

AUTOMATED PERSONAL CHECK OFF APPLICATION/AGREEMENT FORM

PART 1: CUSTOMER DECLARATION

- a. I certify that the information contained in this application is true and correct to the best of my knowledge and belief.
- b. I declare I have not been adjudged bankrupt.
- c. I authorize you to obtain any information you may require relating to this application from my employers, Bankers, Mortgagers or Financial institution mentioned herein.
- d. I also confirm that I understand that this application shall be processed by way of an automated credit scoring procedure and in case of a decline, you shall advise no specific reason for such a decline.
- e. I hereby confirm that I have read and understood the terms and conditions outlined overleaf forming part of this application and which will govern the loan and hereby accept and agree to be bound by the same and I have accordingly endorsed the same.
- f. I agree that the loan and my obligations to the Bank under the terms and conditions shall be effective immediately upon the Bank approving the sum applied for or as may be determined by the Bank and subject to any security requirement as a condition precedent by crediting or applying the same to my account with the Bank or otherwise for my account.
- g. In consideration to the Bank agreeing to grant me the loan applied for, or such lower sum and at such interest and costs, and on the terms and conditions set out as part of this application, I hereby request and irrevocably authorize my employer to deduct monthly from my salaries the principal sum, interests and costs as shall be advised by the Bank and remit the same to the Bank for such period as the Bank shall advise from time to time towards the repayment of the loan.
- h. For as long as any such loan shall be outstanding, I hereby assign all my final and terminal dues excluding pension of whatsoever nature with my employer to the Bank, and I accordingly hereby request and authorize my said employer to pay out the said dues to the Bank whenever they become due and payable unless otherwise advised by the Bank.
- i. I hereby authorize and instruct the Bank to debit my account such other sums as will be required by the Bank to meet my approved monthly loan repayments and to pay into my loan account every month effective 30 days after the loan has been disbursed.

PART 2: TERMS AND CONDITIONS

1. The Agreement

- 1.1. This Agreement sets out the complete Terms and Conditions (hereinafter "Terms") of Personal Loan- Check Off offered by KCB Bank Kenya Limited (the "Bank").
 - 1.1.1. The Customer accepts and acknowledges that this is a legal and binding agreement between the Customer and the Bank once accepted by both parties.
 - 1.1.2. "We," "our," and "us," means the Bank and includes its successors in title and assigns.
 - 1.1.3. "You" or "your" means the Customer and includes your personal representatives and heirs.
 - 1.1.4. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
 - 1.1.5. Headings in these Terms



- 1.2. Please read these Terms carefully before acceptance of the offer contained herein. By applying and utilizing the Facility, you acknowledge and agree to be bound by these Terms. You are deemed to have read, understood and accepted every term, as may be amended, modified or supplemented from time to time.
- 1.3. These Terms supplement and are to be read together with:
 - a. our General Account Opening Terms and Conditions;
 - b. our Terms and Conditions for KCB Mobile Banking
 - c. the terms and conditions 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"); and
 - d. the KCB Group Plc Data Privacy Statement available at www.kcbgroup.com , in effect from time to time.

2. Definitions & Interpretations

- 2.1. In these Terms the following words and expressions (save where the context requires otherwise) bear the following meanings:
 - 2.1.1 "Account Opening Form" means an application form which the Bank may prescribe from time to time for You to complete and sign to initiate opening or operation of an Account(s) or subscription to any Products or Services that the Bank may offer.
 - 2.1.2 "Account(s)" means an account held with the Bank, operated or transacted singly and/or jointly which includes but is not limited to current and savings deposit account(s), safe custodial deposit lockers, current overdraft facility account, term and call deposit accounts, loan accounts, advance accounts, contract accounts, product accounts, mobile and/or online accounts (as the case may be) and any other type of account that the Bank may provide from time to time which You are entitled to operate either maintained or held with the Bank, and
 - 2.1.3 "Affiliates" means KCB Group Plc subsidiaries.
 - 2.1.4 "Alerts" means the customized messages including any content or data sent to the customer over their mobile phone as short messaging service (SMS), email and any other modes of communication in response to triggers sent by the customer.
 - 2.1.5 "Authorized Person" means You and/or any person(s) designated by You in writing (as You may amend from time to time) and whose signature(s) and/or Biometric Information has been registered by You with the Bank as a person authorized to give instructions and /or otherwise conduct banking activities on Your behalf.
 - 2.1.6 "Authorized signatories" means Authorized Person(s) who have mandate to operate the Account in a specified capacity.
 - 2.1.7 "Bank Account" means a current or savings account held and operated with the Bank by a customer and registered for use on the mobile banking service.
 - 2.1.8 "Bank Rate" means the interest rates on loans or savings as may be set and communicated by the Bank from time to time.
 - 2.1.9 "Bank" 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.

- 2.1.10 “Business Day” means, with the exception of public holidays, any day falling between Monday to Friday 08.00 Hours to 17.00 Hours. Business Days shall be construed accordingly.
- 2.1.11 “Contact Centre” 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 through any of its communication channels.
- 2.1.12 “Credit Reference Bureau” 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.
- 2.1.13 “Credit Limit” means the maximum pre- approved amount that a customer can borrow on this service.
- 2.1.14 “Customer” means the holder of an Account with the Bank.
- 2.1.15 “Disbursement” means the crediting of the approved loan into the Borrower’s account or by any other mode making payment of the principal loan to the Borrower or his account.
- 2.1.16 “Exchange Rate” means the prevailing spot rate of exchange as conclusively determined by the Bank on the date on which any conversion of currency is to be effected pursuant to these Terms.
- 2.1.17 “Facility” means the aggregate of the approved Check-Off Loan Amount or so much thereof as may have been disbursed and from time to time owed by the Borrower and includes all the Borrower’s obligations to the Bank.
- 2.1.18 “Immediate payment” means voluntary instant repayment of loan advanced before the due date.
- 2.1.19 “IPRS” means the Integrated population registration system set up 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.
- 2.1.20 “Kenya Shillings” means the lawful currency for the time being of the Republic of Kenya.
- 2.1.21 “Mobile Device” includes your mobile phone handset, SIM Card and/or other computing device which when used together enables you to access mobile network.
- 2.1.22 “Mobile Network” means the mobile cellular network connection operated by various mobile service providers.
- 2.1.23 “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.
- 2.1.24 “Mobile Service Provider” means a duly registered and licensed telco and or/its agents and sub-contractors whether jointly or severally.
- 2.1.25 “Mobile Subscriber” means any person registered and actively using a mobile service from a mobile service provider.
- 2.1.26 “Personal Data” means any information relating to an identified or identifiable natural person.
- 2.1.27 “PIN” the four (4) digits provided to the Customer by the Bank from the Customer by the Bank for authentication/ Verification by the Bank of his/her identity thereby enabling the Customer to obtain access the Customer’s account.

- 2.1.28 “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.
- 2.1.29 “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.
- 2.1.30 “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.
- 2.1.31 “SMS” means a short, customized message service consisting of a text message transmitted from one mobile phone to another.
- 2.1.32 “System” means the Bank’s Mobile Banking and communications software enabling the Customer to communicate with the Bank for purposes of the Services.
- 2.1.33 “Tariff Guide” means the Bank’s schedule of costs and charges payable by You to the Bank for the provision of Products or Services to You available at the Bank’s Branches, Agent outlets and /or published on the Bank website at:
https://ke.kcbgroup.com/media/rates_and_fees/Kenya_Tariff_Guide.pdf
- 2.1.34 “Taxes” includes all existing and future taxes, levies, duties, charges, assessments, deductions, or withholdings whatsoever, including any interest thereon, and any penalties and fines with respect thereof, wherever imposed, levied, collected or withheld pursuant to any requisite regulation.
- 2.1.35 “USSD” means Unstructured Supplementary Service Data and is the channel used to access mobile banking service on feature phones.

3. Grant and Utilization of the Facility

- 3.1. The availability of the Facility is subject to our credit approval process and lending criteria. We reserve the right to decline the application.
- 3.2. We may, in our sole discretion, offer/ approve the full Facility applied for or lesser sum than requested in the Application Form without giving reasons.
- 3.3. The Facility amount sanctioned to you shall be in the aggregate not exceeding the amounts specified on the Device.
- 3.4. Before applying for the Facility via the System you should carefully read and understand these Terms which will govern the use and operation of the Check-off Loan. If you do not agree with these Terms, please abort the transaction by going back to the main Menu.
- 3.5. You will be deemed to have read, understood, and accepted these Terms: -
- 3.5.1. Upon selecting Check-Off option on the Loan Menu and by clicking on “I AGREE” “I CONSENT” “YES” or any other similarly worded button or entry field requesting you to confirm that you have read and accepted the Terms as stated, you are deemed to have read, understood and accepted these terms.
- 3.5.2. Upon your application for Check-off Loan and/or by utilizing the disbursed Facility in your account.

- 3.6. You acknowledge and accept that the Bank offers the Facility solely by way of an electronic application made by you using your Mobile Device via the System on the Loan Menu.
- 3.7. The Bank reserves the right to request further information from you pertaining to your application for a Facility at any time. Failure to provide such information within the time required by the Bank may result in the Bank declining to accept your application.
- 3.8. Acceptance by the Bank of your application for a Facility shall be done via SMS sent to the Mobile Phone Number associated with your Bank Account.
- 3.9. The Bank reserves the right to decline your application for a Facility or to revoke the same at any stage at the Bank's sole discretion, if any of the requirements have not been met or failure to provide the Bank with satisfactory proof of identification without giving any notice thereto.
- 3.10. You undertake to update the personal information with the Bank within 30 days from the date of any changes to the information provided therein.
- 3.11. The Bank reserves the right to request further information from you pertaining to your Bank Account at any time failure of which may result in limitation on usage of the Services, suspension, or termination of the Facility.
- 3.12. As a holder of an Account and having received a confirmation message bearing your credit limit, you may, subject to these Terms apply for a Facility using the request loan menu on your Mobile Device. The transaction fees payable to Mobile Network for transactions effected in respect of your Account from time to time will apply to any transactions effected in respect of your loan application vide the System.
- 3.13. Where you apply for a loan from the Bank, your application shall be appraised according to the applicable loan appraisal processes of the Bank. The Bank reserves the right to approve or decline your application for a loan.
- 3.14. Subject to approval of your application for a Facility the Bank shall disburse to you a loan of an amount to be determined by the Bank in its sole discretion.
- 3.15. The proceeds of the Loan shall be credited into your Bank Account subject to any deductions on account of applicable Transaction Fees and Interest charge.
- 3.16. You shall make all payments due from you to the Bank in respect of the Loan and Transaction Fees using the System only unless otherwise agreed by the Bank in its discretion.
- 3.17. If you do not repay the Facility in full (including the interest and Facilitation Fee), within the agreed repayment period, the Bank may automatically roll over any outstanding amount in respect of the Facility to the next loan repayment period until the expiry of the term of the Facility (the "Roll Over Period") from the date when the Facility was granted.
- 3.18. In consideration of the Bank forbearing to demand the immediate payment of the outstanding amount due in respect of the Facility and rolling over the same pursuant to these terms and conditions, you shall, in addition to paying the outstanding amount and any outstanding interest and Transaction Fees in respect of the Facility, pay to the Bank a roll-over fee to be advised prior to effecting the roll-over of the outstanding amount in respect of the Loan (the "Roll-Over Fee").
- 3.19. The Bank shall utilize funds in any of accounts opened and operated by you to offset any amounts outstanding and due from you to the Bank in respect of the Facility. You hereby agree and confirm that the Bank is entitled in its discretion to prevent or restrict you from withdrawing in whole or in part the funds in your Bank Account for so long as and to the extent of the amount outstanding in respect of your Facility without the Bank giving any notice to you and/or without incurring any liability to you whatsoever in that connection.

4. Term, Repayment and Review of the Facilities

- 4.1. The amounts drawn and outstanding under the Facility together with interest and other sums payable with respect to the Facility are due and re-payable strictly on demand. However, without prejudice to the Bank's right to demand payment at any time in the Event of Default, it is agreed that the Facility shall be repaid as per the agreed terms appearing on the Mobile Device.
- 4.2. You shall repay the Loan within the term agreed upon at the time of loan request.

5. Interest

- 5.1. The Borrower shall pay interest on all the monies, liabilities and obligations advanced to or incurred by the Borrower in relation to the Facility at the rate indicated as per the notification provided in the Mobile Device upon application of the Facility or such other rate as may be adjusted by the Bank in accordance with clause 5.3 herein below.
- 5.2. Default and Additional Interest: If any sum payable by the Borrower with respect to the Facility is not paid when due, the Borrower shall (without prejudice to the exercise by the Bank of any other right or remedy in favour of the Bank) pay to the Bank interest at the rate of 10% per annum over and above the then subsisting rate of interest payable by the Borrower as indicated in the Mobile Device (the "Default Rate") on all monies due with effect from the date of the same becoming due until actual repayment of such monies in full (together with accrued interest). The Borrower acknowledges and agrees that the Default Rate represents a reasonable pre-estimate of the loss to be suffered by the Bank in funding the default of the Borrower.
- 5.3. The Bank may from time to time at its sole discretion and within the limits permitted by law adjust/revise the Base Rate and/ or the Margin and the applicable rate or rates of interest provided however that the Bank shall give the Borrower at least thirty (30) days' notice prior to effecting any change in the rate or rates of interest payable.

6. Commission, Negotiation Fees, and Transaction Fees

- 6.1. A negotiation fee at the rate indicated as per the notification provided in the Mobile Device upon application of the Facility payable once-off payable immediately upon acceptance of the offer contained in this Letter. The negotiation fee shall be debited from the Borrower's current account and is non-refundable under all circumstances even when the Facility is cancelled, partly utilized and/or unutilized.
- 6.2. Transaction Fees, Commissions and Bank charges are payable in advance and shall be chargeable by the Bank as determined and published from time to time according to its tariff from time to time which is available in all branches of the Bank including the Bank's website (www.kcbgroup.com).
- 6.3. You hereby confirm that You have been informed of the fees and have accepted the same. Transaction Fees, Commissions and Bank charges are subject to change at any time at the Bank's sole discretion subject to thirty (30) days' notice to you.
- 6.4. You shall pay to the Bank and the Bank is entitled to deduct from your Bank account (without further reference to you):
 - 6.4.1. any legal charges including advocate and Customer costs incurred by the Bank in obtaining legal advice in connection with your 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 account; and
 - 6.4.2. All other fees, expenses and taxes, duties, impositions and expenses incurred in complying with your instructions.

6.4.3. You hereby agree to pay costs, charges and expenses incurred by the Bank in obtaining or attempting to obtain payment of any loan owed to the Bank.

7. Taxes

- 7.1. All payments to be made by you in connection with these Terms are calculated without regard to any taxes payable by you.
- 7.2. All sums payable by the Borrower to the Bank in connection with the Facility shall be paid together with any Value Added Tax (VAT), Excise Duty or any other tax and duties that may be payable on such sums, at the rate then required by law. 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.

8. Conditions Precedent to Disbursement

Unless the Bank otherwise agrees, the granting of the Facility is subject to the following conditions precedent:

- 8.1. The borrower shall have paid in cleared funds all fees, expenses and other sums due and payable by the borrower in relation to the facility.
- 8.2. That the representations and warranties set out in clause 12 below are true and correct on and as of each such time as if each was made with respect of the facts and circumstances at such time.
- 8.3. That no event or circumstance which constitutes or which with the giving of notice or lapse of time or both would constitute an event of default (as specified in these terms or any security) shall have occurred and be continuing or would result from the granting of the facility.
- 8.4. Submission of duly signed total cost of credit (TCC) form.
- 8.5. There being no change in applicable law or regulation or existing requirements of, or new requirements being imposed by, the central bank of Kenya or any government, fiscal, monetary, regulatory or other authority the result of which in the sole opinion of the bank is to increase the cost to the bank of funding, maintaining or making available the facility (or any undrawn amount thereof).
- 8.6. Account shall be operated within the authorized limits all the time. Without prejudice to the provisions of this paragraph, the availability of the Facility is at all times subject to the availability of funds as may be determined by the Bank at its sole discretion and also conditional upon the compliance by the Bank with any and all restrictions rules and regulations from time to time in force by the Central Bank of Kenya or any other relevant regulatory authority.

9. Security

Unless otherwise agreed by the Bank, any security that is presently held by the Bank for other banking facility will also serve as security for this Facility in the Event of Default. You agree that no property of Yours which is subject to a mortgage, charge, pledge or lien in favour of or vested in the Bank shall be redeemed and/or discharged except on payment not only of all money secured by the charge but also of all moneys secured under this Agreement.

10. Mode of Repayment

Repayment of the facility will be effected directly through check-off from your pay-point. The Bank reserves the right to ensure the check-off arrangements are finalized and confirmed with your employer before release of funds, in the event that check-off arrangements are not finalized as anticipated for whatever reason, your obligation to repay the loan will remain and you will be expected to make direct payments into your loan account as they fall due, until your employer effects the check-off or until the loan is repaid in full, whichever will come earlier.

11. Insurance

- 11.1. A non-refundable risk margin premium will be charged on a once-off basis before drawdown to cover death and permanent disability to the Borrower arising from an accident. The amount payable under this cover will be solely for clearing the outstanding loan or part thereof as at the date of the accident, depending on the extent of disability caused. You will make necessary prior arrangements to ensure that in the event of an accident involving yourself and which results in the eventualities (as indicated above) covered by the risk margin, the matter is reported to the Bank without delay to facilitate lodging of a claim. Any claim made after six (6) months from the date of the accident will be time-barred and will not be honoured. The continuance of the facility is dependent upon the account being conducted to our satisfaction at all times and on the understanding that a loan facility is always repayable on demand, should the Bank deem it advisable to make such a demand.

12. Representations and Warranties

The Borrower represents and warrants to the Bank as follows: -

- 12.1 the execution on behalf of the Borrower of the form of acceptance endorsed on this Letter has been validly authorized and the obligations expressed as being assumed by the Borrower under this Letter constitute valid, legal and binding obligations of the Borrower enforceable against the Borrower in accordance with their terms.
- 12.2 all information submitted by the Borrower to the Bank, inter alia, on its financial position, net worth, details of indebtedness, presents accurately its state of affairs and the financial position of the Borrower as at such date.
- 12.3 every consent, authorization or approval of governmental or public bodies or authorities required in connection with the execution, delivery, validity or enforceability of this Letter or the performance by the Borrower of his/her/their obligations hereunder or required to make this Letter admissible in evidence has been obtained and is in full force and effect.
- 12.4 the Borrower is not in violation of any statute or regulation of any competent authority in Kenya and no judgement or order has been issued which has or is likely to have any material adverse effect on the Borrower's business prospects or financial condition (as the case may be) or make it improbable that the Borrower will be able to observe or perform his/her obligations under this Letter.
- 12.5 the Borrower has not and will not influence the action of, solicit, receive from, collude with, offer or give any payments to any person holding a public office or a director, official or employee of a public authority, public enterprise or any other organization in order to obtain, retain or secure any improper benefit or advantage and upon becoming aware of any fact or information suggestive of the commission of any such act, the Borrower shall inform the Bank.
- 12.6 there has been no material adverse change in the financial position of the Borrower from that set forth in the application requesting the Bank for the Facility.
- 12.7 neither the acceptance of the Letter by the Borrower nor the performance or observance of any of his/her obligations under the Letter conflict with, or result in, any breach of any law, statute, regulation, indenture, mortgage, trust deed, agreement or other instrument, arrangement, obligation or duty by which the Borrower is bound or cause, where applicable, any limitation on any of the powers whatsoever of the Borrower howsoever imposed or on the right or ability of the Borrower to exercise such powers to be exceeded;
- 12.8 there is no material litigation arbitration or administrative proceedings pending or, to the best of the Borrower's knowledge threatened against the Borrower.

- 12.9 all applicable taxes due and payable to the Kenya Revenue Authority or any other relevant authority have been paid.
- 12.10 to the best of the Borrower's knowledge and belief after due inquiry, the Borrower is not in violation of any of the environmental and social laws of Kenya or any of the environmental, health and safety guidelines as provided from time to time by the Bank.
- 12.11 the Borrower has not received nor is aware of any existing or threatened complaint, order, directive, claim, citation or notice from any authority or any material communication from any person with respect to any aspect of the Borrower's compliance with any matter covered by the Environmental and Social Law or the environmental, health and safety guidelines.
- 12.12 the remainder of the tenure of any leasehold property offered as security is a minimum of 15 years at the expiry of the term of the Facility.
- 12.13 the Borrower and/or the registered proprietor of the property offered as security has/have disclosed his/her/their marital status to the Bank and whether or not the property is a matrimonial home/property.
- 12.14 save as otherwise disclosed to the Bank in writing, there are no overriding interests noted on any title to the property offered as security or otherwise affecting the said property.
- 12.15 the Borrower is legally empowered to borrow the full amount of the Facility on the terms set out in the Letter and the Conditions and there is no legal or other restriction on their ability to perform their obligations in respect of the Facility.
- 12.16 the representations and warranties set out above are given and made on and as of the date of this Letter, shall survive the acceptance of this Letter and are continuing representations and warranties which are deemed to be repeated during the continuance of the facilities.

13. Events Of Default

13.1. In the event of: -

- 13.1.1. failure by the Borrower to make any repayment of principal or payment of interest or other moneys in respect of the Facility on its due date; or
- 13.1.2. a breach in the performance of any other term and condition of the Facility or any covenant by the Borrower or any term and condition of any of the Security or any other security held by the Bank for the Facility; or
- 13.1.3. the Borrower committing any act of bankruptcy; or becoming of unsound mind; or
- 13.1.4. a distress, execution or other legal process being levied against any of the assets of the Borrower and not being discharged or paid within seven (7) days; or
- 13.1.5. any indebtedness of the Borrower becoming immediately due or payable or capable of being in default, or the Borrower failing to discharge any indebtedness on its due date; or
- 13.1.6. any guarantor giving or purporting to give notice to terminate its liabilities under any guarantee in respect of the Facility; or
- 13.1.7. if the Borrower is participating or is deemed to be participating in illegal activities money laundering, cheque kiting or corrupt activities or is charged or convicted of such activities by any court of competent jurisdiction; or

- 13.1.8. if any cheques or other negotiable instruments of the Borrower are dishonoured by the Bank or other institution for lack of funds whether the Borrower is charged in a court of law or not; or
 - 13.1.9. it becoming unlawful for the Borrower to perform all or any of his/her/their obligations under the Letter, Conditions or the Security; or
 - 13.1.10. it becoming unlawful or impossible for the Bank to make, maintain or fund the Facility; or
 - 13.1.11. the title to any property forming part of the Security for any reason being encumbered or terminated or threatened with either or if any encumbrance whatsoever or notification by virtue of any order, process, decree or notice including a charge or notification of charge is registered against such title/s without the prior written consent of the Bank; or
 - 13.1.12. there being an attempt by the Government, the head lessor or any other competent or interested body or person to challenge, terminate, impair, suspend, revoke or forfeit the title and/or interest to any property forming part of the Security or such title and/or interest being for any reason challenged, terminated, impaired, suspended, revoked, or forfeited (where applicable); or
 - 13.1.13. failure to execute further documentation or provide security within timelines given or format required by the Bank (where applicable); or
 - 13.1.14. any representation or warranty made by the Borrower hereunder or for the purposes of obtaining the Facility being incorrect in any material respects as of the date of which it is made or deemed to be made, or there being any material adverse change of the position as set out in such representation or warranty; then the Bank's commitment to advance the Facility or any balance thereof shall cease and the whole amount of the outstanding Facility and all accrued interest or other amounts owing hereunder will become repayable forthwith on demand in writing made by the Bank at any time. In addition, the Security held by the Bank in respect of the Facility shall become immediately enforceable. The Bank will be entitled to exercise any right or power which may be available to the Bank in law.
- 13.2 No delay or omission on the part of the Bank in exercising any right or power in respect of the Facility shall impair such right or power, and any single or partial exercise shall not preclude any other or further exercise of any such right or power or the exercise of any other right or power. The rights and remedies of the Bank in respect of the Facility are cumulative and not exclusive of any right or remedy provided by law.

14. Covenants

- 14.1 The Borrower shall from time to time at the request of the Bank provide to the Bank such information as the Bank shall require relating to the Borrower's finances and operations.
- 14.2 Except where the proceeds thereof are to be ploughed back to the Borrower's business, and even then only with the prior consent of the Bank in writing, the Borrower shall not dispose off any of his/her fixed assets and/or immovable property.
- 14.3 The Borrower shall not resort to any borrowings from any other source without the Bank's prior consent in writing and shall if required by the Bank appoint and employ the Bank as the sole Banker of the Borrower.
- 14.4 Unless otherwise agreed by the Bank in writing, the Borrower shall not make any material change in the scope or nature of its business.

- 14.5 The Borrower shall immediately upon becoming aware of it, notify the Bank of any material litigation arbitration or administrative proceeding pending or, to the best of his/her/their knowledge, threatened against the Borrower.
- 14.6 The Borrower shall immediately upon becoming aware of it, notify the Bank of the occurrence of any Event of Default.
- 14.7 During the continuance of the Facility, the Bank shall act as the sole banker of the Borrower (unless otherwise agreed by the Bank). All sums received by the Borrower shall be paid by the Borrower to the Bank for the credit of the Borrower in the account or accounts opened or to be opened in the name of the Borrower and shall make all payments by cheques drafts promissory notes or bills of exchange drawn on the Bank and all costs and expenses incurred by the Bank in acting as such banker of the Borrower as aforesaid together with such sums as shall be due and payable by the Borrower to the Bank pursuant to the terms of the Facility shall be debited to the Borrower's account or accounts.
- 14.8 During the continuance of the Facility, the Borrower shall comply with and shall not commit any offences under the provisions of the Environmental Management and Coordination Act, 1999 ("EMCA") and the Borrower shall procure that all occupiers and owners (as defined in the EMCA) of the property comprising the Security shall comply with and shall not commit any offences under the provisions of the EMCA.
- 14.9 During the continuance of the Facility, the Borrower will not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value to the Bank of the any of the Security nor permit any person (other than the Bank) to become entitled to any proprietary right or interest which might affect the value of the Security or any part thereof.
- 14.10 The Borrower will not create any encumbrance or permit any encumbrance to subsist, arise or be created or extended over its assets to secure any present or future indebtedness of the Borrower. For these purposes, an encumbrance includes any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, security interest, title retention, preferential rights of set off, counterclaim, Banker's lien or other encumbrances securing any obligation of any person.
- 14.11 The Borrower will ensure that the chargor procures and provides to the Bank within fourteen (14) days of the happening of an event which shall give rise to a spousal overriding interest as set out in Section 28(a) of the Land Registration Act, 2012 a consent to the charge from the chargor's spouse/s in a format approved by the Bank.
- 14.12 The Borrower will at all times comply with and observe all covenants duties and obligations contained in this Letter and the Security.

15. No Deductions

All sums payable by the Borrower under this Letter shall be paid in full without any set-off or counterclaim and (save in so far as required by the law to the contrary) free and clear of and without any deduction or withholding whatsoever. If the Borrower is at any time required by law to make any deductions from any payment to the Bank, then the Borrower shall immediately pay to the Bank such additional amounts as will result in the Bank receiving the full amount it would have received had not such deduction or withholding been required and will simultaneously, provide the Bank with a certificate of deduction or withholding in respect of the amount deducted or withheld together with evidence satisfactory to the Bank that the amount so deducted or withheld has been paid over to the relevant authorities when and as due.

16. Set-Off

The Bank may at any time and without notice to the Borrower and notwithstanding any settlement of account combine or consolidate all or any of the Borrower's accounts with the Bank and set off or transfer any sum standing to the credit of any one or more of those accounts in or towards satisfaction of any moneys obligations or liabilities of the Borrower to the Bank whether those liabilities be present, future, actual, contingent, primary, collateral, joint or several and the Borrower expressly waives any rights of set off that it may have, so far as is permitted by law, in respect of any claim which it may now or at any time hereafter have against the Bank.

17. Expenses and Indemnity

- 17.1 The Borrower shall pay to the Bank in cleared funds on demand all reasonable costs charges and expenses incurred on the accounts of the Borrower, including without limitation, legal expenses, incurred by the Bank in connection with the negotiation and preparation of this Letter and with the preparation and registration of the Security, and will reimburse the Bank on demand all expenses incurred by the Bank in suing for or recovering any sum due to the Bank under this Letter or the Security or otherwise in protecting or enforcing its rights under this Letter or the Security, and the word "expenses" shall be deemed to include any sums which would be allowed to the Bank in a taxation as between Advocate and own client.
- 17.2 The Borrower shall pay in cleared funds all stamp duties and other taxes (if any) to which this Letter and the Security may be subject or give rise and will indemnify the Bank against any and all liabilities with respect to or resulting from any delay or omission on the part of the Borrower in the payment of such duties or taxes.

18. Currency

- 18.1 The Bank may at its sole discretion, if the Borrower so requests, grant from time to time part or all the Facility in other currency and/or currencies within the available limits at the Bank's prevailing rate of exchange.
- 18.2 If any part of the Facility is denominated in a foreign currency (the "Foreign Currency"), payment under or the repayment of such Facility will be made in the Foreign Currency. Any money received by the Bank or by any person appointed by the Bank in a currency other than the Foreign Currency may be converted by the Bank into the Foreign Currency or such other currency as the Bank considers necessary to cover the obligations or liabilities of the Borrower.
- 18.3 The Bank shall in its sole and absolute discretion be entitled upon giving prior written notice to the Borrower at any time to convert any Facility made available in the Foreign Currency into a Kenya Shillings Facility and the appropriate Kenya Shilling interest rate applicable thereto will be determined by the Bank at the time of conversion.
- 18.4 The Security now offered to and/or held by the Bank and/or which the Bank may hold from time to time will secure all the Borrower's liabilities (both actual and contingent), denominated in any currency whether such liability is in the Borrower's single name or jointly with any other person.
- 18.5 The Bank shall use its prevailing spot rate of exchange for such conversion. The Borrower shall be responsible for any loss resulting from any fluctuation in exchange rates.
- 18.6 No payment to the Bank (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Borrower in respect of which it was made unless and until the Bank shall have received payment in full in the currency in which such obligation or liability was incurred and to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability actual or contingent expressed in that currency the Bank shall have a further separate cause of action against the Borrower and shall be entitled to enforce the charges by the existing security and hereby created to recover the amount of the shortfall.

19. Data Privacy and Credit Checks

- 19.1 The Bank is required by law to collect certain personal data and legally obligated to deny the Borrower the service if such information is not provided. Apart from the legal obligation mentioned above, the Bank also needs to collect the Borrower's personal data for quality service delivery. Although this is voluntary, without such information the Bank may not be able to provide quality service. Personal data may include, but is not limited to, the Borrower's name, address, occupation, contact details, information captured on security systems (including a recording of the Borrower's image on Closed Circuit Television (CCTV)), the information contained in any of the Borrower's account(s) the Borrower may have with the Bank either singly or jointly with any other person, the type of products and/or services that the Borrower has subscribed to with the Bank and such other necessary data regarding the Borrower and the Borrower's transaction(s) with the Bank.
- 19.2 The Bank is committed to respecting and protecting the privacy of the personal data collected from the Borrower. KCB Group Plc privacy statement, as updated from time to time, explains how the Bank treats the Borrower's personal data, who to share the Borrower's personal information with and measures taken to protect the Borrower's privacy when the Borrower uses any of the Bank's services. This can be found on KCB Data Privacy Statement accessible on our website, www.kcbgroup.com.
- 19.3 The Borrower hereby explicitly and unambiguously consents to the collection, use and transfer of personal data, between the Bank and affiliates for the purpose of effecting/implementing, administering and securing the Facility.
- 19.4 The Bank reserves the right to verify the Customer's identity information through publicly available and/or restricted government databases including IPRS to comply with applicable Know the Customer's Customer (KYC) requirements.
- 19.5 The Bank may hold and process, by computer or otherwise, any information obtained about the Borrower as a consequence of the application for the Facility.
- 19.6 The Borrower 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 licenced credit reference agencies on the Borrower.
- 19.7 The Borrower hereby explicitly and unambiguously consents for the Bank to hold and process, by computer or otherwise, the Borrower's Personal Data:
- 19.7.1 for considering any application the Customer may make.
 - 19.7.2 to verify the Customer's identity.
 - 19.7.3 in the management and operation of the Account/s with Us including making credit assessments and decisions.
 - 19.7.4 for crime and fraud prevention, and debt recovery (including tracing the Customer if the Bank do not have up-to-date details).
 - 19.7.5 for assessment and statistical analysis for Bank business.
 - 19.7.6 to manage Bank relationship with the Customer (including any marketing and market research the Customer agrees to; the Customer should inform the Bank should the Customer change their mind about receiving marketing information or participating in market research; and
 - 19.7.7 in order to comply with Applicable Law.

19.8 The Borrower agrees that the Bank may: -

- a) include personal data of the Borrower in the Bank's customers' computer systems which may be accessed by other companies in the Bank's group for credit assessment, statistical analysis including behaviour and scoring and to identify products and services (including those supplied by third parties) which may be relevant to the Borrower; and
- b) permit other companies within the Bank's group to use personal data and any other information it holds about the Borrower on the Bank's customers' computer systems to bring to its attention products and services which may be of interest to the Borrower.

19.9 The Borrower agrees that the Bank may disclose any information relevant to the Borrower and the Facilities in the Bank's possession relating to the Borrower 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 Borrower or any relevant party outside the Bank's group whether such personal data and/or information is obtained after the Borrower ceases to be the Bank's customer or during the continuance of the bank-customer relationship or before such relationship was in contemplation:-

- a) To Authorized Persons.
- b) With the Borrower's prior consent.
- c) To any person or organization providing electronic or other services to us, for the purpose of providing, updating, maintaining, and upgrading the services (including any investigation of discrepancies, errors or claims).
- d) To any person or organization engaged for the purpose of performance of services or operational functions where these have been outsourced.
- e) for fraud prevention purposes.
- f) to licensed credit reference agencies or any other creditor if the Borrower is in breach of its obligations to the Bank and the Borrower agrees that such information may be used by other banks or institutions in assessing credit applications and for debt tracing.
- g) to the Bank's lawyers, valuers, surveyors, research agencies, insurers, auditors, software developers, professional advisors, sub-contractors or any persons acting as agents of the Bank, to the extent that they comply with their contractual obligations.
- h) to any person who may assume the Bank's rights within the confines of the law.
- i) to debt collection agencies.
- j) To credit card companies and financial institutions in connection with credit card enquiries or use of the ATM card.
- k) To any actual or potential assignee or transferee in relation to these Terms.
- l) Providing income tax-related information to tax authorities
- m) 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.

- n) to the Bank's subsidiaries, affiliates, the Bank's branches, representative offices and their respective staff (together and individually).
 - o) To any trustee, custodian, fund managers, issuers of securities, withholding agents, custodians or sub-custodians, depositaries, clearing houses, counterparties in connection with the services the Bank provides under these Terms.
 - p) To any actual or potential participant or sub-participant relating to any of the Bank's obligations under this Agreement, or assignee, novatee or transferee.
 - q) To any trader or merchant, or other party accepting the use of the ATM card, credit/ debit card and their agents or contractors in respect of Transactions using the ATMs/ debit/credit card of other banks or financial or non-financial institutions.
 - r) To any person who has agreed to provide or is providing security for the Account or to us for sums payable and Liabilities owing by the Customer.
 - s) To any person who stands as guarantor or surety for the Customer's Liability or is jointly or jointly and severally liable with the Customer.
 - t) To any receiver appointed by us.
 - u) To any rating agency, business alliance partner, insurance company, insurer, insurance broker or direct or indirect provider of credit protection.
 - v) To any, court or other judicial bodies in any judicial proceeding, tribunal, statutory body, or authority (including any tax authorities in any jurisdiction), whether governmental or quasi-governmental.
 - w) To any person whom the Bank are required to disclose to under the laws, regulations, guidelines, directives or by any lawful authority, of any country.
 - x) If the Bank has a right or duty to disclose or is permitted or compelled to do so by law.
 - y) 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.
 - z) Where the Bank has a public duty to disclose.
- 19.10 The Borrower acknowledges and agrees that, notwithstanding the terms of any other agreement between the Borrower and the Bank, the disclosure by the Bank of information relevant to the Borrower and the Facilities in the circumstances contemplated in this clause does not violate any duty owed to the Borrower either in common law pursuant to any agreement between the Bank and the Borrower 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 Borrower and without inquiry by the Bank as the justification or validity of such disclosure.
- 19.11 The Borrower acknowledges that the Bank may retain personal data and/or information for a period of up to seven (7) years or as may be required by law.
- 19.12 The Customer acknowledges that from time to time the Bank may need to transfer personal information outside the country where the Customer is located, to facilitate a service or to a third-party domiciled outside Kenya for performance of a contractual obligation.

20. Appointment of Attorney

The Borrower hereby irrevocably appoints the Bank to be the Attorney of the Borrower and in the name and on behalf of the Borrower to execute and do any assurances acts and things which the Borrower ought to execute and do under the covenants and agreements herein contained and generally to use the name of the Borrower in the exercise of all or any of the powers hereby or by law conferred on the Bank.

21. Assignment

- 21.1 The Borrower, which includes personal representatives, successors in title or assigns shall not be entitled to assign all or any part of its rights obligations benefits hereunder without the prior consent in writing of the Bank.
- 21.2 The Bank can, at any time at its sole discretion, assign or transfer all or any part of its rights, interests, benefits and obligations under this Letter and/or any security document, upon issuance of a thirty (30) days' notice to the Borrower and/or any security party.

22. Variation

- 22.1 The Bank reserves the right to vary, amend, supplement or replace all or any of these Terms from time to time in the event of any change in applicable law or regulation or in the application or interpretation thereof or the occurrence of any event which in the sole opinion of the Bank, materially and adversely affects the relationship with the customer subject to the requirements of any statute. Any such variations or amendments may be published in posters or pamphlets available at the Bank's branch outlets, in the daily newspapers, on our website and/or by any other means as determined by us and any such variations and amendments shall take effect immediately upon the lapse of thirty (30) days' notice issued by the Bank informing you about the variations or amendments.
- 22.2 You hereby agree to access the amended/varied Terms and Conditions at www.kcbbankgroup.com and/or any other publication as provided by the Bank.
- 22.3 If you do not accept the supplement or amendment to these Terms, you must stop using the Services. If you continue to use the Services after the supplement and amendment takes effect, you are deemed to have accepted the change or addition without reservation.

23. Notices

- 23.1 Every notice, request or other communication shall:
- a) be in writing delivered personally or by registered post or electronic mail, SMS or facsimile transmissions.
 - b) be deemed to have been received by the Borrower, if delivered by hand, at the time of delivery or if sent by registered post, seven (7) days after the date of posting (notwithstanding that it be undelivered or returned undelivered) or in the case of a facsimile transmission or electronic mail transmission or SMS at the time of transmission (provided that if the date of transmission is not a Business Day or if the time of transmission is after 5:00p.m. on a Business Day it shall be deemed to have been received at the opening of business on the next Business Day); and

- c) be sent: -
- (i) to the Borrower at the address set out above; and
 - (ii) to the Bank at the address shown above, or to such other address in Kenya as may be notified in writing by the one Party to the other. The Borrower undertakes to notify the Bank upon any change of any address within seven (7) days of such a change. PROVIDED THAT communication may only be made by electronic mail to the extent that the Parties agree that, unless and until notified to the contrary, it shall be an accepted form of communication and that the Parties shall notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail.

23.2 The Borrower by providing the electronic mail address in this Letter, security or any other document to the Bank hereby consents to the receipt of communication by electronic mail.

23.3 All communications to the Bank shall be effective only on actual receipt by the Bank.

23.4 You will be required to notify the bank promptly of any change of address or place of employment during the tenure of the facility.

24. Customer Complaints

24.1 Complaints may be made in person, in writing, by post, fax, email or by telephone. For purpose of reporting a complaint, the following may be used: SMS number 5222 and WhatsApp number 0711 087087.

24.2 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.

24.3 Applicable tariffs will be charged by your telephone and internet service provider(s) when communicating with the Customer Care Centre.

25. Miscellaneous

25.1 Time shall be of the essence in respect of the Borrower's obligations under this Letter.

25.2 Each of the provisions of this Letter is severable and distinct from the others as if at any time one or more of such provisions is or becomes, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired

26. Law

26.1 This Agreement shall be governed by and construed in all respects in accordance with the Laws of Kenya.

26.2 Unless otherwise provided herein, any and all disputes arising under, pertaining to or touching upon this Agreement or the statutory rights or obligations of either party hereto, shall, if not settled by negotiation, be subject to mediation before an independent mediator selected by the parties.

26.3 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.