

LEGAL NOTICE NO.....

THE INSURANCE ACT

(Cap. 487)

GUIDELINES ON THE ACTUARIAL FUNCTION, 2018

IN EXERCISE of the powers conferred by section 3A(a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

GUIDELINES ON THE ACTUARIAL FUNCTION, 2018

1. These guidelines may be cited as the Guidelines on the actuarial function, 2018. Citation.

2. In these guidelines, unless the context otherwise requires— Interpretation.

 “**Appointed Actuary**” means an external and independent actuary with qualifications as indicated in Section 2 of the Act.

3. The purpose of these guidelines is to ensure that an insurer has an effective actuarial function capable of evaluating and providing actuarial advice to the insurer Objectives.

4. An insurer shall have a robust actuarial function that is well positioned, adequately resourced and with appropriate authority. The Actuarial Function

5. The Actuarial Function shall be headed by a person approved by the Authority.

6. The actuarial function shall have access to and report to the board.

7. The actuarial function shall have access to information and persons within the entity as necessary to perform their duties.

8. An insurer shall within seven days notify the Authority of the resignation or replacement of the head of the Actuarial function and give reasons for the resignation or replacement.

9. The actuarial function shall evaluate and provide advice on the following:

- (1) an insurer's actuarial and financial risks;
- (2) an insurer's current and prospective capital adequacy;
- (3) an insurer's investment policies and the valuation of assets;
- (4) the adequacy of the technical provisions;
- (5) distribution of surplus;
- (6) underwriting policies;
- (7) reinsurance arrangements;
- (8) product development and design;
- (9) scenario and sensitivity testing
- (10) sufficiency and quality of data used in the calculation of technical provisions; and
- (11) risk modelling and use of internal models, where applicable.

10. An insurer shall on an annual basis appoint an actuary who shall be the appointed actuary and approved by the Authority.

The Appointed
Actuary

11. An insurer shall within seven days notify the Authority of the resignation or replacement of an appointed actuary and give reasons for the resignation or replacement.

12. The Appointed Actuary of an insurer shall prepare a Financial Condition Report for each financial year.

Financial
Condition Report

13. The Financial Condition Report shall contain;

- (1) A declaration that the actuary's reporting has been prepared in accordance with the Authority's guidelines and generally accepted actuarial principles.
- (2) A statement on the consistency, completeness and accuracy of the

information used in the preparation of the financial condition report.

- (3) A statement on the insurer's corporate structure, operations, business plans and projections.
 - (4) An analysis of past financial performance and deviations from the projected performance for at least the last 3 years.
 - (5) An analysis of the adequacy of technical provisions for at least the last 3 years.
 - (6) A statement on pricing, premium adequacy and material issues arising from the insurer's pricing processes, underwriting and claim management practices.
 - (7) An analysis on the adequacy of the asset and liability management of the insurer.
 - (8) An review of the insurer's capital management strategy.
 - (9) A review of the adequacy of an insurer's reinsurance strategy and arrangements for the last 3 years.
 - (10) An evaluation of the insurer's risk management framework.
 - (11) A statement on the extent to which the insurer has addressed the recommendations provided in the financial condition report of the previous year.
14. The actuarial valuation report and the financial condition report shall be signed by the appointed actuary approved by the Authority.
 15. An insurer shall submit a quarterly capital adequacy statement and actuarial valuation report at the end of each quarter in accordance with the guidelines as prescribed by the Authority.
 16. The Appointed Actuary shall within seven days directly report to the Authority in circumstances where the insurer has breached or its directors may have contravened the Insurance Act or any other law and the contravention may prejudice the interests of policyholders, or is likely to breach capital adequacy requirements.
 17. Where such a report is made directly to the Authority, the Appointed

Actuary is not under any obligation to disclose this to the management and the directors of the insurer of the Appointed Actuary if:

- (1) considers that by doing so the interests of policy holders may be jeopardised; or
- (2) Has lost confidence in the Board or Management of the insurer.

18. Where the Authority determines non-compliance with the provisions of these guidelines, it may take any intervention prescribed in the Act. Enforcement.

- (1) Where the Authority determines that an insurer has not met the requirements of these guidelines, the Authority may impose any or all of the administrative sanctions to correct the situation in accordance with the provisions of the Insurance Act, including but not limited to: Administrative Sanctions
- (2) prohibition from declaring and paying dividends;
- (3) reporting of any misconduct to the relevant professional body;
- (4) barring a person from holding any position in the insurance industry in Kenya;
- (5) rejection of the financial condition report, and requiring the insurer to prepare another financial condition report, conducted by an appointed actuary of the Authority's choice, at the expense of the insurer;
- (6) rejection of an actuarial valuation report, and requiring the insurer to prepare another actuarial valuation report conducted by an appointed actuary of the Authority's choice, at the expense of the insurer.
- (7) requiring an insurer to replace an appointed actuary when such person fails to adequately perform required functions or duties, is subject to conflicts of interest or no longer meets eligibility requirements.
- (8) Monetary penalties not exceeding Kenya Shillings One Million.

Fit and Proper Assessment Form to be completed the appointed actuary of the entity.

Fit and Proper Form

Please answer all the questions by placing a tick (✓) in the appropriate column, sign the form and send it to the Authority. All “YES” answers must be explained.

Name of Appointed Actuary Name of the Actuarial Firm Regulated Entity		
1. Are you a member of a recognised actuarial professional body?	Yes	No
Please provide details		
2. Have you been refused the right or restricted in your right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law in any jurisdiction within the past 10 years?	Yes	No
Please provide details		
3. Have you been issued a prohibition order under any law or has been prohibited from operating in other jurisdiction by any regulatory authority?	Yes	No
Please provide details		
4. Have you been censured, disciplined, suspended or refused registration by the Authority or any other regulatory authority, in Kenya or elsewhere?	Yes	No
Please provide details		

5. Have you been the subject of any complaint made reasonably and in good faith relating to activities regulated by the Authority or under any law in any jurisdiction?	Yes	No
Please provide details		
6. Have you been the subject of any proceedings of a disciplinary or criminal nature or have been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any law in any jurisdiction; of misfeasance or serious misconduct?	Yes	No
Please provide details		
7. Have you been convicted of any offence, or been subject to any pending proceedings which may lead to such a conviction, under any law in any jurisdiction?	Yes	No
Please provide details		
8. Have you had any judgment (including a finding of fraud, misrepresentation, or dishonesty) entered against you in any civil proceedings or are you a party to any pending proceedings which may lead to such a judgment, under any law in any jurisdiction?	Yes	No
Please provide details		
9. Have you had any civil penalty enforcement action taken against you by the Authority or any other regulatory authority under any law in any jurisdiction?	Yes	No
Please provide details		
10. Have you ever contravened or abetted another person in breach	Yes	No

of any laws or regulations, business rules or codes of conduct, in Kenya or elsewhere?		
Please provide details		
11. Have you ever been the subject of any investigations or disciplinary proceedings or been issued a warning or reprimand by any regulatory authority, an operator of a market or clearing facility, professional body or government agency, in Kenya or elsewhere?	Yes	No
Please provide details		
12. Have you ever been refused a fidelity or surety bond, in Kenya or elsewhere?	Yes	No
Please provide details		
13. Have you ever been a director, partner or concerned in the management of a business that has been censured, disciplined, suspended or refused membership or registration by any regulatory authority, professional body or government agency, in Kenya or elsewhere?	Yes	No
Please provide details		
14. Have you been a director, partner or concerned in the management of a business that has gone into insolvency, liquidation or administration during the period when, or within a period of one year after, you were a director, partner or concerned in the management of the business, in Kenya or elsewhere?	Yes	No
Please provide details		

15. Have you ever been dismissed or asked to resign, from office, employment, a position of trust, or a fiduciary appointment or similar position, in Kenya or elsewhere?	Yes	No
Please provide details		
16. Have you ever been subject to disciplinary proceedings by your current or former employer(s), in Kenya or elsewhere?	Yes	No
Please provide details		
17. Have you ever been disqualified from acting as a director or disqualified from acting in any managerial capacity, in Kenya or elsewhere?	Yes	No
Please provide details		
18. Have you ever been found liable for an offence committed by a body corporate as a result of the offence having proved to have been committed with the consent or connivance of, or neglect attributable to yourself in Kenya or elsewhere?	Yes	No
Please provide details		
19. Are you unable to fulfil any financial obligations, in Kenya or elsewhere?	Yes	No
Please provide details		
20. Are you subject to a judgment debt which is unsatisfied, either in whole or in part, in Kenya or elsewhere?	Yes	No
Please provide details		

Signature and acknowledgement

- a. I am aware that it is an offence to knowingly or recklessly provide any information, which is false or misleading in connection with an application for an approval to an appointed actuary of an insurer.
- b. I am also aware that provision of false information in this regard may result in rejection of this application by the Authority.
- c. I certify that the information given above is complete and accurate to the best of my knowledge, and that there are no other facts relevant to this application of which the Authority should be aware.
- d. I undertake to inform the authority of any changes material to the applications which arise while the application is under consideration.

Name of Appointed Actuary

Name: _____

Signed: _____

Date: ____/____/20__

Principal Officer

Name: _____

Signed: _____

Date: ____/____/20__

In the presence of ;

Commissioner of Oaths

Name: _____

Signed: _____

Date: ____/____/20__

Independence Declaration Form

This confirmation of independence and compliance with ethical requirements is provided in respect of the actuarial review of the [*Company name*] and its related entities [*name if applicable*] for the [*period/year*] ended [*insert year/period end date*].

Independence
Declaration Form

This form should be completed at the engagement planning stage by the actuarial team.

Independence

Consider points for threats to independence:

- (1) A “self-interest threat” occurs when the Firm or a member of the Engagement Team could benefit from a Financial Interest in, or other self-interest conflict with, the client.
- (2) A “self-review threat” occurs when any product or judgment of previous engagements needs to be re-evaluated in reaching conclusions, or when a member of the engagement team was previously a director or officer of the client, or was an employee in a position to exert direct and significant influence.
- (3) An “advocacy threat” occurs when a firm, or a member of the engagement team, promotes, or may be perceived to promote, the client’s position or opinion to the point that objectivity may be, or could be perceived to be, compromised.
- (4) A “familiarity threat” occurs when, by virtue of a close relationship with the client or its directors, officers, or employees, a firm or a member of the engagement team becomes too sympathetic to the client’s interests or to the interests of its directors, officers or employees.
- (5) An “intimidation threat” occurs when a member of the engagement team may be deterred from acting objectively and exercising professional scepticism by threats, actual or perceived, from the directors, officers or employees of the client.

I confirm that I am in compliance with the applicable independence rules with respect to [*Company Name*] and all of its related entities and that I have read and understand the independence rules, including the rules specified below:

- (1) I or my immediate family members (spouse, spousal equivalent, and dependents) do not have a direct or material indirect financial interest in this client or any related entity.
- (2) I or my immediate family members will not trade in securities of this client or any related entity for the duration of the engagement, which starts at the beginning of the entity's fiscal year and ends when the report for the year has been signed.
- (3) I or my immediate family members have not served as a trustee or as an executor over any interest that has or is committed to acquire a direct or material indirect financial interest in this client or any related entity.
- (4) I or my immediate family members are not the beneficiaries of any estate or trust which has a direct financial interest in this client or any related entity.
- (5) I or my immediate family members do not have a financial interest in any entity in which the client or any related entity also has a financial interest with significant influence.
- (6) I or my immediate family members do not have any loans or guarantees to or from this client, any related entity or any significant shareholder, officer or director thereof (none of which are financial institutions).
- (7) I or my immediate family members do not have any loans, other than those extended under normal lending procedures and within the ordinary course of business with this client or any related entity or any significant shareholder, officer or director thereof (which is a financial institution)
- (8) I or my immediate family members do not have any bank deposits or accounts, brokerage accounts or insurance arrangements with this client or any related entity other than under normal commercial terms.
- (9) I or my immediate family members do not have a material financial interest in a joint venture, closely held business investment or business relationship (or commitment to do so) with the client or any related entity or any officer, director or other individual who performs

Issued on the 2018.

ABDIRAHIN H ABDI
Chairman,
Insurance Regulatory Authority.

GODFREY K KIPTUM
Ag. CEO & Commissioner of Insurance
Insurance Regulatory Authority.