

# DTB Digital Account Terms and Conditions

## 1. The agreement

- 1.1. This Agreement sets out the complete terms and conditions (hereinafter called “these terms and conditions”) which shall be applicable to the DTB Digital Account (as hereinafter defined) opened by you (as hereinafter defined) with the Bank (as hereinafter defined).
- 1.2. These terms and conditions and any amendments or variations thereto take effect on their date of publication and will be available online on [www.dtbafrica.com](http://www.dtbafrica.com).

## 2. Definitions

- 2.1. In these terms and Conditions, the following words and expressions (save where the context requires otherwise) bear the following meanings:
  - 2.1.1. “**Bank**” means Diamond Trust Bank Kenya Limited, and its Branches and Subsidiaries as may from time to time be specified by the Bank to the Customer.
  - 2.1.2. “**DTB Digital Account**” means the virtual bank account held by a customer with the Bank and which is opened and operated in accordance with these terms and conditions herein contained;
  - 2.1.3. “**Customer**” means the person in whose name the DTB Digital Account with the Bank is held;
  - 2.1.4. “**Customer care**” means the Bank’s twenty-four (24) hour contact centre;
  - 2.1.5. “**Equipment**” includes your mobile phone handset, SIM card and/or other equipment which when used together enables you to access the network and to facilitate use and operation of the DTB Digital Account and DTB m24/7 products;
  - 2.1.6. “**IPRS**” means the integrated population registration system setup and maintained by the Government of Kenya under the Ministry of state for immigration and registration of persons and its successors;
  - 2.1.7. “**Request**” means a request or instruction received by the Bank from you or purportedly from you through the network and the system and upon which the Bank is authorized to act;
  - 2.1.8. “**Services**” shall include any form of financial services or products that the Bank may offer you pursuant to this agreement and as you may from time to time subscribe to and “service” shall be construed accordingly;
  - 2.1.9. “**SIM card**” means the subscriber identity module which when used with the appropriate mobile phone handset enables you to access the network and to use the DTB m24/7 system;
  - 2.1.10. “**SMS**” means a short message service consisting of a text message transmitted from one mobile phone to another;
  - 2.1.11. “**Transaction fees**” includes the any fees and charges payable for the use of the services as published by the Bank on the Bank’s web site or by such other means as the Bank shall in its sole discretion determine. Transaction fees are subject to change at anytime at the Bank’s sole discretion;
  - 2.1.12. “**We,**” “**our,**” and “**us,**” means the Bank and includes the successors and assigns of the Bank;
  - 2.1.13. “**You**” or “**your**” means the customer and includes the personal representatives of the customer;
  - 2.1.14. The word “**Customer**” shall include the masculine and the feminine gender as well as juristic persons;
  - 2.1.15. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

## 3. Acceptance of the terms and conditions

- 3.1. These terms and conditions will govern the use and operation of the DTB Digital Account; You should take the time to read and understand them.
- 3.2. If you do not agree with these terms and conditions, please click “decline” on the DTB Digital Account Opening menu.
- 3.3. You will be deemed to have read, understood and accepted these terms and conditions:
  - 3.3.1. upon clicking on the “accept” option on the DTB Digital Account Opening menu; and/or
  - 3.3.2. by using or continuing to use and operate the DTB Digital Account and/or the services.
- 3.4. By applying to open the DTB Digital Account with the Bank, you agree to comply with and be legally bound by these terms and conditions for the time being and from time to time in force governing the operation of the DTB Digital Account and you affirm that these terms and conditions herein are without prejudice to any right that the Bank may have with respect to the DTB Digital Account in law or otherwise
- 3.5. These terms and conditions may be amended or varied by the Bank from time to time by thirty (30) days’ notice to you and the continued use of your DTB Digital Account and/or the services constitutes your agreement to be bound by the terms of any such amendment or variation.

## 4. Account opening

- 4.1. In order to open a DTB Digital Account with the Bank, you must be at least eighteen (18) years old and a registered and active M-pesa subscriber.
- 4.2. You may open a DTB Digital Account solely by way of an electronic application made by you using your equipment via the DTB Digital Account Opening menu.
- 4.3. You hereby agree and authorize the Bank to obtain your personal information contained in the IPRS from the Government of Kenya and you further agree and consent to the disclosure and provision of such personal information by the Government of Kenya to the Bank.
- 4.4. You hereby further acknowledge and authorize the Bank to verify your personal information received from Safaricom pursuant to clause 4.3 against the information received from the Government of Kenya in your respect as contained in the IPRS.
- 4.6. The Bank reserves the right to request for further information from you pertaining to your application for a DTB Digital Account at any time. Failure to provide such information within the time required by the Bank may result in the Bank declining to accept your application for a DTB Digital Account.
- 4.7. Acceptance by the Bank of your application for a DTB Digital Account shall be done via SMS sent to the mobile phone number associated with your account.
- 4.8. The Bank reserves the right to decline your application for a DTB Digital Account or to revoke the same at any stage at the Bank’s sole discretion and without assigning any reason or giving any notice thereto.

## 5. Your requests

- 5.1. You hereby irrevocably authorize the Bank to act on all requests received by the Bank from you (or purportedly from you) through the system and to hold you liable in respect thereof. The Bank may nevertheless refuse to carry out any requests which would result in there being an overdraft on your DTB Digital Account.
- 5.2. The Bank shall be entitled to accept and to act upon any request, even if that request is otherwise for any reason incomplete or ambiguous if, in its absolute discretion, the Bank believes that it can correct the incomplete or ambiguous information in the request without any

reference to you being necessary.

- 5.3. The Bank shall be deemed to have acted properly and to have fully performed all the obligations owed to you notwithstanding that the request may have been initiated, sent or otherwise communicated in error or fraudulently, and you shall be bound by any requests on which the Bank may act if the Bank has in good faith acted in the belief that such instructions have been sent by you.
- 5.4. The Bank may, in its absolute discretion, decline to act on or in accordance with the whole or any part of your request pending further enquiry or further confirmation (whether written or otherwise) from you. The Bank shall not be under any obligation to so decline in any case, and shall in no event or circumstance be liable for not so declining.
- 5.5. You agree to and shall release from and indemnify the Bank against all claims, losses, damages, costs and expenses howsoever arising in consequence of, or in any way related to the Bank having acted in accordance with the whole or any part of any of your requests (or failed to exercise) the discretion conferred upon it.
- 5.6. You can only cancel your request by through customer care and requesting cancellation. Cancellation will however only be allowed where your request is revocable and has not yet been acted on. If the Bank is able to cancel your instruction, you may be charged for such cancellation.
- 5.7. The Bank may refuse to make a payment if you do not have sufficient funds in your DTB Digital Account. In deciding whether you have sufficient funds, the Bank will take account of any instructions to make payments and regular payments, which have not yet been paid from your DTB Digital Account. The Bank will not be obliged to take account of regular credits or any amounts received after it has decided not to make the payment.
- 5.8. The Bank is authorized to affect such orders in respect of your DTB Digital Account as may be required by any court order or competent authority or agency under the applicable laws.

In the event of any conflict between any terms of any request received by the Bank from you and these terms and conditions, these terms and conditions shall prevail.

#### **6. Overdrawing your DTB Digital Account**

- 6.1. No overdraft will be allowed on your DTB Digital Account.
- 6.2. The Bank is entitled to demand repayment of any money overdrawn from your account together with interest and penalties.

#### **7. Set-off**

- 7.1. We may set off credit balance your DTB Digital Account including loan accounts against amount that are due from you to us.

#### **8. Statements**

- 8.1. You may request for a statement or activity report in respect of your DTB Digital Account from the Bank using your equipment.
- 8.2. You will be notified of all transactions on your DTB Digital Account by way of SMS and the charges for this service will be debited to your DTB Digital Account.

#### **9. Customer complaints**

- 9.1. Complaints may be made in person, in writing, by post, email, through available social media channels or by telephone.
- 9.2. The Bank will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with the Bank's complaints handling procedures. Where a notification regarding your complaint or any other matter is expected from the Bank but not received, the complaint must be made within a reasonable time after non-receipt of such notification.
- 9.3. Applicable tariffs will be charged by your telephone and internet service provider(s) when communicating with the customer.

#### **10. Dormant accounts**

- 10.1. Your DTB Digital Account will automatically be classified as inactive if you do not initiate any transactions on the account for a continuous period of six (6) months.
- 10.2. If your DTB Digital Account will not have any transactions initiated by you for a continuous period of five (5) years or if you shall not have communicated with us for a continuous period of five (5) years regarding your DTB Digital Account, such account will be presumed abandoned and transferred to the unclaimed financial assets authority as constituted from time to time.

#### **11. Bank charges and expense interest**

- 11.1. The Bank may debit your DTB Digital Account with Bank fees, loan processing fees, costs and other charges in respect of the Bank's products and services provided to you. A detailed breakdown of the duly approved product charges, fees and expenses as published by the Bank from time to time, Charges include but are not restricted to the following:
  - 11.1.1. Legal charges: Advocate and client charges, costs and expenses incurred in any legal, arbitration or other proceedings arising out of or connected with your DTB Digital Account. Such advocate and client charges, costs and expenses shall be charged in accordance with the advocates (Remuneration) order 2014 as the same may amended, varied or promulgated from time to time.
  - 11.1.2. Other charges and expenses: In addition to the debits authorised by sub-clauses 11.1 of this clause, all other proper expenses and charges including but not limited to ledger and transactional fees; third party fees and statutory charges and fees. The Bank may also debit your account with expenses incurred:
    - (a) in complying with your requests;
    - (b) in complying with the requests of authorized and accredited Government or other agencies in relation to your account;
    - (c) in collecting or attempting to collect any amount of money you owe the Bank; and
  - 11.1.3. Such default rates as are provided in these terms and conditions at any rate or rates as the Bank may determine from time to time sub ject to any maximum prescribed by law. The default rate shall be due and payable notwithstanding the determination of your relationship with the Bank until settlement in full.
  - 11.1.4. The Bank will give you at least thirty (30) days' notice of intention to effect new charges, fees and/or costs by way of email, SMS, letter and/or notices in the daily newspapers.

#### **12. Taxes**

- 12.1. All payments to be made by you in connection with these terms and conditions are calculated without regard to any taxes payable by you. If any taxes are payable in connection with the payment, you must pay the Bank an additional amount equal to the payment multiplied by the appropriate rate of tax. You must do so at the same time as making the payment.
- 12.2. Amounts in your DTB Digital Account may be subject to withholding tax in accordance with applicable law.
- 12.3. You consent and agree that the Bank may withhold amounts in your DTB Digital Account or any other of your accounts held in the Bank at any time, if any tax authority requires the Bank to do so, or the Bank is otherwise required by law or pursuant to agreements with any tax authority to do so, or if the Bank needs to comply with internal policies or with any applicable order or sanction of a tax authority.

#### **13. DTB Digital Account Features**

- 13.1.1. As a holder of a DTB Digital Account, you will be entitled, subject to these terms and conditions, to access the following transactional services:
  - (a) Send and receive funds via mobile money (M-Pesa and Airtel Money).
  - (b) Send and receive funds via Pesalink, Internal Funds Transfer (IFT) & Real Time Gross Settlement (RTGS) .
  - (c) Airtime Purchase for Safaricom and Airtel.

(d) Bill payments for KPLC Post Paid/Pre paid, DSTV, GOTV, ZUKU, Jambojet, Nairobi Water, Kenya Airways, Ethiopian Airlines & Emirates Airlines.

13.1.2. The above-mentioned services will be charged at the prevailing mobile banking tariff and you will be duly notified of the transaction charges or any other charges prior to effecting of any transactions

13.1.3. The maximum outgoing transaction limits for the account shall be Kenya Shillings One Million (KES 1,000,000/=) (monthly) and Kenya Shillings Three Hundred Thousand (KES 300,000/=) (daily).

13.1.4. The maximum incoming transaction limits for the account shall be Kenya Shillings Five Hundred Thousand (KES 500,000/=) Cash Deposit (monthly) and Kenya Shillings One Million (KES 1,000,000/=) Remittances (Monthly) or such other minimum or maximum amount as the Bank may from time to time in its sole discretion determine.

13.1.5. You shall not be entitled to overdraw your DTB Digital Account.

13.1.6. In the event that your DTB Digital Account does become overdrawn, debit interest shall accrue to the account on the debit balance as per the existing bank rate.

#### 14. Disclosure

14.1 You hereby expressly consent and authorize the Bank to disclose, receive, record or utilize your personal information or data relating to your DTB Digital Account and any details of your use of the Services:

14.1.1. to and from the Bank, the Bank's service providers, dealers, agents or any other company that may be or become the Bank's subsidiary or holding company for reasonable commercial purposes relating to the Services;

14.1.2. to a credit reference bureau;

14.1.3. to the Bank's lawyers, auditors or other professional advisors or to any court or arbitration tribunal in connection with any legal or audit proceedings;

14.2. You authorize the Bank to disclose any information relating to your DTB Digital Account to any local or international law enforcement, regulatory or governmental agency so as to assist in the prevention, detection, investigation or prosecution of criminal activities or fraud or to any other institution or third party as required by the laws of any country and as the Bank may deem necessary.

14.3. In the event of death, your estate administrator will be granted access to your DTB Digital Account upon production of administration letters from a competent authority or confirmed grant of letters of administration or confirmed grant of probate by your legal representatives duly appointed by the court.

#### 15. Your equipment and responsibilities

15.1. You shall at your own expense provide and maintain in safe and efficient operating order your equipment necessary for the purpose of accessing the system and the services.

15.2. You shall be responsible for ensuring the proper performance of your equipment. The Bank shall neither be responsible for any errors or failures caused by any malfunction of your equipment, and nor shall the Bank be responsible for any computer virus or related problems that may be associated with the use of the system, the services and the equipment. You shall be responsible for charges due to any service provider providing you with connection to the network and the Bank shall not be responsible for losses or delays caused by any such service provider.

15.3. You shall follow all instructions, procedures and terms contained in these Terms and Conditions and any document provided by the Bank concerning the use of the system and services.

15.4. You agree and acknowledge that you shall be solely responsible for the safekeeping and proper use of your equipment.

15.5. You shall take all reasonable precautions to detect any unauthorized use of the system and the services. To that end, you shall ensure that all communications from the Bank are examined and checked by you or on your behalf as soon as practicable after receipt by you in such a way that any unauthorized use of and access to the System will be detected.

15.6. You shall immediately inform the Bank through any of the customer care channels in the event that:

15.6.1. You have reason to believe that unauthorized use of the services has or may have occurred or could occur and a transaction may have been fraudulently input or compromised.

15.7. You shall at all times follow the security procedures notified to you by the Bank from time to time or such other procedures as may be applicable to the services from time to time. You acknowledge that any failure on your part to follow the recommended security procedures may result in a breach of your DTB Digital Account's confidentiality. In particular, you shall ensure that the services are not used or requests are not issued or the relevant functions are not performed by anyone other than a person authorized to do so.

15.8. You shall not at any time operate or use the Services in any manner that may be prejudicial to the Bank.

#### 16. Exclusion of Liability

16.1. The Bank shall not be responsible for any loss suffered by you should the services be interfered with or be unavailable by reason of (a) the failure of any of your equipment, or (b) any other circumstances whatsoever not within the Bank's control including without limitation, force majeure or error, interruption, delay or non-availability of the system, terrorist or any enemy action equipment failure, loss of power, adverse weather or atmospheric conditions, and failure of any public or private telecommunications system.

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

16.2.1. Unavailability of sufficient funds in your DTB Digital Account;

16.2.2. failure, malfunction, interruption or unavailability of the system, your equipment, the network;

16.2.3. the money in your DTB Digital Account being subject to legal process or other encumbrance restricting payments or transfers thereof;

16.2.4. Your failure to give proper or complete instructions for payments or transfers relating to your DTB Digital Account; or

16.2.5. Your failure to comply with these terms and conditions and any document or information provided by the Bank concerning the use of the system and the Services.

16.3. If for any reason other than a reason mentioned in subparagraphs 16.1 or 16.2, the services are interfered with or unavailable, the Bank's sole liability under this agreement in respect thereof shall be to re-establish the services as soon as reasonably practicable.

16.4. Save as provided in subparagraph 16.3 the Bank shall not be liable to you for any interference with or unavailability of the services, howsoever caused.

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

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

#### 17. Intellectual property rights

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

#### 18. Indemnity

18.1. In consideration of the Bank complying with your instructions or requests in relation the DTB Digital Account, you undertake to indemnify the Bank and hold it harmless against any loss, charge, damage, expense, fee or claim which the Bank suffers or incurs or sustains

thereby and you absolve the Bank from all liability for loss or damage which you may sustain from the Bank acting on your instructions or requests or in accordance with these terms and conditions.

18.2. The indemnity in clause 19.1 shall also cover the following:

- 18.2.1. All demands, claims, actions, losses and damages of whatever nature which may be brought against the Bank or which it may suffer or incur arising from its acting or not acting on any request or arising from the malfunction or failure or unavailability of any hardware, software, or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond the Bank's control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by the Bank.
- 18.2.2. Any loss or damage that may arise from your use, misuse, abuse or possession of any third-party software, including without limitation, any operating system, browser software or any other software packages or programs
- 18.2.3. Any unauthorized access to your DTB Digital Account or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your equipment.
- 18.2.4. Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these terms and conditions.
- 18.2.5. Any damages and costs payable to the Bank in respect of any claims against the Bank for recompense for loss where the particular circumstance is within your control.

## 19. Variation and termination of relationship

- 19.1. The Bank may at any time, upon thirty (30) days' notice to you, terminate or vary its business relationship with you and close your DTB Digital Account and in particular but without prejudice to the generality of the foregoing the Bank may cancel credits which it has granted and require the repayment of outstanding debts resulting therefrom within such time as the Bank may determine.
- 19.2. Without prejudice to the Bank rights under clause 19.1, the Bank may at its sole discretion suspend or close your DTB Digital Account:
  - 19.2.1. if you use the DTB Digital Account for unauthorized purposes or where the Bank detects any abuse/misuse, breach of content, fraud or attempted fraud relating to your use of the services;
  - 19.2.2. if the Bank is required or requested to comply with an order or instruction of or a recommendation from the government, court, regulator or other competent authority;
  - 19.2.3. If the Bank reasonably suspects or believes that you are in breach of these terms and conditions
  - 19.2.4. Where such a suspension or variation is necessary as a consequence of technical problems or for reasons of safety;
  - 19.2.5. To facilitate update or upgrade the contents or functionality of the services from time to time;
  - 19.2.6. Where your account becomes inactive or dormant;
  - 19.2.7. if the Bank decides to suspend or cease the provision of the services for commercial reasons or for any other reason as it may determine in its absolute discretion.
- 19.3. You may close your DTB Digital Account at any time.
- 19.4. If your DTB Digital Account has any credit balance at the time of its closure, we will return any such balance to you, less any applicable fees.
- 19.5. Termination shall however not affect any accrued rights and liabilities of either party.
- 19.6. If the Bank receives notice of your demise, the Bank will not be obliged to allow any operation or withdrawal from your DTB Digital Account by any person except upon production of administration letters from a competent authority or confirmed grant of letters of administration or confirmed grant of probate by your legal representatives duly appointed by the court.
- 19.7. If you do not use your DTB Digital Account for a long time, it may become 'dormant'. This means that you are unable to use the DTB Digital Account or access any credit balance in your DTB Digital Account until you have contacted us and claimed the dormant balance. We may ask you for information and documents to support your claim. We will give you reasonable notice before your account becomes dormant. Please note that we are required by law to surrender balances held in your dormant DTB Digital Account to the unclaimed financial assets authority (UFAA). We will notify you before we surrender the funds.

## 20. Miscellaneous

- 20.1. These terms and conditions (as may be amended from time to time) form a legally binding agreement binding on you and your personal successors.
- 20.2. This Agreement and any rights or liabilities accruing thereunder may not be assigned by you to any other person.
- 20.3. The Bank may vary or amend these terms and conditions and the transaction fees at any time by thirty (30) days' notice to you and any such variations and amendments shall take effect after expiry of the thirty (30) days' notice period.
- 20.4. No failure or delay by either yourself or the Bank in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.
- 20.5. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
- 20.6. If any provision of these terms and conditions shall be found by any duly appointed arbitrator, court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions herein.
- 20.7. Any addition or alteration to these terms and conditions may be made from time to time by the Bank and of which notice has been given to you by way of publication as provided in subparagraph 20.3 shall be binding upon you as fully as if the same were contained in these terms and conditions.

## 21. Notices

- 21.1. The Bank may send information concerning the DTB Digital Account via SMS to the mobile phone number associated with your DTB Digital Account.
- 21.2. You acknowledge that you have no claim against the Bank for damages resulting from losses, delays, misunderstandings, mutilations, duplications or any other irregularities due to transmission of any communication pertaining to the DTB Digital Account.

## 22. Dispute resolution and jurisdiction

- 22.1. You may contact the customer care center to report any disputes, claims or DTB Digital Account discrepancies.
- 22.2. Any dispute arising out of or in connection with this agreement that is not resolved by customer care representatives shall be escalated in line with the Bank's complaint handling policy.
- 22.3. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya.

## 23. Service outages

- 23.1. Our products and services rely on technological infrastructure (e.g. mobile network providers, internet service providers, ATMs, point of sale terminals, and computer systems).
- 23.2. You understand and accept that service outages occur.
- 23.3. During a service outage it may not be possible for you to use our products and services, and there may be delays in your transactions being processed and being reflected in your account statements.

**24. Duration of this agreement**

- 24.1 This Agreement will continue while you have one or more of our products or services.
- 24.2 After you have ceased to have a product or service from us your obligations under this agreement will continue until you have paid all your outstanding financial obligations to us.
- 24.3 We can end our agreement and (subject to any restrictions imposed by law), our agreements for particular products and services without prior notice to you if we find that you have given materially inaccurate information about you or it is otherwise necessary to protect our interests.
- 24.4 Our obligations to you under this agreement relating to how we treat your personal information and dormant accounts continue after you have ceased to have a product or service from us.