



## TERMS OF USE FOR KCB MOBILE BANKING

### PART I - GENERAL

#### The Agreement

1. This Agreement sets out the complete Terms of Use on the use (the "Terms of Use") of Banking Services offered by KCB Bank Kenya Limited (the "Bank"), accessed and utilized by you through an application (the "Mobile Banking Application", "the Application" the "App" or) on your mobile device (the "Mobile Banking Service(s)" or "Service(s)").
  - 1.1 The Customer accepts and acknowledges that this is a legal and binding agreement between the Customer and the Bank once accepted by both parties.
  - 1.2 "We," "our," and "us," means the Bank and includes its successors in title and assigns.
  - 1.3 "You" or "your" means the Customer and includes your personal representatives and heirs.
  - 1.4 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
  - 1.5 Headings in these Terms of Use are for convenience purposes only and they do not affect the interpretation of this Agreement.
2. Please read these Terms of Use carefully before you enroll in, download, install, or use the Mobile Banking Application and or any of the Mobile Banking Services. By downloading, installing, or using the Application, you indicate that you accept these Terms of Use and that you agree to abide by them or use . If you do not agree with these Terms of Use, you should cease downloading, installing, or using the Service immediately. You are deemed to have read, understood and accepted all the conditions set out in these Terms, as may be amended, modified or supplemented from time to time.
3. These Terms supplement and are to be read together with:
  - 3.1. Our General Account Opening Terms of Use;
  - 3.2. The Terms of Use governing the specific Product or Service offered by us alone or by us together with third parties ("Specific Terms"); and
  - 3.3. The Terms of Use of any other document or agreement governing your relationship with us as may be amended, modified or supplemented from time to time (together, the "Other Terms").
  - 3.4. The Data Privacy Statement available at <https://ke.kcbgroup.com/data-privacy-statement> in effect from time to time.
4. These Terms and any amendments or variations thereto take effect on their date of publication

#### Definitions & Interpretations

5. In these Terms of Use the following words and expressions (save where the context requires otherwise) bear the following meanings:
  - 6.1 **"Access Channel"** means the gateway provided by the Bank to the Customer to access the Customer's Account.



6.2	<b>“Access Code”</b>	means any type of unique identifier used to enable a person to identify themselves and gain authorised access to the Services, including any password, User identification code, two factor authentication code or device, and alternative security authentication methods
6.3	<b>“Affiliates”</b>	means KCB Group Plc subsidiaries.
6.4	<b>“Alerts”</b>	means the customized messages including any content or data sent to the customer over their mobile phone as short messaging service (SMS), email or any other modes of communication
6.5	<b>“Authorized User(s)”</b>	means the Customer or such other person as has been notified to the Bank that has been granted permission by the Customer conduct transactions on the Bank Account on behalf of the Customer;
6.6	<b>“Bank”</b>	means KCB Bank Kenya Limited incorporated in Kenya as a limited liability company under the Companies Act (Chapter 486 of the Laws of Kenya) and duly licensed as a Bank under the Banking Act (Chapter 488 of the Laws of Kenya) and includes affiliates of the Bank as may from time to time be specified by the Bank to you, its successors in title and permitted assigns (whether immediate or derivative) .
6.7	<b>“Bank Account”</b>	means a current or savings account held and operated with the Bank by a customer and registered for use on the mobile banking service.
6.8	<b>“Bank Rate”</b>	means the interest rates on loans or savings as may be set and communicated by the Bank from time to time.
6.9	<b>“Contact Centre”</b>	means the Bank’s Customer Care Centre, Branches or KCB Agent outlets as may be notified to the Customer by the Bank from time to time.
6.10	<b>“Credit Limit”</b>	means subject to the provisions of the applicable Specific Terms, the maximum pre- approved amount that a customer can borrow on products and services offered through this Service.
6.11	<b>“Credit Reference</b>	
6.12	<b>Bureau”</b>	means a credit reference bureau duly licensed under the Banking Act pursuant to the Banking (Credit Reference Bureau) Regulations, 2008 to inter alia, collect and facilitate the sharing of customer credit information.
6.13	<b>“Customer”</b>	means a person who holds and maintains an Account with the Bank.
6.14	<b>“E-Money”</b>	means the electronic monetary value depicted in your mobile money account representing an equal amount of cash.
6.15	<b>“Immediate payment”</b>	means voluntary instant repayment of loan advanced before the due date.
6.16	<b>“IPRS”</b>	means the Integrated Population Registration System established and maintained by the Government of Kenya under the Ministry of State for Immigration and Registration of Persons or such other ministry as may from time to time be responsible for the registration of persons.
6.17	<b>“Mobile Device”</b>	includes your mobile phone handset, SIM Card and/or other mobile device which when used together enables you to access mobile network.
6.18	<b>“Mobile Network”</b>	means the mobile cellular network operated by various mobile service providers.

6.19 **“Mobile Subscriber”** means any person registered and actively using a mobile service from a mobile service provider.

6.20 **“Mobile Service Provider”** means a duly registered and licensed telecommunications provider and/or/its agents and sub-contractors whether jointly or severally.

6.21 **“Mobile Phone Number”** shall mean the number specified by the Customer on the registration form, or through the Contact Centre, or through KCB website or through any other means to the Bank that will be used to enroll and access the Service.

6.22 **“Participating Retailer” or “Merchant”** means an physical or online seller or supplier of goods and/or services who has agreed to accept KCB Bank payment services as payment for goods and/or services.

6.23 **“Repeat Payment” or “Recurring Payment”** means an authorization provided by the Customer that permits the Participating Retailer to receive regular payments from them by debiting the Customer’s KCB Account on a fixed date and time and usually for a fixed amount.

6.24 **“Nominated User”** means the representative or representatives of the Customer, authorized by the customer to hold and change the Password and hence access the System and Service on behalf of the Customer.

6.25 **“Personal Data”** or **“Personal Information”** means any information relating to an identified or identifiable natural person.

6.26 **“PIN”** means a Personal Identification Number comprising four (4) digits, being the secret code used to authenticate the Customer to the Mobile Banking System and enable the Customer access and operate the Mobile Banking Services provided to the Customer by the Bank.

6.27 **“Request”** means a request or instruction received by the Bank from your or purportedly from you through the mobile network and the System and upon which the Bank is authorized to act.

6.28 **“Sensitive Personal Data”** means data revealing the natural person's race, health status, ethnic social origin, conscience, belief, genetic data, biometric data, property details, marital status, family details including names of the person's children, parents, spouse or spouses, sex or the sexual orientation of the Data Subject.

6.29 **“Services”** shall mean the mobile banking Service of KCB availed to the Customer, providing information relating to account(s), details about transactions and suchother information and products or services as maybe offered by KCB, and available to a customer through a mobile phone device, from time to time.

6.30 **“SIM Card”** means the Subscriber Identity Module which when used with the appropriate mobile phone handset enables you to access the Mobile Network and to use the Mobile Banking Services.

6.31 **“SMS”** means a short, customized message service consisting of a text message transmitted from one mobile phone to another.

6.32 "System"	means the Bank's Mobile Banking and communications software enabling the Customer to communicate with the Bank for purposes of the Services.
6.33 "Transaction"	means the movement of money in to or out of the System.
6.34 "Transaction Fees"	Includes the interest fee, the penalty fee and any other fees and charges payable for the use of the Services as determined and published or notified by the Bank from time to time on enrollment and access of the Service.
6.35 "USSD"	means Unstructured Supplementary Service Data and is the channel used to access mobile banking service on feature phones.
6.36 "Vooma"	means a system operated by the Bank using Mobile Networks in provision of other mobile banking services, under Specific Terms of Use

### **Registration and Applicability**

6. To enroll for the Service, you must be 18 years of age or over. If you are under 18 and you wish to enroll for the Service, you must get consent from your parent or guardian before doing so. The Bank reserves the right to verify with the IPRS the authenticity of your details.
7. These products are available to you through your mobile device. You must be a mobile subscriber of a mobile service provider. The Bank does not provide a mobile device to you for access of use of the Service. To use the Service, you will require appropriate telecommunication links. We shall not have any responsibility or liability for any mobile, data or other costs you may incur.
8. To register for the Service, you must provide us with the true, accurate and complete information and must promptly notify us of any change in the information provided.
9. You hereby agree and authorize the Bank to request IPRS for your personal information held by IPRS including your phone number, name, date of birth, ID or Passport Number and such other information that will enable the Bank to identify you (together the "Personal Information") and comply with the regulatory "Know Your Customer" requirements, and such other statutory requirements as the Bank is required to comply. You further consent to the disclosure of the Personal Information by IPRS to the Bank and to the aforesaid use of the Personal Information by the Bank.
10. The mobile number in the records of KCB would be used to access the Service. The Service is not offered for two mobile numbers for the same account. The Service will be available to the Customer only if the Customer is within the cellular service range of the particular cellular service provider or within such area, which forms part of the roaming network of such cellular service provider providing services to the Customer availing such roaming service from respective cellular service provider
11. We reserve the right to reject any application to register for Service.
12. By clicking on "I AGREE" "I CONSENT" or any other similarly worded button or entry field, you are deemed to have read, understood and accepted these terms.

### **Use of the Service**

13. You shall not in any way use the Mobile Banking Service or Application:
  - 13.1. in breach of any law, statute, regulation of any applicable jurisdiction.
  - 13.2. is fraudulent, criminal, or unlawful.
  - 13.3. may infringe or breach the copyright or any intellectual property rights (including without limitation copyright or trademark rights) or privacy or other rights of us or any third party.
  - 13.4. may be contrary to our interests.

- 13.5. is contrary to any specific rule or requirement that we stipulate on the Application in relation to a particular part of the Application or the Application generally; or
- 13.6. involves your use, delivery or transmission of any viruses, unsolicited emails, trojan horses, trap doors, back doors, easter eggs, worms, time bombs, cancelbots or computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or personal information.

14. You agree not to reproduce, duplicate, copy or re-sell the App or any part of the App save as may be permitted by these Terms of Use.
15. You agree not to access without authority, interfere with, damage, or disrupt:
  - 15.1. any part of the App.
  - 15.2. any equipment or network on which the App is stored.
  - 15.3. any software used in the provision of the App; or
  - 15.4. any equipment or network or software owned or used by any third party.
16. You hereby grant the Bank an irrevocable, royalty-free, worldwide, assignable, sub-licensable license to use any material which you submit to us or the App for the purpose of use on the App or for generally marketing (by any means and in any media, including, but not limited to SMS, emails, on our website or in our journals) our services. You agree that you waive your moral rights to be identified as the author and we may modify your submission.
17. Commentary and other materials available on the App are not intended to amount to advice on which reliance should be placed. We therefore disclaim all liability and responsibility arising from any reliance placed on such materials by any user of the App, or by anyone who may be informed of any of its contents.
18. You assume sole responsibility for results obtained from the use of the App and its Products, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to us by you in connection with the App, or any actions taken by us at your direction.
19. We make no warranty that:
  - 19.1. your access to the App will be uninterrupted, timely or error-free. Due to the nature of the Internet, this cannot be guaranteed. In addition, we may occasionally need to carry out repairs, maintenance or introduce new facilities and functions.
  - 19.2. Access to the App may be suspended or withdrawn to or from you personally or all users temporarily or permanently at any time and without notice. We may also impose restrictions on the length and manner of usage of any part of the App for any reason. If we impose restrictions on you personally, you must not attempt to use the App under any other name or user or on any other mobile device.
  - 19.3. that the App will be compatible with all hardware and software which you may use. We shall not be liable for damage to, or viruses or other code that may affect, any equipment (including but not limited to your mobile device), software, data, or other property as a result of your download, installation, access to or use of the App or your obtaining any material from, or as a result of using, the App. We shall also not be liable for the actions of third parties.
20. You must comply with any applicable third-party terms of agreement when using the App (e.g., you must ensure that your use of the App is not in violation of your mobile device agreement or any wireless data service agreement).

21. You hereby release KCB Bank Kenya Limited, its officers, directors, agents, and employees from all claims, demands, and damages (actual and consequential) of any kind and nature, known and unknown, suspected, and unsuspected, disclosed, and undisclosed, arising out of, or in any way, connected with any disputes arising between you and any suppliers, or between you and other App or Website users.
22. You assume all responsibility and risk with respect to your use of the App. The App is available "as is," and "as available". You understand and agree that, to the fullest extent permitted by law, we disclaim all warranties, representations, and endorsements, express or implied, with regard to the site, including, without limitation, implied warranties of title, merchantability, non-infringement and fitness for a particular purpose. We do not warrant use of the site will be uninterrupted or error-free or that errors will be detected or corrected. We do not assume any liability or responsibility for any computer viruses, bugs, malicious code or other harmful components, delays, inaccuracies, errors or omissions, or the accuracy, completeness, reliability, or usefulness of the information disclosed or accessed through the app. We have no duty to update or modify the App and we are not liable for our failure to do so. In no event, under no legal or equitable theory (whether tort, contract, strict liability or otherwise), shall we or any of our respective employees, directors, officers, agents or affiliates, be liable hereunder or otherwise for any loss or damage of any kind, direct or indirect, in connection with or arising from the app, the use of the app or our agreement with you concerning the app, including, but not limited to, compensatory, direct, consequential, incidental, indirect, special or punitive damages, lost anticipated profits, loss of goodwill, loss of data, business interruption, accuracy of results, or computer failure or malfunction, even if we have been advised of or should have known of the possibility of such damages. If we are held liable to you in a court of competent jurisdiction for any reason, in no event will we be liable for any damages in excess of fifteen thousand shillings (kes. 15,000.00).
23. You agree to indemnify and hold KCB Bank Kenya Limited and each of our affiliates, successors and assigns, and their respective officers, directors, employees, agents, representatives, licensors, advertisers, suppliers, and operational service providers harmless from and against any and all losses, expenses, damages, costs, and expenses (including attorneys' fees), resulting from your use of the App and/or any violation of the terms of this Agreement. We reserve the right to assume the exclusive defense and control of any demand, claim or action arising hereunder or in connection with the App and all negotiations for settlement or compromise. You agree to fully cooperate with us in the defense of any such demand, claim, action, settlement, or compromise negotiations, as requested by us.
24. The Bank's name and logos and all related names, trademarks, service marks, design marks and slogans are the trademarks or service marks of us or our licensors.
25. As between you and us, we are the sole and exclusive owner or the licensee of all intellectual property rights in the App, and in the material published on it. Those works are protected by copyright and trademark laws and treaties around the world. All such rights are reserved.
26. By you using the App, you consent to the use of your information submitted. We process information about you in accordance with our Privacy Policy. By using the App, you consent to such processing, and you warrant that all data provided by you is accurate.
27. We have no control over and accept no responsibility for the content of any website or mobile application to which a link from the App exists (unless we are the provider of those linked websites or mobile applications). Such linked websites and mobile applications are provided "as is" for your

convenience only with no warranty, express or implied, for the information provided within them. We do not provide any endorsement or recommendation of any third-party website or mobile application to which the App provides a link. The Terms of Use, terms of use and privacy policies of those third-party websites and mobile applications will apply to your use of those websites and mobile applications and any orders you make for goods and services via such websites and mobile applications. If you have any queries, concerns or complaints about such third-party websites or mobile applications (including, but not limited to, queries, concerns or complaints relating to products, orders for products, faulty products, and refunds) you must direct them to the operator of that third-party website or mobile application.

## **Operation and Scope**

28. KCB shall endeavor to provide to the Customer through the Service, such services as KCB may decide from time to time. KCB reserves the right to decide what services may be offered to a Customer on the account. KCB may also make additions/deletions to the services offered through the Service at its sole discretion. The Service is made available to Authorized Users, at the sole of discretion of KCB and may be discontinued by KCB for services of specific cellular service providers.
29. To access the Service, you must have Mobile Banking Login Information that allows us to authenticate your identity. Your Mobile Login Information is comprised of your Mobile phone number and Mobile Banking PIN.
30. Once the Bank has formally approved the Customer and the Customer has been maintained as an Authorized User of the Service, the Customer will provide to the System a unique PIN, known only to the Customer, (and /or the Nominated User, and only then shall the Customer be afforded use of the Service. You MUST change the temporary PIN that the bank will provide you upon signing up for Mobile Banking. You agree that you will not select a PIN based on your or a close relative's birth date, telephone number, address, or any other readily identifiable combination of letters or/and numbers. You agree to change your Login Information regularly and not to use any previously used PIN. Your Login Information is for your use alone and you agree to keep them secret and not reveal them to any person, including our staff. You agree to take all reasonable precautions to maintain the secrecy of your Login Information, including ensuring that any information stored on any mobile device with which you access mobile banking is protected against unauthorized access by third parties.
31. You agree to memorize your Mobile Banking Login Information and not to record it anywhere. You agree that we are not responsible for the security or confidentiality of your Mobile Banking information or instructions until actually received by us. You will be responsible for ensuring that you have logged out of Mobile Banking at the termination of any mobile banking session
32. If you choose, or you are provided with, a user identification code, password, or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any third party. We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of these Terms of Use.
33. You are responsible for implementing all security measures available while using the mobile banking service. You shall ensure that you provide details on the set security questions during on-boarding. It is Your responsibility to protect your Mobile Banking Login Information and security access features and We will not be held liable for any losses, damages or claims suffered by You as a result of any fraud committed due to Your negligence or willful misconduct of a User, Nominated User, or Authorized Signatory

34. You agree to notify us immediately by telephone or through our Contact Centre channels if your Mobile Banking Login Information has become or may have become known to another person or might otherwise be available for unauthorized Mobile Banking. Until you give such notice to us, and we actually receive it, you will be liable for all Transactions that may occur as a result of authorized or unauthorized use of your Mobile Banking Login Information.
35. Once you notify us to disable an access code we are entitled to:
  - 35.1. reject all instructions received after such notification.
  - 35.2. suspend the processing of all instructions not yet executed; (c)Deactivate the access code without further notice. Your Personal Access Number remains our property and may be cancelled or suspended at any time by us without prior notice to you
36. The Bank reserves the right to accept or decline your application for enrollment of the Service without further reference to you.
37. As a holder of a KCB Bank Account, you will be entitled, subject to these Terms of Use and any applicable Specific Terms, to transfer money from your Bank Account and/or make withdrawals therefrom and/or to borrow money from the Bank as follows:
  - 37.1. You may make deposits into your KCB Account or withdraw funds therefrom using the USSD code or the KCB App on your mobile device.
  - 37.2. You will not be required to notify the Bank in advance of making a deposit or withdrawal into or from your KCB Account.
  - 37.3. You will not be required to pay Transaction Fees or any other charges or commissions in respect of transactions effected on your KCB Bank Account through the Service.
  - 37.4. Transaction fees and applicable Bank fees, commissions and other charges will however be charged on all transactions between your other Bank account (s) and your Vooma wallet, as well as on any transactions on your Bank Account facilitated through KCB Agents / Merchants.
  - 37.5. The Minimum deposit for your KCB Account and minimum transferrable amount from your KCB Account shall be Kshs.10.
  - 37.6. There will be no restrictions on the number of deposits into your KCB Account over any period of time subject to a minimum deposit of Kshs. 10.
  - 37.7. The Maximum funds transfer out of your KCB Account shall be a maximum of Kshs. 500,000 per day save for virtual KCB Accounts whose daily withdrawal limit is Kshs.140,000 per day.
  - 37.8. No interest will be earned on deposits in your Bank Account.
  - 37.9. You shall not be entitled to overdraw your Bank Account.
  - 37.10. In the event that your Bank Account does become overdrawn, debit interest shall accrue to the account on the debit balance. The debit interest shall be equal to the maximum unauthorized overdraft rate levied on the Bank's current accounts.
  - 37.11. Through the USSD menu on your equipment, you may instruct the Bank to make loan repayments using funds from your Bank Account.

#### **Your Requests (or Instructions), Irrevocable Authority of the Bank**

38. You hereby irrevocably authorize the Bank to act on all Requests received by the Bank from you (or purportedly from you) through the Service and to hold you liable in respect thereof. The Bank may

nevertheless refuse to carry out any Requests which would result in there being an overdraft on your Bank Account.

39. The Bank shall be entitled to accept and to act upon any Request, if the Bank believes that it can correct any incomplete or ambiguous information in the Request without any reference to you being necessary.
40. The Bank shall be deemed to have acted properly and to have fully performed all the obligations owed to you notwithstanding that the Request may have been initiated, sent or otherwise communicated in error or fraudulently, and you shall be bound by any Requests on which the Bank may act if the Bank has in good faith and without negligence acted in the belief that instructions have been sent by you.
41. The Bank may, in its absolute discretion, decline to act on or in accordance with the whole or any part of your Request pending further enquiry or further confirmation (whether written or otherwise) from you.
42. You agree to and shall release from and indemnify the Bank against all claims, losses, damages, costs, and expenses howsoever arising in consequence of, or in any way related to the Bank having acted in accordance with the whole or any part of any of your Requests.
43. You acknowledge that to the full extent permitted by law the Bank shall not be liable for any unauthorized drawing, transfer, remittance, disclosure, any activity, or any incident on your account by the fact of the knowledge and/or use or manipulation of your PIN, password, ID or by any other means occasioned by your negligence.
44. You are responsible for:
  - 44.1. the clarity, accuracy and completeness of all instructions;
  - 44.2. ensuring that all instructions are given in the manner specified by us and complying with all applicable laws.
  - 44.3. ensuring that your Account has sufficient funds as may be necessary for the Bank to comply with your instructions and deduct any applicable commission and charges;
  - 44.4. only using the same signature for all Accounts, Cards or Services;
  - 44.5. ensuring that the instructions are not varied or cancelled after they have been received or processed by us;
  - 44.6. giving us all documents and information and help the Bank may need (whether for us to comply with our obligations under all Applicable Laws, to act on your instructions, for the operation of the Account, Card or the Service or otherwise); and
  - 44.7. all instructions effected through the Mobile Application or the use of your PIN.
45. The Bank in its own discretion may disregard any instructions, refuse to provide or allow you to use or access any Service if:
  - 45.1. The Instructions are not clear, inconsistent, incomplete, incorrect, misleading, or if the Bank reasonably believes or suspects that the instruction is unauthorized, fraudulent or forged.
  - 45.2. The Instructions have not been given in accordance with these Terms.
  - 45.3. You do not have sufficient funds and the instruction would result in an Account being overdrawn or the Account balance to fall below the Account minimum balance or exceeding the daily transfer limit or category limit on the Account or the Transaction limit for any Account, or Service being exceeded;

- 45.4. circumstances beyond our control prevent your instructions from being carried out; or
- 45.5. you have not provided us with all documents, verification and information we require.
- 45.6. It is unreasonable and impractical to do so
- 45.7. The Customer or Authorized User's identity cannot be verified to the Bank's satisfaction.
- 45.8. The Bank believes that in carrying out the Instructions, a law, regulation, code or other duty or obligation which the Bank is required to comply with may be breached.
- 45.9. Instructions have not been given in writing by the Client, where required.
- 45.10. Where an Event of Default has occurred or is continuing.

46. If you wish to cancel your instructions:

- 46.1. You must notify the Bank as soon as you are aware that a Transaction may have been incorrectly executed.
- 46.2. The Bank will try to stop a Transaction when instructed but we will not be responsible for any Loss you incur if we cannot do so.
- 46.3. Where a Transaction has already been effected, the Bank may, subject to certain conditions and depending on whether any other third party is involved in which case the Bank may already be irrevocably bound to process such Instructions, decline to cancel such Instructions. You acknowledge and hereby indemnify the Bank from any liability if it does not or is unable to stop or prevent execution of the initial Instruction.
- 46.4. If the Bank is able to cancel your instruction you may be charged for such cancellation.

47. The Bank may refuse to make a payment if you do not have sufficient funds in your Bank Account. In deciding whether you have sufficient funds, the Bank will take account of any instructions to make payments and regular payments which have not yet been paid from your Bank Account. The Bank will not be obliged to take account of regular credits, or any amounts received after it has decided not to make the payment.

48. If the Bank receives notice that you have become mentally incapacitated, bankrupt and/ or insolvent the Bank will treat this as notice of cancellation of the authority set out above. This means that the Bank may at its absolute discretion freeze or suspend the your Account and the Services without being liable to you until either a legal guardian or a court appointed administrator (as the case may be), is appointed to act for you.

49. The Bank is authorized to effect such orders in respect of your Bank Account as may be required by any court order or competent authority or agency under the applicable laws.

50. In the event of any conflict between any terms of any Request received by the Bank from you and these Terms of Use, these Terms of Use shall prevail.

#### **Inactive and Dormant Profile**

- 51. Your mobile banking profile will automatically be classified as inactive if you do not initiate any transactions on the account for a continuous period of 12 months.
- 52. The Bank shall make reasonable endeavors to inform you of the intended classification of your Mobile banking profile as inactive at least one (1) month before such classification. The Bank shall, no later than

seven (7) days from the date of such classification, inform you of such classification by way of SMS alerts addressed to your mobile telephone number.

53. Your Mobile banking profile will be classified as dormant if it remains inactive for a further period of 12 months, in which case the profile will be disabled for security reasons.
54. You will not be allowed to transact on an inactive or dormant profile, but the Bank shall, upon your written (e.g., letter/email) request, inform you of the procedure to be followed to activate your inactive/dormant profile.
55. The Bank may (including without limitation) apply any one or more of the following conditions to your Mobile banking profile upon its classification as dormant:
  - 32.1 confirm the validity and authenticity of the first transaction reactivating the account.
  - 32.2 suspend the payment of interest (if applicable).
  - 32.3 suspend the issuance of statements.

### **Fees**

56. You hereby agree to pay all Transaction Fees payable in connection with your use of the Service.
57. You shall pay to the Bank and the Bank is entitled to deduct from your Bank account (without further reference to you):
  - 57.1. Any Transaction Fees payable in respect of the use of the Products accessed through the Service.
  - 57.2. any legal charges including advocate and Customer costs incurred by the Bank in obtaining legal advice in connection with your mobile loan account and your dealings with the Bank or incurred by the Bank in any legal, arbitration or other proceedings arising out of any dealings in respect of your Mobile banking profile; and
  - 57.3. All other fees, expenses and taxes, duties, impositions, and expenses incurred in complying with your Requests.
  - 57.4. You hereby agree to pay costs charges and expenses incurred by the Bank in obtaining or attempting to obtain payment of any loan owed under your Mobile banking profile.

### **Taxes**

58. All payments to be made by you in connection with these Terms of Use are calculated without regard to any taxes payable by you. If any taxes are payable in connection with the payment, you must pay the Bank an additional amount equal to the payment multiplied by the appropriate rate of tax. You must do so at the same time as making the payment.
59. Amounts in any accounts accessed through the Mobile banking Application may be subject to withholding tax in accordance with applicable Kenyan, foreign or international law.
60. You consent and agree that the Bank may withhold amounts accessed through your Mobile banking Application or any other of your accounts held with the Bank at any time, if any Kenyan or foreign tax authority requires the Bank to do so, or whenever the Bank is otherwise required by such law or needs to comply with internal policies or with any applicable order or sanction of such tax authority.

### **Statements**

61. You may request from the Service, for a statement or activity report in respect of products or services accessed through the Service.

62. Account Statement shall provide details of the last five (5) transactions, or such other number of transactions as determined by the Bank.
63. You may obtain printed Mobile Banking Mini Statements or a printed Bank statement pertaining to your Mobile banking transactions from the Bank's branches. You shall be responsible for the payment of any charges levied by the Bank for such printed statements.
64. Save for a manifest error, a Mobile banking Mini Statement or Bank statement issued to you aforesaid in respect of your use of the Mobile banking Service shall be conclusive evidence of the transactions carried out on your Bank Account for the period covered in the Mobile banking Mini Statement and/or Bank statement.
65. You are under a duty to:
  - 65.1. check all entries in the Statement;
  - 65.2. report promptly on any error or omission;
  - 65.3. monitor all Transactions and balances and report any unauthorized Transaction.
66. The Bank reserves the right to rectify any errors, omissions in any statement or confirmation advice and any such amended statement or confirmation advice shall be binding on you.

#### **Customer's Mobile Device and Customer's Responsibilities**

67. It's your sole responsibility to familiarize yourself with the operating procedures of the Service and the products and services accessed through the Service that will be provided by the Bank upon your registration. The Bank will not be liable for any losses incurred as a result of your errors either of commission and/or omission.
68. You shall at your own expense provide and maintain in safe and efficient operating order your Mobile Device necessary for the purpose of accessing the System and the Services.
69. You shall be responsible for ensuring the proper performance of your Mobile Device. The Bank shall neither be responsible for any errors or failures caused by any malfunction of your Mobile Device, and nor shall the Bank be responsible for any computer virus or related problems that may be associated with the use of the System, the Services, and the Mobile Device. You shall be responsible for charges due to any service provider providing you with connection to the Mobile Network and the Bank shall not be responsible for losses or delays caused by any such service provider.
70. You shall follow all instructions, procedures and terms contained in these Terms of Use and any document provided by the Bank concerning the use of the System and Services.
71. Access to Mobile Banking is PIN protected. You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your Mobile Device and for keeping your Mobile Banking PIN secret and secure. You hereby agree to guard your Mobile Banking PIN and not to disclose it to any third party including any Bank official or any person purporting to have authority to ask for it. The Bank shall not be liable for any disclosure of your Mobile Banking PIN to any third party, and you hereby agree to indemnify and hold the Bank harmless from any losses resulting from any Mobile Banking PIN disclosure.
72. You shall take all reasonable precautions to detect any unauthorized use of the System and the Services. To that end, you shall ensure that all communications from the Bank are examined and checked by you

or on your behalf as soon as practicable after receipt by you in such a way that any unauthorized use of and access to the System will be detected.

73. You shall immediately inform the Bank through the Contact Centre in the event that:

- 73.1. You have reason to believe that your Mobile Device is lost, stolen, misused or tampered with
- 73.2. You have reason to believe that your Mobile Banking PIN is or may be known to any person not authorized to know the same and/or has been compromised; and/or
- 73.3. You have reason to believe that unauthorized use of the Services has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.
- 73.4. You shall at all times, follow the security procedures notified to you by the Bank from time to time or such other procedures as may be applicable to the Services from time to time.
- 73.5. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your Mobile banking profile's confidentiality. In particular, you shall ensure that the Services are not used, or Requests are not issued, or the relevant functions are not performed by anyone other than a person authorized to do so.
- 73.6. You shall not at any time operate or use the Services in any manner that may be prejudicial to the Bank.

#### **Exclusion of Liability**

74. The Bank will not be liable for any losses or damage suffered by you as a result of or in connection with:

- 74.1. Unavailability of sufficient funds in your Mobile Money Account, and/or in your Bank Account.
- 74.2. The money in your Bank Account being subject to legal process or other encumbrance restricting payments or transfers thereof.
- 74.3. Your failure to give proper or complete instructions for payments or transfers relating to your KCB Mobile Loan Account.
- 74.4. Failure, malfunction, interruption or unavailability of your Mobile Device, and, to the extent beyond the reasonable control of the Bank, failure, malfunction, interruption or unavailability of the System, the Network or the Service.
- 74.5. The Services, the System and/or your Mobile Device not functioning properly at the time you attempted you initiate the transaction, and it was evident to you at the time you began the transaction.
- 74.6. Failure of any other telecommunication system or data transmission data system other than the KCB Mobile System, beyond the reasonable control of the Bank.
- 74.7. Transactions made from your account by unauthorized third party who passes all the identity and verification checks.
- 74.8. Transactions made by input of incorrect amounts by you.
- 74.9. Disclosure of account information to third parties, non-delivery, delayed delivery, mishandling of or inaccurate content in information sent through an Alert.
- 74.10. Unauthorized access to the service due to loss of your mobile device.
- 74.11. The quality of service of your mobile service provider.
- 74.12. Any fraudulent or illegal use of the Services, the System and/or your Equipment.

- 74.13. Any circumstance whatsoever not within the Bank's control including, without limitation, force majeure, terrorist or any enemy action and adverse weather or atmospheric conditions; or
- 74.14. Your failure to comply with these Terms of Use and any document or information provided by the Bank concerning the use of the System and the Services.

75. Under no circumstances shall the Bank be liable to you for any loss of profit or anticipated savings or for any indirect or consequential loss or damage of whatever kind, howsoever caused, arising out of or in connection with the Services even where the possibility of such loss or damage is notified to the Bank.

76. If for any reason other than a reason mentioned in these Terms of Use are interfered with or unavailable, the Bank's sole liability under this Agreement in respect thereof shall be to re-establish the Services as soon as reasonably practical.

77. All warranties and obligations implied by law are hereby excluded to the fullest extent permitted by law.

### **Intellectual Property Rights**

78. You acknowledge that the intellectual property rights in the System (and any amendments, upgrades, or enhancements thereto from time to time) and all associated documentation that the Bank provides to you through the System or otherwise are vested either in the Bank or in other persons from whom the Bank has a right to use and to sub-license the System and/or the said documentation. You shall not infringe any such intellectual property rights. You shall not duplicate, reproduce or in any way tamper with the System and associated documentation without the prior written consent of the Bank.

### **Indemnity**

79. In consideration of the Bank complying with your instructions or Requests in relation to the Service, you undertake to indemnify the Bank and hold it harmless against any loss, charge, damage, expense, fee or claim which the Bank suffers or incurs or sustains thereby and you absolve the Bank from all liability for loss or damage which you may sustain from the Bank acting on your instructions or requests or in accordance with these Terms of Use.

80. The indemnity in aforementioned shall also cover the following:

- 80.1. All demands, claims, actions, losses and damages of whatever nature which may be brought against the Bank or which it may suffer or incur arising from its acting or not acting on any Request or arising from the malfunction or failure or unavailability of any hardware, software, or Mobile Device , the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond the Bank's control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the Bank.
- 80.2. Any loss or damage that may arise from your use, misuse, abuse, or possession of any third-party software, including without limitation, any operating system, browser software or any other software packages or programs.

- 80.3. Any unauthorized access to your Mobile banking profile or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your Mobile Device.
- 80.4. Any loss or damage occasioned by the failure by you to adhere to these Terms of Use and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third-party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these Terms of Use.
- 80.5. Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the particular circumstance is within your control.

81. Any claim brought against the Bank by a third party resulting from your breach of these Terms of Use.

## **Privacy Policy**

### **82. Collection of information**

- 82.1. We collect certain Personal Information for compliance with our legal and contractual obligations to you or to take steps to enter into an agreement with you without which we are legally obligated to deny you the service.
- 82.2. Apart from the legal obligation mentioned above, we also need to collect your Personal Information for quality service delivery. Please note that although this is voluntary, without such information we may not be able to provide quality service.

### **83. Privacy**

We are committed to respecting and protecting the privacy of the information we collect from you. Our privacy statement, as updated from time to time, explains how we treat your Personal Information, who we share your information with, and measures taken to protect your privacy when you use our Service. This can be found on the KCB Privacy Policy on our website.

## **84. Data Protection**

- 84.1. The Bank is required by law to collect certain personal data and are legally obligated to deny the Customer the service if such information is not availed. Apart from the legal obligation mentioned above, the Bank also needs to collect the Customer's personal data for quality service delivery. Although this is voluntary, without such information the Bank may not be able to provide quality service.
- 84.2. The Bank acknowledges the importance of the protection and privacy of all information provided and warrants in dealing with data collected from you shall at all times strictly comply with Data Protection Legislations including the Kenya Data Protection Act 2019.
- 84.3. The Bank shall collect your personal information with your knowledge and consent with exception to cases where prior consent cannot be obtained for real reasons and the processing of the data is permitted by law.
- 84.4. KCB is committed to respecting and protecting the privacy of Personal Data. KCB Group Plc Data Privacy Statement ("the Privacy Notice"), as updated from time to time, explains how KCB treats Personal Data, who we share Personal Data with, and measures taken to protect Personal Data when you use our Services. This can be found on KCB Data Privacy Statement accessible on this

link <https://ke.kcbgroup.com/data-privacy-statement>, and also on our website, [www.kcbgroup.com](http://www.kcbgroup.com). If unable to access the link or our website, please reach us on any of our customer care channels to receive a copy.

85. The Bank may hold and process, by computer or otherwise, any information obtained about the Customer.
86. The Customer confirms that the Bank may at any time and from time to time at its sole discretion carry out credit checks with any of the licensed credit reference agencies on the Borrower.
87. The Customer agrees that the Bank may: -
  - 87.1. Include personal data of the Customer in the Bank's computer systems which may be accessed by other companies in the Bank's group for credit assessment, statistical analysis including behavior and scoring and to identify products and services (including those supplied by third parties) which may be relevant to the Customer; and
  - 87.2. permit other companies within the Bank's group to use personal data and any other information it holds about the Customer on the Bank's computer systems to bring to its attention products and services which may be of interest to the Borrower.
88. The Customer agrees that the Bank may disclose any information relevant to the Customer in the Bank's possession on terms that such recipient is to treat in confidence any confidential information so disclosed to it and further agrees that the Bank may disclose personal data and/or information relating to the Customer or any relevant party outside the Bank's group whether such personal data and/or information is obtained after the Customer ceases to be the Bank's customer or during the continuance of the bank-customer relationship or before such relationship was in contemplation:-
  - 88.1.1. for fraud prevention purposes.
  - 88.1.2. to licensed Credit Reference Bureaus if the Customer is in breach of its obligations to the Bank and the Customer agrees that such information may be used by other banks or institutions in assessing credit applications and for debt tracing.
  - 88.1.3. to the Bank's external lawyers, valuers, survey agencies, auditors, software developers and sub-contractors or other persons acting as agents of the Bank.
  - 88.1.4. to any person who may assume the Bank's rights under these Terms.
  - 88.1.5. to debt collection agencies.
  - 88.1.6. to any regulatory, fiscal, or supervisory authority, any local or international law enforcement agencies, governmental agencies so as to assist in the prevention, detection, investigation or prosecution of criminal activities and law enforcement agencies or courts where demand for any personal data and/or information is within the law.
  - 88.1.7. to the Bank's subsidiaries, affiliates and their branches and offices (together and individually).
  - 88.1.8. if the Bank has a right or duty to disclose or is permitted or compelled to do so by law.
  - 88.1.9. for purposes of exercising any power, remedy, right, authority or discretion relevant to the Letter or the Security following the occurrence of an Event of Default, to any other person or third party as well.
- 88.2. The Customer acknowledges and agrees that, notwithstanding the terms of any other agreement between the Customer and the Bank, the disclosure by the Bank of information relevant to the Customer in the circumstances contemplated in this clause does not violate any duty owed to the Customer either in common law pursuant to any agreement between the Bank and the Customer or

in the ordinary course of banking business and the customs, usage and practice related thereto and further that the disclosure as aforesaid may be made without reference to or further authority from the Customer and without inquiry by the Bank as the justification or validity of such disclosure.

- 88.3. Provided that any consent given to the Bank to disclose information to any third party excluding the law enforcement, investigative and regulatory authorities or where demand for any personal data and/or information is within the law, may be withdrawn at any time.
- 88.4. All records of KCB relating to the Account and/or arising out of the use of the Service, including the recorded time of the transaction and the Authorized User originating the transaction, shall be conclusive proof of the genuineness and accuracy of the transactions in the Account and may not be challenged by the Customer and/or Authorized User on any grounds. The authority to record the transaction details is hereby expressly granted by the Customer to KCB.
- 88.5. You acknowledge that the Bank may retain your personal data and/or information for a period of up to seven (7) years or as may be required by law.

#### **Suspension and/or Termination**

89. The Bank may at any time, after a thirty (30) days' notice to you, suspend or terminate its business relationship with you and close your KCB Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credit limit which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine.
90. Without prejudice to the Bank rights under clause 69 above, the Bank may at its sole discretion suspend, decline loan application, or close your KCB Account:
  - 90.1. If the Bank has reason to believe that the KCB Account is being used for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the Services.
  - 90.2. If you're KCB Account or agreement with the Bank is terminated for whatever reason.
  - 90.3. If the Bank is required to comply with an order or instruction of or a recommendation from the government, court, regulator, or other competent authority.
  - 90.4. If the Bank reasonably suspects or believes that you are in breach of these Terms of Use (including non-payment of any Loan amount due from you where applicable).
  - 90.5. Where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety.
  - 90.6. To facilitate update or upgrade the contents or functionality of the Services from time to time.
  - 90.7. Where you remain inactive for any period of time determined by the Bank in its reasonable discretion.
  - 90.8. If the Bank decides to suspend or cease the provision of the Services for commercial reasons or for any other reason as it may determine in its absolute discretion.
  - 90.9. Where upon request by the Bank you fail to provide further information pertaining to your account or information provided is false or misleading.
    - i. If the mobile phone number used to register for KCB Account is no longer subscribed to a Mobile Network; or
    - ii. If you commit any material breach of any of the provisions of this Terms of Use and if capable of remedy, you fail to remedy the breach within the period notified by the Bank.

91. You may close your KCB Account at any time at any Branch of the Bank upon payments of all outstanding amounts owed to the Bank.
92. Any fees that may be outstanding at the time of such termination will remain payable and we reserve the right to debit such fees from your Bank account.
93. If the Bank receives notice of your demise, the Bank will not be obliged to allow any operation or withdrawal from your KCB Account by any person except upon production of confirmed Grants of Letters of Administration or Probate by your legal representatives duly appointed by the Court.
94. Termination shall however not affect any accrued rights and liabilities of either party.. The Bank shall therefore continue to process any properly initiated instructions and/or payments which the Bank receives before the date of termination. Termination shall only be effective as to prospective Transactions only and shall not alter any of the rights or liabilities of the Bank or the Customer as to any Transactions and/or payment obligations incurred prior to the date of termination
95. On termination of the Service, all rights granted to you in respect of the Mobile banking profile shall immediately cease.

#### **Miscellaneous**

96. These Terms of Use (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.
97. This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.
98. The Bank may vary or amend at any time these Terms of Use and the Transaction Fees. Any such variations or amendments may be published in posters or pamphlets available at bank's branch outlets, in the daily newspapers, on the Bank website and/or by any other means as determined by the Bank and any such variations and amendments shall take effect immediately upon the lapse of thirty (30) days written notice issued by the Bank informing you about the variations or amendments.
99. No failure or delay by either yourself or the Bank in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.
100. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
101. If any provision of these Terms of Use shall be found by any duly appointed arbitrator, court, or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.

#### **Notices**

102. Your enrollment to the Service may include access to mobile text messaging related services and alerts ("Alerts"). By using the Service, you agree that the Bank may send messages through your mobile service provider for delivery to you and that your mobile service provider is acting as your agent in this capacity.

103. The Bank may use a mobile phone number or email address the Bank has in its records for you or such other contact you may provide for sending these Alerts.
104. These Alerts are provided for your convenience and do not replace your account statements, which are the official record of your accounts.
105. You understand and agree that the information sent through an Alert may not be encrypted and may include personal information about you such as your account activity or account status, and anyone with access to your email or mobile device may be able to access the Alert.
106. The Bank endeavors to provide Alerts to you in a timely manner, however the Bank does not guarantee the delivery and accuracy of any information sent through an Alert. Messages may be delayed or impacted by factors pertaining to your mobile service provider, internet service provider or other third parties.
107. You acknowledge that you have no claim against the Bank for damages resulting from losses, delays, misunderstandings, mutilations, duplications, or any other irregularities due to transmission of any communication pertaining to the Mobile banking profile.

#### **Customer Complaints**

108. Complaints may be made in person, in writing, by email or by telephone.
109. You may report a complaint to the Banks Contact Centre, using the following details:
  - SMS number: 5222
  - WhatsApp number: 0711 087087.
  - Telephone: +254 711 087000, +254 732 187000, +254 20 2287000.
  - Email: [contactcentre@kcbgroup.com](mailto:contactcentre@kcbgroup.com).
110. You should bring your complaint to our attention with the contact information provided and we will aim to deal with any complaints promptly and fairly. A copy of our complaint's procedure is available on request from any branch or our Contact Centre.
111. The Bank will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with the Bank's complaints handling procedures, which are available on request from any Bank Branch or the Customer Care Centre. Where a notification regarding your complaint or any other matter is expected from the Bank but not received, you may make a further complaint within a reasonable time after non-receipt of such notification.
112. Applicable tariffs will be charged by your telephone and internet service provider(s) when communicating with the Customer Care Centre.

#### **Dispute Resolution, Jurisdiction and Arbitration**

113. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya
114. You may contact the Contact Centre to report any disputes, claims or Account discrepancies.
115. Any dispute arising out of or in connection with this Agreement that is not resolved by Customer Care Centre representatives, shall be subject to mediation before an independent mediator selected by the parties.

116. Nothing in this paragraph shall limit the right of the Bank to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking or proceedings at one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

**KCB Bank Kenya Limited is regulated by the Central Bank of Kenya.**