



**VIUSASA TERMS AND CONDITIONS OF USE AND PRIVACY POLICY  
(UPDATED 26TH OCTOBER, 2022)**

## PART I - INTRODUCTION

Welcome and thank you for choosing Viusasa.

Your use of the platform (as hereafter defined), its content and all services relating thereto is subject to the terms of a legal agreement between you and Content Aggregation Limited, a company incorporated in the Republic of Kenya with its principal office at Westlands Office Park, Waiyaki Way and of P. O. Box 7468-00300 Nairobi ('CAL') and which owns and operates the platform.

The legal agreement between you and CAL is made up of:

- (1) the Viusasa Terms and Conditions of Use (the '**Terms and Conditions**') set out under Part IV hereunder; and
- (2) the Viusasa Privacy Policy (the '**Privacy Policy**') set out under Part V hereunder, in accordance with the Data Protection Act 2019.

(Both the Terms and Conditions and the Privacy Policy are hereafter collectively referred to as the '**Terms**').

The Terms form a legally binding agreement between you and CAL in relation to your use of the platform and any of its content. It is important that you read them carefully, understand and accept them in the manner specified herein. Should you need legal advice before accepting the Terms, please obtain such advice at your own convenience and cost.

## PART II - INTERPRETATION

In the Terms, the following words shall have the meanings assigned beside them:

- 1.1. '**Content**' shall mean any text, graphics, audio, visual (including still visual images) and/or audio-visual material, including, without limitation, compilations and sequential or other aggregations of such material (such as DJ mixes and selected playlists), selected memes, recorded TV and radio shows, live TV and radio streaming, or other multimedia content, information and material, including the metadata relating to any such content, availed or to be availed by CAL for viewing, listening to, downloading or streaming by you on the platform, by use of an electronic device which is capable of accessing the platform and content therein through telephone communication or connecting to the internet, including but not limited to computers, mobile phones, tablets, media players, smart TVs, and other similar devices, which devices comply with the technical requirements to access the platform and the Content. Content shall also mean a service which is provided through Viusasa to subscribers on an on-demand basis, in collaboration with other product providers, described in these Terms, that is made available on mobile devices, Set Top Boxes, web, app and USSD platforms ('Platform as a Service').
- 1.2. '**Intellectual Property Rights**' means all intellectual property rights including patents, registered designs, trademarks and service marks (whether registered or not), rights in the nature of unfair competition rights, copyright, database right, design right and all similar property rights including those subsisting (in any part of the world) in inventions, designs, drawings, performances, business names, goodwill and the style

and presentation of goods or services and applications for protection of any of the above rights;

- 1.3. **'writing'**, unless the context otherwise requires or it is otherwise provided in the Terms, means any form of writing and includes, without limitation, electronic mail, online messaging and any other available information transmission methods, provided that such methods are reliable and verifiable;
- 1.4. **'Non-Personal Information'** shall mean any information that is not Personal Information including, without limitation, any data or other information collected by CAL about the service and your use of the platform or any Content, device information, log information, and location information;
- 1.5. **'Personal Information'** shall mean personal details related to your account and shall include your name, email address, telephone number or credit or debit card information. For the avoidance of doubt, a post office box number shall not be Personal Information;
- 1.6. **'Third-party website'** shall mean any website other than the website on which the platform is hosted and operated and 'third party websites' shall have the corresponding plural meaning;
- 1.7. **'Viusasa'** or **'the platform'** shall mean the Viusasa website accessible at [www.viusasa.com](http://www.viusasa.com), the Viusasa Android application available on Google Play Store, the Viusasa iOS application available on Appstore, the Viusasa Windows Phone application available on Microsoft Store, the Viusasa feature accessible through the WhatsApp feature, the Viusasa service accessible by telephone calls or SMS or USSD, used by CAL to provide the Content, Viusasa (by whatever manner, shape or colour styled) being a registered trademark of CAL and any other online platform which CAL shall use, in collaboration with other product providers, to provide its services and opportunities; and
- 1.8. **'Viusasa service'** or **'the service'** shall mean the service provided by CAL on the platform for discovering, watching, listening to and downloading the Content, including all features and functionalities, recommendations and reviews available on the platform and the user interfaces associated therewith, as well as all content and software associated with the service or the platform.

### **PART III - ACCEPTANCE**

- 2.1. In order to use the Viusasa service, you must first agree to and accept the Terms. You may not use the platform if you do not accept them.
- 2.2. You agree to these Terms and Conditions by registering and signing into the Viusasa platform or by doing such other thing as may be specified in the platform or otherwise by CAL.
- 2.3. By creating a Viusasa account or otherwise accessing the platform (whether by initiating a telephone call to use the Viusasa service, sending an SMS to Viusasa, dialing a USSD code provided by CAL for purposes of accessing the Viusasa service, accessing the Viusasa website or using such other method of accessing the service as

CAL may avail from time to time) you allow CAL to send marketing and promotional material regarding the platform, the Viusasa service or any Content therein to the email address or telephone number provided when creating your Viusasa account or otherwise using the Viusasa service. In addition, and without prejudice to the foregoing, CAL shall be entitled to display and otherwise broadcast to you all manner of informational, advertisement, marketing and promotional messages:

- 2.3.1. by displaying text, audio, audio-visual and other forms of media within the Viusasa platform's user interface;
- 2.3.2. by displaying text, audio, audio-visual and other forms of media within the Content;
- 2.3.3. through push notifications and pop-up messages on your mobile device; and
- 2.3.4. playing audio, audio-visual and other forms of media at the beginning or at the end of telephone calls made by or to CAL for purposes of either (i) accessing and using the service or (ii) making inquiries or responding to inquiries, as the case may be, regarding the platform or the service.

## **PART IV - VIUSASA TERMS AND CONDITIONS OF USE**

### **3. Use of the Viusasa Service**

- 3.1. You may not use the Viusasa platform or use the Viusasa service and may not accept the Terms if:
  - 3.1.1. you are legally incapacitated to enter into a legally binding contract with CAL. If you are legally incapacitated, you may only use the service under supervision by a person with legal capacity; a Parent or a Gurdian; or
  - 3.1.2. you are barred or otherwise legally prohibited from receiving or using any part of the Content under any applicable law.
- 3.2. CAL provides the service using any of the following modes:
  - 3.2.1. through the platform;
  - 3.2.2. through the Viusasa website;
  - 3.2.3. through telephone calls;
  - 3.2.4. through USSD;
  - 3.2.5. through a Set Top Box; and/or
  - 3.2.6. through WhatsApp Messenger in accordance with clause 6.
- 3.3. In order to use the service through a telephone call, you will need to initiate such call by sending an SMS to a number provided by CAL for that purpose, by dialing a USSD code provided by CAL for that purpose or by using such other method as CAL may specify from time to time. Clause 5 below details the process to be used in that regard.
- 3.4. In order to access the Viusasa platform and use the service, you will need to create a Viusasa account, with a username and a password ("your log-in credentials"). The creation of a Viusasa account permits you to purchase limited rights to the Content. When creating your account, you will be required to provide certain information. You

agree that you shall provide all the information that CAL may require you to provide for purposes of the creation of your Viusasa account. If you fail to provide the information required on the Viusasa platform or the Viusasa website or as requested by CAL from time to time, CAL shall have the right to discontinue the service without any further notices or reference to you.

- 3.5. Further to Clause 3.2.4., you shall also be able to upload content, including Skiza content, through USSD for adoption, subject to these terms and conditions and any other terms that CAL has established for uploading of content on the Platform.
- 3.6. You further agree that CAL retains the absolute discretion to accept or reject your request to (a) create a Viusasa account on the platform or on the Viusasa website or (b) receive a telephone call in accordance with clause 5 or (c) otherwise access the service.
- 3.7. You are required to keep your Viusasa account password and other account credentials and details secure and confidential.
- 3.8. You agree that you will be solely responsible (to CAL, and to other parties) for any activity that occurs under your Viusasa account or otherwise with your log-in credentials, and shall indemnify and keep indemnified CAL from any claims or liabilities whatsoever that may arise from such activity.
- 3.9. Your Viusasa account will be operated based on transaction-based and time-based subscription packages. Charges for the various packages will be determined by CAL in its absolute discretion and will be paid as specified in these Terms or otherwise as CAL may specify from time to time.
- 3.10. To use the CAL service, you must have access to the internet or to suitable telephone service, as the case may be, and a compatible device.
- 3.11. Should you access any Content without paying for a subscription package or access more or better Content than is otherwise available in the subscription package you paid for, you authorize CAL to, in addition to any other rights and remedies available to CAL under this agreement and the applicable law, charge the subscription fees or the difference, as the case may be, (and any other charges that may result from your use of the service) to your account. The amounts so charged shall be deducted, in one or more instalments, from any payments subsequently made to CAL through your account(s).
- 3.12. You can find specific details regarding your subscription status by logging onto your Viusasa account or by contacting CAL.
- 3.13. The Viusasa platform and any Content accessed through the service are for your personal and non-commercial use only. During your Viusasa subscription, we grant you a limited, non-exclusive, non-transferable license to access the Viusasa platform, to view, listen to and download the Content, subject to the limitations on time, Content amount or Content category to which the subscription package paid for is subject. Except for the foregoing limited license, no right, title or other interest whatsoever on any part of the Content shall be transferred to, or be claimed by, you. You agree not to use the service or any Content accessed through the service for any purpose or in any manner that will or is likely to (a) infringe on the Intellectual Property Rights of any

person and (b) jeopardize CAL's commercial interest in the service and any Content thereon. Without prejudice to the generality of the foregoing, you accept not to distort, manipulate, reconfigure, format, aggregate, distribute, sell or otherwise disseminate any Content or part of any Content accessed or received by yourself through Viusasa. Breach of this clause may lead to, without prejudice to any other rights that CAL or any third party may have under the applicable law, CAL cancelling your Viusasa account and otherwise discontinuing your use of the service or the platform. You agree to indemnify and hold harmless CAL any all of its officers, directors, employees and agents against any loss, damages, penalties, claims or costs howsoever arising and resulting whether directly or indirectly from your breach of this clause.

#### **4. Viusasa Xpressionz**

- 4.1. In addition to the service, the Viusasa platform and the Viusasa website will have a publicly accessible self-upload feature labelled *Xpressionz*.
- 4.2. All the content available under this feature will be free and NOT require you to subscribe to a package.
- 4.3. However, the content available on Xpressionz is uploaded by users with whom CAL has not entered into content provision agreements. CAL is therefore not responsible for ensuring that the content conforms to any quality standards or that it does not infringe upon the Intellectual Property Rights or commercial interests of any person.
- 4.4. Consequently, you agree to use that content as is, at your own risk and with no guarantee from CAL (a) that the content conforms to any quality standards, (b) that the content or its availability for your use complies with all applicable laws and/or (c) that your use of the content will not expose you to legal action for breach of the Intellectual Property Rights or commercial interests of any person.
- 4.5. Without prejudice to the foregoing, you acknowledge that CAL accepts no liability for any breaches on any applicable law or any infringement on the rights of any person with regard to any content in the *Xpressionz* feature.
- 4.6. You Consequently agree that CAL may use your content uploaded under *Xpressionz*, for promotional purposes, in order to promote the service. You agree to give this right to CAL on unlimited basis as long as your content remains uploaded on the platform.
- 4.7. **Xpressionz - Content Solicitation Campaign**
  - 4.7.1. Xpressionz offers Viusasa users and the general public a platform to air their views, create content and stand the opportunity to earn money, based on how their content drives engagement.

#### **Mechanics**

- 4.7.2. Campaign

- 4.7.2.1. Viusasa is enabling creators and users to showcase their content and to have their say by submitting creative videos via Xpressionz.

#### 4.7.3. Content Guidelines

- 4.7.3.1. The content must be the creator's original work and they should be the sole rights holder of the Content.
- 4.7.3.2. Users are encouraged to create and/or submit short (under 45 Seconds) videos –skit, a song, a short film, a recipe, fashion tips or any other creative and/or interesting original content.
- 4.7.3.3. Users will be asked to create whatever they want as long as it's appropriate and is in line with taste and decency guidelines.
- 4.7.3.4. Encourage videos shot in portrait as they suit the display better.

#### 4.7.4. Entry, Qualification & Review

- 4.7.4.1. Uploading content to Xpressionz is FREE. The following are the qualifications:
  - 4.7.4.1.1. You must be 18 or older to earn.
  - 4.7.4.1.2. Content must be your own original work.
  - 4.7.4.1.3. Your content must not infringe on the rights of others. We promptly remove infringing content reported to us.
  - 4.7.4.1.4. Content submitted to Xpressionz will be moderated before it is shared with the wider Viusasa community. This is to ensure the –
    - 4.7.4.1.4.1. The Viusasa users enjoy great content; and
    - 4.7.4.1.4.2. The Viusasa users stay safe.
  - 4.7.4.1.5. Not every video submitted will make it into Xpressionz. Videos can be rejected for any of the following reasons stated below:
    - 4.7.4.1.5.1. Content does not meet quality criteria
    - 4.7.4.1.5.2. Hateful or Abusive
    - 4.7.4.1.5.3. Harmful and Dangerous Acts
    - 4.7.4.1.5.4. Suicide or Self-Injury
    - 4.7.4.1.5.5. Violates Privacy
    - 4.7.4.1.5.6. Violate Copyright
    - 4.7.4.1.5.7. Sexual Content
    - 4.7.4.1.5.8. Hate Speech
    - 4.7.4.1.5.9. False News
    - 4.7.4.1.5.10. Inappropriate Promotion (Brand and Product Placement)
    - 4.7.4.1.5.11. Nudity
    - 4.7.4.1.5.12. Violent or Repulsive
    - 4.7.4.1.5.13. Child Abuse

- 4.7.4.1.5.14. Promotes Terrorism, Tribalism or Racism
- 4.7.4.1.5.15. Spam or Misleading
- 4.7.4.1.5.16. Infringes rights of certain group

#### 4.7.5. Selection of earners & payment eligibility at CAL's discretion.

- 4.7.5.1. CAL may opt to reward the content creators and shall follow the below mechanics:
  - 4.7.5.2. Earners will be announced every Friday at 10 PM.
  - 4.7.5.3. The three (3) most liked videos within a seven (7) day period beginning Saturday 12:01 AM to Friday 10 AM every week will earn based on the amount declared publicly;
  - 4.7.5.4. For content that's;
    - 4.7.5.4.1. Most liked video
    - 4.7.5.4.2. 2<sup>nd</sup> most liked
    - 4.7.5.4.3. 3<sup>rd</sup> most liked
  - 4.7.5.5. Monthly overall most liked video will also be eligible to earn based on the amount declared publicly.
  - 4.7.5.6. Where there is a tie on the most liked video or content, then the first of the content to be most liked will qualify.
  - 4.7.5.7. Only videos uploaded within the week (the seven (7)day period,) starting Saturday 12:01 AM to Friday 10:00 AM every week, will be eligible to earn the weekly prize, based on the likes accumulated within the 7-day period.
  - 4.7.5.8. A video that has previously earned cannot be eligible to earn again apart from the monthly earnings.
  - 4.7.5.9. A video that failed to earn within the week that it was uploaded, cannot earn later (Even though it is deleted and re-uploaded).
  - 4.7.5.10. If you've earned, we'll call you directly via 0709 767 000. We will only communicate with you via the official Viusasa number.
  - 4.7.5.11. The earnings will subject to applicable taxes including withholding tax.
  - 4.7.5.12. You must be present in the Eligible Country at the time you submit your Xpressionz. The Eligible country is Kenya.
  - 4.7.5.13. Any entrant may be deemed ineligible at the sole discretion CAL.
  - 4.7.5.14. We reserve the right to amend these rules at any time.

#### 4.7.6. Dates

- 4.7.6.1. The count of views starts every Saturday at Midnight (GMT+3) and ends on Friday 10 am (GMT+3)

#### 4.7.7. How to earn money with Xpressionz on Viusasa:

- 4.7.7.1. Click on the Xpressionz icon on the landing page.
- 4.7.7.2. Click on the upload icon and follow instructions.
- 4.7.7.3. Share link with others once you video is published.
- 4.7.7.4. Get your video likes to top three (3) and get remunerated.

## 5. Podcasts

- 5.1. In addition to the service and the Xpressionz feature, CAL may introduce Podcasts in the form of episodic series of spoken word digital audio files that a user can listen to, and/or download to a personal device for easy listening. The feature shall be free to listen to and free to upload
- 5.2. This feature will be guided by the following terms and conditions:
  - 5.2.1. The Podcasts shall display content from third parties and CAL may review content to determine whether it is illegal or violates its policies. However, the content and the soundness of the content is the sole responsibility of the entity that makes it available.
  - 5.2.2. If a podcast or episode is identified as infringing any form of copyright, the infringing content will be removed immediately in line with the claimant's request.
  - 5.2.3. All Podcast licensing, copyright and royalty issues are the sole responsibility of the individual clients and/or their production entities.
  - 5.2.4. CAL shall display advertisements for the goods and services of a third party but does not endorse or represent nor is it responsible for the safety, quality, accuracy, reliability, integrity or legality of any such goods or services advertised, promoted or displayed.
- 5.3. CAL will also provide users with the ability to view and distribute Podcasts through the Viusasa Podcasts Services, and there shall not be any revenue accruing to the user for apploading podcasts
  - 5.3.1. For third parties, by submitting your podcast, you warrant that your episode:
    - 5.3.1.1. Shall be true, accurate, current, complete and not misleading.
    - 5.3.1.2. Shall not violate the rights of any third party, including, but not limited to, intellectual property and proprietary rights.
    - 5.3.1.3. Shall not be fraudulent or involve counterfeit or stolen information or items, shall not violate any law, statute, ordinance or regulation.
    - 5.3.1.4. Shall not create any liability for CAL or any of its employees, agents, directors, officers and shareholders.
    - 5.3.1.5. Has all the necessary written consents from each person in the episode.

- 5.3.2. You acknowledge that by providing you with the ability to view and distribute user-generated-content through the Viusasa Podcasts Services CAL is merely acting as a conduit for the distribution of such information.

## **6. Accessing Content via Telephone Calls**

- 6.1. CAL may introduce a feature in which you will be able to access Content via telephone calls, with the effect that you will use the service without using the platform or the Viusasa website.
- 6.2. This feature will be guided by the following terms and conditions:
  - 6.2.1. You will initiate the process by dialing USSD code \*487# or such other USSD code as shall be provided by CAL for that purpose or by sending an SMS to a number provided by CAL for that purpose.
  - 6.2.2. You will then be prompted to purchase a transaction-based package by paying a specified amount to CAL.
  - 6.2.3. CAL will make a call from the numbers +254747909000, +254 20 7909000 or such other number as CAL shall designate from time to time to you (via the telephone number used to dial the USSD code) and proceed to play the Content selected over the phone. Should CAL be unable, for any reason whatsoever, to reach you on making the said call, the package will automatically expire.
  - 6.2.4. You will only be able to access audio content using this feature.
  - 6.2.5. CAL will pay the costs of the call.
  - 6.2.6. Each call will constitute one subscription.
  - 6.2.7. The package will expire on the first termination of the call regardless of the cause of termination or the person terminating. Provided that, CAL will endeavour not to terminate calls unless there is good cause to do so.
  - 6.2.8. You will be responsible for ensuring you have a device compatible with the calls and accessing audio Content.
  - 6.2.9. CAL accepts no liability for device failures, call failures, network failures or any disruptions of any nature. Further, you acknowledge that provision of this feature is dependent on services provided by third parties, to your device and to telecommunications infrastructure the availability and quality of which CAL has no control over. Consequently, CAL does not guarantee that the Content transmitted will be clear.

## **7. The Viusasa WhatsApp Feature**

- 7.1. CAL may introduce, whether as part of or independent from the Viusasa platform, an opt-in feature in which you will be able to access Content via

WhatsApp Messenger (“the WhatsApp feature”). The WhatsApp feature may enable you to access all Content available on the platform, subject to your subscription, (“Option 1”) or it may only enable you to access limited content, being news reports (“Option 2”).

7.2. This feature will be guided by the following terms and conditions:

7.2.1. **Option 1**

- a) You will dial CAL’s USSD \*487# or such other USSD code as shall be provided by CAL for that purpose or using the Viusasa website or by sending an SMS or by sending a text message on WhatsApp to such telephone number as CAL shall provide for that purpose. You will then be prompted to op-in to the WhatsApp feature. You may, further, be prompted to choose what type of Content you would like to access, which you may or may not choose.
- b) Once you have completed the steps set out under clause 6.2.1 a) above, the system will initiate the payment process by directing you to M-PESA STK push on your Viusasa-registered and M-PESA-activated mobile number. You may also pay through the Viusasa Paybill. Once the payment is complete, you will receive a message from CAL confirming successful payment and, therefore, registration to the WhatsApp feature. You will thereby have purchased a time-based subscription package that will expire at the end of such period as CAL shall have specified, and which period you will have selected in the registration process. CAL may opt to give you a free subscription package of its own volition after which you may also receive commercials and advertisements and other promotional messages in this package, through WhatsApp push notifications on your mobile phone or such other mode of notification as CAL shall deem appropriate in the circumstances.
- c) Once you have received the confirmation message from CAL, you will henceforth receive WhatsApp push notifications on your mobile phone with Content or with links to Content on the platform. You may then access and use the Content upon opening such notifications. The notifications will be sent frequently as per the frequency chosen by CAL.
- d) Upon expiry of your subscription package, you will stop receiving push notifications and, therefore, Content on the WhatsApp feature unless given a free subscription pass or if CAL decides, in its sole and absolute discretion, that certain content is free.
- e) CAL may also opt to give you a WhatsApp subscription under Option 2 once you pay for Viusasa subscription under this Option 1. The duration for the Viusasa subscription will give you a similar WhatsApp subscription duration at CAL’s discretion.

**7.2.2. Option 2**

- a) Once you subscribe for a Viusasa package, you will receive a message with an opt-in link and be prompted to register and opt into the Option 2 WhatsApp feature.
- b) Once you have completed the steps set out under clause 6.2.2 a) above, you will receive a message from CAL confirming successful opt-in and, therefore, registration to the WhatsApp feature.
- c) Once you have received the confirmation message from CAL, you will henceforth receive WhatsApp push notifications on your mobile phone with Content in the form of news reports or with links to news reports on the platform. The notifications will be sent as per the frequency chosen by CAL.
- d) Unless CAL otherwise determines, this option will not entitle you to receive any other Content on your WhatsApp Messenger other than news reports.

7.2.3. Your use of the WhatsApp feature and any content accessed thereby shall be subject to and in accordance with clause 3.12 above.

7.2.4. CAL shall introduce a survey feature on the Whatsapp feature where you shall receive a link on SMS which shall direct you to the Viusasa Whatsapp number where you shall have the option to opt in and answer a few survey questions and the feedback shared on the Viusasa playform after some time.

7.3. You shall be able to chat with CAL and/or its customer care staff through WhatsApp.

7.4. CAL accepts no liability for device failures, network failures, defects or delays in or caused by the WhatsApp system, or any disruptions of any nature. Further, you acknowledge that provision of this feature is dependent on services provided by third parties, particularly, the proprietors of WhatsApp Messenger, on your device features and connectivity and to telecommunications and internet access infrastructure the availability and quality which CAL has no control over. Consequently, CAL does not guarantee that the content transmitted will be usable or accessible to you or that it will be clear and uninterrupted. Consequently, CAL's responsibility ends at availing the content to you as stipulated under clause 6.2.3.

**8. Kids View**

8.1. For a user under the age of majority which is eighteen years, your use of the Viusasa platform is subject to these Terms and Conditions and as hereunder ("Kids View").

8.2. Children of all ages may use Kids View in the Viusasa platform only if enabled by a parent or legal guardian.

### 8.3. Permission by Parent or Guardian

- a) If you are under the age of eighteen, you must have your parent or legal guardian's permission to use the Viusasa platform. Please have them read these Terms and Conditions with you.
- b) If you are a parent or legal guardian of a user under the age of eighteen, by allowing your child to use the Viusasa platform, you are subject to the terms of these Terms and Conditions and responsible for your child's activity on the Platform.
- c) To ensure protection of users under the age of eighteen on the Platform, there shall be a password that locks a user below the age of eighteen if they are on Kids View so that they can not see other Content unless a password is entered. Such password shall be kept confidential and parents and guardians shall ensure compliance with this protection provision as CAL shall not be held liable if a person below the age of eighteen accesses any Content that may be deemed unsuitable for persons under the age of eighteen.

## 9. Brighter Monday

- 9.1. Brighter Monday is an online platform specializing in providing various employment opportunities to members of the public in the form of advertisements.
- 9.2. Brighter Monday and CAL have entered into an agreement dated 16<sup>th</sup> July, 2020 where CAL provides to Brighter Monday a link to its Viusasa platform for purposes of being made available to Viusasa users under the terms of the said agreement as Platform as a Service.
- 9.3. As a user of Brighter Monday under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

## 10. Auktion House

- 10.1. Auction House is an online platform specializing in providing various opportunities to members of the public for the sale of goods and merchandise in the form of auction.
- 10.2. Auktion House and CAL have entered into an agreement dated 18<sup>th</sup> August, 2020 where CAL provides to Auktion House a link to its Viusasa platform called Bid House for purposes of being made available to Viusasa users under the terms of the said agreement as Platform as a Service.
- 10.3. As a user of Auktion House and/or Bid House under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as

a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

## **11. Tender Soko**

- 11.1. Tender Soko is an online platform specializing in providing various opportunities to members of the public in the form of listing of up to date valid tenders to members of the public.
- 11.2. Tender Soko and CAL have entered into an agreement dated 25<sup>th</sup> June, 2020 where CAL provides to Tender Soko a link to its Viusasa platform for purposes of being made available to Viusasa users under the terms of the said agreement as Platform as a Service.
- 11.3. As a user of Tender Soko under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

## **12. Viusasa Elimu**

- 12.1. Viusasa Elimu is an online platform specializing in providing educational support and learning materials to Viusasa users in collaboration with third parties under their terms of an agreement Between CAL and the various 3<sup>rd</sup> parties.
- 12.2. As a user of Viusasa Elimu, you agree to these Terms and Conditions by registering and signing into the Viusasa Elimu Service or by doing such other thing as may be specified in the platform or otherwise by CAL.
- 12.3. If you are a user below the age of eighteen, the Kids View segment shall apply to you.

## **13. JengaArt**

- 13.1. This is a website service where CAL supports local content where Viusasa users shall pay to watch and or listen and support various local artist and content providers. Below is the process that you shall follow to access the service:
  - a) Dial USSD code \*487#
  - b) Select " JengaArt"
  - c) Select the artist or content provider you wish to support or enter the Artist Code
  - d) Pay any amount or any minimum amount that shall be set by CAL
  - e) Get a link to the website or mobile application.
  - f) Watch content for the artist or content provider paid for.
  - g) You may also get a direct USSD code shortcut that leads you straight to the content providers content and be able to support your preferred content provider.

h) You may be able to support your artist as many times as possible.

#### **14. Livia**

- 14.1. Livia is an online platform specializing in providing healthcare solutions to members of the public, the service is provided for by Neotech Kenya Limited.
- 14.2. Neotech Kenya Limited and CAL have entered into an agreement dated 10<sup>th</sup> Day of May, 2021 where CAL provides to Neotech otherwise referred to as Livia, a link to its Viusasa platform for purposes of being made available to Viusasa users under the terms of the said agreement as Platform as a Service.
- 14.3. As a user of Livia under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.
- 14.4. CAL does not warrant the accuracy or guarantee consumption of the healthcare services provided for under Livia.
- 14.5. Livia shall remain liable for all the health services provided under the service through the Platform.

#### **15. Travel**

- 15.1. ViuTravel is a licensed travel agent that provides a one stop shop for online booking, reservations and payment services to the leisure and travel industry. A link to the ViuTravel website shall be provided on the Viusasa platform for Viusasa users.
- 15.2. As a user of ViuTravel under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

#### **16. Citizen Digital App**

- 16.1. Citizen Digital App is a news app by Royal Media Services that provides breaking news, entertainment, sports, politics and business news from Kenya and around the world. A link to the Citizen Digital website shall be provided on through the Viusasa platform for Viusasa users.
- 16.2. As a user of the Citizen Digital App under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

#### **17. Insurance**

- 17.1. Insurance services shall be available to Viusasa users in collaboration with third parties under their terms of agreement Between CAL and the various 3<sup>rd</sup> parties.

- 17.2. As a user of the insurance services, you agree to these Terms and Conditions by registering and signing into the insurance service or by doing such other thing as may be specified in the platform or otherwise by CAL.

## **18. Digital Services**

### **CAL may offer digital services on the platform**

- 18.1. Digital Services is a cashless system where Viusasa users are enabled through the Viusasa platform, to pay for merchandise and various services including fare and earn a commission from those services at CAL's discretion
- 18.2. One can also pay for fare, various services or merchandise through the USSD code \*487#, the Viusasa App or through [www.viusasa.com](http://www.viusasa.com).
- 18.3. As a user of the Digital Services, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.
- 18.4. Through Digital Services and in conjunction with another third party, you shall be able to pay for goods and services such as barber shops, supermarkets, grocery shops, retail shops, public service vehicles' transport costs including checking matatu insurance status, requesting payment reversal or checking your trip details.
- 18.5. Through Digital Services, users registered as Digital Sales Assistants shall be able to pay bills, buy airtime for others and such other services and shall earn a commission on the sales which they are able to withdraw. The commissions shall change from time to time at the discretion of CAL. You shall be required to provide your National ID number or such other documentation that CAL shall require in order to allow you withdraw the commission.

### Passwords and Account Access

- 18.6. Once you create a Viusasa account, you will have access and control over the account. To maintain control over the account and to prevent undesired access to your account, you shall maintain control over any devices that you have used to access the service and not reveal the password or other account details to anyone whom you do not intend to give access to your account.
- 18.7. You are responsible for updating and maintaining your account information and ensuring its accuracy.
- 18.8. CAL may close or suspend access to your account in order to protect you, CAL or any of its partners or other users from identity theft or other fraudulent or unlawful activity. Provided that CAL shall not be liable for any losses, infringements, injuries or other liabilities that may arise, directly or indirectly, from such activity.

**19. Viutickets**

- 19.1. Viutickets is an online platform either through the Viusasa App, USSD \*487# or the Viusasa Website, specializing in selling tickets on behalf of merchants like event organizers or event promoters who shall avail their events to CAL for ticketing purposes, they may also upload products, tickets or digital content on to the Viusasa platform for Viusasa users. CAL does not manage the events and shall solely be responsible for generating and managing the ticketing system on behalf of the merchants. We do not warrant the accuracy of the event, we act only as a payment gateway.
- 19.2. Any refund policy shall be at the discretion of CAL.
- 19.3. As a user of Viutickets under the Platform, you agree to these Terms and Conditions by registering and signing into the Platform as a Service or by doing such other thing as may be specified in the platform or otherwise by CAL.

**20. Citizen Duka**

- 20.1. Citizen Duka is an online market place where users will be able to view reviews of certain products or services and be able to pay for them.
- 20.2. The products listed on the platform are either products with coupons or products with enhanced advertisements or on the live shopping segment on television. CAL shall make a commission on value of coupons generated and on charging a fee to have products in the live shopping segment or with enhanced ads.
- 20.3. The fulfillment process of delivery shall be done by the merchant.
- 20.4. CAL is not liable for the warranty of the accuracy of the goods and services sold therein.

**21. Coupons**

- 21.1. This is a digital system that will be used to generate and run coupon campaigns.
- 21.2. Through this system, coupons campaigns are generated. They can be region based or product based.
- 21.3. As a user of coupons via USSD, Viusasa App or website, you will provide a phone number and receive an SMS with the coupon code and redemption instructions which will contain details of the participating store.
- 21.4. The participating store will validate the coupon code presented sent on SMS.
- 21.5. CAL is not liable for the warranty of the accuracy of the goods and services sold under coupons.

**22. Payment and Billing**

- 22.1. Content on the Viusasa platform will be accessed from your Viusasa account upon payment of the charges specified by CAL with regard to the relevant subscription package. You agree that the amount, quality and nature of Content available to you will depend on the package paid for.
- 22.2. CAL will provide two types of subscription packages:

- 22.2.1. Time-based packages, purchase of which will enable you to access Content for a specified time period. These packages may be per minute, hourly, daily, weekly, monthly or annual; and
- 22.2.2. Transactional packages, purchase of which will enable you to access particular selected Content but will not entitle you to access any other Content. Should you wish to access any Content other than that selected at the time of purchase of a transaction-based package, you will be required to purchase another package.
- 22.3. Payment for subscription packages shall be done through available mobile money payment services, credit cards and debit cards, online and other internet-based payment systems (including e-wallets), or such other method as CAL may specify from time to time. Provided that, you acknowledge that all payment systems available on the platform or on the Viusasa website are provided by third parties. Besides, you further acknowledge, those systems are reliant on certain physical and digital infrastructure. CAL takes no responsibility as to the legal compliance, availability and/or reliability of such systems or to completion of payments made through any of them. Consequently, subscription payments will be deemed to have been made at the time when they are actually received by CAL and loaded into the Viusasa service. Further, by using any particular payment system, you undertake that you have read and accepted the relevant terms and conditions to which use of that system is subject. Further, CAL shall not be responsible for the loss of any amount paid or for any delay in processing payments or transaction reversals or refunds.
- Amounts charged will include any other charges you may incur in connection with your use of the Viusasa platform, such as taxes, payment transaction fees and commissions, and any subscription payments then owing (“Extra Charges”). Without prejudice to clause 3.10, CAL may demand that you pay due and owing Extra Charges before you are able to pay for your current subscription.
- 22.4. CAL may, at its absolute discretion, change the price of the service (or any part thereof) from time to time.
- 22.5. If a selected package has not been activated after payment, you shall notify this to CAL whereupon you may choose for CAL to either (a) refund the subscription payment to you or (b) carry forward the payment and activate the relevant package during the next subscription period. While CAL shall endeavour to accommodate your choice of either option, the final decision on the option to be used shall rest with CAL.
- 22.6. In the event that you are charged multiple times for a single subscription package or you otherwise overpay for the service, you shall promptly notify CAL, whereupon you may choose for CAL to either (a) refund the amount overpaid to you or (b) carry it forward and activate the relevant subscription package during the next subscription period. While CAL shall endeavour to accommodate your choice of either option, the final decision on the option to be used shall rest with CAL.
- 22.7. In the event you have made a payment to CAL through any of the methods specified herein but have not created a Viusasa account, the payment transaction shall be

reversed and a refund shall be made to you. Provided that CAL shall not be responsible for the loss of any amount so paid or for any delay in processing transaction reversals or refunds.

### **23. Additional Services**

- 23.1. In addition to the service, CAL may, at its absolute discretion, provide other services (whether paid or free of charge) on the platform, through the Viusasa website or through such other method as CAL may determine. Similarly, CAL shall have the right to terminate provision of any of those services at any time without incurring any liability whatsoever to you.
- 23.2. Without prejudice to the foregoing, CAL may:
  - 23.2.1. Allow you to purchase mobile data from various mobile network operators (MNOs) or their authorised vendors. However, you acknowledge that CAL shall only provide a platform through which you will purchase data from MNOs or their agents, who shall be the actual vendors of the data. Consequently, CAL accepts no liability whatsoever on delivery of such data or quality of the same. In the event that you have any queries or complaints as to delivery or quality of data purchased through the platform, please contact the relevant vendor;
  - 23.2.2. Integrate ring-back codes into the platform enabling you to purchase ring-back tones from MNOs and other ring-back tone vendors. You acknowledge that CAL shall only provide a platform through which you will purchase ring-back tones from MNOs or other vendors. Consequently, CAL accepts no liability whatsoever on delivery of such tones and quality of the same. In the event that you have any queries or complaints as to delivery or quality of tones purchased through the platform, please contact the relevant MNO or other vendor;
  - 23.2.3. Offer news items (including news articles, broadcasts, cartoon characters, editorial animations, exclusive news stories or other reports) as well as aggregated news items from third-parties;
  - 23.2.4. Offer such premium rate services (PRS) as CAL may determine from time to time;
  - 23.2.5. Allow you to access certain offers and promotions through the platform, subject to the terms and conditions set out under clause 11 hereunder;
  - 23.2.6. Send you promotional messages;
  - 23.2.7. Offer a payment gateway service through its USSD service, in the app or through Equity Bank Kenya bill payment service, which you shall be able to pay for bills and other services. CAL does not warrant the reliability and uptime of the said service;

- 23.2.8. Offer through its partners an action platform within the app or through its USSD platform where the user shall bid for merchandise and pay a registration fee and consequently pay for any won bids. Specifically, CAL shall offer this service through Bid House, which is a trademark owned by CAL;
- 23.2.9. Offer Kids' content that shall or shall not be paid separately and the user shall be required to set a password for this which shall lock a user from exiting the section. You shall be responsible to ensure that you keep the password safe and are responsible for minors accessing any content outside this page;
- 23.2.10. Offer Gospel content or other religious content that may or may not require a subscription. CAL shall partner with various religious institutions or organisations to upload their content to the platform. CAL does not warrant the content provided for by such institutions.
- 23.2.11. Introduce games on the app that shall either be free or paid for and CAL does not warrant the reliability and up time on the services;
- 23.2.12. Offer educational content on the app in conjunction with third parties and CAL does not warrant the said educational content;
- 23.2.13. Offer live channels that are streamed from third party servers. CAL may also offer live events that are streamed on the platform, this shall all require subscription or offered for free at the discretion of CAL;
- 23.2.14. Offer religious content on the application in conjunction with religious institutions or bodies;
- 23.2.15. Offer a data pass through MNO's that shall allow you to access specific or all content on the app subject to paying for the subscription and data through the MNOs or banks or other external payment gateways;
- 23.2.16. Offer a recommendation service called "mtu mzuri" where users shall recommend an individual for certain tasks or jobs and offer a rating on the person. CAL does not warrant the users input and solely relies on user feedback or recommendations;
- 23.2.17. Introduce a Self live streaming feature where users or content providers will broadcast live on the platform to users, viewing of this service may be free, charged separately or as per normal Viusasa subscription and/or;
- 23.2.18. Offer a digital exhibition platform where business may showcase their merchandise, property or services.
- 23.3. You accept that:
- 23.3.1. Mobile data and ring-back tones purchased or accessed through the platform are provided by third parties with whom CAL has not entered into any

agreements in relation to the provision of such mobile data and/or ring-back tones to you. As such, CAL gives no guarantee that (a) the mobile data or ring-back tones conform to any quality standards, (b) the ring-back tone vendors are in compliance with all laws governing use of the ring-back tones or any literary work from which they are derived (c) that your use of the ring-back tones will not expose you to legal action for breach of the Intellectual Property Rights or commercial interests of any person; and

23.3.2. CAL assumes no responsibility or liability for any errors or omissions in the content of any news items provided on the platform. Such items shall be provided on an “as is” basis with no guarantees of frequency of provision, completeness, accuracy, usefulness or timeliness.

## 24. Viusasa Loyalty Program

24.1. CAL may introduce and operate a subscriber loyalty program and shall be at liberty to withdraw the service; which program will be governed by the following terms and conditions:

24.1.1. The program will be available to all subscribers to the service who will purchase subscription packages.

24.1.2. You will earn loyalty points based on your purchase of subscription packages as follows:

Package	Price	Loyalty points
Daily Music	5.00	50.00
Daily Videos	10.00	100.00
Daily Videos & Music	15.00	150.00
Weekly Music	30.00	300.00
Weekly Videos	60.00	600.00
Weekly Videos & Music	90.00	900.00
Monthly Music	100.00	1,000.00
Monthly Videos	200.00	2,000.00
Monthly Videos & Music	300.00	3,000.00
WhatsApp Weekly Subscription	40.00	400.00
WhatsApp Monthly Subscription	120.00	1,200.00
Audio content	10.00	100.00

- 24.1.3. Loyalty points will be awarded to you at the point of receipt of payment of a relevant package or subscription from you by CAL.
- 24.1.4. You may redeem your loyalty points to purchase such Viusasa packages as shall be commensurate with the number of loyalty points available in your account, this shall be subject to CAL's discretion from time to time. CAL shall be at liberty to dictate how many points shall be redeemed and for what package.
- 24.1.5. Once loyalty points are redeemed, the transaction cannot be reversed.
- 24.1.6. Any unredeemed loyalty points above 1,000 points will expire at the end of 12 months from the date when they accumulate to 1,000 points. Unredeemed loyalty points below 1,000 will expire after 24 months from the date when they were awarded.
- 24.1.7. CAL may send a notification to you 1 day to the date of expiry of your loyalty points.
- 24.1.8. Loyalty points are awarded and belong to the person whose telephone number or email address was used to activate the subscription through which the points were awarded - not necessarily the person paying.
- 24.1.9. The Points can be redeemed on both the Viusasa application including the Website and through USSD for Viusasa Audio.
- 24.1.10. This being a discretionary reward scheme, CAL may revoke your loyalty points or withdraw, change, vary, or substitute this program at any time without notice to you.

## **25. Deals Offered Through the Platform**

- 25.1. CAL may, at its absolute discretion, publish promotional vouchers on the platform which you may retrieve and purchase the goods or services to which they relate at discounted prices or upon such other favourable terms as shall be specified in each case.
- 25.2. Such deals shall be offered by third parties.
- 25.3. By accessing and retrieving any such vouchers, you agree that:
  - 25.3.1. CAL's only role shall only be publishing the vouchers on the platform and allowing you to make purchases or retrieving merchant codes, through the platform and, for all intents and purposes, the seller of the goods and services to which a voucher relates ("**the Merchant**") shall be:
    - a) the issuer of the vouchers;

- b) the offeror and seller of the goods and services to which the vouchers relate;
- c) the “supplier” of the goods or services to which the vouchers relate for purposes of the Consumer Protection Act, Act No. 46 of 2012, Laws of Kenya;
- d) the “seller” of the goods to which the vouchers relate for purposes of the Sale of Goods Act, Chapter 31, Laws of Kenya; and
- e) the supplier and seller of the goods to which the vouchers relate for purposes of Article 46 of the Constitution of Kenya, 2010.

25.3.2. The procedure for and conditions for retrieval of vouchers will vary from Merchant to Merchant and each Merchant shall be entitled to impose terms of and conditions applicable to the retrieval of any vouchers issued by them and the sale, purchase and delivery of any goods or services purchased in pursuance thereto. You agree to be bound by such terms and conditions; and

25.3.3. All products purchased are subject only to any applicable warranties of the relevant Merchant or their respective manufacturers, distributors and suppliers, if any. CAL hereby disclaims any and all warranties of any kind, either express or implied, including, any implied warranties with respect to any goods or services purchased pursuant to any voucher published on the platform. Without limiting the generality of the foregoing, CAL hereby expressly disclaims all liability for product defect or failure, claims that are due to wear or the condition or quality of goods or services purchased, product misuse and abuse, product modification, non-compliance with any applicable laws, any good or service not being fit for the intended use, any claim connected to false advertising, and any misrepresentation.

## **26. Your Covenants**

26.1. By accepting these Terms and Conditions, you agree:

26.1.1. To use the Viusasa platform and the service, including all features, contents and functionalities associated therewith, in accordance with all applicable laws, rules and regulations, or other restrictions applying to the use of the Viusasa platform or content therein;

26.1.2. Not to, unless expressly permitted by CAL, record, copy, distribute, publish, perform, modify, download, transmit, transfer, sell, license, reproduce, archive, create derivative works from or based upon, distribute, post, publicly display, offer for sale, frame, link, or in any other way exploit any part of the Content and information contained on or obtained from or through the Viusasa platform or otherwise by the use of the service;

26.1.3. Not to:

- 26.1.3.1. circumvent, remove, alter, deactivate, degrade or thwart any of the Content on the Viusasa platform or otherwise availed by CAL;
  - 26.1.3.2. reverse engineer or disassemble or otherwise interfere with any software or other products or processes accessible through the Viusasa platform or otherwise availed by CAL;
  - 26.1.3.3. insert any code or product or manipulate the content of the Viusasa platform, including the Content, in any way; or
  - 26.1.3.4. upload, post, e-mail or otherwise send or transmit any material designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment associated with the service, including any software viruses or any other destructive computer codes, files or programs.
- 26.2. Without prejudice to any other rights and remedies that CAL may have under the Terms or the applicable law, CAL may terminate, suspend or restrict your use of the service if you violate any of the above covenants or are otherwise engaged in illegal, fraudulent or otherwise improper use of the service.

## **27. Quality of Content and Limitation of Liability**

- 27.1. You acknowledge that CAL engages third-party service providers to maintain the platform and provide various services relating to the service, including payment systems. CAL accepts no liability for any loss, damage, inconvenience or cost resulting directly or indirectly from any disruptions or delays caused by failure or unavailability of such services, including without limitation, network failures, data breaches, payment delays, and unavailability of any features on the platform or of any part of the service.
- 27.2. CAL appreciates, and you acknowledge, that most of the Content is supplied by third parties to CAL. While CAL will take all reasonable steps to ensure that the service provided on the Viusasa platform will be of high quality, the service is provided 'as is' and without warranty or representation on the part of CAL. In particular, and without limitation, CAL does not represent or warrant to you that:
- 27.2.1. your use of the service will meet your requirements;
  - 27.2.2. your use of the service will be uninterrupted, timely, secure or free from error;
  - 27.2.3. any information obtained by you as a result of your use of the service will be accurate or reliable; and
  - 27.2.4. any defects in the operation or functionality of any software related to the service will be corrected.

- 27.3. The quality of the display of the Content on the Viusasa platform may vary from device to device and the audio quality of content provided under clause 5 will vary from device to device and the quality of your telephone network, and may be affected by a variety of factors, such as your location, the bandwidth available through and/or speed of your internet or telephone connection, and the subscription package you pay for. The time it takes to load Content on the platform may vary based on a number of factors, including your location, available bandwidth at the time, the Content you have selected and the configuration of your device.
- 27.4. The software used by CAL on the platform may have been developed and designed to enable viewing of Content through certain devices. The software may vary by device and medium, and functionalities and features may also differ between devices. It is your responsibility to procure a compatible device.
- 27.5. You acknowledge that the use of the service may require that your device have third-party software that is subject to third-party licenses. Should this be the case, it shall be your responsibility to procure such software and licences.
- 27.6. CAL shall not be liable to you or any other person for:
- 27.6.1. any indirect or consequential losses which may be incurred by you as a direct or indirect result of the use of the service including any loss of profit, loss of goodwill or business reputation, loss of opportunity, or loss of data;
  - 27.6.2. any loss or damage which may be incurred by you or any other party as a result of:
    - 27.6.2.1. any reliance placed by you or any other party on the completeness, accuracy or existence of any advertising, or as a result of any relationship or transaction between you and any advertiser or sponsor whose advertisement appears on the Viusasa platform;
    - 27.6.2.2. any changes which CAL may make to the service, or for any permanent or temporary cessation in the provision of the service;
    - 27.6.2.3. the deletion, corruption or other interruption of any Content;
    - 27.6.2.4. your failure to provide CAL with accurate account information; and
    - 27.6.2.5. your failure to keep your password or account details secure.

## **PART V: VIUSASA PRIVACY POLICY**

CAL is committed to maintaining robust protection of private information for information obtained from users of the Viusasa platform and the service. This Privacy Policy sets out our information use and privacy to help you make informed decisions when using the service.

**28. Personal Information**

- 28.1. In addition to any information that may be provided automatically by your browser or mobile device when you visit the Viusasa platform or the Viusasa website, CAL receives and maintains certain information that you used to create your Viusasa account or which you may otherwise provide to CAL. Some of this information is Personal Information.
- 28.2. By using the service, you are authorizing CAL to store and use this information, including, without limitation, your email address, names and phone number, as specified in these Terms. CAL will store your Personal Information for as long as you have a Viusasa account and, thereafter, for retained for as long as it is required to fulfil contractual or legal requirements, or to provide statistics to CAL or any of its affiliates.
- 28.3. The information mentioned in clause 20.2 is stored in Ireland and Kenya and technical security measures have been implemented to protect the data as required by the Data protection Act 2019

**29. Use of Information**

- 29.1. Except as otherwise stated in these Terms, CAL shall not sell, trade, rent or otherwise share for marketing purposes your Personal Information with third parties without your consent.
- 29.2. CAL may share your Personal Information with persons who are performing any services for CAL including, without limitation, employees, contractors, service providers, and agents who need to know that information in order to perform such services. CAL shall ensure that these persons are subject to strict contractual confidentiality obligations with regard to your Personal Information.
- 29.3. CAL may use your Personal Information to communicate with you including, without limitation, contacting you (including, without limitation, by calling you, sending SMS to you, sending to you messages through WhatsApp Messenger or displaying push notifications on your device) in response to questions, to solicit feedback from you, to provide technical support, and, subject to these terms, to send marketing and promotion messages, and to inform you about promotional offers, new products and incidental matters.
- 29.4. Whenever you contact CAL, CAL may keep a record of your communication to help solve any issues you might be facing and for any other lawful purpose.
- 29.5. CAL may use your email address, telephone number and other contact information to inform you about CAL's services, such as letting you know about upcoming changes or improvements.
- 29.6. If any Personal Information provided is wrong, CAL shall give you ways to update it quickly or to delete it unless CAL decides to keep that information for legitimate business or legal purposes. In addition, you may at any time make a request to CAL for rectification of any inaccurate Personal Data or for completion of any incomplete Personal Data. When updating, rectifying or completing your Personal Information,

CAL may ask you to verify your identity before acting on your update, rectification or completion request. CAL may at its discretion reject your update, rectification or completion request.

- 29.7. CAL may track certain information about your visits to the Viusasa platform and your content preferences and may use various technologies to collect and store information when you use the Viusasa platform, including using cookies or similar tracking technologies to identify your browser or device. This information may be used by CAL internally to improve the service and for service delivery development and marketing purposes generally.
- 29.8. CAL may, at its discretion, provide Non-Personal Information to advertisers and other third parties. No part of this Privacy Policy shall be read or interpreted to limit in any way CAL's use or disclosure of Non-Personal Information.
- 29.9. In the event that CAL exercises its right to transfer its rights and obligations under the Terms for any reason, your Personal Information and Non-Personal Information may be among the assets transferred. In the event that CAL exercises its right to transfer its rights and obligations under the Terms for any reason, you will be requested for your consent before any Personal Information and Non-Personal Information is transferred. Such transfers may occur and are permitted by this Privacy Policy, and that any acquirer of our assets may continue to poses and use your Personal Information and Non-Personal Information as set forth in this Privacy Policy.

### **30. Rights Regarding the Use of Your Personal Information**

- 30.1. You have the right at any time to prevent CAL from contacting you for marketing purposes. When CAL sends promotional communication to you, you may, subject to these Terms, opt out of further promotional communication by:
- 30.1.1. following the unsubscribe instructions provided in each promotional communication; or
  - 30.1.2. writing to or calling CAL.
- 30.2. You agree that notwithstanding the promotional preferences you indicate, CAL may continue to send you administrative emails, text messages or push notifications including, without limitation, changes to the Terms.
- 30.3. You have the right to request from CAL access to your Personal Information. Such request must be in writing.
- 30.4. You also have the right to lodge a complaint with CAL regarding use of your Personal Information. Complaints must be in writing.

### **31. Information Protection**

- 31.1. You acknowledge and agree that all information provided to CAL is at your sole risk and that while CAL will take all reasonable measures to protect your information,

CAL does not guarantee that your information will not be accessed, disclosed, altered or destroyed by breach of such measures or otherwise as the information may be compromised from your end by unauthorized persons who may access your account, notwithstanding the security measures put up by CAL to block such unauthorized access.

- 31.2. Your Viusasa account is protected by your account password and we urge you to take steps to keep your personal information safe by not disclosing your password and by logging out of your account after each use.
- 31.3. CAL may further protect your information from potential security breaches by implementing certain technological security measures.

### **32. Third-Party Websites**

- 32.1. As part of the service or for any other reason, CAL may provide links to third-party websites or applications on the Viusasa platform. However, CAL shall not be responsible for the privacy practices employed by those websites and applications or the information or content they contain.
- 32.2. This Privacy Policy applies solely to information collected by us through the Viusasa platform and the service. It does not apply to your use of a third-party website accessed by selecting a link on the Viusasa platform.
- 32.3. If you access or use the service through or on a third-party website or application, then the privacy policy of that third-party website or application will apply to your access or use of that site or application.

## **PART VI - GENERAL PROVISIONS**

### **33. Termination**

- 33.1. CAL may terminate the legal relationship with you, and close your Viusasa account, as follows:
  - 33.1.1. For convenience, with or without reason, upon giving you 14 days' notice;
  - 33.1.2. If CAL stops providing the service (or any features within the service) for any reason, upon giving you 21 days' notice. Provided that notice given generally to Viusasa subscribers shall be deemed sufficient notice for this purpose;
  - 33.1.3. If you have breached any provision of the Terms (or have acted in a manner which shows that you do not intend to, or are unable to comply with the provisions of the Terms), upon giving you 7 days' notice; and
  - 33.1.4. If CAL is required to do so by law or any lawful order, in accordance with such law or order.
- 33.2. You may terminate the legal relationship with CAL at any time by closing your Viusasa account.

- 33.3. Except as otherwise provided herein, you agree that all payments made to CAL are non-refundable and that CAL will not provide credits for any partial payments upon termination.
- 33.4. Upon termination:
- 33.4.1. All monies and other payables due from you to CAL shall immediately become due and payable; and
- 33.4.2. All provisions of the Terms which are expressed to continue after termination shall remain in force be unaffected by the termination.
- 33.5. For the avoidance of doubt, the provisions of this clause 19 shall apply to the termination of your relationship with CAL and closure of your Viusasa account. The expiry of a subscription package shall not be considered termination for this purpose.

#### **34. Miscellaneous**

- 34.1. The Terms shall be governed by and construed in accordance with the laws of the Republic of Kenya and the Data Protection Act 2019.
- 34.2. If any provision(s) of the Terms is held by any court or tribunal of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall remain in full force and effect.
- 34.3. CAL may at any time change any provision of, or replace, the Terms. Provided that such changes or replacement will take effect once posted on the platform. If you do not agree to the changes, you may stop using the service. Your continued use of the service after the date the change or replacement is posted on the Viusasa platform will constitute your acceptance of the changes.
- 34.4. CAL may assign or transfer any of its rights or obligations under the Terms to any other person. Provided that CAL shall notify you of such and seek your consent.
- 34.5. Communication from CAL to you regarding your use of the Viusasa platform and the Terms will be by way of text messages, telephone calls, electronic mail, displays within the Viusasa platform and push notifications. You authorise CAL to use the email address and telephone number provided on your account for purposes of such communication. Provided that communication done and notices issued through any of the methods specified in this clause shall be deemed effective communication or notice for all purposes.
- 34.6. You agree that you are responsible for protecting your personal data accessible through your account and/or devices with regard to unauthorized persons to the extent permitted by law) and any breach of your obligations under the Terms and for the consequences (including any loss or damage which CAL may suffer) of any such breach.

34.7. In addition we have included our full data protection policy that we use to manage and protect your data on:  
[http://calkenya.com/calkenya/CAL\\_Data\\_Privacy\\_Policy\\_26\\_10\\_2022.pdf](http://calkenya.com/calkenya/CAL_Data_Privacy_Policy_26_10_2022.pdf)

*If you have any questions or comments regarding the Terms, the service or the Viusasa platform, please contact CAL by sending an email to the address or calling the number specified on the Viusasa platform.*

**Original Version: 27<sup>th</sup> March 2017**  
**Current Updated Version: 26th October, 2022**