



BOARD CHARTER

Approved and Adopted by the Board of Directors

On this 17th Day of May 2024, at NAIROBI

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ACRONYMS & ABBREVIATIONS

| Abbreviation | Definition |
|---------------------|---|
| BARAC | Board Audit and Risk Assurance Committee |
| CA | Communications Authority of Kenya |
| D/IARA | Director, Internal Audit & Risk Assurance |
| EACC | Ethics and Anti-Corruption Commission |
| ICT | Information Communication Technology |
| KICA | Kenya Information and Communication Act |
| OAG | Office of the Auditor General |
| PaCC | People and Culture Committee |
| PFM | Public Finance Management |
| SCAC | State Corporations Advisory Council |
| SWOT | Strengths, Weaknesses, Opportunities, and Threats |

CHAPTER ONE INTRODUCTION

1.1. PREAMBLE

1.1.1. Background

The Communications Authority of Kenya (CA) is a State Corporation established in 1999 by the Kenya Information and Communications Act, 1998. [KICA 'the Act']

CA is the regulatory authority for the communications sector in Kenya and is responsible for facilitating the development of the information and communications sectors including; broadcasting, cybersecurity, multimedia, telecommunications, electronic commerce, postal and courier services.

Its mandate entails:

- i. Licensing all systems and services in the communications industry, including; telecommunications, postal, courier and broadcasting.
- ii. Managing the country's frequency spectrum and numbering resources.
- iii. Facilitating the development and management of a national cyber security framework.
- iv. Facilitating the development of e-commerce.
- v. Type approving and accepting communications equipment meant for use in the country.
- vi. Protecting consumer rights within the communications environment.
- vii. Managing competition within the sector to ensure a level playing ground for all players.
- viii. Regulating retail and wholesale tariffs for communications services.
- ix. Managing the universal access fund to facilitate access to communications services by all in Kenya.
- x. Monitoring the activities of licensees to enforce compliance with the licence terms and conditions as well as the law.

1.1.2. Vision

Digital access for all

1.1.3. Mission

Building a sustainable digital society through responsive regulation.

1.1.4. Core Values

pursuit of its vision and mission, the Authority shall be guided by the national values as enshrined in the Constitution of Kenya 2010, and principles of good governance. The Authority is also guided by the following corporate values:

- i. Integrity
- ii. Innovation
- iii. Inclusion
- iv. Agility
- v. Excellence

1.2. PURPOSE OF THE CHARTER

This Board Charter serves a reference guide for the Board of Directors of the Communications Authority of Kenya when discharging their statutory duties. It provides guidelines for the conduct of business for the Board in accordance with the principles of good corporate governance and conventional business practices. It also serves to facilitate and promote effective governance responsive to the Government's policies and guidelines on State Corporations, at the Authority.

In pursuit of the ideals in this Board Charter, the intention is to exceed "minimum requirements" with due consideration to recognized standards of best practice locally and internationally.

In particular, the charter:

- i. Serves as a reminder of the legal framework within which the Board operates;
- ii. Defines the roles and responsibilities of the Board, as well as the functions and structures in carrying out their strategic oversight function;
- iii. Sets out the specific responsibilities to be discharged by the Board Members individually and collectively;
- iv. Sets out the powers delegated by the Board to the various Board Committees and their Terms of Reference;
- v. Sets out responsibilities of the Authority's Management in facilitating the Board to carry out their role;
- vi. Sets out the communication framework of the Board policies and expectations of Management;
- vii. Serves as a reference guide for the Board in governance issues of the Authority;
- viii. Ensures that the business of the Board is conducted with integrity, dedication, and professionalism; and,
- ix. Ensures that the principles of good corporate governance are applied in the dealings of the Board in respect, and on behalf, of the Authority.

This Charter has been adopted by the Board of the Authority acting in accordance with the Code of Governance for State Corporations (Mwongozo), and applicable laws and regulations. The

Board will review this Charter at least annually, and if appropriate, revise this Charter from time to time. This Charter is available to all members of the Board for application and is posted on the Authority's website for information of stakeholders.

1.2.1. Governance Statement

To achieve its strategic objectives, the Authority shall be led by an effective Board. The Board shall be composed of competent, diverse, and qualified members capable of exercising objective and independent judgment. The Board shall have appropriate autonomy and authority to exercise its functions and shall be accountable and act responsibly towards stakeholders.

1.2.2. Governance Principles

The Authority has adopted the tenets of best corporate governance practice. Towards this, the Board commits to embrace and adhere to good corporate governance principles.

Further, in line with Section 3 of the Leadership and Integrity Act No. 19 of 2012 of the Laws of Kenya, the Board of Directors commit to respecting and upholding the values, principles, and the requirements of the Constitution of Kenya 2010, including:

- a) The national values and principles provided for under Article 10 of the Constitution of Kenya 2010;
- b) The rights and fundamental freedoms provided for under Chapter Four of the Constitution of Kenya 2010;
- c) The responsibilities of leadership provided for under Article 73 of the Constitution of Kenya 2010;
- d) The principles governing the conduct of State officers provided for under Article 75 of the Constitution of Kenya 2010;
- e) The educational, ethical, and moral requirements in accordance with Article 99 (1) (b) and 193 (1)(b) of the Constitution of Kenya 2010; and
- f) The values and principles of Public Service as provided for under Article 232 of the Constitution of Kenya 2010.

1.2.3. Citation

This Charter may be cited as the Communications Authority of Kenya Board Charter or "CA Board Charter"

1.2.4. Application

This Charter applies to and binds all the members of the Board of Directors including Alternate Directors of the Board, the Director General and Senior Management staff of CA. This Charter shall therefore be read and applied together with the Code of Conduct and Ethics.

CHAPTER TWO BOARD OF DIRECTORS

2.1 COMPOSITION OF THE BOARD

The governance of the Authority vests in a Board of Directors, whose powers are stipulated in KICA 1998 “the Act”. The Board provides strategic direction, exercises control, and remains accountable through effective leadership, enterprise, integrity, and good judgement to ensure that the Authority fulfils its statutory mandate.

2.1.1 Composition of the Board

Pursuant to Section 6 of KICA, management of CA vests in a Board which consists of:

- a) A chairperson appointed by the President,
- b) The Principal Secretary for the time being responsible for matters relating to broadcast, electronic, print and all other types of media;
- c) The Principal Secretary for the time being responsible for matters relating to finance;
- d) The Principal Secretary for the time being responsible for matters relating to internal security;
- e) Seven persons appointed by the Cabinet Secretary in accordance with Section 6B of the Act;

2.1.2 Qualifications for Membership of the Board

In order to qualify for appointment as a Chairperson or member of the Board of Directors of the Authority, a person must meet the qualifications prescribed under S. 6A of KICA and the requirements of chapter Six of the Constitution of Kenya prior to appointment.

2.1.3 Term of office

The chairperson and members of the Board shall hold office for a period of three years renewable once.

2.1.4 Vacation from Office

The office of the chairperson or member shall become vacant if the holder—

- (a) resign from office by notice in writing to the Cabinet Secretary;
- (b) dies;
- (c) is removed from office for—
 - (i) gross misconduct, whether in the performance of the chairperson or member's functions or otherwise; or

- (ii) is absent from three consecutive meetings of the Authority without permission of the Board, except for good cause shown.

The procedure for removal of the chairperson or a member of the Board is as prescribed under section 6D of KICA.

2.2 POWERS OF THE BOARD

Under Section 7 of KICA, the Board has all the powers necessary for the performance of its functions and in particular, the power to:

- a) Manage, control, and administer the assets of the Authority in such manner and for such purpose as would best promote the purposes for which the Authority is established;
- b) Receive any gifts, grants, donations, or endowments made to the Authority or any other monies in respect of the Authority and make disbursements therefrom in accordance with provisions of the Act;
- c) Determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Authority;
- d) Open a bank account or bank accounts for the funds of the Authority subject to the approval of the National Treasury;
- e) Invest any monies of the Authority not immediately required for the purposes of the Act.’
- f) Establish a Broadcasting Standards Committee and such other as may be necessary to carry out its functions; and
- g) Co-opt persons whose skills and expertise may be necessary for the functions of the Authority: provided that any person co-opted in the Authority may attend the meetings of the Authority and participate in its deliberations but shall have no power to vote.

2.3 ROLE AND FUNCTIONS OF THE BOARD

The Board shall exercise leadership and good judgment in directing the Authority so as to achieve its objectives. The Board shall be responsible for ensuring that the Authority is financially viable and properly managed so as to protect and enhance its interests from time to time. The Directors should personally strive to ensure that the Board fulfils its key purpose of ensuring that the Authority is able to achieve its objectives

The Board shall:

- a) Exercise their role collectively and not individually.
- b) Determine the Authority’s mission, vision, purpose, and core values.
- c) Set and oversee the overall strategy for the Authority
- d) Approve the Authority’s Policies.

- e) Ensure that the strategy is aligned with the purpose of the Authority and the legitimate interests and expectations of its shareholders and other stakeholders.
- f) Ensure that the Authority's strategy is aligned to the long-term goals of the organization on sustainability so as not to compromise the ability of future generations to meet their own needs.
- g) Approve the Authority's Organizational Structure.
- h) Approve the Authority's Human Resource Instruments.
- i) Approve the Annual Budget and Financial Projections of the Authority.
- j) Approve the Authority's Board Annual Performance Contract with the relevant Ministry.
- k) Approve Licenses for sector players.
- l) Engage the Universal Service Advisory Council (USAC) to provide advice and strategic policy guidance for the administration and implementation of the Universal Service Fund, as may be required from time to time.
- m) Assign the Universal Service Advisory Council (USAC) any functions as it may determine from time to time.
- n) Monitor the Authority's performance and ensure sustainability.
- o) Enhance the corporate image of the Authority.
- p) Ensure availability of adequate resources for the achievement of the Authority's objectives.
- q) Hire the Director General/CEO on such terms and conditions of service as may be approved by the relevant government organ(s).
- r) Approve the appointment of senior management staff.
- s) Ensure effective communication with stakeholders.

2.4 ROLE OF THE CHAIRPERSON

The Chairperson shall:

- a) Provide overall leadership to the Board.
- b) Play a key role in setting the agenda for Board meetings. .
- c) Conduct efficient Board meetings and guide the Board's decision-making process.
- d) Encourage Board members to participate fully in Board deliberations.
- e) Harness the collective skills of the Board and its committees.
- f) Lead the annual Board Evaluation Process.
- g) Monitor the performance of the Director General/CEO and lead in the evaluation of their performance.
- h) Maintain close, but independent working relationship with the Director General /CEO.
- i) Ensure appropriate balance of power between the Director General /CEO and the Board.
- j) Be available for consultations with Board members and the Director General /CEO.
- k) Ensure that there is a formal succession plan for Board members.

- l) Ensure new Board members are inducted in accordance with the agreed induction programme.
- m) Encourage Board members to develop their skills and competencies.
- n) Promote a positive image of the Authority.
- o) Encourage a culture of transparency and teamwork among Board members.
- p) Act as an informal link between the Board and stakeholders.
- q) Provide quarterly updates on governance matters and any issues thereof to the responsible Cabinet Secretary and SCAC.

2.5 DUTIES OF INDIVIDUAL BOARD MEMBERS

Each Board member must:

- a) Exercise the highest degree of care, skill, and diligence in discharging their duties.
- b) Act in the best interest of the Authority and not for any other purpose.
- c) Act honestly at all times and must not place themselves in a situation where their personal interests conflict with those of the Authority.
- d) Exercise independent judgment at all times.
- e) Understand and accept the principle of collective responsibility.
- f) Devote sufficient time to carry out their responsibilities.
- g) Regularly update their knowledge and enhance their skills.
- h) Promote transparency and accountability at Board level.
- i) Promote teamwork within the Board and the Authority.
- j) Promote and protect the image of the Authority.
- k) Owe their duty to the Authority and not to the nominating or appointing authority.
- l) Owe the Authority a duty to hold in confidence all information available to them by virtue of their position as a Board member.

2.6 ROLE AND FUNCTIONS OF THE DIRECTOR-GENERAL

The Director-General shall be recruited and appointed by the Board for a term of four (4) years renewable once. through a competitive process, The terms and conditions of service of the Director-General shall be determined by the Board, in consultation with the Public Service Commission. The Director General shall: -

- i) Be the chief executive officer of the Authority;
- ii) Be responsible for the day-to-day management of the Authority.
- iii) Be an *ex-officio* member of the Board with no voting rights.

The Director General shall:

- a) Prepare a budget and establishes proper internal controls;
- b) Provide the day-to-day leadership of the Authority's business operations;
- c) Prepare proposals and submissions for consideration by the Board;
- d) Attend to personnel matters, including hiring and firing of staff;

- e) Develop and recommends to the Board, the long-term strategies and annual business plans for the Authority;
- f) Consistently strive to achieve the Authority's financial and operating goals and objectives;
- g) Ensure continuous improvement in the quality and value of the products and services provided by the Authority;
- h) Ensure that the Authority has an effective management team structure including effective management succession plans;
- i) Formulate and oversees the implementation of major corporate policies;
- j) Maintain a conducive work environment for attracting, retaining and motivating employees;
- k) Foster a corporate culture that promotes ethical practices;
- l) Ensure that there are effective management structures which include succession plans; and
- m) Oversee the execution of the Board directions and policies to ensure desirable outcome.

The Board shall provide the Director General with: -

- a) Defined performance goals and authority levels;
- b) An attractive remuneration package;
- c) Regular formal performance review feedback;
- d) Constructive informal feedback on job performance;
- e) Reward for exceptional performance; and
- f) Prompt response to request for guidance or assistance.

In the performance of his roles and functions, the Director General shall: -

- a) Demonstrate commitment to the Authority's vision, mission, core values and Mandate;
- b) Achieve set performance objectives and targets;
- c) Put in place effective administrative structures, processes, and systems;
- d) Provide regular, thorough, and prompt communication to the Board on key technical, financial, and administrative matters;
- e) Effectively represent the organization to stakeholders and enhance its public image and
- f) Promptly respond to Board members requests for information.

The Board shall ensure there is in place a succession plan for the Director General and other senior management staff; That the Director-General develops a management succession plan for the Board's approval. In addition, six months before a senior manager retires, the Board should be made aware of the succession plan put in place to that effect.

2.7 ROLE OF THE CORPORATION SECRETARY

The Board shall appoint a Secretary to the Board on the basis of terms and conditions as determined by the Board.

The Board shall empower the Corporation Secretary to enable him/her effectively to carry out his/her role.

The Corporation Secretary shall not be a member of the Board. As required in *Mwongozo*, the Corporation Secretary shall provide guidance to the Board on their duties and responsibilities and on matters of governance.

The Corporation Secretary shall assist the Board in carrying out Board Induction and Training, updating the Board and Committee Charters, preparation of Board Work Plans, Board Evaluation, Governance Audit and implementation of the Code of Conduct and Ethics.

The Corporation Secretary will carry out the following functions:

- (i) Facilitate the smooth operation of the Authority's formal decision-making and reporting machinery.
- (ii) He or she will be the secretary to the Board and Board committees (except for the Audit & Risk Assurance Committee and unless otherwise provided by a Board Resolution).
- (iii) He or she shall keep full and complete records of the proceedings of the Board and Board Committees, where not exempted.
- (iv) He or she will keep the seal of the Authority and affix the same to all instruments which require it.
- (v) He or she will be responsible for authenticating any document or proceedings of the Authority by seal or signature or otherwise.
- (vi) Organize the Board and Board committee meetings.
- (vii) Formulating meeting agendas with the Chairperson, Committee Chairpersons and the Director General/CEO and advising management on content and organization of memoranda or presentations for meetings.
- (viii) Collecting, organizing, and distributing information, documents or other papers required for the meeting.
- (ix) Ensuring that minutes are taken in all meetings and that the minute books are properly maintained, and that all the Board committees are properly constituted and provided with clear Terms of Reference.
- (x) Sending Board papers to Directors in good time to ensure that Directors have sufficient time to prepare for Board and Board committee meetings.
- (xi) Ensuring that the Authority is at all times compliant with all the applicable laws and government policies issued from time to time.

- (xii) Participating as a key member of the Authority teams in corporate acquisitions, disposals, and mergers, protecting the Authority's interests by ensuring that the correct authority is in place to allow timely execution of documents.
- (xiii) Institutionalizing Corporate Governance, by continually reviewing developments in Corporate governance; facilitating proper induction of Directors into their role; advising and assisting the Directors with respect to their duties and responsibilities, in particular compliance with relevant Laws, public/state corporation laws and government circulars, and when and where applicable, counselling them when preparing presentations and memoranda.
- (xiv) He/she shall have such other authority and perform such other duties as may from time to time be granted or assigned to him or her by the Board or, subject to control by the Board, by a Committee thereof, or otherwise be in accordance with the direction of the Board.
- (xv) Managing and coordinating litigation instituted by or against the Authority, ensuring that vigorous prosecution or defence is submitted by the advocates representing the Authority in legal suits.

2.8 TERM LIMITS FOR BOARD MEMBERS

A member of the Board other than an *ex-officio* member or Alternate Director shall, hold office for a period not exceeding three (3) years, on such terms and conditions as may be specified in the instrument of appointment but shall be eligible for re-appointment for one more term of a period not exceeding three (3) years.

The renewal of a Board Member's tenure for a second term should be subject to a favourable evaluation

To the extent possible, the members of the Board should be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

2.9 MULTIPLE DIRECTORSHIPS

A Board member shall not hold such position in more than two (2) State Corporations at any one time to ensure effective participation in the Board.

All Board Members shall upon appointment sign a declaration of other directorship indicating other directorship held in other State Corporations and public entities as prescribed in *Annex 2*.

The Chairperson shall not hold such position in any other State Corporations concurrently, in order to allow them to devote sufficient time to steering the Board.

2.10 DIRECTOR INDUCTION AND DEVELOPMENT

As soon as possible following appointment, each member of the Board will have the benefit of an induction programme aimed at deepening their understanding of the Authority, its business environment and markets in which the Authority operates. This includes background material, meetings with senior management and visits to the Authority's facilities. The induction programme will entail the following:

- a) Knowledge of the Authority including ownership, powers, the Kenya Communications and Information Act, 1998 and Regulations, the Board structure, membership, and processes;
- b) Knowledge of the business processes, corporate strategies, management, and key human resources of the Authority;
- c) Knowledge of the financial documents including annual accounts, directors' reports, potential contributions amongst many others;
- d) Attendance at the *Mwongozo* /Induction Program for New Board Members of State Corporations organized by the State Corporations Advisory Committee as may be arranged from time to time.
- e) Knowledge of Directors Fiduciary Duties and Responsibilities, Powers and Liabilities;
- f) Each new Board members will receive the following: -
 - i) Appointment Letter and Accountability Pledge by the appointing Authority
 - ii) A copy of the Kenya information & Communication Act and its Regulations and any other relevant laws, regulations, guidelines, or standards
 - iii) copy of the Board and Committee Charters
 - iv) A copy of the latest Annual Report
 - v) A copy of the latest Strategic Plan
 - vi) A copy of the all relevant Policies
 - vii) An iPad for access of eBoard information
 - viii) A Copy of the Board Almanac and Calendar of Meetings
 - ix) A copy of the Code of Conduct
 - x) The Authority's Confidentiality Agreement and Official Secrets Form
 - xi) The statutory Wealth Declaration Form
- g) Each new Board member will avail the following information to the Corporation Secretary:
 - i) A letter of appointment from the issuing authority upon gazettelement
 - ii) A detailed CV/Personal Profile
 - iii) Passport photograph(s)
 - iv) A copy of valid Passport
 - v) A copy of National ID
 - vi) Bank Details
 - vii) KRA PIN Certificate

- viii) A copy of car logbook (reimbursement will not exceed 1800cc) at the current AA rates
 - ix) In case of mileage, a letter addressed to the Corporation Secretary declaring a member's place of residence
 - x) Duly executed Code of Conduct
 - xi) Duly executed Confidentiality Agreement and Official Secrets Form
 - xii) Duly executed Wealth Declaration Form
 - xiii) Duly Executed Accountability Pledge
- h) The Corporation Secretary will be responsible for ensuring conformance with these requirements.
 - i) All Board members are expected to keep themselves abreast with changes and trends in the business and in the Authority's environment and markets, which shall include changes and trends in the economic, political, social, and legal climate generally; and
 - j) All Board members are expected to ensure they are up-to date with continuous professional development in their respective professional bodies.

The Board shall ensure that a competence needs assessment is carried out and an annual development programme for a minimum of two days per Board member is put in place.

2.11 REMUNERATION FOR DIRECTORS

Subject to Section 10 (1) of the State Corporations Act, Chapter 446 Laws of Kenya, allowances for members of the Board shall be paid out of the funds of the Authority. These include sitting allowances or other remuneration as the Board may, within the scales of remuneration specified from time to time by the State Corporations Advisory Committee and the Salaries and Remuneration Commission, approve.

The Board shall, subject to Section 10 (2) of the State Corporations Act, within the scales specified by the State Corporations Advisory Committee.

In accordance with the State Corporations (Performance Contracting) Regulations, the Board may, upon receipt of the outcome of the evaluation of the Authority's Performance Contracting obligations, pay the Directors, Management and Staff such bonuses as it may determine.

The Board shall disclose: -

- i. In the financial statements, the remuneration of directors, individually and collectively.
- ii. The salaries and remuneration of the Director General and the senior management.
- iii. A summary of the Board evaluation results.

2.12 LIABILITY OF DIRECTORS

Except for wilful negligence or misconduct, no matter or thing done by a member of the Board or by any officer, employee or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers, or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

2.13 CODE OF CONDUCT

The activities, behaviour and conduct of Directors shall be governed by the Authority's Code of Conduct and Ethics prescribed in *Annex 1*.

Each Board member shall, on appointment, sign and adhere to the Board Code of Conduct and Ethics. The conduct of Board members should be consistent with their duties and responsibilities to the Authority. Directors of the Board shall:

- a) Always act within the limitations imposed by the Board on its activities;
- b) Make reference to the Directors' responsibilities and limitations as primarily set out in the Act;
- c) Be disciplined in carrying out their role, with the emphasis on strategic issues and policy;
- d) Expected to strictly observe the provisions of the statutes applicable to the use and confidentiality of the Authority's information; and
- e) There shall be a procedure agreed by the Board for the furtherance of their duties to take in independent professional advice, if necessary, at the Authority's expense.

All Board Members shall sign a Confidentiality Agreement prescribed in *Annex 3* and Official Secrets form to safeguard the confidentiality of the Authority's confidential information held by Board Members.

CHAPTER THREE GOVERNANCE PROCEDURES

3.1 BOARD MEETINGS

- a. The Board and the Management are expected to agree in advance and formulate a calendar of meetings (ALMANAC), annual work plan, highlighting critical issues that require the attention of the Board, the various Board committees etc. taking into account the timing of other statutory required actions.
- b. As required in *Mwongozo*, the Board work plan shall provide for
 - (i) A review of management's implementation of strategies, policies, and plans.
 - (ii) Risk Assessment and Management.
 - (iii) Budgeting and Financial Management.
 - (iv) Quality Assurance Processes.
 - (v) Board Evaluation.
 - (vi) Strategic planning and review.
 - (vii) Governance and compliance.
 - (viii) Competence development for Board members.
- c. Authority shall, through parent Ministry, submit to SCAC an approved annual ALMANAC by 30th June of every financial year.
- d. Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
- e. Board members will endeavour to attend board meetings and to prepare thoroughly.
- f. Board members are expected to participate fully, frankly, and constructively in board discussions and other activities, and bring benefit of their particular knowledge, skills, and abilities to the board decision-making process.
- g. Board members who are unable to attend a Board meeting shall advise the Corporation Secretary in advance for purposes of confirming quorum.
- h. The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, members present shall elect one of their numbers who shall preside over the meeting and shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
- i. The Board may, if need be, conduct virtual meetings. Virtual meetings may include meetings held via webcasting, teleconferencing and videoconferencing.
- j. Virtual attendance by any Member shall constitute presence for purposes of a quorum.

3.2 VENUE AND FREQUENCY OF BOARD MEETINGS

- a. All meetings of the Board shall be held at the registered or principal office of the Authority but may also take place elsewhere subject to the law and upon obtaining requisite approvals as may be required.

- b. Virtual Meetings may be conducted, subject to the physical attendance of the Chairperson and the Director General at the registered office of the Authority
- c. The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- d. The chairperson may call a special meeting at any time where s/he deems it expedient for the transaction of the business of the Board.
- e. A special meeting of the Board or Board Committee will not discuss any matter other than that which is specified in the agenda.

3.3 AGENDA OF MEETINGS

- a. The Chairperson shall ensure that an agenda is prepared prior to the meeting raising issues that require attention, ensuring that proceedings are conducted efficiently and that all appropriate matters are addressed. The Corporation Secretary shall work with the Chairperson on preparing the agenda;
- b. Save with the permission of the Board, the Corporation Secretary shall circulate the agenda and Board papers to the Board members at least *seven working days* before the date set for the meeting.
- c. The Chairperson should ensure that the agenda is suitable for tele/video conferencing.
- d. The agenda of the Quarterly Meetings of the Board shall be structured as follows:
 - (i) Notice of Meeting
 - (ii) Present and Apologies
 - (iii) Quorum
 - (iv) Conflict of Interest
 - (v) Chairperson's Remarks
 - (vi) Confirmation of Minutes and Consideration of Matters Arising from Minutes of Previous Meetings
 - (vii) Board Committees' Reports
- e. The agenda may include the Director General's Updates which may include operational matters warranting Board attention, or major policy issues or strategic opportunities for the Authority.

3.4 QUORUM

The quorum for the conduct of the business of the Board shall be seven members excluding the Director-General

Quorum of the Meeting shall be noted in the Minutes by the Corporation Secretary. Where the quorum threshold is not met, the Meeting shall be adjourned.

3.5 BOARD PAPERS

- a. The Chairperson shall establish standards for preparation of Board papers and reports.
- b. Board papers shall be made available to Board members not less than seven days before the date of the meeting;
- c. The Director General shall ensure that all Board papers are accurately written, are relevant and are available to the Board members in good time;
- d. The Corporation Secretary shall circulate board papers in advance of the meeting;
- e. It shall be the responsibility of the Board at its meetings to dedicate adequate time and effort to read the Board papers and prepare for Board meetings;

3.6 ACCESS TO INFORMATION

- a. The Board is entitled to access, through the Chairperson, to all information that they may need for the conduct of their business.
- b. The Chairperson and the Director-General may invite members of Management to make presentations at Board meetings in order to provide particular insights into certain aspects of the Authority's business.
- c. The Director General shall promptly respond to a Board member's request for information.

3.7 DURATION OF MEETINGS, CONSENSUS BUILDING AND VOTING

The Board's discussions will be open and constructive. The Chairperson will seek a consensus in the Board but may, where considered necessary, call for a vote. Discussions and records will remain confidential unless a specific direction from the Board to the contrary is given. In the event that there is a tie of votes, the Chairperson or the person presiding shall have a casting vote.

3.8 DEALING WITH AND RECORDING DISSENT

In Board meetings, where a member of the Board is not in agreement with a decision reached by the Board, he shall request that their dissension be recorded, in which case a record of the same shall be made in the minutes of the meeting.

3.9 CONFLICT OF INTEREST

- a. Board members shall inform the Board of conflicts or potential conflicts of interest they may have in relation to particular items of business, preferably in advance.
- b. Board members shall abstain from discussion or decisions on matters in which they have an interest, unless resolved otherwise by the remaining members of the Board.
- c. The Corporation Secretary shall keep a record of conflicts of interest declared, for accountability purposes, and as a rule of good practice on appointment and on regular

intervals or at any time when circumstances change, all members shall in good faith disclose to the Board for recording, any other business or interest likely to create a potential conflict of interest.

- d. At the commencement of every meeting, Members shall declare both verbally and by signing in a Conflict of Interest Register any conflicts or potential conflicts of interest they may have in relation to particular items of business, preferably in advance, or lack thereof.

3.10 BOARD MINUTES

- a. It shall be noted in the Minutes that the Notice and Agenda were sent and received by Members within the legally stipulated timelines.
- b. The Corporation Secretary shall circulate minutes of the Board meeting to all members of the Board within ten days of the meeting;
- c. The Minutes of the previous Meeting shall be confirmed as a true record of the proceedings by the Members.
- d. The confirmation of the Minutes shall be proposed and seconded by Members who were present at such previous meeting. Such Member shall neither be the Chairperson nor the Secretary. Provided that, where the meeting has only two Members who were present one of whom was the Chairperson, in that case the Chairperson shall second
- e. Where no Member was present at the previous meeting, the Minutes shall be noted and adopted, not confirmed
- f. As far as is practically possible, Board Minutes shall be signed on the day they are confirmed, and subject to any amendments. For substantive amendments, confirmation and signing shall be deferred to the next Meeting to allow for relevant amendments. However, for non-substantive amendments, the corporation Secretary shall incorporate the amendments which shall be initialled by the Chairperson and the Minutes shall be confirmed and signed. In the alternative, the Corporation Secretary shall note and incorporate the amendments in the current Minutes and have the previous Minutes confirmed and signed.
- g. Once minutes are signed by the Chair, any corrections cannot be made unless through a subsequent minute in another meeting
- h. All decisions, guidance or advise of the Board shall be communicated to the relevant offices or officers for implementation not later than seven days after the Meeting.
- i. Matters arising from the Minutes of the previous meeting for follow up, must be discussed and finalized after Management input, and the relevant recommendations made as the case may be
- j. A distinct Minute Book shall be kept for meetings of the Board and for each of its Committees.
- k. The Corporation Secretary shall keep physical custody and have access to all minutes of Board meetings by pasting them in a Board Minute Book, and in such information technology system as the Authority may provide for that purpose.

CHAPTER FOUR BOARD COMMITTEES

4.1 ESTABLISHMENT OF BOARD COMMITTEES

- a. Under Section 9 of the Act the Board may, by resolution, delegate its powers or the performance of any of the functions or duties of the Board to:
 - (i) Any committee of the Board;
 - (ii) Any member;
 - (iii) Officer;
 - (iv) Employee; or
 - (v) Agent of the Authority
- b. The Board may establish not more than four (4) committees, including Audit Committee to deal with conventional issues appertaining to the running of the State Corporation. Each Committee shall have a charter that outlines its roles and responsibilities as guided by SCAC.
- c. The number of members to any committees should be no more than a third of the total Board membership to obviate the risk of a Committee conducting its business within the framework of a full Board structure. Further, members can only sit in a maximum of two committees. Any exceptions must secure written approval of the Cabinet Secretary of the parent Ministry in consultation with SCAC. The Board shall appoint the chairpersons of each Committee, with priority given to Independent Directors to serve in such capacities.
- d. The Board Chairperson shall sit not in a Committee as a member or in attendance.
- e. There shall be transparency and full disclosure from the Board committees to the Board, except where the Board has mandated the committee otherwise
- f. Board committees shall observe the same rules of conduct and procedures as the Board, unless the Board determines otherwise.
- g. Board shall establish four standing committees responsible for the following matters;
 - (i) Finance, Strategy and Planning
 - (ii) Audit and Risk Assurance
 - (iii) Human Resource management
 - (iv) Technical and Broadcasting Standards
- h. The constitution of the Audit Committee shall strictly comply with National Treasury circulars as issued from time.
- i. The Board shall approve the Terms of Reference for each committee which should set out, as a minimum, objectives, delegated authority, operations and reporting mechanism to the Board.
- j. Committee members shall have the necessary skills and expertise to execute their responsibilities

- k. Where required skills are not available to the committee, the Board may, with the approval of the oversight body, co-opt non-Board members to the committee. The committees shall make recommendations to the Board.
- l. The chairpersons of the Committees shall be appointed by the Board Chairperson
- m. The Committee members shall serve for a continuous period of up to Twelve (12) months, and thereafter be subject to rotation except for the National Treasury and the Ministry of Energy representatives.
- n. Where the Board does not have appropriate skills within its membership or purposes of effectively discharging its mandate, it may with the approval of SCAC, co-opt members on a need basis for a specified duration.

4.2 AUTHORITY OF COMMITTEES

- a. Except where expressly authorized by the Board, the Committees shall not have decision making capabilities as this shall be the preserve of the Board.
- b. Save as the Board may otherwise allow, all the recommendations of the Committees must be approved by the Board before implementation by the Management.
- c. Amendments and review of the terms of reference and mandate of the Committees may be made from time to time but subject to approval by the Board.

4.3 ACCESS TO INDEPENDENT ADVISORS

Pursuant to Section 9 of the Kenya Information & Communications Act, 1998 (KICA), the Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee, or agent of the Authority the exercise of any of the powers or the performance of any of the functions or duties of the Board under the KICA.

Accordingly, the Board, shall have the right to consult and retain independent financial, legal and other advisors or consultants at the expense of the Authority provided that any commitment on fees and their charges is approved by the Authority in the same way as any other Authority business, prior to any Board member committing the Authority, and such advisors and consultants shall be handled in a manner not disruptive to the operations of the Authority and that they will be required to sign a confidentiality agreement and a declaration of no conflict of interest.

4.4 AD HOC OR SPECIALIZED COMMITTEES

The Board may constitute Ad hoc committees to deal with emerging issues that require focused attention, and which do not fall in the domain of the regular Board Committees should have clear terms of reference and a limited lifespan.

4.5 MATTERS RESERVED FOR THE BOARD

The following matters shall be reserved for decision by the Board, supported by any recommendation made from time to time by the committees of the Board;-

a. Financial Functions

- i. The adoption of any significant change or departure in the accounting Policies and practices of the Authority;
- ii. The raising of incremental borrowing facilities;
- iii. The approval of the strategy, business plans, annual budgets and of any subsequent material changes in strategic direction or material deviations in business plans;
- iv. The approval of annual financial statements, the approval of interim reports, the valuation of unlisted investments; and
- v. Reviewing the Bank's financial statements and overseeing its compliance with applicable audit, accounting and reporting requirements.

b. Governance functions

- i. The appointment, removal, or replacement of the external auditor of the Authority;
- ii. Developing a set of corporate governance guidelines;
- iii. Constitution of and appointment of membership to committees;
- iv. Establishing appropriate structures and procedures to allow the Board to function independently of management;
- v. Setting expectations and responsibilities of Directors, including attendance at, preparation for, and participation in meetings;
- vi. Undertaking regular evaluation of the Board, its committees, and its members, and reviewing its composition with a view to the effectiveness and independence of the Board and its members;
- vii. The frequency of meetings of the Board;
- viii. The formulation of recommended policies in relation to industrial relations;
- ix. The appointment, removal or replacement of the Director General, Corporation Secretary, and other senior management staff;
- x. The formulation and amendment of the Authority's Code of Ethics.

c. Risk Management Functions

Risk management establishes processes for identifying, analysing, and managing those risks, which could prevent the Authority from achieving its business objectives or strategies. Risk management involves putting control activities in place to manage risk throughout the organization by developing tailored risk management plans. To this end:

- i. The Board is responsible for the total process of risk management and uses the risk assessment monitor as its main source of information to determine the effectiveness of the Authority's management process;

- ii. The Board should identify, assess, manage, and monitor the risks to which the business is exposed – internally and externally;
- iii. The Board must appreciate the business risk issues and key performance indicators affecting the ability of the Authority to achieve its strategic purpose and objectives;
- iv. The Board must ensure that appropriate systems are in place to manage the identified risks, measure the impact and to proactively manage it, so that the Authority's assets and reputation are suitably protected.

CHAPTER FIVE INTERNAL CONTROL PROCEDURES

5.1 STATUTORY REPORTS

The Board shall cause preparation of the following Statutory Reports:

5.1.1 The Annual Report

Pursuant to Section 22 of KICA, the Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year.

The Board shall ensure that the Annual report includes, at minimum, the following:

- a) The statement of the Authority's vision, values and how they shape corporate behaviour;
- b) Authority's Corporate Governance Statement in the prescribed format;
- c) The Governance structure including the composition and size of the Board, the Committees and management of the Authority;
- d) The Organization Structure;
- e) The Chairperson's report;
- f) The Director-General's review;
- g) Sub-sector review which includes postal and telecommunications, universal access, and frequency management alignment;
- h) Stakeholder engagement policy;
- i) Risk management policy;
- j) Commentary on sustainability, environmental, social and governance;
- k) Engagement policy with the National and County Governments and other State Corporations;
- l) Corporate affairs;
- m) Financial report;
- n) Future outlook.

5.1.2 Annual Accounts

Pursuant to Section 20 of KICA, the Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets, and liabilities of the Authority.

Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General (Corporations) or to any other auditor so appointed, the accounts of the Authority together with:

- a) A statement of financial performance during that year; and
- b) A statement of financial position of the Authority on the last day of the financial year;

- c) Structure and Directors responsibilities;
- d) Corporate information;
- e) Report of the Office of the Auditor General on the financial statements of Authority;
- f) The Authority's statement of changes in net assets for the year under review;
- g) The Authority's Statement of cash flow for the year under review;
- h) The Authority's Statement of Comparison of Budget and Actuals
- i) The Authority's notes for the financial statements for the year under review

5.1.3 Estimates of Revenue and Expenditure Report

Pursuant to Section 19 of KICA the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year. The annual estimates shall be submitted to the Board for consideration and approval before the commencement of the financial year to which they relate. The estimates shall provide for the items listed under S. 19(2) of KICA.

5.1.4 Quarterly and Annual Performance Contract Reports

The Board shall ensure that the performance contracts shall include such items as shall be recommended from time to time by the Government.

The Board shall approve submission of Quarterly and Annual Performance Contract reports to the parent Ministry and other relevant government agencies.

5.1.5 Non-Statutory Reports - Strategic plan

The Board shall cause to be prepared a five-year strategic plan which will include the following items that the directors should take note of:

- a) Role and mandate of the Authority;
- b) Vision, mission, and values;
- c) Business overview and SWOT analysis;
- d) Challenges;
- e) Key objectives and strategies; and
- f) Specific targets and time frames to achieve the set targets.

5.1.6 Internal Controls

The Board with the advice of the Director-General shall establish adequate internal controls and payment system structure commensurate with the nature of the Authority's activities.

CHAPTER SIX TRANSPARENCY AND DISCLOSURES

6.1 CORPORATE COMMUNICATION

The goal of corporate communication and disclosure policy is to develop and maintain realistic stakeholder expectations by making all required disclosures on a broadly disseminated basis. Failure to achieve this objective could result in significant liability for the Authority and, in some instances, directors and employees.

Corporate governance best practice stipulates that there should be well defined formal channels of communication in state-owned corporations so that all relevant information regarding the Authority is communicated in a timely manner to all stakeholders.

6.2 DISCLOSURE

Disclosure should cover statements made in the Authority's annual and quarterly reports, news releases, communications between the Authority and stakeholders, the news media, senior management speeches and presentations and information contained on the Authority's website.

The Director General shall be responsible in disclosing "material" information. Information is material if it would significantly alter the status and reputation of the Authority. Both positive and negative information can be of material importance to the Authority.

The Director General shall take steps to ensure that material and other sensitive information will be carefully handled in order to avoid "selective disclosure" (that is, the disclosure of material, non-public information to any individual or group prior to the broad public dissemination of that information). In addition, to avoid selective disclosure, the Board and Management shall be responsible for the timing of any release of material information.

To this end:

- a) Directors must not divulge to any person any official communication which he may receive or information which may come in his possession or communicate the contents of any document or give such information to any person or group of persons, unless properly authorized. This prohibition is directed against the unauthorized disclosure not only of matters still under discussion, but also of matters conclusively decided and any breach of official confidence will be regarded as a serious offence;
- b) Directors are prohibited from corresponding with newspapers on official matters unless properly authorized to do so by the Chairperson;
- c) Any Director may not accept an invitation to broadcast on television or radio on official matters unless authorized to do so by the Chairperson;
- d) Any director must not write to or interview members or give any lecture to the public regarding official matters unless authorized to do so by the Chairperson;

6.3 DESIGNATED SPOKESPERSONS OF THE AUTHORITY

The Director General is authorized by this Charter to speak on behalf of the Authority. In his absence, the Chairperson, Board member or Management member of the Authority may be designated from time to time to speak on behalf of the Authority or to respond to specific inquiries from the general public or the media.

6.4 GOVERNANCE AUDIT

The Board shall ensure that a governance audit of the Authority is undertaken on an annual basis. The purpose of the Audit is to ensure that the Authority conforms to the highest standards of good governance. The governance audit will cover the following parameters among others: - Leadership and strategic management;

- a) Transparency and disclosure;
- b) Compliance of laws and regulations
- c) Communication with stakeholders;
- d) Board independence and governance;
- e) Board systems and procedures;
- f) Consistent stakeholders' value enhancement; and
- g) Corporate social responsibility and investment.

CHAPTER SEVEN

BOARD EVALUATION AND PERFORMANCE

The Board shall ensure that there is a strategic plan in place to guide the Authority's operations. In order to ensure that the Board is on course in achieving its objectives, it shall evaluate its performance by use of the criteria set out in the Government provided standard tools for evaluation of Chairpersons, Directors the Chief Executive Officer, the Corporation Secretary, and the Head of Internal Audit & Risk Assurance annually, and file reports with the Principal Secretary, at the parent Ministry and the State Corporations Advisory Committee (SCAC).

Each Board member shall monitor and assess the collective performance of the Board as well as the performance of individual directors and the Director General.

The prevailing SCAC guide to the Board Self-Appraisal forms requires the following key issues to be addressed: -

7.1 Mandate

- a. Board's interpreted the mandate of the Corporation.
- b. How well does the Board comprehend the mandate of the Corporation?
- c. Relevance of the mandate to national economic development.
- d. Desired future given the mandate.

7.2 Strategic Plan

- a. Boards articulation of the strategic thrust of the Corporation.
- b. Integration of the strategic plan with the national development plan and the Kenya Vision 2030.
- c. Identification of Key Performance Indicators.
- d. Monitoring and evaluation of performance against the Key Performance Indicators
- e. Sufficiency, quality, and content of strategic plan.
- f. Reflection of the strategic plan at an operational level in the business plan.
- g. Review of the Corporation's performance against the business plan.
- h. Strategies for providing resources required for implementation of the strategy.

7.3 Performance Contract

- a. Participation in identification of performance targets for the Corporation's performance contract.
- b. Performance contract and implementation of implementation of the strategic plan.

7.4 The Stakeholders

- a. Identification of key stakeholders.
- b. Policy determining how the Corporation will relate with stakeholders.
- c. State of the relationship with the key stakeholders.

7.5 Legal/Ethical Duties

- a. Compliance with all legal/ethical requirements.
- b. Existence of a Code of Ethics/ Adherence to the Public Officer Ethics Act, 2003.
- c. The Corporation as an employer.

7.6 The Direction of the Corporation

- a. Adequacy of Board's monitoring of the Corporation.
- b. Identification of important policy matters by the Board, their analysis and deliberation.

7.7 The CEO

- a. Definition and adequacy of the CEO's job description.
- b. Adequacy of the Board's leadership and advice to the CEO.
- c. Monitoring, evaluation, and appraisal of the CEO's performance.
- d. Separation of powers/roles between the Board and the CEO.

7.8 Board Meetings

- a. Relevance, appropriateness, and timeliness of the information supplied to the Board.
- b. Adequacy of preparation and planning for Board meetings.
- c. Frequency, propriety, and style of meetings.
- d. Attendance of Board meetings and participation.
- e. Propriety and structure of the Board and its Committees.
- f. Accuracy, timeliness, and maintenance of minutes.
- g. Follow up on actions necessary and/or reports to the Board on actions taken.

7.9 Individual Board Member Contributions

- a. Execution of Chairman's role.
- b. Recognition and use of individual Board members' particular skills.
- c. Board's entrepreneurship by contributing contacts and generating business.
- d. Board's special contributions to the success of the Corporation as a whole.

7.10 Any other Business

- a. Board's working knowledge of other providers or competitors in their sector
- b. Board's role in social accountability or the wider responsibility of the Corporation.

ANNEX 1
CODE OF CONDUCT AND ETHICS



BOARD OF DIRECTORS

CODE OF CONDUCT & ETHICS

Approved and Adopted by the Board of Directors

On this 17th Day of May 2024, at NAIROBI

CODE OF CONDUCT AND ETHICS

1. Background

1.1 Introduction

The Code of Conduct and Ethics for the Communications Authority of Kenya (CA or Authority) focuses on ethical conduct and integrity at the workplace. It defines Authority's commitment to the highest standards of behaviour so as to contribute to the achievement of the national development goals.

The Code sets out expectation for individual behaviour necessary to meet these standards and includes requirements and guidance to help you carry out your role with integrity and in compliance with the law.

The Code cannot cover everything; it is therefore essential that you understand applicable laws and detailed policies that are relevant to your role. It is also important that the Code is not used as a substitute for the good judgment expected of Board members working for the Authority.

1.2 Objective

By exemplifying the ethical behaviours and corporate values described in the Code, the organization will continue to uphold Article 10 of the Constitution of Kenya on National Values and Principles of Governance and Chapter 6 on Leadership and Integrity.

1.3 Application

This Code applies to every Board member. Adherence to the values in this Code is a condition of Board appointment.

2. Values

2.1 Respect for People

Board members are entitled to work in an environment in which people are treated with respect. Board members must therefore avoid actions or behaviours that are or could be viewed as harassment and are required to treat people with respect, dignity, and fairness.

2.2 Integrity

Board members are expected to act with integrity by consistently upholding the highest standards of honesty and truthfulness. They should not use their positions to inappropriately obtain an advantage for themselves or to advantage or disadvantage others; and should take all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs.

2.3 Transparency and Accountability

Transparency of operations, planning and reporting and a clear accountability framework are fundamental principles that underlie good governance. It is expected that Board members will

work together in a spirit of openness, honesty, and transparency. This will encourage engagement, collaboration, and respectful communication.

2.4 Stewardship

Every Board member is responsible for using appropriately the assets entrusted to them. They are responsible for safeguarding the assets against waste, loss, damage, misuse, theft, misappropriation, or infringement, in order to protect their value.

All transactions of the organization must be reflected accurately and fairly in the books of accounts. Falsification of assets records or misrepresentation of facts will constitute fraud.

2.5 Excellence

Board members shall demonstrate excellence by providing fair, timely, efficient, and effective services to the public. They should exercise high levels of discipline and commitment in the performance of their duties. They are also required to continually improve the quality of policies, programs, and services by fostering a work environment that promotes teamwork, learning and innovation.

3. Conflict of Interest

Board members must avoid conflict of interest between their private activities and their part in the conduct of the organization's business.

A conflict of interest may arise where a Board member, employee, or close family member such as a spouse, child parent or sibling has private interests that could improperly influence the performance of the Board member official duties and responsibilities. Conflict may also arise where a Board member uses their office for personal gain.

A real conflict of interest exists at the present time. An apparent conflict of interest could be perceived by a reasonable observer to exist in the future. A conflict of duty arises, not because of a Board member's private interests, but as a result of one or more concurrent or competing official roles.

3.1 Prevention of Conflict of Interest

Board members maintain public confidence in the objectivity of their service by preventing and avoiding situations that could give the appearance of a conflict of interest or result in a potential or actual conflict of interest. In addition, Board members are required to observe any specific conduct requirements contained in the statutes governing ethical behaviour and their profession, where applicable.

It is not possible to foresee every situation that could give rise to real, apparent or potential conflict of interest, however, where conflict arises, the Board member should:

Excuse themselves, or anyone who works for them, from any decision-making that may create a conflict of interest with their private interests;

- (a) Disclose in writing to the relevant authority the facts and explain the circumstances that may create or could create the conflict of interest;
- (b) Seek guidance from the immediate authority;
- (c) Seek additional legal or financial guidance if you are a Board member;
- (d) Conduct your relationship with contracts with contractors and suppliers in a professional, impartial, and competitive manner;
- (e) Refrain from direct or indirect use of, or allowing the direct or indirect use of organization property, for anything other than officially approved activities;
- (f) Maintain the impartiality of the public service and not engage in any outside or political activities that impair or could be seen to impair their ability to perform their duties in an objective or impartial manner;
- (g) Be aware that the acceptance of any offer of future employment including consultancy or directorship with a contractor, supplier, customer, or business partner constitutes a potential conflict of interest;
- (h) Ensure that concurrent outside appointments, such as to a Board of directors are managed appropriately and that any resulting conflicts of duties are resolved in the public interest; and
- (i) Declare to the relevant authority, a benefit or income received either directly or indirectly from a contract with external parties on contractual or other arrangements. The relevant authority will determine whether the arrangement presents a real, apparent or potential conflict of interest, and may require that the contract be modified or terminated.
- (j) Similarly, a Board member should not:
 - Get involved in the hire, supervision, management, or career planning of any relative;
 - Make improper use of one's position or of confidential information gained in that position to achieve personal interests or direct gain;
 - Allow relationships with contractors and suppliers to influence business decisions made on behalf of the organization; and
 - Accept gifts or inducements, including hospitality that may place you under an obligation.

3.2 Use of Information Communication Technology

Organizations recognize the importance of the use of Information Communication Technology (ICT) tools to conduct business and interact with stakeholders. Use of social networks in an official capacity must comply with the legislative requirements and the organization policy on the use of internet and electronic networks. Board members using ICT for personal or professional use are expected to exercise the same kind of judgment and criteria as would be applied to any other workplace decision.

3.3 Gifts, Hospitality, and other Benefits

Board members should not accept any gifts, hospitality or other benefits that may have a real, apparent or potential influence on their objectivity in carrying out their official duties and responsibilities or that may place them under obligation to the donor.

3.4 Solicitation

With the exception of fundraising for officially supported activities such as those relating to corporate social responsibility, Board members may not solicit gifts, hospitality, other benefits, or transfers of economic value from a person, group or company who has dealings with the organization. When fundraising for supported official activities, Board members should ensure that they have prior written authorization from the relevant authority in order to solicit donations, prizes, or contributions in kind from external organizations or individuals.

3.5 Register of Conflict of Interests

The organization shall maintain a register to record conflict of interests.

4. Whistle-Blowing

Any person who has a reason to believe that a Board member has not acted in accordance with this Code should bring the matter to the relevant authority or the appropriate government agency.

The organization should not retaliate nor tolerate retaliation against any person who brings an issue to its attention in good faith.

5. Resolution

Board members are expected to adhere to this Code. The Board members are expected to resolve issues in a fair and respectful manner and consider informal processes such as dialogue or mediation.

In the event of an ethical dilemma or dispute, Board members and management may seek advice and support from other appropriate sources such as the Ethics and Anti-Corruption Commission (EACC), and any other oversight body.

35. ACCEPTANCE

I agree to the terms of the organization’s Code of Conduct and Ethics, which forms part of my Board appointment or contract of employment. I have read and understood the Code and agree to abide by its provisions.

.....
Full Name of Board Member

.....
Signature

.....
Date

ANNEX 2

DECLARATION OF OTHER DIRECTORSHIPS HELD BY THE BOARD



Declaration of Other Directorships Held by the Board

(As required under Section 1.6 of *Mwongozo* Code of Governance for State Corporations, 2015)

i. Name:

ii. Address:

iii. Date of Appointment:

iv. Particulars of other directorships held in other State Corporations and or public entities:

| No. | Name of State Corporation and or Public Entity | Role | Date of Appointment | Date of Expiry |
|-----|--|------|---------------------|----------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |

If not applicable, please indicate “Not/Applicable” across the above Table/Schedule.

Declared by.....

This..... day of.....

ANNEX 3
CONFIDENTIALITY AGREEMENT



CONFIDENTIALITY AGREEMENT

1. Purpose

This Confidentiality Agreement is made on the _____ day of _____ 20____ between **THE COMMUNICATIONS AUTHORITY OF KENYA, (the Authority)** having its principal registered office at CA Centre along Waiyaki Way, and of Post Office Box Number 14448- 00800, Nairobi, of the one part; and _____ (**Board Member**) of the other part.

WHEREAS;

- A. The Board Member is appointed a Member of the Board for the Authority under section 6 of the Kenya Information Communications Authority Act;
- B. In exercising his/her duties and responsibilities as a Board Member, the Board Member will be privy to Confidential Information;
- C. The Board Member understands that his/her engagement is one of mutual trust and confidence and that, he/she may gain access to Confidential Information, and, for the purpose of preventing the unauthorized disclosure of Confidential Information, the Board Member agrees to enter into this confidentiality Agreement; and
- D. This Agreement is intended to safeguard the confidentiality of the Authority's Confidential Information handled by Board Members.

2. Confidential Information

“Confidential Information” means any and all information, data, reports, analyses, strategies, plans, financial information, customer lists, trade secrets, or other proprietary information disclosed by the Authority to the Board Member, as

interpreted within the meaning of the Official Secrets Act and Regulations, and the Authority's Code of Conduct and Ethics.

3. Obligations

- a. The Board Member shall use the Confidential Information solely for his/her conduct of business as a Board Member of the Authority and shall not exploit this information for personal gain or the benefit of any other person, entity, or organization.
- b. The Board Member shall protect and safeguard Confidential Information against any unauthorized use, disclosure, report, transfer, or publication with at least the same degree of care as it uses for his/her own confidential information, but in no event use less than reasonable care.
- c. The Board Member shall take all reasonable measures to prevent unauthorized disclosure of Confidential Information, including maintaining strict confidentiality in discussions and documentation and limiting access to authorized personnel only.
- d. The Board Member agrees to maintain the confidentiality of all Confidential Information and not to disclose, directly or indirectly, any Confidential Information to any third party without the prior written consent of the Authority.
- e. The Board Member agrees to use Confidential Information solely for the purpose of fulfilling his/her duties as a Board Member of the Authority and not for any other purpose.
- f. The obligations of confidentiality set forth in this Agreement shall survive the termination of the Board Member's service with the Authority.
- g. Without prejudice to the generality of the foregoing, the Authority's Code of Conduct and Ethics shall apply to Board Members to the extent applicable in relation to confidentiality of information, and shall enjoin Board Members to respect the values, principles and provisions of the Constitution of Kenya 2010; Leadership and Integrity Act, 2012; Public Officers Ethics Act, 2003; Anti-Corruption and Economic Crimes Act, 2003; Labour Relations Act, 2007; Employment Act, 2007; and Official Secrets Act, No. 20 of 2020 in the conduct of their duties.

4. Exceptions

This Agreement shall not apply to information that:

- (a) becomes publicly available through means not attributable to the Board Member,
- (b) is already known to the Board Member without reference to the Confidential Information, or
- (c) is required to be disclosed by law or court order.

Provided, however, in case of disclosure pursuant to part (c) of this Section, the Board Member shall limit the release to the greatest extent reasonably possible under the circumstances and shall have provided the Authority with sufficient advance notice to permit the Employee to seek a protective order or other order protecting its Confidential Information from disclosure.

5. Ownership

All Confidential Information shall at all times shall be the exclusive property of the Authority and shall be used by the Board Member only for the purposes expressly contemplated by this Agreement.

6. Return of Confidential Information

At the request of the Authority, or upon termination of this Agreement, the Board Member shall promptly destroy all its copies/data of such Confidential Information or return the same to Authority and in either case shall, immediately upon receiving such request, certify in writing his/her compliance with the terms of this provision. After such destruction or delivery, the Board Member shall not retain any copies/data thereof.

7. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Kenya. Each Party irrevocably agrees to submit to the jurisdiction of the High Court of Kenya over any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement.

8. Entire Agreement

This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations, and understandings, whether written or oral, relating to such subject matter, without taking away any obligations or requirements placed upon Board

Members by any law, regulations, guidelines, or government circulars as may be issued from time to time.

9. Modification and Waiver

No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both Parties.

10. Severability

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

IN WITNESS WHEREOF, the Parties hereto have caused this Confidentiality Agreement to be signed in their respective names as of the day and year first above written.

Signed by:

Board Member

Name:

Signature:

Date:.....

Communications Authority of Kenya

and

Witnessed by

Name:

Signature:

Date:.....