



## TERMS AND CONDITIONS

The relationship between you and CDSC is governed by the Laws of Kenya, as well as the following terms and conditions and subject to any further agreement entered between the parties in writing. This Agreement is between the Central Depository and Settlement Corporation Limited (CDSC) and you.

### YOU ARE:

- An individual acting in your personal capacity or a legal entity established in whatever form that is legally acceptable in Kenya;
- Two or more individuals operating a joint account in your joint and personal capacities. In these Terms and Conditions, the term "You" and "Your" may be used interchangeably with "account holder".

## 1. DEFINITIONS

In these terms and conditions the following expressions shall unless the context otherwise requires, have the meanings hereby assigned to them;

- "Account" means a Central Depository System Account (CDS Account) opened with CDSC in the name of an investor for purposes of transacting in various securities; and "account holder" shall be construed accordingly;
- "Account maintenance fee" means the minimum fee that a Central Depository System Account (CDS Account) holder shall be charged by the CDSC as an account maintenance fee.
- "CDA" means Central Depository Agent, an entity that is appointed by CDSC to provide services to investors on behalf of CDSC.
- "CMA" means the Capital Markets Authority. The statutory agency that regulates the capital markets in Kenya.
- "NSE" means the Nairobi Securities Exchange, the automated platform where the listing and trading of multiple securities of public companies occurs.
- "Pledge" means the use of securities held in a securities account as collateral to secure borrowing.
- "Pledgee" means the person in whose favor the securities are pledged.
- "Private Transfer" means the transfer of securities from one party to another outside the exchange.
- "Securities" means financial instruments or assets in a securities account that can be traded.
- "Services" means actions and/or products performed, offered or facilitated by the CDSC in relation to a CDS account and include but are not limited to accounts opening, accounts maintenance, accounts operations, securities custody, securities transfers, securities pledging securities releasing, Immobilization, Securities Lending and Borrowing, Mobile apps, Chatbots, Web portals, SMS alerts, USSD short codes;
- "Static details" means details that cannot change or do not change often. Such details include but are not limited to age, gender, name and identification number.
- "We" means the Central Depository and Settlement Corporation or "CDSC", a limited liability company that is licensed to provide depository and settlement services to the capital markets in Kenya.

## 2. INTERPRETATIONS

- 2.1 The clause headings in this terms and conditions document have been inserted for purposes of convenience only and shall not be taken into account in its interpretation.
- 2.2 Any reference to statutes, enactment or by-law shall be a reference to that statute, enactment or by-law as at the signature date and thereafter as may be amended from time to time.
- 2.3 Words denoting the singular number only shall include the plural and vice versa. Words denoting any gender include all genders.
- 2.4 Where an obligation is undertaken by two or more persons jointly they are to be jointly and severally liable in respect of that obligation.

## 3. ACCOUNT OPENING

- 3.1 You may open a CDS Account through a CDA or other means as CDSC may prescribe and provide.
- 3.2 All Investors shall use the designated forms and channels to open an Account.
- 3.3 You shall submit the Account Opening Form accompanied with all the necessary identification documents to your CDA for verification and further transmission to us.
- 3.4 All our communication to you will be sent using the contact details provided when opening the account or you may otherwise specify in writing.
- 3.5 You are free to register your account with multiple CDAs.
- 3.6 Two or more account holders may open and operate a joint account in their names.
- 3.7 Where an Account is opened on behalf of a minor, only a parent/legal guardian of the minor shall open and operate the Account on the minor's behalf.
- 3.8 Where an Account is opened on behalf of a legal person/entity, the authorized signatory(ies) of the legal person shall open and operate the Account on its behalf.
- 3.9 The CDSC has the right to deal with the account in accordance with the Agreement entered into with you the Investor through your opening and maintaining of an Account.

## 4. ACCOUNT OPERATIONS

### 4.1 General Account Management

- 4.1.1 CDSC shall endeavor to provide various digital channels for the purposes of granting you real-time access to your account.
- 4.1.2 You will be responsible for paying all fees for transactions and all expenditures incurred on the Account.

- 4.1.3 CDSC shall provide various channels through which you can access your account. You need to notify us within 24 hours of you becoming aware that your account has been compromised. If there is unauthorized access to your account or your digital channel/electronic channel/App/portal and you do not tell CDSC that your information and credentials are at risk, CDSC will consider any transactions undertaken on your account as though they have been undertaken by you and you shall bear full responsibility for them.

### 4.2 Account Transfer

- 4.2.1 You may transfer an account, as well as the securities held in the account from one CDA to another.
- 4.2.2 Account transfers shall be effected through the available digital channels or by filling out the prescribed forms as per the Central Depository Operational Procedures.

### 4.3 Securities Pledging

- 4.3.1 You may use securities held in the Account as collateral with a financial institution for a monetary facility.
- 4.3.2 Securities that have been pledged as collateral may not be traded or otherwise transferred until the pledge is discharged and the security redeemed.
- 4.3.3 All the proceeds accruing from the pledged securities during the duration of the pledge shall belong to you. Such proceeds may include dividends, bonus shares and other corporate actions.
- 4.3.4 All pledge and pledge release documents and processes shall be in the format approved by CDSC from time to time.
- 4.3.5 CDSC will not be liable for any loss whatsoever that you may suffer as a result of you pledging your securities.
- 4.3.6 You shall be liable for all costs and charges relating to pledging your securities and related processes.

### 4.4 Private Transfer

- 4.4.1 CDSC approves and effects private transfers of securities relating to gifts to close relations and succession matters.
- 4.4.2 CDSC also effects the private transfer of securities between legal persons as approved by the Capital Markets Authority.
- 4.4.3 You or your representatives must fill out the prescribed forms and attach all the requisite documents.
- 4.4.4 The account holder is responsible for paying the prescribed private transfer fees.

## 5. ACCOUNT MAINTENANCE

### 5.1 Account Information

- 5.1.1 CDSC shall send you a statement of account through the electronic mail address provided by you to us on your account opening form or the account maintenance form.
- 5.1.2 You may receive a physical statement of your account activity on request and on payment of the prescribed fees.
- 5.1.3 You shall be responsible for the accuracy of any information provided by yourself or your agent relating to your account.
- 5.1.4 Any corrections or amendments to account information shall be done in the manner prescribed by CDSC.

### 5.2 Account Suspension

- 5.2.1 Securities accounts may be suspended on instructions from a court order, or regulatory sanction by CMA or by CDSC in the circumstances as may be provided by the law.
- 5.2.2 You may also request that your account be suspended/frozen. For this, you shall send clear instructions to the CDSC through the CDA to facilitate account suspension.
- 5.2.3 You shall be entitled to dividends or other corporate actions that accrue on your account during the duration of the suspension.

### 5.3 Account Closure

- 5.3.1 Securities accounts may be closed on instructions from a court order, or regulatory sanction by CMA, NSE or by CDSC in the circumstances as may be provided by the law.
- 5.3.2 You may choose to close your account for your own reasons.
- 5.3.3 You shall send clear instructions to the CDSC through the CDA to facilitate account closure.
- 5.3.4 Accounts that have inaccurate investor details are closed by CDSC on the creation of a new account in the name of the investor.

## 6. JOINT ACCOUNTS

- 6.1 These Terms and Conditions apply to everyone named on your joint account, together and as individuals. You can give us instructions about your joint account(s) in line with the signing mandate provided in the account opening/maintenance form.
- 6.2 However, if there is a dispute between you that we know about, we may suspend all products and services on the account and insist that you all jointly give us instructions or furnish us with a court order relating to the disputed account.
- 6.3 In the event of the death of a joint holder, the right of survivorship shall apply.

## 7. MINOR ACCOUNTS

- 7.1 Upon the attainment of the age of 18 the minor shall be required to regularize the CDS account by providing identity card/passport and changing the account mandate.



## 8. PRIVACY, CONFIDENTIALITY AND NON-DISCLOSURE

- 8.1 In our handling of all your personal data, CDSC undertakes to adhere to the fullest extent possible, to the principles of data protection and statutory requirements stipulated in the Central Depositories Act, Rules and Procedures issued thereunder, the Kenya Data Protection Act No. 24 of 2019 and Regulations thereunder, the EU General Data Protection Regulations 2018 and the various international best practices on data protection.
- 8.2 Any information that you provide to us is subject to our Privacy Policy, which governs our collection and use of your personal information. You understand that through your use of our Services you consent to the collection and use of this information, including the transfer, exchange, processing and storage of the information in accordance with the Privacy Policy and the Laws governing the operations of CDSC.

## 9. DATA PROTECTION RIGHTS AND OBLIGATIONS

- 9.1 CDAs collect and process personal information from you and share it with: The CDSC and its affiliates and its service providers for the purposes of providing our products and services to you and to comply with the legal and regulatory obligations of the CDSC; any party to whom we assign our rights under these terms and conditions or any of our agreements for particular products and services; with our regulators and authorities or other crime-fighting agencies, including fraud detection and prevention agents; and Third-party service providers that process your personal data in conjunction with us or on our behalf. These third-party providers, whether local or trans-border, are contractually obligated to process your personal data in line with our privacy and security policies. The third parties may be located within your country of residence or in another country.
- 9.2 We are responsible for ensuring that your personal information is processed lawfully and in a reasonable manner that does not infringe on your privacy. Your personal information will not be disclosed to anyone else without your consent unless the CDSC is legally required or permitted to disclose it.
- 9.3 We collect this data to assess your application for any of our products and/or services and, if successful, provide you with the products and/or services as described in these terms and conditions.
- 9.4 Unless otherwise specified, you need to provide all of the personal data requested in our application forms. If you do not provide us with the required information, we may suspend your access to the products and/or services for some time or terminate our relationship with you as a customer.
- 9.5 We may carry out further processing of your personal data for historical, research and statistical purposes or to comply with our legal obligations.
- 9.6 Except for the circumstances of permitted disclosure stipulated under the Central Depositories Act and other legislation, CDSC may only disclose information regarding a CDS Account on instructions from you.
- 9.7 As part of offering service, we may need to send you certain communications and messages. These communications are considered part of important services to your account. We may also use your personal data for carrying out automated decisions that may impact you. If you are unhappy about the outcome of any decision, please contact CDSC or your CDA.
- 9.8 We will keep your personal data only for as long as is necessary and in compliance with applicable laws and regulations. After this time, your personal data will be securely destroyed or de-identified. You understand that even if you revoke or withdraw your consent and we suspend the provision of any product or service; or terminate the relationship with you, we may be required to continue processing and sharing any of your personal information that is already in our possession.
- 9.9 To the extent that the laws of Kenya permit, you have the following rights regarding your personal information:  
To access your personal information that we have on record. To ask us to correct any incorrect personal information in our records. These requests must be sent to us in writing. To ask us to delete or destroy your personal information. You can also object to our processing of your personal information. These requests must be sent to us in writing. However, if you ask us to do this we may have to suspend the provision of products and/or services for some time or terminate our relationship with you. CDSC records are subject to regulatory retention periods, which means we may not be able to delete or destroy your personal information immediately upon request. You may also ask us to port your personal information to another party in terms of applicable Kenyan data privacy legislation.
- 9.10 If you have a complaint relating to the protection of your personal information, including how we collected or processed it, please contact us. If you believe that your complaint has not been dealt with satisfactorily, you may lodge a complaint with the Data Protection Commissioner.

## 10. SAFEGUARDING AGAINST MONEY LAUNDERING AND OTHER FINANCIAL CRIMES

- 10.1 As a Financial Market Infrastructure service provider and intermediary, we operate controls and safeguards relating to international sanctions, the detection and prevention of financial crime, and prohibited business activity both within and outside Kenya. We also have various reporting obligations under the Kenyan Anti-Money Laundering laws, and the US FATCA. These obligations, controls and safeguards may delay or prevent us from providing our products and services to you, or require us to terminate this Agreement and our agreements for particular products and services (subject to any restrictions imposed by law) without prior notice to you.
- 10.2 You agree to provide information and documents about yourself and about your investment transactions reasonably required to assist us in operating the controls and safeguards.

## 11. ACKNOWLEDGEMENT OF RISK

- 11.1 You hereby accept that there are risks inherent in and associated with the investments in securities that may either result in profits or losses.
- 11.2 The CDSC shall not be liable for any error of judgment or mistake of law or for any loss arising out of any of your investment decisions or for any act or omission in carrying out its duties pursuant to your instructions.

## 12. SEVERABILITY OF TERMS

- 12.1 Each of the provisions of these Terms and Conditions is severable and distinct from the others and if at any time one or more of those provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- 12.2 If any term hereof shall become invalid, illegal or unenforceable, such term will remain in suspension until such time as such term is amended as agreed in writing between the parties.

## 13. GENERAL

- 13.1 Keeping your contact details up to date.  
You agree to always provide us with:
- Your current P.O. Box number as your postal address
  - A functioning telephone/cellphone number at which we can reach you.
  - A functioning and current email.
- You agree that we may use any of the contact details that you have last provided to us for all legal purposes.
- 13.2 Contact Details – Your Risk.  
If you do not keep your contact details up to date and ensure any cellphone number and email address provided are functioning, you risk not receiving important communications from us that may affect your legal position.
- 13.3 Delivery of Communication.  
You agree as follows: When we send you emails, SMSs, or other electronic messages, they are deemed to be delivered by the end of the day we send them (the 'Electronic Communication Delivery Period') unless you can on reasonable grounds show otherwise.
- 13.4 Business Days.  
In these Terms and Conditions, and any agreements for particular products and services, the term 'business day' means any day other than a Saturday, Sunday or a public holiday in Kenya.
- 13.5 Service Outages.  
13.5.1 Our products and services rely on technological infrastructure (e.g. mobile network providers, internet service providers, WAN terminals, and computer systems).  
13.5.2 You understand and accept that service outages occur.  
13.5.3 During a service outage, it may not be possible for you to access and use our products and services, and there may be delays in your transactions being processed and being reflected in your account statements, or dropped transactions.
- 13.6 Our Partners' Services.  
13.6.1 We will, from time to time, enter into agreements with third-party commercial partners that they will provide complimentary services to you concerning some of our products and services, or that they will offer you their services on special terms.  
13.6.2 Our partners are solely responsible for their services and their terms and conditions will apply.
- 13.7 Changing our Terms and Conditions.  
13.7.1 We can change these Terms and Conditions at any time. Any changes to the T&Cs will be updated on our website. Any addition or alteration of these Terms and Conditions made from time to time by CDSC shall be fully binding upon you from the day they are effected as if the same were contained in these Terms and Conditions.  
13.7.2 Any change to these Terms and Conditions or an agreement for a particular product or services that our authorized staff or CDAs agree with you must be in writing.  
13.7.3 The changes that we can make to our products and services agreements and the manner in which changes are made may be prescribed or limited by law.  
13.7.4 If you continue to use a product or service after a change comes into effect, you will be deemed to have accepted the change and the change will apply to you.
- 13.8 Non-Waiver of Our Rights.  
If we do not always enforce our rights, it does not mean we have given them up.
- 13.9 Conflicts with other Agreements.  
If there is a conflict between these Terms and Conditions and an earlier continuing agreement for one of our products or services, the terms of these Terms and Conditions will prevail.

## 14. GOVERNING LAW AND JURISDICTION

- 14.1 The Account Opening Form, Account Maintenance Form, these Terms and Conditions and any other documents required to be executed by you in connection with your securities account shall be governed by and construed in accordance with the laws of the Republic of Kenya and the non-exclusive jurisdiction of the Kenya courts.

## 15. TRANSITION AND CONSENT

- 15.1 By continuing to use and operate your account you will be deemed to have accepted these Terms and Conditions.
- 15.2 By agreeing to these terms and conditions, you agree that the personal information that you have provided is accurate and complete to the best of your knowledge and you consent to CDSC processing your personal data for the purposes set out herein.
- 15.3 Our Privacy Statement is published on our website and will be amended from time to time. We are committed to complying with our commitments to you as set out in our Privacy Statement.