

## TERMS AND CONDITIONS APPLICABLE TO THE DIGINU PLATFORMS

### 1 GENERAL

1.1 In this document the following words shall have the meaning ascribed to them:

- 1.1.1 "Application" means the Diginu mobile application;
- 1.1.2 "Delivery Fee" means the delivery fee displayed on the Platforms;
- 1.1.3 "Delivery Location" means the delivery location selected by the User via the Platform;
- 1.1.4 "Delivery Service" means the delivery service rendered by the Delivery Service Providers;
- 1.1.5 "Delivery Service Providers" means the Merchant or those independent third party transportation providers and independent third party logistics providers under agreement with Diginu who perform Delivery Services for or on behalf of Users;
- 1.1.6 "Diginu/us/our" means DigiLiv Group (Pty) Ltd (Registration Number 2019/385836/07, e-mail address: \_\_\_\_\_ and physical address: \_\_\_\_\_);
- 1.1.7 "Estimated Preparation Time" means the estimated time the Merchant takes to prepare and package its Products;
- 1.1.8 "Immediate Order" means an Order made by the User for collection or delivery as soon as possible, but not before the Estimated Preparation Time;
- 1.1.9 "Merchant" means any of the merchants listed on the Platforms;
- 1.1.10 "Order" means the final order placed by the User for the Products from the Merchant ~~and, where applicable, the Delivery Service from the Delivery Service Provider~~;
- 1.1.11 "Order Price" means the total price of the Merchant's Products as reflected in the Order ~~plus the Delivery Fee and tips, where applicable~~ (inclusive of VAT ~~and exclusive of the Delivery Fee~~);
- 1.1.12 "Parties" means Diginu and the User and "Party" means either one of them;
- 1.1.13 "Personal Information" has the meaning assigned to that term in the POPI Act;
- 1.1.14 "Platforms" means the Application and/or the Website;
- 1.1.15 "Products" means those Products listed on the Menus to be made available by the Merchant for purchase by the Users, including food, beverages and other listed items;
- 1.1.16 "POPI Act" means the Protection of Personal Information Act No. 4 of 2013 and includes the regulations published under that Act, and any amendments to that Act and/or the regulations from time to time (if any);
- 1.1.17 "Registration Process" means the registration process to be completed by the User via the System, as more fully set out in clause 4;
- 1.1.18 "Scheduled Order" means an Order made by the User for the collection of the Products at a Scheduled Pick Up Time;
- 1.1.19 "Scheduled Pick Up Time" means the time selected by the User for collection of the Scheduled Order;
- 1.1.20 "Services" means the provision of the System as a service which enables Users to purchase Products from Merchants and to arrange and schedule Delivery Services with Delivery Service Providers;
- 1.1.21 "System" means the intellectual property, software,

hardware, materials and all other third party software, electronic, computer, telecommunication devices and other equipment used by Diginu and/or its sub-contractor(s) for the provision of the Platforms and the Services including any and all interfaces to the equipment for the purpose of interacting with the Merchant, the Delivery Service and the User;

- 1.1.22 "Terms" means the terms and conditions of use of the System as set out in this document and as may be amended, varied or added to from time to time by Diginu;
- 1.1.23 "User/you/your" means the person in whose name the User Account is opened;
- 1.1.24 "User Account" means the virtual account to be opened for the User which will be accessed by the User using its User Name and Password;
- 1.1.25 "User Data" means all information and other documents uploaded by the User onto the Platforms, which includes the User's Personal Information including but not limited to that information referred to in clause 4.2.3;
- 1.1.26 "User Name and Password" means the User's name and password chosen by the User for purposes of accessing the System and the User Account;
- 1.1.27 "Website" means <https://www.diginu.com>.

### 2 INTRODUCTION

- 2.1 Diginu owns and operates the System and has contracted with various Merchants for the listing of their Products on the Platforms and with various Delivery Service Providers for the offering of their Delivery Services to Users via the Platform.
- 2.2 These Terms regulate the User's use of the Platforms and the ordering, sale, collection and delivery of the Products to the User.
- 2.3 **You acknowledge that Diginu does not provide transportation or logistics services or function as a transportation carrier and that all such transportation or logistics services are provided to you by the Merchant or independent third party contractors (being the Delivery Service Providers) who are not employed by Diginu or any of its affiliates.**

### 3 ACCEPTANCE OF THESE TERMS

- 3.1 You unconditionally and irrevocably agree, for as long as you access and/or make use of the Services, to be bound by and comply with these Terms.
- 3.2 By using the Platforms you acknowledge that you have read the Terms and agree to be bound hereto.
- 3.3 Any changes to these Terms will be updated on the Platforms. By continuing to use the System and/or the Services after such changes, you unconditionally and irrevocably agree to be bound by the Terms, as amended.
- 3.4 Diginu may immediately terminate these Terms and/or any Services with respect to you, or suspend the whole or any part of the Services at any time for any reason.
- 3.5 Additional terms may apply to certain Services, such as policies for a particular event, activity or promotion, and such additional terms will be disclosed to you in connection with the applicable Services. Additional terms are in addition to, and shall be deemed to form part of the Terms for the purposes of the applicable Services. Additional terms shall prevail over these Terms in the event of a conflict with respect to the applicable Services.

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3.6 Third party services and content (including advertising) may be displayed on the Platforms as well as links to such third parties websites which Diginu does not control. You acknowledge that different terms of use and privacy policies may apply to your use of such third party services and content. Diginu does not endorse such third party services and content and shall not be responsible or liable for any products or services of such third party providers.

#### 4 REGISTRATION

4.1 In order to use the Services you will be required to complete the Registration Process referred to below.

4.2 To complete the Registration Process, you must –

4.2.1 visit the Website;

4.2.2 select “Sign up”; and

4.2.3 complete the registration form by inserting the requested User Data, such as your name, address, mobile phone number and age, as well as at least one valid payment method (either a credit card or accepted payment partner).

4.3 The above registration process may be made available via the Application past the Launch Date.

#### 5 USER ACCOUNT

5.1 Once you have successfully completed the Registration Process [and selected a User Name and Password](#) Diginu will open a User Account .

5.1 You must be at least 18 years of age to obtain a User Account.

5.2 Diginu shall be entitled to refuse to open a User Account for you for any reason whatsoever and shall not be obligated to give you reasons therefore.

5.3 You are responsible for all activity that occurs on your User Account, and you shall not disclose your User Name and/or Password to anyone else. You shall notify Diginu immediately upon becoming aware of or reasonably suspecting any unauthorised access to or use of your Username and/or Password and to take steps to minimise any resultant loss or harm.

5.4 Unless otherwise permitted by Diginu in writing, you may only possess one User Account.

5.5 You may not authorise third parties to use your User Account, and you may not allow persons under the age of 18 to receive the Delivery Services from Delivery Service Providers unless they are accompanied by you.

5.6 You may not assign or otherwise transfer your User Account to any other person or entity.

5.7 In certain instances you may be asked to provide proof of identity to access or use the Services, and you agree that you may be denied access to the Products or use of the Services if you refuse to provide proof of identity.

#### 6 USER'S OBLIGATIONS

6.1 You agree and warrant that you shall at all relevant times –

6.1.1 not use the System or the Services in any manner which violates these Terms or any applicable laws;

6.1.2 only use the Services for lawful purposes (e.g., no transport of unlawful or hazardous materials); and

6.1.3 comply with all reasonable requests of Diginu in relation to your use of the Platforms.

6.1 You are responsible for obtaining the data network access

necessary to use the Services.

6.2 Your mobile network's data and messaging rates and fees may apply if you access or use the Services from a wireless-enabled device and you shall be responsible for such rates and fees.

6.3 You are responsible for acquiring and updating compatible hardware or devices necessary to access and use the Services.

6.4 Diginu does not guarantee that the Services, or any portion thereof, will function on any particular hardware or devices.

6.5 The User acknowledges that the Services may be subject to malfunctions and delays inherent in the use of the Internet and electronic communications.

6.6 You shall not, in your use of the Services, cause nuisance, annoyance, inconvenience, or damage to the Merchant or Delivery Service Provider or any other party.

6.7 Diginu may from time to time permit you to submit, upload, publish or make available to Diginu through the Services text, audio, and/or visual content and information, including feedback related to the Services, support requests, and entries into competitions and promotions (“**User Content**”).

6.8 Any User Content provided by you to us remains your property. However, by providing User Content to Diginu, you grant Diginu subject to relevant privacy laws, a worldwide, perpetual, irrevocable, transferrable, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works of, distribute, publicly display, publicly perform, and otherwise exploit in any manner such User Content in all formats and distribution channels now known or hereafter devised without further notice to or consent from you, and without the requirement of payment to you or any other person or entity.

6.9 You represent and warrant that –

6.10 you either are the owner of the User Content or you have the right to grant Diginu the license to the User Content; and

6.11 neither the User Content nor your submission, uploading, publishing or provision of such User Content nor Diginu's use of the User Content as permitted herein will infringe, misappropriate or violate a third party's intellectual property or proprietary rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

6.12 You agree to not provide User Content that is defamatory, racist, sexist, hateful, violent, obscene, pornographic, unlawful, or otherwise offensive, as determined by Diginu in its sole discretion. Diginu may, but shall not be obligated to, review, monitor, or remove User Content, at Diginu's sole discretion and at any time and for any reason, without notice to you.

#### 7 PLACING OF ORDERS

7.1 To place an order for Products you will need to –

7.1.1 select the Products you intend to purchase from the applicable Merchant's menu using the Platforms' “add to basket” functionality;

7.1.2 select the “collection” option for collection of an Immediate Order or a Scheduled Order on the same day provided that the Scheduled Order option shall only be available in respect of a Scheduled Pick Up time which is 1 (one) or more hours after the time of placement of the Order and within the Merchant's trading hours, or

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7.1.3 select the "delivery" option (if available) if you would like the Products to be delivered; or

7.1.3.7.1.4 select the dine-in option if you intend to purchase and/or pay for a Merchant's products while at their premises, subject to confirmation by the Merchant of your booking; and

7.1.4.7.1.5 when satisfied with your selection, select "place order".

7.2 Once you have selected "place order" your credit or debit card will be billed on behalf of the Merchant and the Third Party Delivery Service Provider, where applicable, for the Order Price

7.4.7.3 The Merchant shall be entitled to cancel the Order. If it does so you will be notified by us as soon as possible and will be refunded in full for all amounts paid by you in respect of the cancelled Order.

7.4.7.3 The Merchant shall be entitled to cancel the Order. If it does so you will be notified by us as soon as possible and will be refunded in full for all amounts paid by you in respect of the cancelled Order.

7.5.7.4 The Delivery Service Provider shall also be entitled to refuse to accept an order for Delivery Services. In such instance Diginu shall use reasonable efforts to connect the User to another Delivery Service Provider. However, if this is not possible Diginu reserves the right to cancel the Order and the Delivery Service and to refund you in full for all amounts paid by you in respect of the cancelled Order and the Delivery Service.

7.6.7.5 Save in respect of a refund, you shall have no further claim against Diginu, the Merchant and/or the Delivery Service Provider in respect of cancellations and waive any rights in this regard.

7.7 You will only be permitted to place an Order from Merchants located within a limited area from the address to which the Products are to be delivered, as specified from time to time on the Platforms.

7.6 You shall be entitled to cancel an Order subject to acceptance of such cancellation by the Merchant within 48 (forty-eight) hours of such cancellation. In such event you will be refunded in full for all amounts paid by you, less any cancellation fee charged by the Merchant and/or Delivery Service Provider, where applicable, and a cancellation fee payable to Diginu equal to 5% of the Order Price.

7.8.7.7 You acknowledge and agree that –

7.8.17.7.1 the Order in respect of the Products is solely between you and the Merchant and neither Diginu nor the Delivery Service Provider is a party thereto;

7.7.2 the Order in respect of the Delivery Service is solely between you and the Delivery Service Provider and neither Diginu nor the Merchant is a party thereto; and

7.8.27.7.3 refunds could take up to 48 hours to be processed.

7.9.7.8 It is your responsibility to request the Merchant to provide you with a list and/or details of the ingredients used when preparing the Products and, if so required, to exclude any ingredients if you have any allergies or special requirements.

## 8 FEES

8.1 You will be charged the Order Price for each Order made by you

8.1.2 the Order Price; and

~~8.1.38.1 the Delivery Fee for the Delivery Service (if applicable).~~

~~8.2 If the Merchant offers free delivery, you will only be charged the Order Price of the Merchant for that particular Order.~~

~~8.38.2 These fees and charges included in the Order Price will be reflected on the Platforms at the time of placement of the Order.~~

## 9 PAYMENT

9.1 Once you have placed your Order Diginu will facilitate your payment of the Order Price and the Delivery Fee ("Charges") on behalf of the Merchant and the Delivery Service Provider as their limited payment collection agent using the preferred payment method designated by you in your User Account, after which Diginu will send you a receipt by email.

9.2 Payment by you of the Charges constitutes a payment made directly by you to the Merchant and/or the Delivery Service Provider, as applicable.

9.3 Charges are inclusive of VAT.

9.4 Charges paid by you are final and non-refundable, unless otherwise provided for in these Terms or determined by Diginu in its sole discretion.

9.5 Diginu uses a third-party payment processor (the "Payment Processor") to process payments made through the Platforms. The processing of these payments will be subject to the terms, conditions and privacy policies of the payment processor. Diginu is not responsible for and gives no warranties nor makes any representations in respect of the privacy policies or practices of linked or any third party or advertised web sites, including but not limited to its payment processor.

9.1 If your primary User Account payment method has expired, is invalid or has insufficient funds, you agree that Diginu may use a secondary payment method in your User Account, if available.

9.2 In the event of your card or other payment method being declined you may be charged a fee by our third party payment processor and/or your bank. You shall be solely liable for these fees and we accept no responsibility therefore.

9.3 As between you and Diginu, Diginu reserves the right to establish, remove and/or revise Charges for any or all Products displayed on the Platforms at any time in Diginu's sole discretion.

9.4 You will be responsible for Charges incurred under your User Account regardless of your awareness of such Charges or the amounts thereof.

9.5 Diginu may from time to time provide certain users with promotional offers and discounts that may result in different amounts charged for the same or similar services or goods obtained through the use of the Services, and you agree that such promotional offers and discounts, unless also made available to you, shall have no bearing on your use of the Services or the Charges applied to you.

9.6 If you intend to cancel your Order for Products and/or your order for Delivery Services you change the Delivery Location you will be obligated to contact the Merchant and/or applicable Delivery Service Provider directly. Diginu does not have any authority to accept cancellations Delivery Location changes on their behalf once an Order has been placed and will not be responsible to you in the event of their refusal to cancel your order and/or in respect of any cancellation-amended fees charged by

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9.7 them in connection with [the Delivery Services such cancellation.](#)  
After you have received the Products you will have the opportunity to rate your experience and leave additional feedback about the Merchant and/or Delivery Service Provider.

## 10 COLLECTION, DELIVERY OR DINE-IN SERVICE

10.1 Collection –

10.1.1 If you place an order for collection from the Merchant no Delivery Fee will be charged.

[10.1.2](#) You will be responsible for collecting the Products ordered from the Merchant [when placing an Order for collection.](#)

[10.1.3](#) [For Immediate Orders you will be responsible for collecting the Products upon expiry of the Estimated Preparation Time or any other time specified by the Merchant during the Order process](#)

[10.1.2](#)[10.1.4](#) [For Scheduled Orders, you will be responsible for collecting the Products at the Scheduled Pick Up time.](#)

[10.1.5](#) The Merchant may refuse to hand over the Products to you until you have provided the Merchant with proof of identity and/or the receipt for the Products.

[10.1.3](#)[10.1.6](#) [If you fail to collect the Products by the Merchant's close of business on the date of placing the Order the Merchant has the right in its sole discretion to dispose of the Products and you shall remain liable for the payment thereof.](#)

10.2 Delivery –

10.2.1 The Delivery Service by Delivery Service Providers other than the Merchant shall only be available at select locations determined by Diginu and is subject to availability of such Delivery Service Providers.

10.2.2 If you place an Order for Delivery Services at a permitted location referred to in clause 10.2.1 you must indicate via the Platforms the Delivery Location at which the Products are to be delivered by the Delivery Service Provider.

10.2.3 You are responsible for inserting the correct Delivery Location.

10.2.4 The Estimated Preparation Time for each Merchant will be displayed on the Platforms and the estimated delivery time will be displayed relative to the Delivery Location.

10.2.5 The Estimated Preparation Time and the Estimated Delivery Times are estimates only and neither Diginu nor the Merchant nor the Delivery Service Provider shall in any way be liable to you in the event that these times are exceeded.

10.2.6 Once the Delivery Service arrives at the Delivery Location you will receive a notification via the Platforms and it will be your responsibility to collect the Products upon receipt of such notification. [If you do not collect the Product within 10 \(ten\) minutes of the Delivery Service sending you the notification the Delivery Service shall be entitled to return the Products to the Merchant and you will remain liable for the Order Price, including the Delivery Fee.](#)

[10.2.7](#) The Delivery Service Provider may refuse to hand over the Products to you until you have provided the Delivery Service Provider with proof of identity and/or the receipt for the Products.

[10.3 Dine-In](#)

[10.2-7](#)[10.3.1](#) [The dine-in function is subject to reservation](#)

[and confirmation by the Merchant.](#)

## 11 SUSPENSION, RESTRICTION AND TERMINATION OF THE SERVICES

11.1 Diginu reserves the right at any time to suspend or terminate the Services (or any part thereof) with or without notice if –

11.1.1 the User has deregistered from the System;

11.1.2 the User has, in Diginu's opinion, breached any of these Terms;

11.1.3 Diginu, in its sole discretion, believes that the User has misused the Services or has violated any applicable laws in connection with the use of the Services; and/or

11.1.4 Diginu believes it is necessary to prevent loss or damage to it, the User or any third party and/or to prevent corruption or loss of User Data.

11.2 In addition, Diginu reserves the right to temporarily suspend the Services for any modification, maintenance or repair work or for any other reason that requires the temporary suspension of the functionalities of the System.

11.3 The User agrees that Diginu shall not be liable to the User or to any third party for any modification, suspension or termination of the Services in terms of this clause 11.

## 12 PRIVACY AND PROTECTION

12.1 In order for you to use the Service you may be required to provide us with the User Data.

12.2 You shall ensure that the User Data is complete, accurate, not misleading and updated where necessary from time to time.

12.3 In the event that you wish to update or amend the User Data that you have submitted to us, you may notify us through the Platforms and Diginu shall update your User Data on the Platforms.

12.4 We may use and process the User Data –

12.4.1 to provide information to or about you to facilitate the ordering, sale and delivery of the Merchants' Products and the Delivery Services;

12.4.2 to provide information to you about current Products and any new Products on the Platforms;

12.4.3 to conduct market research;

12.4.4 to compile statistical and/or data analyses;

12.4.5 to give effect to any communication received from you, which may include instructions, requests, queries, complaints and questions;

12.4.6 to update our records and/or your contact details;

12.4.7 to tailor our Platforms to accommodate current market trends and/or demands; and

12.4.8 for the administrative, marketing (including direct marketing), planning, product or service development, quality control, survey and research purposes of Diginu, its affiliated companies, contractors, franchisees, and employees or service providers; and

12.4.9 generally to render our Services, as offered on our Platforms.

12.5 Diginu may disseminate your User Data to any of our affiliates, as that term is defined in the Companies Act 68 of 2008, to our and their employees, to the Delivery Service, to our third party service providers and contractors licensees and franchisees for the purposes specified in clause 12.10.

12.6 In addition to the above, Diginu may disseminate your User Data to third parties (inside and/or outside the RSA)

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- with whom we have commercial relationships, for business, marketing, and related purposes.
- 12.7 Notwithstanding the above, Diginu shall disseminate your User Data to the relevant third parties concerned should one of the following occasions transpire, if:
- 12.7.1 Diginu is legally obligated in terms of statute to disseminate your User Data;
- 12.7.2 Diginu reasonably believes in good faith that the dissemination of the User Data is reasonably necessary to protect the property and/or rights of Diginu, third parties and/or the public at large; and/or
- 12.7.3 you furnish Diginu with express consent to disseminate your Data to an identifiable and authorised entity and/or person.
- 12.8 In respect of clauses 12.5 and 12.6 above, we acknowledge and accept that in terms of section 21(1) of the POPI Act, we must conclude a written contract with the entity and/or person processing the Personal Information on our behalf (the “operator”). Such written contract shall ensure that the operator, which processes the Personal Information shall establish and maintain the security measures referred to in section 19 of the POPI Act.
- 12.9 You hereby acknowledge that if you send us a request (for example via a support email or via our feedback mechanisms) we reserve the right to publish it on our Platforms, which shall enable us to convey our response and/or clarify an issue to you, clients and potential clients
- 12.10 When it comes to the protection of your User Data, Diginu –
- 12.10.1 shall take reasonable precautions to protect your User Data from unauthorized use and disclosure. In this regard, we undertake not to sell, rent or lease your Data to unauthorised third parties for their independent use, without your consent;
- 12.10.2 shall take reasonable technical, administrative and physical measures to protect User Data contained in Diginu’s database against misuse, loss, damage, unauthorised alteration and/or destruction, unlawful access and Processing (the “Risks”);
- 12.10.3 is aware of the Risks and has put appropriate safeguards in place to mitigate the identified Risks. Diginu regularly verifies that the safeguards are effectively implemented and ensures that the safeguards are reasonably continually updated in response to new risks or deficiencies in previously implemented safeguards;
- 12.11 Keep in mind however, that no method of transmission over the internet, or method of electronic storage is 100% secure. Therefore, while we shall strive to use commercially acceptable means to protect your Personal Information, we cannot guarantee its absolute security.
- 12.12 Accordingly, Diginu provides no guarantees that the Platforms will be free of observance by third parties, viruses or any other contaminating or destructive properties and you hereby accept sole risk and responsibility in respect of the use of the Platforms.
- 12.13 We cannot enforce or control the security of the computers, electronic devices, or electronic communication method that you may utilize to send e-mails and submit Data to us over the internet.
- 12.14 You are responsible for ensuring that the computers, electronic devices and electronic communication methods that you utilize will provide adequate security for communicating with us.
- 12.15 Diginu shall not be held liable for unauthorised access or distribution of your User Name or Password. It is your

- responsibility to choose secure passwords and to keep them safe. Diginu cannot be held responsible for User Data that is compromised due to an insecure or stolen or breached password. If you are authenticating with Diginu via a third party, those passwords must also be secured at your own risk
- 12.16 The period for which Diginu will retain your User Data will depend on the purposes for which the User Data was collected, whether you have requested deletion of the User Data, applicable limitation periods stipulated in the POPI Act or other legislation, whether any legal or regulatory obligations require the retention of the User Data and good practice or our business interests. We will not retain User Data about you for longer than is necessary to fulfil the purposes for which the User Data was collected.
- 12.17 The Platforms may contain links to other websites. Diginu is not responsible for the privacy practices of these websites and you are obliged to familiarise yourself with the terms and conditions and privacy policies of these other websites.
- 12.18 By using the services of the Payment Processor you agree to be bound by the terms of their end user agreement which can be found here [...] and by their privacy policy which can be found here [...]. We disclaim all liability to you in connection with your uploading or storing of such payment data and your use of their services.
- 12.19 Should you share our Platforms or Diginu content on any social media platform such as Facebook, Twitter and LinkedIn, your activity may be visible to third parties depending on your privacy settings chosen by you on the applicable social media platforms.
- 12.20 For the avoidance of doubt, this Privacy Policy only applies to Diginu’s Platforms and we are not responsible for the use by such third parties of your User Data.
- 13 **DIGINU’S INTELLECTUAL PROPERTY**
- 13.1 Diginu owns or is licensed to use all intellectual property rights in and to the System, the Services and all materials, text, drawings and data entered into or uploaded by it onto the System (collectively the “Intellectual Property”).
- 13.2 Diginu owns or is licensed to use the Diginu trademarks, names, logos and service marks (collectively “Trademarks”) displayed on the Platforms whether registered or unregistered.
- 13.3 You will not acquire any right or interest in the Platforms or the content thereof and all Intellectual Property and Trademarks, howsoever constituted, in respect of the Platforms is the sole and exclusive property of Diginu, and you irrevocably and unconditionally undertake in favour of Diginu that you shall not, under any circumstances whatsoever, infringe our rights to such intellectual property or challenge or dispute Diginu’s right to such intellectual property.
- You may not –
- 13.3.1 announce any future additions, improvements or use any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm or methodology for any unlawful purpose, including the unlawful access to, acquisition of, control over, copying or monitoring of the Diginu System and/or Platform; or
- 13.3.2 attempt to decipher, decompile, disassemble or reverse-engineer any of the software comprising the System or the Services.

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14 **WARRANTIES**

- 14.1 You warrant to Diginu that –
- 14.1.1 you are legally entitled to access and use the Services and to be bound by these Terms;
- 14.1.2 the User Data you upload does not copy the work of any third party or otherwise infringe any third party intellectual property rights and the uploading of such User Data does not and will not violate applicable laws or the rights of any third party;
- 14.1.3 all User Data belongs to you, is up-to-date, accurate and valid and you have the right to upload such information to the System and/or the Platforms;
- 14.1.4 you have, and will continue to have all necessary consents to use the Services ; and
- 14.1.5 you are and will remain in compliance with all applicable laws in relation to the use of the Services and will not use the Services for unlawful purpose.

15 **DISCLAIMERS AND LIMITATION OF LIABILITY**

- 15.1 **ALTHOUGH DIGINU WILL ALWAYS TRY TO ENSURE THAT THE FUNCTIONALITY OF THE SERVICES ARE AVAILABLE, THE SERVICES ARE PROVIDED "AS IS". SUBJECT TO APPLICABLE CONSUMER PROTECTION LAWS, DIGINU MAKES NO WARRANTIES, REPRESENTATIONS, STATEMENTS OR GUARANTEES (WHETHER EXPRESS, IMPLIED IN LAW OR RESIDUAL) IN THIS REGARD. SUBJECT TO APPLICABLE CONSUMER PROTECTION LAWS, DIGINU DOES NOT WARRANT THAT THE SERVICES WILL -**
- 15.1.1 MEET YOUR REQUIREMENTS OR EXPECTATIONS;
- 15.1.2 BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE;
- 15.1.3 MEET ANY PARTICULAR MEASURE OF ACCURACY, COMPLETENESS OR RELIABILITY, PERFORMANCE OR QUALITY; OR
- 15.1.4 BE FREE OF VIRUSES OR ANY OTHER DATA OR CODE WHICH HAS THE ABILITY TO CORRUPT OR ADVERSELY AFFECT THE OPERATION OF YOUR COMPUTER, DATA OR NETWORK.
- 15.2 **DIGINU DOES NOT GUARANTEE THE QUALITY, SUITABILITY, SAFETY OR ABILITY OF THIRD PARTY PROVIDERS. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY SERVICE OR GOODS REQUESTED IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.**
- 15.3 **DIGINU SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST DATA, PERSONAL INJURY OR PROPERTY DAMAGE RELATED TO, IN CONNECTION WITH, OR OTHERWISE RESULTING FROM ANY USE OF THE SERVICES, EVEN IF DIGINU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DIGINU SHALL NOT BE LIABLE FOR ANY DAMAGES, LIABILITY OR LOSSES ARISING OUT OF: (i) YOUR USE OF OR RELIANCE ON THE SERVICES OR YOUR INABILITY TO ACCESS OR USE THE SERVICES; OR (ii) ANY TRANSACTION OR RELATIONSHIP BETWEEN YOU AND ANY THIRD PARTY PROVIDER, EVEN IF DIGINU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DIGINU SHALL NOT BE LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND DIGINU'S REASONABLE CONTROL. IN NO EVENT SHALL DIGINU'S TOTAL LIABILITY TO YOU IN CONNECTION**

**WITH THE SERVICES FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION EXCEED R[...].**

- 15.4 **DIGINU'S SERVICES MAY BE USED BY YOU TO REQUEST AND SCHEDULE TRANSPORTATION, GOODS OR LOGISTICS SERVICES WITH THIRD PARTY PROVIDERS, BUT YOU AGREE THAT DIGINU HAS NO RESPONSIBILITY OR LIABILITY TO YOU RELATED TO ANY TRANSPORTATION, GOODS OR LOGISTICS SERVICES PROVIDED TO YOU BY THIRD PARTY PROVIDERS OTHER THAN AS EXPRESSLY SET FORTH IN THESE TERMS.**
- 15.5 **THE LIMITATIONS AND DISCLAIMER IN THIS CLAUSE 15 DO NOT PURPORT TO LIMIT LIABILITY OR ALTER YOUR RIGHTS AS A CONSUMER THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.**

16 **INDEMNITY.**

**YOU INDEMNIFY AND HOLD DIGINU AND ITS DIRECTORS, EMPLOYEES AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, LIABILITIES, AND EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR IN CONNECTION WITH: (I) YOUR USE OF THE SERVICES OR SERVICES OR GOODS OBTAINED THROUGH YOUR USE OF THE SERVICES; (II) YOUR BREACH OR VIOLATION OF ANY OF THESE TERMS; (III) DIGINU'S USE OF YOUR USER CONTENT; OR (IV) YOUR VIOLATION OF THE RIGHTS OF ANY THIRD PARTY, INCLUDING THIRD PARTY PROVIDERS.**

17 **FORCE MAJEURE**

Diginu shall not be deemed in default or otherwise liable for any delay in or failure to provide the Services by reason of any act of State, fire, natural disaster, accident, act of government, shortage of materials or supplies, failure of transportation, internet or communication facilities or any other cause to the extent it is beyond the reasonable control of Diginu.

18 **GENERAL**

- 18.1 Diginu may assume that all electronic communications and uploads which reasonably appears to originate from a User are in fact from the User and that the User was authorised to upload the same.
- 18.2 Diginu may send alerts, notifications and other communications to the User by way of SMS, email or other electronic delivery mechanisms and the User consents to receive communications from Diginu in any such manner.
- 18.3 Diginu may send electronic alerts to the cellular number or email address which the User has provided to Diginu.
- 18.4 A certificate signed by any one of our directors of Diginu will, unless the contrary is proven, be sufficient evidence of –
- 18.4.1 the date of publication and the content of the Terms and any amended Terms;
- 18.4.2 the date of publication and the content of earlier versions of the Terms; and
- 18.4.3 the date and content of any communication and notifications sent in terms of the Terms.
- 18.5 The User's obligations under these Terms may not be assigned. Diginu may however cede and assign its rights under these Terms.
- 18.6 Diginu does not waive its rights by delaying or failing to exercise them at any time.

**Commented [STBB4]:** Client to advise

- 18.7 If any provision of these Terms shall be determined to be invalid or unenforceable under any rule, law, or regulation of any governmental agency the validity or enforceability of any other provision of these Terms shall not be affected. These Terms will be governed by the laws of the Republic of South Africa.
- 18.8 No class action, or other representative action, joinder or consolidation of any claim with a claim of another person or class of claimants will be allowed.