that each loan amount shall be opened with different loan account numbers.
- vi.** You shall be liable and responsible for any further payment of stamp duty that may be required to be paid in connection with the loan pursuant to a demand/otherwise from the concerned authority.

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Payday Loan