



## **GENERAL TERMS OF SERVICE FOR THE M-TIBA SERVICE (“M-TIBA”)**

The following Terms of Service apply to the M-TIBA SERVICE (“M-TIBA”) and by enrolling for the service you are deemed to have read, understood and accepted these Terms of Service.

### **1. DEFINITIONS AND INTERPRETATION**

1.1. In these Terms of Service, the following words and expressions (save where the context requires otherwise) bear the following meanings:

1.2. M-TIBA Account: An M-TIBA account is a virtual account that you have on the M-TIBA platform.

1.3. “You”, “Your”, “the Customer”: is the customer signing up for M-TIBA, and accepting these Terms of Service.

1.4. M-TIBA Platform: is the mobile platform that is owned and administrated by CAREPAY Ltd. (“CAREPAY”) which facilitates the operation of your personal M-TIBA Account.

1.5. SAFARICOM: Safaricom Ltd. is the licensed provider of the Subscriber Identification Module (SIM) Cards which you use to access the Service, and the operator of the M-PESA mobile money platform.

1.6. SPONSOR: is the entity funding a part or all of a benefit in your M-TIBA account. A SPONSOR can be an employer, Government of Kenya, Non-Governmental Organization or any other institution loading your M-TIBA account.

1.7. CAREPAY is the administrator of the mobile platform which operates your personal M-TIBA account.

1.8. ACCIDENT: For the purposes of this policy refers to a sudden, unplanned and unforeseen violent, external and visible event leading to bodily injury or death

## **2. DESCRIPTION OF M-TIBA**

2.1. M-TIBA (“Service” or “M-TIBA Service”) is a service provided by CAREPAY that aims to give Kenyans access to healthcare through a designated platform that permits users to save, remit and collect funds, insure and pay for health care using their mobile phones at designated health clinics and hospitals.

## **3. ELIGIBILITY & REGISTRATION/ENROLLMENT FOR M-TIBA**

3.1. To make use of the M-TIBA Service you must be:

3.1.1. A major person of minimum of 18 years of age with full legal capacity;

3.1.2. Be registered as a User for the M-TIBA Service.

3.2. Registration and information on the M-TIBA Service will be facilitated by the certified M-TIBA Agents.

3.3. Instructions on how to access M-TIBA customer support will be found on the Information, Education and Communication materials, with the certified M-TIBA agents as well as the M-TIBA customer support centre on telephone number 0800 721 253 or 0709 071 000.

## **4. ACCESS TO HEALTHCARE**

4.1. Funds in your M-TIBA Account can only be spent at designated healthcare providers which have been contracted for M-TIBA and as premium for insurance covers that are offered through the M-TIBA Service. Members shall be liable to pay any excess amount incurred outside their total savings and such excesses shall be paid by the member to the service providers.

4.2. Information on the contracted healthcare providers on M-TIBA will be accessed through the M-TIBA Agents in the community, through the M-TIBA customer support centre and through the M-TIBA website: [www.mtiba.co.ke](http://www.mtiba.co.ke). New healthcare providers will continue to be added.

4.3. To access healthcare services at the contracted healthcare providers you are required to identify yourself as a participant in M-TIBA through your original national identification card or passport, or any other means of identification that CAREPAY may in its sole discretion determine fit. The healthcare provider shall have the responsibility to check whether the identification card or passport or other approved means of identification presented matches with your registration information on the Platform.

4.4. It is possible for you or the M-TIBA Agent to add dependents to your M-TIBA Account who can access the M-TIBA Account with your permission.

## **5. LIMITATION AND EXCLUSION OF LIABILITY**

5.1. Although CAREPAY and Safaricom will have taken all reasonable precautions to ensure that the information provided to you on M-TIBA is accurate and that you suffer no loss or damage as a result of the use of the Service, by using the Service you agree that your use is entirely at your own risk and you assume full responsibility for any risk of loss or damage arising from the use of the Service with the exclusion of any wilful and gross negligence by CAREPAY and Safaricom or its officers, employees, subcontractors or agents. You are responsible for the correctness of the data in your MTIBA account.

5.2. By using the Service, you hereby acknowledge that you have registered for the M-TIBA Service voluntarily and without any coercion and have no legal rights against CAREPAY, for the use of the Service.

5.3. You agree that CAREPAY and their officers, employees, agents and partners will not be liable for any loss or damage including, without limitation, any direct, indirect, special, incidental, consequential or punitive damages, whether arising out of contract, statute, tort or otherwise arising from:

5.3.1. Any force majeure events or other circumstances outside the control or knowledge of CAREPAY or including industrial disputes, terrorist or enemy action, or



5.3.2. Any damage to or loss of information on your mobile phone in the event that unwanted programs or material, malwares, trojans, worms or viruses are transmitted to your mobile phone by the use of the Service. It is expected that by using the Service you will take all reasonable precautions while sending and receiving data via M-TIBA.

5.3.3. Any losses incurred due to any inaccurate content, loss or unavailability of data or lack of access to the Service that is beyond the control of CAREPAY.

5.3.4. Any content on a third-party or online partner site or service.

5.4. SAFARICOM can make no representations whatsoever concerning any products or services NOT directly provided by SAFARICOM, in direct relation to M-TIBA. This includes products and services provided by CAREPAY and the contracted healthcare providers.

5.5. CAREPAY can make no representations whatsoever concerning any products or services NOT directly provided by CAREPAY, in direct relation to M-TIBA. This includes products and services provided by SAFARICOM, UAP and the contracted healthcare providers. CAREPAY expressly disclaim any liability arising from any loss occurring as a result of reliance on these products or services.

5.6. CAREPAY disclaims liability from the fraudulent actions of any third parties including but not limited to any mobile money platform operators or related parties.

5.7. CAREPAY disclaims liability arising from any mistreatment, malpractices or wrongful actions of any of the contracted healthcare providers in the line of providing health services.

## **6. TERMINATION OF THE M-TIBA SERVICE**

6.1. Either party may determine to terminate this Agreement at any moment in time:

6.1.1. In case you have no activity in your M-TIBA account for a consecutive period of more than 6 months, and no active program on the account, then CAREPAY has the right to deactivate your M-TIBA account.

6.1.2. CAREPAY can actively terminate the Agreement by sending an SMS from sender ID "MTIBA" to your registered SAFARICOM telephone number.

6.1.3. You can terminate this Agreement by calling the customer support centre on telephone number 0800 721 253 or 0709 071 000

In case of termination, all remaining funds in Your M-TIBA Account, minus any outstanding payments (net of charges) to Remitters, UAP and/ Or the contracted healthcare providers, shall be refunded in your regular MPESA Account within 5 working days.

## **7. DISPUTE RESOLUTION AND JURISDICTION**

7.1. You may contact the M-TIBA customer support centre on telephone number 0800 721 253 or 0709 071 000 to report any dispute or claim relating to M-TIBA during the contract period.

7.2. All disputes arising from the M-TIBA or these Terms of Service will be addressed by way of amicable discussions between the parties.

7.3. If an amicable resolution of the dispute or claim fails for a period longer than 14 days from the date the dispute or claim first arose, the dispute may be resolved by an arbitrator agreed on by both parties and in default of such agreement by an arbitrator appointed by the Chairman of the Kenya Chapter of the Chartered Institute of Arbitrators on the application of either party. Such arbitration shall be conducted in Nairobi in accordance with the Arbitration Act 1995 or any re-enactment thereof.

7.4. To the extent permissible by law the determination of the arbitrators shall be final conclusive and binding upon the parties hereto.

7.5. These Terms of Service and the use of the service shall be governed by the Laws of Kenya.

## **8. PERSONAL DATA PROCESSING**

8.1 When You use M-TIBA and the services hereunder, you trust CAREPAY with your personal information. CAREPAY recognizes the importance of protecting the privacy and confidentiality of



such personal information and included this section to inform You how CAREPAY processes your personal information.

## 8.2 CAREPAY collects the following data on individuals

### Registration data

To create an MTIBA account you need to provide data including name, date of birth, gender, mobile number, National ID number and password. If you have dependents on your account you will also need to provide their names and dates of birth. This is to ensure that CAREPAY has sufficient information to undertake its duties within this contract, and to fulfil its KYC responsibilities.

### Additional data

CAREPAY collects data on savings, loans and financial transactions undertaken through the M-TIBA platform, in order to fulfil its role in the management of financial transactions. CAREPAY also collects data on diagnoses entered by healthcare providers and billed items through the M-TIBA platform in order to undertake the claims management role offered by the MTIBA platform. CAREPAY further collects feedback provided to customer surveys in order to improve services that its customers receive.

## 8.3 Use of data

By using M-TIBA You must be aware that CAREPAY collects, uses and shares (in accordance with this section) your personal information to register You for M-TIBA and provide You with (and improve) the services hereunder and related hereto including administration of the account, customer support, customer communication, access to healthcare services, and managing and processing healthcare claims and payment thereof.

Other products may be operated on CAREPAY, for example financial services products (such as loans), commercial insurance products, corporate insurances or funds, or social insurance offerings. By using CAREPAY You must be aware that CAREPAY may need to share your personal information with the vendor of the product.

8.4 To enable trusted third party partners to use your personal data for research and marketing purposes, under controls designed to protect your privacy, CAREPAY needs your prior consent. This consent can be revoked at any time. CAREPAY asks for your consent in a separate form and way.

8.5 By making use of M-TIBA, you are aware that CAREPAY sends you communication messages using SMS, telephone, email and other means to inform You regularly on other products and services offered by CAREPAY and CAREPAY's partners including but not limited to promotions, vouchers, participation in surveys such as customer satisfaction surveys and other services for example subscription to healthcare applications. Participation or subscription to the aforementioned products and services shall be on a voluntary basis and subject to separate terms and conditions. You reserve the right to opt-out of CAREPAY's commercial communication messages. To opt out dial \*253# on your USSD menu go to settings and select the SMS opt out option or you can call the customer support center on telephone number 0800 721 253 or 0709 071 000.

8.6 CAREPAY shall not share your personal information without your consent to third parties or unauthorized persons, except as provided in this section of the contract , to act on your behalf or



request, as required by law or when necessary for operation of M-TIBA and fulfilment of the services hereunder or related hereto. For certain services CAREPAY may be required to use third party services. CAREPAY shall remain responsible for the protection of your personal information and shall take every step to ensure your privacy.

8.7 CAREPAY may share dependent's information with the principal member (being the person named as the main applicant on the application for membership), only in relation to the costs of treatment and services received, claims paid, and the amount of any deductible used. CAREPAY will not share dependent's information regarding medical diagnoses, medical treatment and services received or any medical history unless specifically requested by the dependent.

8.8 CAREPAY may retain your personal data for a period of up to seven (7) years or as may be required by any law or regulation. To request your personal data to be deleted you can call the customer support center on telephone number 0800 721 253 or 0709 071 000.

8.9 The legal basis for the collection, storage and sharing of your personal data is this contract including these M-TIBA Terms of Service.

8.10 CAREPAY retains the right to pursue legitimate interests by processing and sharing irreversible anonymized data and results with various partners and stakeholders. This includes carrying out, or having third parties carry out, statistical analyses to support CAREPAY operating M-TIBA and carrying out the services and for the benefit of improving access to healthcare and to evaluate and improve the quality of healthcare services offered by healthcare providers and/or any other service necessary to provide you with the services under M-TIBA.

## **9. CHANGES TO M-TIBA PRODUCT OR SERVICES**

Notwithstanding any other provision of this Agreement, CAREPAY and its principals reserve the right to change, suspend, remove, or disable access to any Products, content, or other materials comprising a part of the Services at any time without notice. In no event will CAREPAY be liable for making these changes. CAREPAY may also impose limits on the use of or access to certain features or portions of the Services, in any case and without notice or liability.

## **10. CHANGES TO TERMS OF SERVICE**

CAREPAY reserves the right at any time to modify these Terms of Service and to impose new or additional terms or conditions on your use of the Services. Such modifications and additional terms and conditions will be notified to you fourteen days in advance. Your continued use of the Services will be deemed acceptance thereof.



### **11. ELECTRONIC CONTRACTING**

Your use of the Services includes the ability to enter into agreements and/or to make transactions electronically. You acknowledge that your electronic submissions constitute your agreement and intent to be bound by and to pay for such agreements and transactions. Your agreement and intent to be bound by electronic submissions applies to all records relating to all transactions you enter into, including notices of cancellation, policies, contracts, and applications.

### **12. YOUR ACCOUNT**

As a registered user of the Services, you may establish an account ("Account"). Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account, and for all activities that occur on or through your Account, and you agree to immediately notify CAREPAY of any security breach of your Account. CAREPAY and or Safaricom shall not be responsible for any losses arising out of the unauthorized use of your Account.

### **13. ACCOUNT INFORMATION**

Unless specifically mentioned otherwise, information about programs, promotions, bonus schemes and benefits can be found in the specific terms & conditions of the respective program, promotion, bonus scheme or benefit. Information in the USSD menu or on the mobile application are not legally binding and only provide a summarized version of the terms & conditions of the respective program, bonus or benefit.

### **14. MISCELLANEOUS**

These Terms of Service constitute the entire agreement between you and CAREPAY and governs your use of the Services, superseding any prior agreements between you and CAREPAY. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intention.