

Terms of Service

Date: 10 November 2021; version: 3.0

Please read these terms carefully

GENERAL TERMS OF SERVICE FOR THE M-TIBA SERVICE

The following Terms of Service apply to the M-TIBA Service and by enrolling for or accessing the M-TIBA Service you acknowledge and agree to have read, understood and accepted these Terms of Service.

1. DEFINITIONS AND INTERPRETATION

In these Terms of Service, the following words and expressions bear the following meaning:

- 1.1. "CAREPAY": Carepay Limited, a company registered in Kenya.
- 1.2. "CAREPAY Group": group of companies of which CAREPAY is a member and CarePay International B.V. is the ultimate parent company.
- 1.3. "M-TIBA Account": personal virtual account on the M-TIBA Platform.
- 1.4. "M-TIBA Customer Experience": customer experience call center available via the telephone number and email address listed on www.mtiba.com.
- 1.5. "M-TIBA Platform": digital platform that is owned by the CarePay Group and operated by CAREPAY (including the USSD menu, mobile applications and www.mtiba.com) which facilitates the operation of your M-TIBA Account and the provision of the M-TIBA Service.
- 1.6. "M-TIBA Service" or "Service(s)": services provided to you by CAREPAY through the M-TIBA Platform, including enabling your access to the M-TIBA Platform, it being understood that the M-TIBA Marketplace services are primarily subject to the [M-TIBA Marketplace Terms of Use](#).
- 1.7. "SPONSOR": entity funding or enabling all or part of the healthcare benefits in your M-TIBA Account. A SPONSOR can be an employer, an insurer, a government entity, a non-governmental organization or any other institution enabling your M-TIBA Account.
- 1.8. "you": you as a user of the M-TIBA Service, and "your" and "yourself" shall be construed accordingly.

2. DESCRIPTION OF M-TIBA SERVICE; NO SERVICE CHARGE

2.1. The M-TIBA Service provided by CAREPAY aims to give individuals such as yourself access to healthcare through the M-TIBA Platform which enables users to save, receive and use funds and benefits in their M-TIBA Account to get or enable healthcare services at designated healthcare providers using their mobile phones.

2.2 The M-TIBA Service is, unless indicated otherwise, free of charge for you and other individuals that use the M-TIBA Platform to get or enable healthcare services.

3. ELIGIBILITY & ENROLLMENT FOR M-TIBA SERVICE

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

3.1.1. a person of minimum of 18 years of age with full legal capacity and you hereby warrant that you are; and

3.1.2. registered as a user of the M-TIBA Service on the M-TIBA Platform.

3.2. Registration on the M-TIBA Platform and information on the M-TIBA Service will be facilitated by the SPONSOR, CAREPAY and/or selected CAREPAY agents.

3.3. Further information on the M-TIBA Service can be obtained and questions or complaints can be raised by contacting the M-TIBA Customer Experience. We will endeavor to address any question or complaint adequately and without undue delay.

4. ACCESS TO HEALTHCARE

4.1. Funds and benefits in your M-TIBA Account can only be spent at designated healthcare providers as payment for healthcare services offered through the M-TIBA Service. You shall not spend or try to spend the same funds or benefits twice and if you do you shall be liable to pay any excess amount incurred outside the funds or benefits in your M-TIBA Account to the healthcare providers.

4.2. Information on the designated healthcare providers will be available to you through the SPONSOR, the M-TIBA Platform, the CAREPAY agents in your community and/or the M-TIBA Customer Experience. Information about the SPONSOR and its healthcare program (including cover, limits and benefits) applicable to you can be found in the terms & conditions applicable to the relevant healthcare program as set by the relevant SPONSOR. Information in relation to such terms & conditions on the M-TIBA Platform is not legally binding and only provides a summarized version of the terms & conditions of the relevant program. Information on applicable terms and conditions for non-SPONSOR healthcare programs facilitated by CAREPAY will also be made available to you via the CAREPAY Platform.

4.3. To access healthcare services at the designated healthcare providers you are required to identify yourself as a user of the M-TIBA Service through the designated means of identification determined by CAREPAY or the SPONSOR. The healthcare provider shall check whether the means of identification presented matches with your registration on the M-TIBA Platform. You and/or your dependents may be given an "M-TIBA Card" which can be presented to designated healthcare providers for identification to initiate treatment via the M-TIBA Platform. The M-TIBA Card is strictly personal and may only be used by the person it is issued to.

4.4. If allowed under the relevant healthcare program, you may, as a primary user of the M-TIBA Service, add dependents to your M-TIBA Account who can access and use the funds and benefits on your M-TIBA Account with your permission. If you add any

dependents, these Terms of Service shall also apply to such dependents, and you hereby accept and agree to these Terms of Service on their behalf. You shall be responsible for your dependents' compliance with these Terms of Service. You shall not try to add dependents other than as allowed under the relevant healthcare program.

5. YOUR ACCOUNT AND INFORMATION

5.1. As a registered user of the M-TIBA Service you have an M-TIBA Account. You shall not reveal your M-TIBA Account information to anyone else, except for your dependents. You are solely responsible for maintaining the confidentiality and security of your M-TIBA Account and for all activities that occur on or through your M-TIBA Account, and you agree to immediately notify CAREPAY of any security breach of your M-TIBA Account. You are responsible for the correctness of the data in your M-TIBA Account or otherwise provided to CAREPAY and shall only provide correct information when using the Services and immediately notify CAREPAY of any relevant changes in your personal information.

5.2. You shall take all reasonable precautions while sending and receiving data via the M-TIBA Platform. You are solely responsible for any content ("User Content") sent, displayed or uploaded by you in using the Services and you shall not use the Services in a manner which violates these Terms of Service or any applicable laws and regulations. You shall not engage in any activity or use the Services or M-TIBA Platform in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the Services, or any servers or networks connected to the Services or CAREPAY security systems.

5.3. CAREPAY makes use of automatic filters to detect unlawful or fraudulent content. Other than that, CAREPAY does not monitor or edit the User Content that you actively upload on the M-TIBA Platform. In case you are of the opinion that M-TIBA Accounts or any other content on the M-TIBA Platform is unlawful or fraudulent, you must inform us by emailing M-TIBA Customer Experience.

5.4. In case CAREPAY receives notice-and-take-down requests or notices that you provide false or incomplete information or use the Services in violation of these Terms of Services, or that your M-TIBA Account is linked to (an account number which is linked to) an M-TIBA Account or other user that is already blocked, CAREPAY shall be entitled to (temporarily) suspend or block your account at any time and delete all information related to it. Providing false or incomplete information may also lead to denial of a medical claim or cancellation of your healthcare program. You are not entitled to any compensation by CAREPAY in this respect. If for whatsoever reason your M-TIBA Account is blocked or deleted, you are no longer entitled to use the M-TIBA Platform.

5.5. CAREPAY reserves the right to investigate and take appropriate action against any person or company that is suspected of fraudulent or unlawful actions. In this respect

CAREPAY may inter alia report you to law enforcement authorities.

6. LIMITATION AND EXCLUSION OF LIABILITY

6.1. CAREPAY will take all reasonable precautions to ensure that the information on CAREPAY and the M-TIBA Service provided to you is accurate and that you suffer no loss or damage as a result of the use of the Service. However, the Services are provided "as is" and "as available" without warranty of any kind. CAREPAY does not accept any responsibility whatsoever for unavailability of the Services, or any difficulty or inability to download or access content, or any other communication system failure which may result in the Services being unavailable. CAREPAY makes no warranty or representation regarding the results that may be obtained from the use of the Services, regarding the accuracy or reliability of (any information obtained through) the Services or that the Services will meet your requirement, or be uninterrupted, timely, secure or error free. To the maximum extent possible, CAREPAY hereby disclaims all implied warranties regarding (the availability of) the Services. As such, by using the Service you agree that your use is at your own risk and responsibility and that CAREPAY is not liable for any loss or damage (including without limitation any direct, indirect, special, incidental, consequential or punitive damages) arising from or in connection with your use of or delay in, change to or unavailability of the Service. We further note that Safaricom Ltd. makes no representations whatsoever concerning any products or services not directly provided by Safaricom Ltd. in direct relation to M-TIBA, including products and services provided by CAREPAY and healthcare providers.

6.2. You hereby acknowledge that you have registered for the M-TIBA Service voluntarily and without any coercion.

6.3. CAREPAY disclaims and excludes any liability for any loss or damage (including without limitation any direct, indirect, special, incidental, consequential or punitive damages) arising from any circumstance beyond their reasonable control, such as:

6.3.1. any force majeure events, including strikes and industrial disputes;

6.3.2. any security breach or unauthorized use of your M-TIBA Account or unwanted programs or material, malwares, trojans, worms or viruses transmitted when using the Service;

6.3.3. any inaccurate content (for example on benefits, healthcare rates, availability or ratings), loss or unavailability of data or lack of access to, unavailability of or delay in the Service caused by a third party;

6.3.4. any products or services not directly provided by CAREPAY, including all products and services provided by third parties such as partners of CAREPAY (for example Safaricom Ltd. or any (mobile) money platform, payment service provider or gateway operator), SPONSOR or healthcare providers, or the content on a partner or other third-party site or online service;

6.3.5. any mistreatment, malpractices or wrongful actions of any healthcare provider in the line of providing healthcare services accessed via the M-TIBA Platform; or

6.3.6. any other action of any of CAREPAY's partners, SPONSORS, healthcare providers or other third parties.

6.4. If CAREPAY is liable, for any reason, the aggregate liability will be limited to the higher of (a) the total amount paid to us by SPONSORS in relation to you and yourself in connection with the Services in the preceding year or (b) an amount of KES 500 (five hundred Kenyan Shillings). No liability shall be raised against CAREPAY more than one (1) year after the occurrence of the cause of such liability.

6.5. Nothing in these Terms of Service will exclude or limit the liability of CAREPAY to the extent this cannot be excluded or limited under the applicable law, such as in the case of willful misconduct by CAREPAY.

6.6. You agree to indemnify, defend and hold harmless CAREPAY from any and all third-party claims, liability, damages and/or costs (including, but not limited to, attorney fees) arising from your use of the Services, your violation of these Terms of Service or the infringement or violation by you or any other user of your M-TIBA Account, of any intellectual property or other right of any person or entity.

6.7. Any limitation or exclusion of CAREPAY's liability and any warranty or indemnification given by you in these Terms of Service also apply to each member of the CAREPAY Group and their directors, officers, employees, agents and partners in providing the M-TIBA Service (including Safaricom Ltd.).

7. TERMINATION OF THE M-TIBA SERVICE

7.1. You can terminate these Terms of Service by contacting the M-TIBA Customer Experience:

7.1.1. if you are not a member under a healthcare program for which the M-TIBA Platform is used, at any moment in time; or

7.1.2. if you are a member under a healthcare program for which the M-TIBA Platform is used, when such program terminates with respect to you.

Please note that termination of these Terms of Service shall mean that you can no longer use the Service.

7.2. CAREPAY may terminate these Terms of Service and deactivate your M-TIBA Account:

7.2.1. if you are not a member under a healthcare program for which the M-TIBA Platform is used, at any moment in time; and

7.2.2. if you are a member under a healthcare program for which the M-TIBA Platform is used, when such program terminates with respect to you or when you breach these Terms of Service.

7.3. If, in case of termination and deactivation of your M-TIBA Account, you have any funds saved by you (unrelated to a SPONSOR healthcare program) remaining in your M-TIBA Account, such funds shall be transferred to you minus any outstanding payments and net of charges.

7.4. After termination of the M-TIBA Services, these Terms of Service will continue to apply fully with respect to your use of the Services prior to termination.

8. PERSONAL DATA PROCESSING

8.1 When you use the M-TIBA Service, you trust CAREPAY with your personal data, as CAREPAY cannot deliver the Service to you without processing certain of your personal data as set out in these Terms of Service. CAREPAY recognizes the importance of protecting the privacy and confidentiality of such personal data and included this section to inform you how CAREPAY processes your personal data. CAREPAY processes your personal data carefully, securely and confidentially and it is important to us that you have confidence in our organization with regard to the processing of personal data. In relation to the processing of data, references to 'you' or 'your' shall include your dependents (except where the context otherwise requires). To the extent required by law, you hereby grant us consent to process your dependents' data in accordance with these Terms of Service. More information on how we process your personal data when you use the M-TIBA Platform can be found in the [Platform Privacy Statement](#).

8.2 Use of data

To provide the M-TIBA Service, CAREPAY processes the following personal data for the following purposes:

8.2.1. Registration and verification data (including biometrics)

To create an M-TIBA Account we need to process your name, date of birth, gender, mobile number, National ID number and password, and we may collect your signature. If you add dependents on your M-TIBA Account, we will also need to process their names, dates of birth and gender. In addition to creating your M-TIBA Account, this is to ensure that CAREPAY has sufficient information to provide the Services to entitled users only and to (ensure SPONSORS can) fulfil KYC (know your customer) responsibilities. We may also collect a passport-style photograph and/or your biometrics (fingerprint) for identification and fraud prevention purposes. The fingerprint is typically collected when you first visit a healthcare provider using the benefits under the relevant healthcare program. At subsequent visits you will have to identify yourself using your fingerprint. These processing activities are necessary for us to perform these Terms of Service. By agreeing to these Terms of Service and giving your fingerprint you grant CAREPAY your explicit consent to process your biometric data for this purpose.

8.2.2. Treatment (health) data

To enable you to get healthcare treatment from healthcare providers using the Service,

CAREPAY needs to process data on treatment requests submitted by you through the M-TIBA Platform. For the same purpose, CAREPAY processes data on the healthcare providers you visit, the funds or benefits available on and accessed via your M-TIBA Account and any savings, funds, loans and financial transactions undertaken through the M-TIBA Platform. CAREPAY further needs to process data on the treatment received by you from healthcare providers, including any diagnoses and historical medical information entered by healthcare providers and billed items through the M-TIBA Platform. This allows CAREPAY to fulfil its role in claims and benefits administration and the financial transactions through the M-TIBA Platform. CAREPAY (and its subsidiary CSL Services Ltd., which is a claims settlement agent regulated by the Insurance Regulatory Authority) may also have a role in the settlement of claims under a healthcare program, in which case we may assess whether claims should be rejected or approved, pay claims to healthcare providers and/or liaise with healthcare providers or SPONSORS on diagnoses, treatments, medical history, claims and claim disputes. These processing activities are necessary for us to perform these Terms of Service. By agreeing to these Terms of Service and submitting your health data to CarePay you grant CAREPAY your explicit consent to process your health data for these purposes.

8.2.3. Customer experience and surveys

CAREPAY also processes your M-TIBA Account details to deliver customer communications with information on the Service using SMS, telephone, email and other means. We also process your personal data to deliver the M-TIBA Customer Experience on the M-TIBA Platform and Services, and if appointed by a SPONSOR to provide customer support on questions around their healthcare programs. These processing activities are necessary for us to perform these Terms of Service. We have a legitimate interest to also process customer contact and support data to improve the Services. This includes CAREPAY approaching you to enquire about the Services and whether you want to participate in customer surveys, such as customer satisfaction surveys. For participation in such surveys, we require your explicit consent. To opt out from being contacted for possible participation in customer surveys, you can call the M-TIBA Customer Experience.

8.2.4. Marketing of related services

When sending you communication messages on the Service using SMS, telephone, email and other means CAREPAY may inform you on other products and services offered by CAREPAY and CAREPAY's partners related to the Service, including but not limited to promotions, vouchers and subscription to healthcare applications. We have a legitimate interest to process your data like this. To opt out from CAREPAY's commercial communication messages, you can call the M-TIBA Customer Experience.

8.2.5. Processing to improve access to health

CAREPAY retains the right to process personal data to pursue legitimate interests and to share irreversibly anonymized data and results with trusted partners and stakeholders.

This includes carrying out statistical data analyses to support CAREPAY in operating, providing and improving the M-TIBA Platform and the Service, for the benefit of improving access to healthcare services and insurance, identifying and preventing fraud, medical and other scientific research, and to evaluate and improve the quality of healthcare services offered by healthcare providers.

8.2.6. Automated processing

If CAREPAY uses automation to process your personal data CAREPAY will ensure that you will not be subject to a decision based solely on automated processing which produces legal effects concerning you or similarly significantly affects you.

8.3 Sharing of data

In order to deliver the Service via the M-TIBA Platform under these Terms of Service, CAREPAY needs to share your personal data with the relevant SPONSOR and healthcare providers. CAREPAY may also share your personal data with members of the CAREPAY Group that support the delivery of the Service for example by performing customer support or platform development activities. The CAREPAY Group applies uniform appropriate data security and protection safeguards throughout and stores all data on a centralized secure server. The trusted third-party data processors which CAREPAY uses to deliver the Service (including the party who stores the data) may process the data outside your country of residence but always subject to appropriate data security and protection safeguards in accordance with applicable law. Considering that the M-TIBA Platform is under development, these parties may change from time to time. You can contact us for an up-to-date overview and further information. As much as CAREPAY requires CAREPAY Group members and third parties to process data to be able to provide the Service, CAREPAY shall remain responsible for the protection of your personal data and shall take every reasonable step to ensure your privacy. By agreeing to these Terms of Service you consent to the described processing of your personal data outside Kenya as may be required to provide the Service.

CAREPAY shall not share your personal data without your consent with third parties, except (i) as provided in this section 8, (ii) to act on your behalf or request, or (iii) as required by law. Where necessary under applicable law, we will ask your additional consent for certain data processing activities.

CAREPAY may share dependent's information with you as the primary user of the Service only in relation to the costs of healthcare services received, claims paid, and the amount of any benefit or deductible used. CAREPAY will not share any other of dependent's health data with you unless specifically requested by the dependent or to the extent necessary in relation to the parental responsibility held by you over the dependent in accordance with applicable law.

8.4 Data retention

CAREPAY retains your personal data no longer than necessary for the purposes for which we process them, or as long as may be required by applicable law or to protect our interests. The retention period may differ for each individual purpose. You can contact us for further information on this. You can also call the M-TIBA Customer Experience to exercise any of the following rights you have in relation to your personal data:

8.4.1. The right of access: you have the right to see which of your personal data we process;

8.4.2. The right of rectification: if your personal data we process are not correct, you have the right to have them adjusted;

8.4.3. The right of erasure: if we no longer need your personal data for the purpose for which they were provided to us, you have the right to ask us to delete them. There are a number of exceptions to this, such as our obligation to retain certain data, for example for statutory legal or tax retention requirements;

8.4.4. The right to object: it is possible to object to the processing of your personal data based on our legitimate interest, after which a balancing of interests will follow;

8.4.5. The right of restriction: during the period that we are in the process of determining whether your data should be rectified, determining the unlawfulness of data processing, determining whether data should be deleted or whether you have objected to the processing, you have the right to request a restriction of the processing; and

8.4.6. The right of data portability: at your request and under certain circumstances, we must transfer any personal data we process about you pursuant to these Terms of Service to you or any organization of your choice.

8.5. The responsibility for managing your benefits under a SPONSOR healthcare program and maintaining your medical records is with the relevant SPONSOR and healthcare provider(s), respectively, and not with CAREPAY. For any information on how they and other third parties may process your personal data, please consult the relevant party's privacy information.

8.6. In case you have any questions around the processing of your personal data, please contact the M-TIBA Customer Experience. In case any questions remain after contacting customer experience, you can contact the CAREPAY Data Protection Officer, who supervises compliance with data privacy and protection laws. The Data Protection Officer is an employee of the Privacy Company and can be reached via the following e-mail address: privacy@carepay.com. You also have the possibility to file a complaint with the governmental authority supervising the protection of personal data in your country. We would appreciate you contacting us first to give us the opportunity to address and solve your complaint.

9. INTELLECTUAL PROPERTY RIGHTS

9.1. All current and future worldwide intellectual property rights (including without limitation the software source and object code, copyrights and tradename or -mark) in

relation to the Services and the M-TIBA Platform are owned by the CAREPAY Group members and they exclusively retain ownership of all rights, title and interest in and to any such rights. You shall not commercialize, publish, copy, reverse engineer, create derivative works or otherwise use, or frame or utilize framing techniques or use any meta tag or any other "hidden text" with respect to, any such rights without our express written permission.

9.2. CarePay grants you a non-transferrable, non-exclusive, non-sublicensable and revocable license intended for fair use of the Services. You shall only use the Services for personal non-commercial consumer purposes and not reproduce, resell, or distribute the Services or any reports or data generated by the Services for any other purpose without our express written permission.

10. ELECTRONIC CONTRACTING

Your use of the Service 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.

11. CHANGES TO M-TIBA PLATFORM OR SERVICE

Notwithstanding any other provision of this Agreement, CAREPAY reserves the right to change, suspend, remove, or disable or impose limits on the use or access to any part of the Service at any time and without notice when CAREPAY so deems appropriate to improve or update the Service or the M-TIBA Platform.

12. CHANGES TO TERMS OF SERVICE

CAREPAY reserves the right to at any time modify these Terms of Service and to impose new or additional terms or conditions on your use of the Service. Such modifications and additional terms and conditions will be notified to you upon you accessing the Service for the first time after such modifications were made and your continued use of the Service will be deemed to constitute your acknowledgement and acceptance thereof.

13. MISCELLANEOUS

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

You cannot assign, transfer or novate any right or obligation under these Terms of Service to another person.

14. DISPUTE RESOLUTION AND JURISDICTION

14.1. You will endeavor to amicably settle with us any dispute or claim arising from the M-TIBA Service or these Terms of Service. Any dispute or claim you may have can be reported to the CAREPAY Customer Experience.

14.2. If an amicable resolution of the dispute or claim fails, the dispute shall be exclusively submitted and resolved by the competent court in Nairobi, Kenya. Both CAREPAY and you shall be entitled to seek remedies of injunction, specific performance, or other equitable relief for any threatened or actual breach of these Terms of Service with any court of competent jurisdiction.

14.3. These Terms of Service and the use of the Service shall be governed by the laws of Kenya, where the M-TIBA Service is being delivered.