

WEBSITE AND APP TERMS OF USE

Effective as of 6.11.2018

IMPORTANT: PLEASE READ CAREFULLY

1. AGREEMENT

- 1.1 The brand names "Zenka", "Zenka Finance" as well as their accompanying logo wherein used here, are owned by and are the intellectual property of Pata Mkopo Company Limited (a company incorporated under the laws of the Republic of Kenya with a company registration number PVT-LRUEVBV). All rights thereto are reserved.
- 1.2 By visiting or using any Pata Mkopo website, App, USSD service, portal or extranet ("Site"), or the services provided on any Pata Mkopo Site, you agree to these Terms of Use. If you are a Pata Mkopo customer, you are also bound by the [Pata Mkopo Terms and Conditions of Loan Agreement and any other terms that apply to your loan or service](#). If any provision of these Terms of Use conflicts with any term in the Terms and Conditions, the Terms and Conditions apply.
- 1.3 If you are a Pata Mkopo's service provider, dealer, agent, consultant, contractor, or an employee of any of these entities, your use of the Site may also be subject to your binding agreement with Pata Mkopo, and if any provision of these Terms of Use conflicts with any term in your agreement with Pata Mkopo, the term of your agreement with Pata Mkopo applies.

2. SITE USE

- 2.1 You represent that you are at least eighteen (18) years. We may ask you to provide accurate registration information to create an Account in order to use the Site, or some of its features, or our services and products. If we believe that your information is incorrect or incomplete, we may prevent you from accessing the Site and our services and products, terminate or suspend your Account, or otherwise limit or restrict your use or service.
- 2.2 We may grant you temporary access to the Site and a limited, non-exclusive, revocable and non-transferable license to access and use the information contained within the Site. We may limit the number of times you can visit or log in to the Site within a certain period of time. We also reserve the right, in our sole discretion, to terminate your access to the Site, or any portion thereof, at any time, without notice.

3. SECURITY

- 3.1 Some parts of the Site may require a user name, Account name or password. If you use these features, you agree to keep this information confidential and secure. You agree to accept responsibility for all activities that occur under your user name, Account, or password, and to notify Pata Mkopo immediately if the confidentiality of your user name, Account or password is compromised. We will not be liable for any loss that you may incur as a result of someone else using your Account or password because of your complicity or negligence or fraud.
- 3.2 To protect the security of the Site and your Account, we may terminate or suspend your Account, change your user name or password, request additional information before we authorize transactions on your Account, or take other reasonable actions.

4. PROHIBITED USES

- 4.1 You agree not to:
 - (a) use the Site or its contents for any purpose that is unlawful or prohibited by these Terms of Use;

- (b) resell any aspect of the Site or services available on it;
- (c) bypass or circumvent measures we may use to prevent, interfere, or limit access to the Site or any Pata Mkopo system or network;
- (d) use the Site to send altered, deceptive or false source-identifying information;
- (e) use the Site to intercept, collect or store personal information about other users;
- (f) spam other users or take other actions that may affect the operation or enjoyment of the Site by other users;
- (g) access, monitor or copy any content or information on the Site using any robot, spider, scraper or other automated means or any manual process;
- (h) decompile, disassemble or reverse engineer any of the software or content used in any part of the Site or any Pata Mkopo system or network;
- (i) send a virus or use any malicious programs or techniques in connection with the Site;
- (j) overload or crash the Site or any Pata Mkopo server or network; or
- (k) engage in excessively high volume data transfers or bandwidth use, including without limitation by hosting a web server, internet relay chat server or any other server via any use of the Site; or
- (l) infringe the copyrights or intellectual property rights of Pata Mkopo or others.

5. SUBMISSIONS

- 5.1 The Site and Pata Mkopo social media accounts may have features that let you submit content or communicate with Pata Mkopo, other users, and the general public, such as e-mail, posting comments, reviews or ratings, participating in chats or forums, and uploading files. Any questions, comments, suggestions, ideas, plans, notes, drawings, images, photographs, pictures, information and other materials you submit via the Site (“**Submissions**”).
- 5.2 You agree to only post, upload submit, or request, Submissions that are appropriate and related to the purpose of the Site.
- 5.3 You represent that you own or control all of the rights necessary to grant the licenses and sublicenses to your Submission as described in these Terms of Use.
- 5.4 By posting Submissions that contain images, photographs, pictures or that may otherwise be graphical in whole or in part (“**Images**”), you represent that each person depicted in any Image, if any, has provided consent to the distribution, public display and reproduction of any Image.
- 5.5 You are fully responsible for any damage or harm resulting from your Submissions, and we assume no liability for Submissions posted or submitted by you or other users. You must not post, upload, submit or request:
- (a) any unlawful, threatening, libelous, defamatory, obscene, pornographic, or other material or content that is otherwise objectionable to us in our sole discretion;
 - (b) any commercial material or content (including, for example, funding solicitations, advertising, or marketing any good or services);
 - (c) any information you are prohibited from transmitting by contract or confidential relationship;
 - (d) any material that exploits or harms minors (any person under the age of eighteen (18) years), intentionally or unintentionally, including by exposing minors to content that

is inappropriate, providing minors' personally identifiable information, or seeking to obtain personally identifiable information from minors;

- (e) any material that could harm Pata Mkopo's business, reputation, employees, subscribers, facilities, or any person;
- (f) any material that infringes, misuses or violates any copyright, trademark, patent right, trade secret or other proprietary right of anyone, including rights of publicity and privacy;
- (g) content for which you were compensated or granted any consideration by any third party;
- (h) content that references other websites, addresses, email addresses, contact information, or phone numbers; and
- (i) content that contains computer viruses, worms, or other potentially damaging computer programs or files.

6. RIGHTS IN SUBMISSIONS

6.1 For any Submission you post, upload, submit or request via the Site, you grant Pata Mkopo a non-exclusive, royalty-free, perpetual, irrevocable, and fully sub-licensable right to:

- (a) use, reproduce, modify, adapt, publish, translate, transmit, create derivative works from, distribute, disclose and publicly display and perform your Submission for commercial purposes throughout the world in any media now known or hereafter developed; and
- (b) publish the name that you submit in connection with your Submission, in Pata Mkopo's sole discretion.

6.2 You agree that you have no recourse against Pata Mkopo for anyone's infringement, misuse or violation of any right you may have in your Submissions, and you irrevocably waive any "moral rights" in your Submissions.

6.3 You also irrevocably agree that Pata Mkopo can pursue claims against anyone who violates Pata Mkopo's rights in the Submissions. You also acknowledge that we assume no responsibility for the deletion of, or failure to store or otherwise provide access to Submissions submitted by you or others. No compensation will be paid with respect to the use of your Submission as provided in these Terms of Use.

6.4 By submitting your email address in connection with your Submission, you agree that Pata Mkopo and its third party service providers may use your email address to contact you about the status of your review and other administrative purposes.

7. THIRD PARTY SITES AND CONTENT

7.1 Parties other than Pata Mkopo may display and make available content, data, services and products through the Site. You acknowledge that Pata Mkopo is not a publisher of, does not control or endorse, and is not responsible or liable for, any such third party content.

7.2 Managers and hosts of interactive forums on the Site, for instance, blogs are not authorized Pata Mkopo spokespersons, and their views do not necessarily reflect those of Pata Mkopo. The Site may contain links to websites operated by parties other than Pata Mkopo. You acknowledge that we do not control those websites and we are not responsible for their content, their privacy practices, or any other policies provided on those websites.

8. PRIVACY POLICY

For information about how we collect, use and share information related to your use of the Site or our services, please refer to our [Privacy Policy](#).

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Except for Submissions; the Site and its content, software, and services (together, “**Materials**”) are the property of Pata Mkopo and its suppliers and is protected by copyright, trademark, service marks, and other proprietary or intellectual property rights (“**Intellectual Property Rights**”). We reserve all of our rights in the Materials.

9.2 If any service on the Site includes the provision of a specific IP address, URL or other designation for your use, you acknowledge and agree that you will not receive any proprietary or ownership rights in such designation, and that we may change your IP address, URL or other designation at any time.

9.3 Trademarks and service marks

9.4 The trademarks, service marks, logos, designs, icons, graphics, product and service names, company names and other source identifiers displayed or presented on the Site are registered or unregistered trademarks of Pata Mkopo, its suppliers or other third parties, and may not be copied, imitated or used, in whole or in part, without prior written permission of Pata Mkopo or their relevant owners.

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9.6 A reference to any products, services, processes, or other information does not constitute or imply any endorsement, affiliation, sponsorship, approval or recommendation by Pata Mkopo.

10. INFORMATION

Pata Mkopo does not warrant that the content on the Site is accurate, complete, or current. Despite our efforts, product and service descriptions may be inaccurate. Pata Mkopo reserves the right to correct any inaccuracies or omissions on the Site, to revoke any offer, to cancel your Request, and to take any other actions it deems reasonable or necessary to rectify the error, regardless of whether charges have been applied to your Account.

11. WARRANTY DISCLAIMERS

11.1 THIS SITE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OR COVENANTS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE OPERATION OF THE SITE, ANY MATERIALS OR APPS INCLUDED ON, DOWNLOADABLE FROM OR OTHERWISE ACCESSIBLE VIA THE SITE, OR ANY SERVICES OR PRODUCTS AVAILABLE VIA THE SITE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY, COMPLETENESS, RELIABILITY, AND NON-INFRINGEMENT.

11.2 FURTHER, PATA MKOPO DOES NOT REPRESENT OR WARRANT THAT ACCESS TO THE SITE WILL BE UNINTERRUPTED, FREE FROM UNAUTHORIZED ACCESS, INCLUDING THIRD-PARTY HACKERS OR DENIAL OF SERVICE ATTACKS.

11.3 PATA MKOPO DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND YOU MAY NOT RELY ON ANY SUCH STATEMENT OF WARRANTY.

12. LIMITATIONS OF LIABILITY

- 12.1 IN NO EVENT SHALL PATA MKOPO BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, REGARDLESS OF THE TYPE OF CLAIM OR LEGAL THEORY ASSERTED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH (I) THE USE OF OR INABILITY TO USE THE SITE OR ANY MATERIALS, OR (II) ANY CLAIM ATTRIBUTABLE TO ERRORS, OMISSIONS, OR OTHER INACCURACIES IN THE SITE OR ANY MATERIALS, EVEN IF PATA MKOPO OR OUR AUTHORIZED REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF PATA MKOPO (WHETHER IN CONTRACT, WARRANTY, TORT, STRICT LIABILITY, OR OTHER THEORY), ARISING OUT OF OR RELATING TO THE SITE OR ANY SITE-RELATED MATERIALS OR SERVICES, EXCEED KES 20,000.00.
- 12.2 Certain laws do not allow limitations on implied warranties, or the exclusion or limitation of certain damages. If these laws apply to you, some or all of the above disclaimers, exclusions, or limitations may not apply to you, and you may have additional rights. In such states, Pata Mkopo's liability is limited to the greatest extent permitted by law.

13. INDEMNIFICATION

- 13.1 You agree to indemnify, defend, and hold harmless Pata Mkopo, and our officers, directors, employees, agents, licensors and suppliers from and against any claims, causes of action, demands, losses, expenses, damages, penalties or other costs, including but not limited to reasonable attorneys' fees, brought by third parties as a result of:
- (a) your violation of these Terms of Use;
 - (b) your use of the Site;
 - (c) any Submissions you supply; or
 - (d) your violation of any law or the rights of a third party.

14. GENERAL

- 14.1 **Contact us.** You may contact us using the methods described on <https://zenka.ke>.
- 14.2 **Governing law.** These Terms of Use are governed by and will be enforced under the laws of the Republic of Kenya.
- 14.3 **Jurisdiction.** You irrevocably agree that the courts of Kenya shall have exclusive jurisdiction to settle any dispute, controversy or claim that arises out of or in connection with these Terms of Use.
- 14.4 **Electronic Communications.** You agree that this electronic document and any other electronic agreement, notice, or other communication that we provide to you meets any legal requirement that such communication be in writing.
- 14.5 **Change.** We may change these Terms of Use without advance notice. Please visit this page periodically to see the most current Terms of Use that govern your use.
- 14.6 **Severability.** If any part of these Terms of Use is determined to be invalid or unenforceable for any reason under relevant law, then that part will be deemed replaced with a valid, enforceable provision that most closely matches the intent of the original provision, and the remaining Terms of Use will continue in full force and effect.
- 14.7 **No waiver.** Pata Mkopo's failure or delay to enforce strict performance of any part of these Terms of Use does not waive any of our rights nor does partial exercise of its rights or remedies.

14.8 **Assignment.** Pata Mkopo may assign its rights and duties under these Terms of Use to any party at any time.