

TERMS AND CONDITIONS FOR M-PESA BILL MANAGER**BACKGROUND:**

- (A) Safaricom has created a software application known as M-PESA Bill Manager in which Customers of Safaricom and Billers can use to query and receive bills and make payment for services rendered to a Customer through M-PESA (the **Service**).
- (B) You (the "Customer") wish to sign up for the Services (described below) and Safaricom has agreed to provide the Services in consideration of the terms and conditions set out herein.
- (C) For the purposes of this Agreement: "We", "Our" and "Us" refers to Safaricom PLC while references to "You" and "Your" refers to the registered M-PESA Bill Manager Customer or Biller;

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Agreement" means the mutual promises and terms set out herein and executed by the parties.

"API" means Application Programming Interface

"Biller" means a merchant, service provider or trader who sends or receives payment via M-PESA for goods traded or services rendered by them.

"Business Day" means any day of the week not being a weekend, gazetted public holiday or designated bank holiday within the Republic of Kenya;

"Business Number" means a destination code or numbering plan created by Safaricom for the identification of an M-PESA Account provided to the Client for the purposes of receiving E-money. Such Business Number is issued to the Client to permit third parties including the Customer to make payments for services rendered to the Customer;

"Cash" means notes and coins constituting the legal tender of the Republic of Kenya.

"Custodial Trustee" means the M-PESA Holding Company Limited which holds in trust for all M-PESA customers cash paid into the Trust Account;

"Customer" means an M-PESA user who uses the Service to query and/or pay bills due to Client;

"E-Money" means the electronic value issued by Safaricom and representing an entitlement to an equivalent amount of the Cash held by the Custodial Trustee in respect of the acquisition of such electronic value;

"Effective Date" means the date upon which the Customer activates their M-PESA Bill Manager Account.

"Intellectual Property Rights" means, in respect of each Party, such Party's proprietary rights, title and interest in and to any and all names, logos, trademarks, copyrights, patents and all other intellectual property of whatever nature, description or form, vesting in that Party as at the Effective Date or acquired by such Party at any time after the Effective Date;

"M-PESA Account" means the account belonging to the Customer created in the M-PESA system which pools funds collected through the M-PESA System;

"M-PESA Service" means the mobile money transfer service provided by Safaricom and envisaged under this Agreement (including the procedure, systems, and software that Safaricom has developed) through which Customers can make payments to the Client under the Pay Bill functionality (irrespective of whether or not the payment is in respect of the settlement of an obligation or the creation of a liability);

"M-PESA Bill Manager Account" Means the channel through which a Customer or Biller who subscribes to the Service accesses the Service and may include USSD, application software, online portal and chat bot.

"M-PESA System" or **"M-PESA"** means the system operated by Safaricom providing the MPESA Services and **"M-PESA User"** means either of the Biller or the Customer participating in the M-PESA system;

"M-PESA Subscriber" means a Customer who has registered for the M-PESA Service;

"MSISDN" means the Mobile Subscriber Integrated Service Digital Network Number issued to the Recipient which uniquely identifies the Receipt on the Network and is used to connect M-PESA Users with other Safaricom subscribers and includes a Pin Unblocking Key (PUK) for accessing the Network.

"My Safaricom App" or **"My MPESA App"** means the software application upon which the Service may be offered;

“**Network**” means the Global System for Mobile telecommunication (“GSM”) system operated by Safaricom and covering those areas within the Republic of Kenya as stipulated from time to time by Safaricom;

“**Service**” means bill managing product offered to the Customer;

“**SMS**” means Short Message Service

“**Territory**” means the Republic of Kenya;

“**Transaction**” means any movement of E-money or cash from the Customer to the Biller and vice versa pursuant to instructions initiated on the M-PESA System and includes reversals.

“**USSD**” means the Unstructured Supplementary Service Data System;

2. DURATION OF AGREEMENT

- 2.1 Subject to termination provisions this Agreement shall be for a period of twelve (12) months from the Effective Date of this Agreement.
- 2.2 Upon the expiry of the initial term, the Agreement shall automatically renew for a further twelve (12) months on the terms and conditions appearing in this Agreement may be amended in writing at our convenience or terminated in accordance with the terms of this Agreement.

3. SERVICE DESCRIPTION

- 3.1 The Bill Manager is an end to end payments management platform offering invoicing, receipting, payment collection and reconciliation through a web platform and API integrations.

4. ACTIVATION OF THE SERVICE

- 4.1 This Agreement shall come into force upon the activation of the service through successful completion of the account creation and registration process as per our requirements. The client is to provide the necessary Know Your Customer (KYC) documentation as prescribed by us.
- 4.2 If you fail to produce the necessary KYC documents or fail to meet the necessary requirements, we shall not activate your account neither confer any right to contest our decision or give rise to any legal claim against us under this agreement.

5. OPERATION AND SCOPE

- 5.1 Use of the Bill Management Service shall be subject to the M-PESA Bill Management Terms and Conditions as we may publish from time to time and notify to you in writing in regard to any significant changes or amendments, you agree to abide by our procedures and/or changes as part of our service.

- 5.2 With effect from the Effective date and for the duration of the Agreement the Client shall;

5.3

4.2.1 be bound by the terms and conditions of this Agreement

- 4.4 During the subsistence of this Agreement, you shall at all times comply with such reasonable guidelines as may be communicated to you in writing from time to time.

6. OPT IN/OUT PROCESS

- 6.1 Registration for the service may be done on the Safaricom website, M-PESA website, Safaricom App, M-PESA for Business App or My M-PESA App and via USSD code
- 6.2 You will be required to register on the Service by providing your Business Type, valid MPESA Buy Goods or Playbill Number and an Active M-PESA Administration Username.
- 6.3 Once you have provided all the required details been provided, an OTP code shall be sent to you, you shall then enter a valid email address and the OTP code to activate you Bill Manager account as Administrator.
- 6.4 You shall then key in your personal details, set a security password and agree to the terms and conditions.
- 6.5 Finally you shall key in a valid business address, a business name, contact details and upload a logo.
- 6.6 The Opt In process shall also be found on the following address.
<https://mpesaforbusiness.safaricom.co.ke/billmanager>.

7. CUSTOMER JOURNEY

- 7.1 The Customer of Biller shall register themselves onto the Service having followed all prompts and agreeing to the Terms and Conditions herein.
- 7.2 Once registered to the Service, You must create a profile with personal details, contact information and payment details, including that of their customers in accordance with the clause on Privacy. This shall be housed on the biller dashboard.
- 7.3 Multiple Payments collection, e-invoicing, reconciliation and reports will be generated upon request by the biller.
- 7.4 Access to the platform shall be through the Website, Safaricom M-PESA App and through USSD.

8. CONFIDENTIALITY

- 8.1 Each party agrees that it shall treat all information related to and received from either party as a result of the operation of this Agreement with the same degree of confidential treatment that it affords its own confidential information.
- 8.2 Neither party shall reveal any confidential information of the other parties to a third party, without the express written consent of the party wishing to disclose information, except where

such information is in the public domain, has been obtained legally by a 3rd party, or where disclosure of the confidential information is ordered by a court or other competent authority.

- 8.3 We may disclose your confidential information if required to do so by law or in the good faith that such preservation or disclosure is reasonably necessary to a) comply with a regulators requirements b) Legal Processes c) Enforce the terms of this Agreement d) respond to claims that the Client's use of the M-PESA Service violates the rights of third parties or e) protect the rights, property or personal safety of Safaricom, our subscribers or the public.

9. SERVICE FEES

- 9.1 The Service shall be subject to the Charges and Transaction Values as communicated to You from time to time.
- 9.2 We may by way of Notice, from time to time vary the Charges and Transaction values.
- 9.3 You are required to pay the charges as prescribed without expectation of refund.

10. PERMISSIBLE PURPOSE & PROHIBITED USAGE AND CONDUCT

- 10.1 You hereby undertake to use the Service only for the purpose set out in this agreement.
- 10.2 You agree not to use the MService to:
- Conduct any business that is unlawful, harmful or otherwise objectionable.
 - Impersonate any person or entity including but not limited to that of a Safaricom Official, fellow user or falsely misrepresent your affiliation with a person or entity.
 - Forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the service.
 - You shall not make any confidential information to any third party including but not limited to transaction unless directed to do so by law.
 - You shall not infringe on any Intellectual property i.e. patents, trademarks, trade secrets, copyrights and any other proprietary rights of any party.

11. INDEMNITY & LIMITATION OF LIABILITY

- 11.1 You shall hold us and keep blameless against any and all loss, damage or liability, whether criminal or civil suffered. This will include any legal costs or costs incurred by us resulting in a material breach of this Agreement.
- 11.2 We shall indemnify you and keep you as such from any and all loss, damage or liability whether criminal or civil suffered any legal fees or costs incurred as a result of material breach of this Agreement.

11.3 We are excluded from any liability in the case of loss or damage arising where;

- 11.3.1 the Recipient is not registered on the M-PESA system (such registration being mandatory)
- 11.3.2 the biller or customer has entered an incorrect Recipient's M-PESA account number and the payment is made to the wrong M-PESA account holder
- 11.3.3 the Recipient's MSISDN is not active.

12. SUSPENSION

12.1 Safaricom may suspend the availability of the service wholly or partially for any valid or compelling reason, including without limitation where (i) Safaricom needs to investigate a transaction or series of transactions that are suspicious or fraudulent or (ii) continuing to offer the service availability will render one party non-compliant with any law, regulation or directive from a competent regulatory authority. In such cases we shall return any unremitted sum of money paid in advance by you as per this Agreement.

13. TERMINATION

13.1 Termination for Breach

If a You commit a material breach and fail to remedy such breach within a period 30 days from the date on which written notice is given to the you to remedy the breach, then the Safaricom shall be entitled to terminate this Agreement on the expiry of the written Notice and will be entitled to hold you liable for damages as a result.

13.3 Termination not to Affect Remedies

The expiration or termination of this agreement shall be without prejudice to all accrued rights and obligations of the Parties under this Agreement and all obligations under this Agreement and to all obligations under this Agreement expresses to continue or take effect after expiration or termination.

13. TAXES

Any taxes, charges, impositions or levies imposed on a Party or on a Party's performance of its obligation under this Agreement shall be paid by that Party, it being solely that party's obligation to collect and remit such taxes to the relevant taxing authorities. You shall indemnify us from any loss or damage arising from any failure to comply with its obligations under this clause

15. GOVERNING LAW AND JURISDICTION

The validity, construction and interpretation of this Agreement shall be governed by the Laws of Kenya.

16. DISPUTE RESOLUTION

In the event that any dispute has arisen, and the parties have not been able to settle the same, within thirty (30) days then, any party may elect to commence arbitration. Such arbitration shall be referred to arbitration by a single arbitrator to be appointed by agreement between the Parties or in

default of such agreement within 14 days of the notification of a dispute, upon the application of either Party, by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitration.

Such arbitration shall be conducted in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995. To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the parties. Pending final settlement or determination of a dispute, the Parties shall continue to perform their subsisting obligations. Nothing in this Agreement shall prevent or delay a Party from making claims or seeking injunctive or interlocutory relief in the High Court of Kenya.

17. AMENDMENT

We may, by way of Notice or bulletin, amend this agreement and its schedules or update the privacy terms on our website. You acknowledge that such bulletin, notice or update shall be binding and shall have full legal force as contained in this Agreement from the date of notification of the update or amendment.

18. ASSIGNMENT

This Agreement may not be assigned by either party, by operation of the law or otherwise, without the prior written consent of the other party.

19. WAIVER

No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the party waiving its rights.

20. NOTICES

Except as otherwise specified in this Agreement, all notices, requests, approvals, consents and other communications required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by mail, registered or certified, return receipt requested, postage pre-paid, courier service to the address specified above.

Notices shall be deemed given on the day actually by the party to whom the notice is addressed.

21. NO THIRD PARTY BENEFICIARIES

Each party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of any person or entity other than the Parties to this Agreement.

22. SEVERABILITY

Any provision of this Agreement held by a court of competent jurisdiction to be contrary to any law shall be severed for this agreement, but such severance shall not render the remaining provisions of this agreement ineffective. The remaining provisions of this Agreement will remain in full force and effect.

23. FORCE MAJEURE

Notwithstanding any provision contained in this Agreement, neither party shall be liable to the other to the extent fulfillment or performance of any terms or provisions of this Agreement is delayed or prevented by revolution or other civil disorders: wars; acts of enemies: strikes: lack of available resources from persons other than parties to this Agreement; labor disputes: electrical equipment or availability failure; fires: floods; acts of God; government or regulator action; or, without limiting the foregoing, any other causes not within its control, and which by the exercise of reasonable diligence it is unable to prevent, whether of the class of causes hereinbefore enumerated or not. If any force majeure event occurs, the affected party will give prompt written notice to the other party and will use commercially reasonable efforts to minimize the impact of such event.

24. PRIVACY

Definitions

"Personal Information" means personal identifiable information as prescribed in the Data Protection Act which includes but is not limited to name, address, phone number, identification number, location data.

Collection of information

We are required by law to collect certain personal information and are legally obligated to deny you the service if such information is not available.

Apart from the legal obligation mentioned above, we also need to collect your Personal Information for quality service delivery. Please note that although this is voluntary, without such information we may not be able to provide quality service.

Privacy

We are committed to respecting and protecting the privacy of the information we collect from you. Our privacy statement, as updated from time to time, explains how we treat your personal information, who we share your information with and measures taken to protect your privacy when you use our Service. This can be found on Safaricom Data Privacy Statement. If unable to access the link or our website please reach us on any of our customer care channels to receive a copy.

25. GENERAL

25.1 The parties shall comply with all legal requirements applicable to their role in effecting transactions.

25.2 This Agreement may be signed in any number of counterparts, all of which shall constitute one the same instrument.

25.3 This Agreement may be accepted electronically in accordance with provisions of the Kenya Information and Communications Act or any other applicable law.