

Site Terms of Service

Last Updated September 15, 2023

This Site Terms of Service Agreement (“Terms”) governs your use of the DIGITAL AGENT® marketplace platform, doing business as Digital Agent (“we”, “us”, or “Digital Agent”), including our website (di-agents.com), mobile application (“App”), and services we provide through them (collectively, the website, App, and services referred to as our “Site”). “You” refers to you as a user of the Site.

These Terms apply to users of, including visitors to, our Site. Use of our Site is also subject to our current [Acceptable Use Policy](#) and [Community Guidelines](#). Your use of our Site as a Brand User (defined below) is governed by the [Brand Terms of Service](#). (“Brand Terms”).

PLEASE READ THESE TERMS CAREFULLY. By using our Site or otherwise indicating your acceptance (for example, by agreeing when creating or logging into your account, clicking “I Agree,” etc.), you represent and warrant that you have read, understand, and agree to be bound by these Terms. If you do not agree, do not access or use our Site.

ARBITRATION NOTICE: [Section 17](#) of these Terms contains provisions governing how claims that you and Digital Agent have against each other are resolved, including any claims that arose or were asserted prior to the “Last Updated” date at the top of these Terms. It contains an arbitration agreement that will, with limited exceptions, require disputes between you and Digital Agent to be submitted to binding and final arbitration. Unless you opt out of the arbitration agreement as described in [Section 17](#): (1) you may pursue claims and seek relief against us only on an individual basis, not as a plaintiff or class member in any class or representative action or proceeding; and (2) you waive your right to seek relief in a court of law and to have a jury trial on your claims.

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1. DIGITAL AGENT Marketplace

By creating an account on our Site, you agree to provide true, accurate, current, and complete information. You agree not to create a Site account using a false identity or providing false information or if you have previously been removed or banned from our Site. You are responsible for maintaining the confidentiality of your Site account information, including your username and password. You are responsible for all activities that occur on or in connection with your Site account and you agree to notify us immediately of any unauthorized access or use of your Site account. You acknowledge and agree that we are not responsible or liable for any damages, losses, costs, expenses, or liabilities related to any unauthorized access to or use of your Site account.

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2. DIGITAL AGENT Reviews

- a. Through our Site, you may obtain personalized videos (“DIGITAL AGENT Reviewss”) from sports and esports teams, record labels, film studios, art galleries, and fashion brands (each, a “Brand User”). You may submit a request to a Brand User for a DIGITAL AGENT Reviews that is personalized for you or a third-party that you identify as a recipient (“Recipient”).
- b. You acknowledge and agree that the Brand User has sole discretion to determine how to fulfill your request and the content of the DIGITAL AGENT Reviews created, and may not follow your request exactly. We reserve the right to reject any request in our sole discretion. The Brand User has up to seven days or longer (at our sole discretion) to fulfill or decline your request. Brand Users may offer the option to request a Digital Agent Reviews for fulfillment

- within a shorter timeframe, such as 24 hours. If such a request is not fulfilled within the described timeframe, Digital Agent may in its sole discretion either (i) issue a refund or credit for the entire booking or (ii) convert the booking to a standard Digital Agent Reviews request and issue a refund or credit for the difference in cost between the original booking and the cost of a standard DIGITAL AGENT Reviews request for the Brand User. Refunds or credits associated with such bookings will be handled as described in Section 7 (Fees and Payment).
- c. DIGITAL AGENT Reviews are licensed, not sold. You are buying the right (or license) to use it, not the actual DIGITAL AGENT Reviews itself.
 - d. Subject to your payment in full, the Brand User hereby grants to you the following limited rights to use the DIGITAL AGENT Review **solely for your own personal, non-commercial, and non-promotional purposes**, subject to these Terms: a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, revocable license to use, reproduce, distribute, and publicly display that DIGITAL AGENT Reviews, in any and all media (for example, on social media platforms), whether now known or hereafter invented or devised.
 - e. You may not sell, resell, commercialize, or encumber your rights in any Digital Agent Offering, including creating a non-fungible token (“NFT”) from any Digital Agent Offering except as agreed by Digital Agent in advance in writing. You may sublicense your rights in a DIGITAL AGENT Reviews only to the extent necessary for you to use the DIGITAL AGENT Reviews as permitted under these Terms (for example, sharing it (if it is not a Business Digital Agent Reviews) with friends on a social media platform or sending it to a Recipient for personal, non-commercial, and non-promotional purposes as set forth above).
 - f. You may use a Digital Agent Reviews only in accordance with these Terms, which includes our [Acceptable Use Policy](#) / [Community Guidelines](#). We may terminate all or part of the foregoing licenses at any time for any reason. We reserve the right to remove a Digital Agent Reviews from our Site at any time for any reason without any notice to you.

3. Acknowledgement

You acknowledge and agree that:

- a. Digital Agent will not be liable or responsible for any Digital Agent Reviews or other offering requested by you or any Submission (defined below) you make;
- b. you have no expectation of privacy with respect to any Digital Agent Reviews requested by you or any Submission (defined below) you make, and that you will not make any request or Submission that infringes on the privacy or other rights of a third-party;
- c. the DIGITAL AGENT watermark on each Digital Agent Reviews must remain intact and you agree not to edit, change, modify, cover, or remove the watermark from any Digital Agent Reviews or assist or encourage any third-party to do so; you further agree not to edit, change, modify, or create any derivative work of a Digital Agent Reviews or assist or encourage any third-party to do so;
- d. if you breach any provisions of these Terms, we terminate your access to our Site, or we remove or ban you (or any Site account you created or control), your license to use any Digital Agent Reviews, or other offering under these Terms, terminates and you must: promptly remove all copies of any Digital Agent Reviews, or other offering, in your possession or control, including from any social media platform; notify any Recipient of the termination and instruct them to do the same, and take any other action we reasonably request, including identifying each Recipient; and
- e. without limiting any of our rights, any request you submit through our Site may be rejected by us or by a Brand User; if that happens more than once, we may terminate your access to our Site, remove or ban you (and any Site account you created or control), or take other

appropriate action in Digital Agent's sole discretion, including terminating your license to use any Digital Agent Reviews or other offering under these Terms and requiring you to take the actions outlined in Section 4.d.

4. Additional Terms

Some products or services offered through the Site may have additional terms and conditions ("Additional Terms"). If Additional Terms apply, we will make them available to you in connection with that product or service. By using that product or service, you agree to the Additional Terms. To the extent that the Additional Terms conflict with any of these Terms, these Terms will govern unless the Additional Terms say that some or all of these Terms don't apply.

5. Eligibility

- a. Age: You must be at least 13 years old (or, outside of the United States, the applicable legal age to enter into a contract) to use our Site.
- b. Eligibility Representations and Warranties: You represent and warrant that:
 - i. you have not been prohibited from using or accessing any aspect of our Site by us or pursuant to any applicable law or regulation;
 - ii. you will comply with all applicable terms of any third-party payment provider we select, and you are not on a prohibited list of that payment provider;
 - iii. you (and any Site account that you created or control) have not been previously banned or removed from our Site for any reason; and
 - iv. you are not a convicted sex offender.
- c. Export Control: You may not use, export, import, or transfer any part of our Site except as authorized by U.S. law, the laws of the jurisdiction in which you use or access our Site, or any other applicable laws. In particular, but without limitation, no part of our Site may be exported or re-exported: (i) into any country embargoed by the U.S.; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List or Entity List. By using our Site, you represent and warrant that: (x) you are not located in a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country; and (y) you are not listed on any U.S. government list of prohibited or restricted parties. You also will not use our Site for any purpose prohibited by law. You acknowledge and agree that products, services, and technology provided by Digital Agent are subject to the export control laws and regulations of the U.S. You will comply with those laws and regulations and will not, without prior U.S. government authorization, export, re-export, or transfer Digital Agent products, services, or technology, either directly or indirectly, to any country in violation of those laws and regulations.
- d. You will not use the Site or any Digital Agent product or service for any partisan political purpose - including to promote or solicit contributions on behalf of your candidacy for public office, the candidacy of another person seeking public office, any political party or political committee, or any other person or organization promoting or soliciting contributions on behalf of any candidate for public office or political party.

6. Fees and Payment

- a. Fees: The fee for a Digital Agent Reviews or other offering is specified on the Brand User's booking page on our Site when you make your request. You agree to pay all amounts due in accordance with the payment terms in effect when you submit your request or purchase merchandise, including any applicable service, transaction, or processing fees.
- b. Currency: Transactions are settled in U.S. dollars ("USD"). You will be responsible for payment of any fees or expenses imposed by your payment card provider or the payment processor to settle the transaction in USD. From time to time, Digital Agent may settle transactions in a currency other than USD to reduce or eliminate the fees and expenses associated with currency conversion.
- c. Payment: You may request a Digital Agent Reviews by using a valid payment card through the applicable third-party payment provider (for our apps for iOS, and Android, Apple and Android's in-app payment mechanisms; for our website, the payment provider we select). You must provide the third-party payment provider with valid payment information (Visa, MasterCard, or other issuer accepted by the payment provider). You acknowledge and agree that Digital Agent does not operate, own, or control the payment provider. Your use of your payment card is governed by your agreement with and the privacy policy of the payment provider, not these Terms. You agree to immediately notify the payment provider of any change in your billing address (or other information) for your payment card. You may not return or exchange a Digital Agent Reviews and no refunds will be issued.
 - i. App for iOS: You will be charged at the time of booking or purchase for all amounts associated with your transaction. If your Digital Agent Reviews request is canceled or not fulfilled, your Digital Agent account will be issued a credit (in USD only) for the value of your purchase. If you prefer a refund instead, you can request one via Apple by going to your orders in the App for iOS and clicking "request refund" on the Digital Agent Reviews order; you must have a credit balance at least equal to the refund amount, and credits in such amount will be deducted from your account immediately. By making a purchase on the App for iOS, you represent that you are a resident of a country or territory in which payment in the local currency is supported by the App (as listed here). If you are a resident of a country or territory in which payment in the local currency is not supported by the App for iOS (or located in a country or territory in which payment in the local currency is not supported by the App for iOS), your purchase will not be permitted; however, if such purchase is permitted, Digital Agent reserves the right to cancel your request and no refund will be issued. The countries and territories and respective local currencies supported by the App for iOS are determined by Apple and not by Digital Agent and are subject to change at any time.
 - ii. App for Android: You will be charged at the time of booking or purchase for all amounts associated with your transaction. If your Digital Agent Reviews request is canceled or not fulfilled, your payment instrument will be refunded.
 - iii. Website: By providing your payment information, you agree that Digital Agent may place a pre-authorization hold and, after your request has been fulfilled, authorize the payment provider to immediately charge you for all amounts due and payable with no additional notice to or consent from you.
 - iv. Credits are maintained in your Digital Agent account. When you make a purchase on the App for iOS or Android, if your account has a credit balance that equals or exceeds the purchase price, the balance will be redeemed for that purchase. When you make a purchase on our website, if your account has a credit balance, you may choose to redeem the balance for the purchase price up to the full balance amount (you will be charged for any remaining portion of the price). Credit balances are not refundable, cannot be transferred, cannot be used outside of Digital Agent, and expire or extinguish immediately when redeemed.
 - v. In addition, if the Digital Agent Reviews or other offering permits, you may choose to designate an additional amount as a "tip". You acknowledge that Digital Agent does not

mandate any such tip or gratuity; however, if you do choose to do so, the amount must be at least US \$5.00. You agree to pay any amount you authorize as a tip; a tip is not refundable.

- d. Digital Agent reserves the right (but is under no obligation) to cancel your request for any Digital Agent Reviews or other offering if: (i) your payment method is declined; or (ii) you have previously been banned or removed from our Site for any reason. Digital Agent also reserves the right at any time to change its fees and payment procedures, including its payment options and terms, either immediately upon posting on our Site or by other notice to you.
- e. Portion of Payment to Brand: Any payment for a Digital Agent Reviews or any other offering, feature, or service on our Site, such as a tip, Direct Message, or sticker, will be divided between Digital Agent and Brand as provided for in [Section 4.b](#) of the [Brand Terms of Service](#).
- f. Payment Questions: If you have a question about a purchase made on the App or a charge to your payment card, please contact us at hello@di-agent.com. We have the sole discretion to determine how billing disputes between us will be resolved.
- g. Taxes: If your purchase obligates Digital Agent to collect a sales tax, use tax, or any other equivalent tax (“Sales Tax”) from you, Digital Agent will collect Sales Tax in addition to the fee for your purchase. If you have not remitted applicable Sales Tax to Digital Agent, you will be responsible for the payment of the Sales Tax (and any related penalties or interest) to the appropriate tax authority and you will indemnify Digital Agent for any liability or expense Digital Agent may incur in connection with the payment of Sales Taxes on your purchases. At Digital Agent’s request, you will provide reasonable assistance and documentation relating to the payment of Sale Taxes on your purchases from Digital Agent (for example, official receipts issued by the appropriate tax authority confirming that you have paid all applicable taxes).

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7. Ownership

- a. You acknowledge and agree that each Digital Agent Reviews or other offering from a Brand User is owned by the Brand User who created it.
- b. We or our licensors own all right, title, and interest in and to: (i) our Site and the “look and feel” of our Site, including all software, ideas, processes, data, text, media, and other content available on our Site (individually, and collectively, “Digital Agent Content”); and (ii) our trademarks, logos, and brand elements (“Marks”). Our Site, Digital Agent Content, and Marks are each protected under U.S. and international laws. You may not duplicate, copy, sell, resell, commercialize, or reuse any portion of the Digital Agent Content, Marks, HTML/CSS, JavaScript, visual design elements, or concepts without our prior express written consent.
- c. You hereby grant to us a non-exclusive, royalty-free, fully paid, unlimited, universal, sublicensable (through multiple tiers of sublicenses), perpetual, and irrevocable license, in any and all manner and media, whether now known or hereinafter invented or devised (including social media platforms), to use, reproduce, license, distribute, modify, adapt, reformat, publicly perform, publicly display, and create derivative works (for example, translations, adaptations, compilations, excerpts, or modifications) of the following for the purposes of operating and providing our Site, developing and improving our products and services, and advertising, marketing, and promoting our Site and our products and services: (i) any request (video, text, audio, or otherwise) that you make or send to any Brand User, including information concerning any Recipient; and (ii) any submission that you make to

Digital Agent, whether through our Site, a social media platform, third-party website, or otherwise, including a reaction video, idea, intellectual property, publicity rights, customer service request, Feedback (defined below), review, photo, video, email, text, audio, post, or other communication, whether relating to you, or a third party (i) and (ii) each, individually, and collectively, a “Submission”). You represent and warrant that you either: (x) own all rights to any Submission; or (y) have all rights necessary, including with respect to any third party that contributed to, is included in, or is referred to, in any Submission, to grant to us the foregoing rights. You will not make any Submission that is confidential or proprietary or that contains or includes any information that you do not have the right to disclose or that you or any Recipient do not wish to be disclosed. Digital Agent will not be responsible or liable for any use or disclosure of a Submission, including any personal information belonging to you, a Recipient, or a third party.

- d. We may, for any reason, refuse to accept or transmit a Submission or refuse to remove a Submission from our Site. Further, we reserve the right to decide whether a Submission violates these Terms and may, at any time, without notice to you and in our sole discretion, remove your Submission, terminate your access to our Site, remove or ban you (and any Site account you created or control), or take other appropriate action in our sole discretion for violation of these Terms.
- e. Digital Agent desires to avoid the possibility of future misunderstandings if a project developed by any Digital Agent Party (as defined below) may seem similar to your Submission. If your Submission consists of any idea, suggestion, proposal, plan, or other material related to our business (individually, and collectively, “Feedback”), you acknowledge and agree that you are submitting that Feedback at your own risk and that Digital Agent has no obligation (including no obligation of confidentiality or privacy) with respect to that Feedback, and you grant to Digital Agent a non-exclusive, royalty-free, fully paid, unlimited, universal, sublicensable (through multiple tiers of sublicenses), perpetual, and irrevocable license, in any and all manner and media, whether now known or hereinafter invented or devised, to reproduce, license, distribute, modify, adapt, publicly perform, publicly display, create derivative works of (for example, translations, adaptations, or other changes), and otherwise use and exploit in any manner (including commercially), any and all Feedback.
- f. You hereby waive any and all moral rights or “droit moral” that you may have in any Submission, including Feedback, and you represent and warrant that no third party has any moral, “droit moral,” or other rights in Submission, including Feedback.

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8. Copyright and Intellectual

Property Policy

- a. Digital Millennium Copyright Act Notice: We respond to notices of alleged copyright infringement and terminate access to our Site for repeat infringers. If you believe that materials on our site infringe copyright, please send the following information to the Copyright Agent named below:
 - i. your address, telephone number, and email address;
 - ii. a description of the work that you claim is being infringed;

- iii. a description of the material that you claim is infringing and are requesting be removed along with information about where it is located;
- iv. a statement that you have “a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.”;
- v. an electronic or physical signature of the copyright owner (or a person authorized to act for the copyright owner); and
- vi. a statement by you, made under penalty of perjury, that the information you are providing is accurate and that you are the copyright owner or authorized to act on behalf of the copyright owner.

Copyright Agent:

d/b/a DIGITAL AGENT SP Z O O, 81b-73a Ul. Solec, Warszawa, PL

support@di-agents.com

If you do not follow these requirements, your notice may not be valid. Please note, only notices of alleged copyright infringement should be sent to our Copyright Agent.

- b. Termination Policy: If we determine that you are a repeat infringer, we may terminate your access to our Site, remove or ban you (and any Site account you created or control), and take other appropriate action in our sole discretion.

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9. Privacy

Your privacy is important to us. Our [Privacy Policy](#) explains how we collect, use, and share personal information and other data. By using our Site, you agree to our [Privacy Policy](#).

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10. Third-Party Content and Interactions

- a. Our Site may contain features and functionalities that link to or provide you with access to third-party content, that is completely independent of Digital Agent, including Digital Agent Reviews, websites, platforms, directories, servers, networks, systems, information, databases, applications, software, programs, products or services, and the Internet in

general. The contents of Digital Agent Reviews and other offerings that allow interactions with third parties, including between Users, on Digital Agent are the sole responsibility of the people involved in those interactions. Digital Agent is not responsible for the content of the interactions you may have with third parties through Digital Agent Reviews or other offerings. You should make whatever investigation you feel necessary or appropriate before proceeding with any contact or interaction, in connection with our Site or otherwise. However, you agree not to contact or interact with any Brand User except as expressly permitted through our Site. You also agree that Brand may, in its sole discretion, intercede in any dispute and you will reasonably cooperate with Brand if it does so. You acknowledge and agree that we are not responsible or liable for any damages, losses, costs, expenses, or liabilities of any kind or nature incurred as the result of any such interaction. You hereby release each Digital Agent Party (defined below) from claims, demands, and damages (actual and consequential) of every kind or nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to such disputes or our Site. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 (AND ANY OTHER SIMILAR APPLICABLE STATE STATUTE), WHICH PROVIDES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY".

- b. From time to time, an entity may be identified on a Brand User's booking page or be associated with the Brand User elsewhere on our Site as a charitable organization or a recipient of funds that are being raised ("Charity"). For example, the Brand User's booking page may indicate that all or a portion of the Brand User's revenue from a Digital Agent Reviews will be given to the Charity. Those arrangements are strictly between the Brand User and the Charity. Digital Agent is not a sponsor of, does not endorse, and is not affiliated with the Charity and is not a commercial co-venturer with respect to such arrangements (unless otherwise expressly stated in writing by Digital Agent). Unless expressly stated, Digital Agent does not control and makes no warranties about the Charity or any donation to the Charity.

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11. Links

Our Site may contain links to social media platforms or third-party websites. You acknowledge and agree that: (a) the link does not mean that we endorse or are affiliated with the platform or website; and (b) we are not responsible or liable for any damages, losses, costs, expenses, or liabilities related to your use of the platform or website. You should always read the terms and conditions and privacy policy of a platform or website before using it.

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12. Changes to our Site

You acknowledge and agree we may change or discontinue any aspect of our Site at any time, without notice to you.

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13. Termination and Reservation of Rights

You may cancel your Site account at any time by contacting a member of the Digital Agent team at hello@di-agents.com. We reserve the right to terminate access to our Site to any person, including you, at any time, for any reason, in our sole discretion. If you violate any of these Terms, your permission to use our Site automatically terminates.

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14. Indemnification

You agree to indemnify, defend, and hold harmless DIGITAL AGENT and its parents, subsidiaries, affiliates, officers, employees, directors, shareholders, agents, partners, vendors, and licensors (each, a “Digital Agent Party,” and collectively, “Digital Agent Parties”) from and against any and all claims, costs, proceedings, demands, losses, damages, and expenses (including reasonable attorneys’ fees and costs) of any kind or nature arising from, out of, in connection with, or relating to: (a) these Terms; or (b) use of our Site. Digital Agent may select counsel for and control the defense of any claim that you are indemnifying. You will reasonably cooperate with us in connection with any claim.

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15. Disclaimers and Limitations on our Liability

- a. **You acknowledge and agree that your use of our Site is at your own risk and that our Site is provided on an “as is” and “as available” basis. To the extent permitted by applicable law, the Digital Agent Parties disclaim all warranties, conditions, and representations of any kind, whether express, implied, statutory, or otherwise, including those related to merchantability, fitness for a particular purpose, non-infringement, and arising out of course of dealing or usage of trade.**
- b. **In particular, the Digital Agent Parties make no representations or warranties about the accuracy or completeness of content available on or through our Site or the content of any social media platform or third-party website linked to or integrated with our Site. You acknowledge and agree that the Digital Agent Parties will have no liability for any:**

- (i) errors, mistakes, or inaccuracies of content; (ii) personal injury, property damage, or other harm resulting from your access to or use of our Site; (iii) any unauthorized access to or use of our servers, any personal information, or user data; (iv) any interruption of transmission to or from our Site; (v) any bugs, viruses, trojan horses, or the like that may be transmitted on or through our Site; or (vi) any damages, losses, costs, expenses, or liabilities of any kind incurred as a result of any content posted or shared through our Site.
- c. You acknowledge and agree that any material or information downloaded or otherwise obtained through our Site, including any Digital Agent Reviews, is done at your own risk and that you will be solely responsible for any damages, losses, costs, expenses, or liabilities arising from or in connection with doing so. No advice or information, whether oral or written, obtained by you from us or through our Site, including through a Digital Agent Reviews, will create any warranty not expressly made by us.
 - d. You acknowledge and agree that when using our Site, you will be exposed to content from a variety of sources, and that Digital Agent is not responsible for the accuracy, usefulness, safety, legality, or intellectual property rights of or relating to any such content. You further understand and acknowledge that you may be exposed to content that is inaccurate, offensive, indecent, objectionable, or harassing, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against any Digital Agent Party with respect thereto.
 - e. To the fullest extent permitted by applicable law, you acknowledge and agree that in no event will any Digital Agent Party be liable to you or to any third party for any indirect, special, incidental, punitive, or consequential damages (including for loss of profits, revenue, or data) or for the cost of obtaining substitute products, arising out of or in connection with these Terms, however caused, whether such liability arises from any claim based upon contract, warranty, tort (including negligence), strict liability, or otherwise, and whether or not Digital Agent has been advised of the possibility of such damages.
 - f. To the maximum extent permitted by applicable law, our total cumulative liability to you or any third party under these Terms, including from all causes of action and all theories of liability, will be limited to and will not exceed the fees actually received by Digital Agent from you during the 12 months preceding the claim giving rise to such liability.
 - g. Certain jurisdictions do not allow the exclusion or limitation of certain damages. If those laws apply to you, some or all of the above exclusions or limitations may not apply to you, and you might have additional rights.
 - h. You agree that the limitations of damages set forth above are fundamental elements of the basis of the bargain between Digital Agent and you.

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16. Arbitration Agreement and Waiver of Certain Rights

- a. Arbitration: You and Digital Agent agree to resolve any disputes between you and Digital Agent through binding and final arbitration instead of through court proceedings. You and Digital Agent each hereby waive any right to a jury trial of any controversy, claim, counterclaim, or other dispute arising between you and Digital Agent relating to these Terms or our Site (each a “Claim,” and collectively, “Claims”). Any Claim will be submitted for binding

arbitration in accordance with the Rules of the American Arbitration Association (“AAA Rules”). The arbitration will be heard and determined by a single arbitrator. The arbitrator’s decision will be in writing, will include the arbitrator’s reasons for the decision, will be final and binding upon the parties, and may be enforced in any court of competent jurisdiction. The parties agree that the arbitration will be kept confidential and that the existence of the proceeding and any element of it (including any pleadings, briefs, or other documents submitted or exchanged, any testimony or other oral submissions, and awards) will not be disclosed beyond the arbitration proceedings, except as may lawfully be required in judicial proceedings relating to the arbitration or by applicable disclosure rules and regulations of securities regulatory authorities or other governmental agencies.

- b. **Costs and Fees:** If you demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, Digital Agent will pay as much of the administrative costs and arbitrator’s fees required for the arbitration as the arbitrator deems necessary to prevent the cost of the arbitration from being prohibitive. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate.
- c. **No Preclusions:** This arbitration agreement does not preclude you or Digital Agent from seeking action by federal, state, or local government agencies. You and Digital Agent each also have the right to bring any qualifying Claim in small claims court. In addition, you and Digital Agent each retain the right to apply to any court of competent jurisdiction for provisional relief, including pre-arbitral attachments or preliminary injunctions, and any such request will not be deemed to be either incompatible with these Terms or a waiver of the right to have disputes submitted to arbitration as provided in these Terms.
- d. **No Class Representative or Private Attorney General:** You and Digital Agent each agree that with respect to any Claim, neither may: (i) act as a class representative or private attorney general, or (ii) participate as a member of a class of claimants. You agree that no Claim may be arbitrated on a class or representative basis. The arbitrator can decide only individual Claims (whether brought by you or Digital Agent). The arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated.
- e. **Severability/No Waiver/Survival:** If any provision of this [Section 17](#) is found to be invalid or unenforceable, that provision will be deemed appropriately modified to give effect to the intent of the provision or, if modification is not possible, will be severed and the remainder of this [Section 17](#) will continue in full force and effect. No waiver of any provision of this [Section 17](#) will be effective or enforceable unless recorded in a writing signed by the party waiving such a right or requirement. Such a waiver will not waive or affect any other provision of these Terms. This [Section 17](#) will survive the termination of your relationship with Digital Agent.
- f. **30-Day Opt-Out Right:** You have the right to opt out of the provisions of this Arbitration Agreement by sending, within 30 days after first becoming subject to this Arbitration Agreement, written notice of your decision to opt out to the following address: d/b/a DIGITAL AGENT SP Z O O, 81b-73a Ul. Solec, Warszawa, PL
- g. . Your notice must include your name and address, any usernames, each Digital Agent Reviewss address you have used to submit your Digital Agent Reviewss requests or set up an account on our Site (if applicable), and an unequivocal statement that you want to opt out of this Arbitration Agreement. You agree that if you opt out of this Arbitration Agreement, all other parts of these Terms will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.
- h. **LIMITATIONS: This [Section 17](#) limits certain rights, including the right to maintain certain court actions, the right to a jury trial, the right to participate in any form of class or representative claim, the right to engage in discovery except as provided in AAA rules, and the right to certain remedies and forms of relief. In addition, other rights that you or Digital Agent would have in court may not be available in arbitration.**

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17. Other Provisions

- a. **Force Majeure:** Under no circumstances will any Digital Agent Party be liable for any delay or failure in performance due in whole or in part to any acts of God (such as earthquakes, storms, floods, etc.), epidemics, natural disasters, unavoidable accidents, internet and communication service interruptions, laws, rules, regulations or orders of government authorities, acts of war (declared or not), terrorism, hostilities, blockades, civil disturbances, embargoes, strikes, or any other event or cause beyond the reasonable control of any Digital Agent Party.
- b. **Severability:** If any provision of these Terms is found to be invalid or unenforceable, that provision will be deemed appropriately modified to give effect to the intent of the provision or, if modification is not possible, will be severed from these Terms and will not affect the enforceability of any other provision.
- c. **No Waiver or Amendment:** The failure by Digital Agent to enforce any right or provision of these Terms will not prevent Digital Agent from enforcing such right or provision in the future and will not be deemed to modify these Terms.
- d. **Assignment:** Digital Agent may, at any time, assign its rights and obligations under these Terms, including to an affiliated entity or in connection with a sale of assets, merger, acquisition, reorganization, bankruptcy, other transaction, or by operation of law.
- e. **Miscellaneous:** The term “including” in these Terms will be interpreted broadly and will mean “including, without limitation.” Titles are for convenience only and will not be considered when interpreting these Terms.

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18. Changes to these Terms

We may change these Terms. If we do, we will post the revised Terms on our Site and update the “Last Updated” date at the top of these Terms. The revised Terms will be effective immediately if you accept them (for example, by agreeing when you create an account or login to an existing account, or using or continuing to use our Site after the revised Terms have been posted); otherwise, they will be effective 30 days after posting.

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Additional Site Terms

PLEASE READ THE FOLLOWING CAREFULLY. By using the product or service, you agree to the applicable additional terms that apply (which are Additional Terms as described in Section 5 of the Site Terms of Service (“Site Terms”)). These Additional Terms will be governed by, and are incorporated into, the Site Terms. Terms that are defined in the Site Terms will have the same meaning in these Additional Terms.

From time to time, we may change these Additional Terms. If we do, we will give you notice by posting them on our Site and updating the “Last Updated” date. The revised Additional Terms will be effective immediately. By using or continuing to use this product or service, you represent and warrant that you have read, understand, and agree to these Additional Terms.

DIGITAL AGENT FOLLOWS AND SUBSCRIPTIONS

Last Updated: September 15, 2023

1. Following Brand

You may join a Fan Channel from the Brand User’s profile page on our website or App; currently, you must download and use the App to participate.

- a. When you Follow a Brand User:
 - You may view messages and other content that the Brand User posts in their Follower Feed, including marketing or promotional content such as special discount codes or the Brand User’s booking availability; view content from other Users in the Follower Feed; and reply to or “like” such content (each such message, reply, like, or other content, whether from you or another author, is a “Message”).
 - You may receive notifications about the Brand User and about Messages or other activity in the Brand User’s Follower Feed;
 - Your user profile page will be publicly displayed as Following the Brand User.
 - Following is free, but you may also subscribe to any available Paid Features (described in Section 2).
- b. You may stop Following a Brand User for any reason at any time:
 - On web, from the Brand User’s profile page, select the “Following” button in the upper-right corner, then select “Unfollow”;
 - In the App, from the Brand User’s Follower Feed, select the three dots in the upper-right corner, then select “Unfollow”; or
 - By email, contact hello@di-agents.com and provide your username, the email address associated with your account, and the name of the Brand User.

3. Acknowledgement

You acknowledge and agree that:

- a. when you Follow a Brand User, your Digital Agent profile, username, and Messages will be publicly associated with the Brand User's Follower Feed. When you subscribe to a Paid Feature, your Digital Agent profile, username, and Messages may be visible to all other subscribers. Such information will not be private and you will not share or disclose any personal, private, or sensitive information relating to you or a third party;
- b. you hereby grant to each other User (subject to such User's payment in full) and to the Brand User the following limited rights to use your Messages **solely for their own personal, non-commercial, and non-promotional purposes**, subject to these Additional Terms: a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, revocable license to use, reproduce, distribute, and publicly display those Messages **only on social media platforms and personal websites; in text and email messages; and in other personal storage media**; and (subject to your payment in full) you may use Messages created by other Users and the Brand User in the same manner; in addition, you hereby grant to the Brand User the right to use your Messages to promote their participation on our Site;
- c. each Message you create is a Submission under the [Site Terms](#);
- d. each Message is subject to the [Acceptable Use Policy / Community Guidelines](#);
- e. if you believe that a User, Brand User, or Follower Feed activity has violated the [Acceptable Use Policy / Community Guidelines](#) you may notify Digital Agent in writing at hello@di-agents.com or report Messages by a long-press in the App;
- f. Digital Agent may monitor any Follower Feed activity and Messages, and Digital Agent retains the right, in its sole discretion, to cancel any User's Follower Feed membership or access to any Paid Feature; and
- g. Digital Agent will not be responsible or liable for any Submission (including any Message from a User) or any Brand Content (including any Message from a Brand User).

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DIGITAL AGENT DIRECT

Last Updated: May 4, 2023

1. DIGITAL AGENT Direct

A Brand User may offer you the opportunity to send a paid direct message to that Brand User as permitted through the DIGITAL AGENT Direct feature (if the feature is available), as indicated on the Brand User's profile page.

- a. You may send:
 - i. a User-created message (for example, a message of up to a specified number of characters, a video file of up to specified size, a thank you note, etc.) (each such message, and any response sent through the DIGITAL AGENT Direct feature, a “Message”); or
 - ii. a sticker from among a collection of images made available by DIGITAL AGENT (each such image, a “Sticker”).
- b. After you send a Message or Sticker, the Brand User may, but has no obligation to, respond.
- c. To send another Message or Sticker, you must pay the applicable price.
- d. You may not return or exchange a purchased Message or Sticker and no refunds will be issued.

2. Fees and Payment

If a Brand User offers the DIGITAL AGENT Direct feature, the price for each Message is displayed on the Brand User’s profile page and on the purchase button in the App when you send the Message. The price for each Sticker is displayed in the DIGITAL AGENT Direct feature. You agree to pay all amounts due in accordance with the payment terms in effect at that time.

3. Acknowledgement

You acknowledge and agree that:

- a. each Message you create is a Submission under the [Site Terms](#);
- b. each Message (whether created by you or the Brand User) is subject to the [Acceptable Use Policy](#) / [Community Guidelines](#);
- c. each Message from a Brand User is owned by the Brand User who created it, and subject to your payment in full, you have the right to use it **solely for your own personal, non-commercial, and non-promotional use** subject to these Terms: a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, revocable license to use, reproduce, distribute, and publicly display that Message, in any and all media (for example, on social media platforms), whether now known or hereafter invented or devised; and
- d. DIGITAL AGENT will not be liable or responsible for any Submission (including any Message or Sticker you send) or any Brand Content (including any Message from the Brand User).

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TEXT MESSAGING AND DISCLOSURES

Last Updated October 11, 2022

If you sign-up to receive text messages from DIGITAL AGENT, you agree to receive recurring automated promotional and personalized marketing text (e.g., SMS and MMS) messages from DIGITAL AGENT, including text messages that may be sent using an automatic telephone dialing system, to the mobile telephone number you provided when signing up or any other number that you designate. Consent to receive automated marketing text messages is not a condition of any purchase. Message and Data rates may apply.

Message frequency may vary. DIGITAL AGENT reserves the right to alter the frequency of messages sent at any time, so as to increase or decrease the total number of sent messages. DIGITAL AGENT also reserves the right to change the short code or phone number from which messages are sent.

Not all mobile devices or handsets may be supported and our messages may not be deliverable in all areas. DIGITAL AGENT, its service providers and the mobile carriers supported by the program are not liable for delayed or undelivered messages.

By signing up for text messages, you also agree to our [Privacy Policy](#).

Cancellation

Text the keyword STOP, END, CANCEL, UNSUBSCRIBE or QUIT to our short code to cancel. After texting STOP, END, CANCEL, UNSUBSCRIBE or QUIT to our short code you will receive one additional message confirming that your request has been processed. You acknowledge that our text message platform may not recognize and respond to unsubscribe requests that do not include the STOP, END, CANCEL, UNSUBSCRIBE or QUIT keyword commands and agree that DIGITAL AGENT and its service providers will have no liability for failing to honor such requests. If you unsubscribe from one of our text message programs, you may continue to receive text messages from DIGITAL AGENT and its affiliates through any other programs you have joined until you separately unsubscribe from those programs.

Help

Text the keyword HELP to our short code.

Customer Care

If you are experiencing any problems, please email help@DIGITAL AGENT.com or submit a help ticket at <https://help.DIGITAL AGENT.com/en/support/tickets/new>

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Acceptable Use Policy

Last Updated: March 3, 2020

Your use of our Site (collectively, the DIGITAL AGENT™ website, mobile application (“App”), and services we provide through them) is governed by this Acceptable Use Policy. Terms that are defined in the Site Terms of Service or Brand Terms of Service will have the same meaning in our Acceptable Use Policy.

You are responsible for your use of any DIGITAL AGENT Reviews, your Site account, our Site, and any Submission (if you are a Site user) or Brand Content (if you are a Brand User). Our goal is to create a positive, useful, and safe user experience. To promote this goal, we prohibit certain kinds of conduct that may be harmful.

1. You represent and warrant that:

- a. you will not use a false identity or provide any false or misleading information;
- b. you will not create an account if you (or any Site account that you created or controlled) have previously been removed or banned from our Site;
- c. you will not use or authorize the use of any DIGITAL AGENT Reviews for any purposes other than: (i) the specific limited purposes set forth in the Site Terms; (ii) those set out in any applicable Additional Terms; or (iii) if you are a Brand User, those set out in any other written agreement; and
- d. in connection with any Business DIGITAL AGENT Reviews, you will not request (if you are a User) or fulfill a request for (if you are a Brand User): (i) a Business or any other Recipient that is the subject of any criminal action, or that is involved in, connected with or promotes illegal or unlawful activity, violence or hate speech; or (ii) disparages or defames any person, entity, brand, or business.
- e. you will not:
 - i. violate any law, regulation, or court order;
 - ii. violate, infringe, or misappropriate the intellectual property, privacy, publicity, moral or "droit moral," or other legal rights of any third party;
 - iii. take any action (even if requested by another) that is, or submit, post, share, or communicate anything that is, or that incites or encourages, action that is, explicitly or implicitly: illegal, abusive, harassing, threatening, hateful, racist, derogatory, harmful to any reputation, pornographic, indecent, profane, obscene, or otherwise objectionable (including nudity);

- iv. send advertising or commercial communications, including spam, or any other unsolicited or unauthorized communications;
- v. engage in spidering or harvesting, or participate in the use of software, including spyware, designed to collect data from our Site, including from any user of our Site;
- vi. transmit any virus, other computer instruction, or technological means intended to, or that may, disrupt, damage, or interfere with the use of computers or related systems;
- vii. stalk, harass, threaten, or harm any third party;
- viii. impersonate any third party;
- ix. participate in any fraudulent or illegal activity, including phishing, money laundering, or fraud;
- x. use any means to scrape or crawl any part of our Site;
- xi. attempt to circumvent any technological measure implemented by us, any of our providers, or any other third party (including another user) to protect us, our Site, users, Recipients, or any other third party;
- xii. access our Site to obtain information to build a similar or competitive website, application, or service;
- xiii. attempt to decipher, decompile, disassemble, or reverse engineer any of the software or other underlying code used to provide our Site; or
- xiv. advocate, encourage, or assist any third party in doing any of the foregoing.

For clarity, your use of any DIGITAL AGENT Reviews includes use anywhere (on our Site or otherwise).

2. **Investigations:**

You acknowledge and agree that we are not obligated to monitor access to or use of our Site by you or third parties (including monitoring any DIGITAL AGENT Reviews, Brand Content, Submission, or Feedback), but we have the right to do so to operate our Site; enforce this Policy or our Terms; or comply with applicable law, regulation, court order, or other legal, administrative, or regulatory request or process; or otherwise.

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Brand Terms of Service

Last Updated October 16, 2023

This Brand Terms of Service Agreement (“Terms”) governs your use as a Brand user of the DIGITAL AGENT™ marketplace platform, doing business as DIGITAL AGENT (“we”, “us”, or “DIGITAL AGENT”), including our website (DIGITAL AGENT.com), mobile application (“App”), and services we provide (collectively, the website, App, and services referred to as our “Site”). “You” and “Brand User” refer to you as a Brand user of the Site.

These Terms apply solely to Brand Users of our Site. Use of our Site is also subject to our current [Acceptable Use Policy / Community Guidelines](#). Any use by you of our Site other than as a Brand User is governed by the [Site Terms of Service](#). (“Site Terms”).

PLEASE READ THESE TERMS CAREFULLY. By using our Site as a Brand User or otherwise indicating your acceptance (for example, by agreeing when creating or logging into your account, clicking “I Agree,” etc.), you represent and warrant that you have read, understand, and agree to be bound by these Terms. If you do not agree, do not access or use our Site as a Brand User.

ARBITRATION NOTICE: [Section 19](#) of these Terms contains provisions governing how claims that you and DIGITAL AGENT have against each other are resolved, including any claims that arose or were asserted prior to the “Last Updated” date at the top of these Terms. It contains an arbitration agreement that will, with limited exceptions, require disputes between you and DIGITAL AGENT to be submitted to binding and final arbitration. Unless you opt out of the arbitration agreement as described in [Section 19](#): (1) you may pursue claims and seek relief against us only on an individual basis, not as a plaintiff or class member in any class or representative action or proceeding; and (2) you waive your right to seek relief in a court of law and to have a jury trial on your claims.

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1. Participation in the DIGITAL AGENT Marketplace

- a. Registration: In order to participate on our Site, you must register. By registering, you agree to provide true, accurate, current, and complete information about yourself as prompted by our registration form, as well as any other information reasonably requested by us (collectively, “Registration Data”), and maintain and promptly update the Registration Data to keep it true, accurate, current, and complete. If you do not do so or we reasonably believe that you have not done so, we have the right to suspend or terminate your Site account and your use of our Site. You agree not to create a Site account using a false identity or providing false information, on behalf of another person (except as outlined below for a parent or legal guardian and Organizations), or if you (and your parent or legal guardian, or an Organization, if applicable) have previously been removed or banned from our Site. You are responsible for maintaining the confidentiality of your Site account information, including your username and password. You are responsible for all activities that occur on or in connection with your Site account and you agree to notify us immediately of any unauthorized access or use of your Site account. You acknowledge and agree that we are not responsible or liable for any damages, losses, costs, expenses, or liabilities related to any unauthorized access to or use of your Site account.
 - i. Brand User age 13 or older: Brand Users who are at least 13 years old may register directly. By registering, you represent and warrant that: (A) you are at least 13 years old (and, if between 13 and 18 years old, are registering with the supervision and with the consent of your parent or legal guardian, who also agrees to these Terms); (B) you are of legal age to form a binding contract; (C) you are (and if you are between 13 and 18 years old, your parent or legal guardian is) not barred from using our Site under the laws of the United States, your place of residence (and if you are between 13 and 18 years old, the place of residence of your parent or legal guardian), or any other applicable jurisdiction; and (D) you are (and if you are between 13 and 18 years old, your parent or legal guardian is) responsible for complying with all applicable laws and regulations relating to Brand User’s participation on our Site and will fully indemnify the DIGITAL AGENT Parties (defined below) for any failure to do so.
 - ii. Parent or Legal Guardian of Brand User, under age 13: Brand Users who are under 13 years old, may register only through a parent or legal guardian who, by registering, represents and warrants that: (A) he or she is the parent or legal guardian of the Brand User and agrees to these Terms; (B) neither the parent or legal guardian nor the Brand User is barred from using our Site under the laws of the United States, the place of residence of the parent, legal guardian, or Brand User, or any other applicable jurisdiction; and (C) he or she is responsible for complying with all applicable laws and regulations relating to Brand User’s participation on our Site and will fully indemnify the DIGITAL AGENT Parties for any failure to do so.
 - iii. Organizations: A management company, manager, agency, agent, publicist, or other individual or organization (each, an “Organization”) may register a Brand User (“Affiliated Brand”). By registering, the Organization represents and warrants for itself and each Affiliated Brand that: (A) Organization is the authorized representative of the Affiliated Brand (and, if the Affiliated Brand is below the age of 18, is registering with any consent required of the Affiliated Brand’s parent or legal guardian as set forth in [Sections 1.a\(i\) and 1.a\(ii\)](#)) and agrees to these Terms; (B) neither the Organization nor the Affiliated Brand is barred from using our Site under the laws of the United States, the place of residence of the Organization or any Affiliated Brand, or any other applicable jurisdiction; and (C) Organization is responsible for complying with all applicable laws and regulations relating to Affiliated Brand’s participation on our Site under these Terms and will fully indemnify the DIGITAL AGENT Parties for

any failure to do so. To register Affiliated Brand as an Organization, please contact Brandsuccess@DIGITAL AGENT.com.

- b. Promotional Materials: At no cost to DIGITAL AGENT, you will provide to us the following promotional materials (“Promotional Materials”) within 72 hours of beginning the Brand on-boarding process on our Site: (i) if you would like us to promote your participation on our Site, three high resolution images of yourself; (ii) your Site profile bio; and (iii) a promotional video of approximately :15 in length to let your fans know that they can book you on our Site. Please note that you will not be able to receive requests from Users until we receive your promotional video. From time to time we may request additional Promotional Materials from you for DIGITAL AGENT’s use to promote you on or in connection with our Site or on any social media platform or third-party website. Any other materials or photos of or concerning you that you approve for DIGITAL AGENT’s use will also be Promotional Materials under these Terms.

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2. Digital Agent Reviews

From time to time, a user of our Site (“User”) may request one or more video recordings (each, a “DIGITAL AGENT Reviews”) from you through our Site.

- a. While we hope you will fulfill a request within 48 hours of receiving it, you may have up to seven days or longer (at DIGITAL AGENT’s sole discretion) to complete and upload the DIGITAL AGENT Reviews. If you do not either: (i) accept the request and upload the DIGITAL AGENT Reviews; or (ii) decline the request; the request will expire and can no longer be fulfilled (except that you may fulfill the expired request at no cost to the User and with no payment due from us). You may decline a request or otherwise refuse, in your discretion, to create or upload a DIGITAL AGENT Reviews if a User’s request is objectionable or otherwise offensive to you. If you accept a request, you agree to record and upload to our Site one DIGITAL AGENT Reviews.
- b. DIGITAL AGENT retains the right, in its sole discretion, to cancel any request from a User. No payment will be made to you for any declined, cancelled, or unfulfilled DIGITAL AGENT Reviews request.
- c. Each DIGITAL AGENT Reviews will be approximately :30 in duration and will follow the general directions and requests of the User (for example, birthday message, congratulatory message, or “Good luck!” message). You will have sole discretion over the script and content of any DIGITAL AGENT Reviews, except that you agree: (i) you will use your name (please introduce yourself), the User’s name, and the name of any third party that the User identifies as a recipient (“Recipient”) in each DIGITAL AGENT Reviews, unless otherwise requested by the User; and (ii) you will not state in the DIGITAL AGENT Reviews that the DIGITAL AGENT Reviews is incomplete or cannot be completed. Your response to the User’s request is your responsibility and at your discretion, subject to these Terms; however, Users are usually happiest when at least the majority of their request is followed by a Brand User. If you complete a DIGITAL AGENT Reviews but do not follow the general directions and requests of the User, we will discuss with you an appropriate adjustment of the payment made to you.

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3. Fees & Payment

- a. **Booking Fee:** You set your own price for each DIGITAL AGENT Reviews and any other offering you choose to make available through the DIGITAL AGENT marketplace platform (e.g., Business Digital Agent Reviews) (each, a “Booking Fee”), provided that: (i) your price on the App for iOS must be an available Apple SKU; and (ii) where there is no identical Apple SKU, your price will be the Apple SKU that is closest to the price you set. In addition, the Booking Fee for each DIGITAL AGENT Reviews must be at least US\$5.00 (unless it is either US\$0.00 or as otherwise agreed in writing by DIGITAL AGENT). The Booking Fee excludes any service, transaction, or processing fees paid to DIGITAL AGENT.
- b. **Fees:** Other than with respect to an expired request that you choose to fulfill (as set forth in [Section 2\(a\)](#)) and subject to these Terms, absent a separate agreement with you we will pay you 70% of the Booking Fee actually received by DIGITAL AGENT for each DIGITAL AGENT Reviews or other DIGITAL AGENT product offering that you created and delivered to fulfill to a User’s request that you accepted through our Site, except that in the case of a Booking Fee paid through the App, we will pay you 70% of the amount actually received by DIGITAL AGENT after subtracting any payment to or deduction by the application platform (e.g., Apple deducts a 30% commission from the Booking Fee) from the Booking Fee (“Net App Booking Fee”). In addition, if the offering permits a User to designate an additional amount that is explicitly referred to as a “tip”, we will pay you 100% of any amount paid by a User via our Site as such a “tip” (after subtracting any DIGITAL AGENT service fees and any payment to or deduction by the application platform). Any Sales Tax DIGITAL AGENT collects will be remitted to the applicable tax authority and will not be included in the Booking Fee or tip.
- c. **Fees and Payment Representations and Warranties:** You represent and warrant that: (i) except as set forth in [Section 4.g.](#), Digital Agent Reviews are not, and are not intended to be, covered by any union or guild collective bargaining agreement, management, agency, or similar agreement, and there will be no residual or any other type of payment or contribution due from DIGITAL AGENT to you, to any third-party related to you or on your behalf, to any union, guild, pension plan, health plan, management, agent, or other similar person or entity pursuant to any collective bargaining agreement, in connection with any DIGITAL AGENT Reviews, payment from us to you, or our Site; (ii) DIGITAL AGENT is not responsible for, and will not make any deduction to payments made to you for any fees, commissions, costs, expenses, or payments of any kind to or with respect to any third party, including any manager, agent, attorney, representative, or service provider, in connection with any revenue earned by or payments made to you in connection with our Site; and (iii) DIGITAL AGENT is not responsible for any contributions, payments, taxes, or deductions for Social Security, retirement benefits, unemployment insurance, annuities, or pension or welfare fund payments required by law or any labor union, or any withholding or taxes (other than Sales Tax DIGITAL AGENT collects in relation to a purchase).
- d. **Payment:** You agree to register with the third-party payment provider selected by DIGITAL AGENT, which DIGITAL AGENT may change in its sole discretion. You may not use a payment provider other than the one selected by DIGITAL AGENT. You will provide the payment provider any information required in order to receive payments via the payment provider, e.g., information about the bank account that you own at a regulated financial institution. Any payments due to you from DIGITAL AGENT will be made via the payment provider. If available, you may transfer funds from your DIGITAL AGENT account to your bank account by submitting a payment request. Your request will be processed by the payment provider. If not available, DIGITAL AGENT will submit the payment request, for processing by the payment provider. In addition, DIGITAL AGENT may, in its sole discretion: (i) transfer funds from your DIGITAL AGENT account to your bank account, including in the case of account inactivity; and (ii) restrict or prohibit withdrawals in excess of any threshold chosen by DIGITAL AGENT. **If you do not provide the payment provider with all required**

information, you may not be able to receive the payments due to you. DIGITAL AGENT will not be responsible for any damages, delays, losses, costs, expenses, or liabilities arising out of or in connection with your inability to receive payments as a result of your failure to provide such information. You acknowledge and agree that DIGITAL AGENT does not operate, own, or control the payment provider; and your use of any payment provider is subject to the terms and privacy policies of that payment provider. You agree that we are not responsible for any delay, failure, damage, or liability caused by a payment provider, any other third party, a force majeure, or your failure to timely or properly set up an account with the payment provider or otherwise provide requested information for payment. Other than with respect to any payment to or deduction by the application platform (as set forth in [Section 4.b](#)). DIGITAL AGENT will be responsible for fees, costs, and expenses incurred in connection with the payment provider selected by DIGITAL AGENT. Unless otherwise agreed by DIGITAL AGENT in writing, you acknowledge and agree that you are solely responsible for any other fees, costs, and expenses, including with respect to your bank account and foreign exchange fees. Notwithstanding anything to the contrary contained in these Terms, if DIGITAL AGENT, in its sole discretion, believes that any fraud, money laundering, or other violation of law or regulation is taking place on or in connection with our Site, you acknowledge and agree that we may withhold, delay, or seek repayment of any payments we believe, in our sole discretion, are related to the violation.

- e. Currency: Payments via the payment provider are in U.S. dollars unless the payment provider permits you to choose another currency and you do so.
- f. Fundraising: If you identify any entity on your booking page or elsewhere on our Site as a charitable organization or a recipient of any funds that you are raising (each, a “Charity”), you: (i) represent and warrant that you will comply with all applicable laws and regulations relating to that identification or the Charity, including making disclosures, registering, or entering into any agreement, such as a commercial co-venturer agreement; (ii) acknowledge and agree that we have the right in our sole discretion to reject your identification or the Charity; (iii) represent and warrant that the Charity is and will remain in good standing at all times the identification is used, that within 48 hours of your receipt of our request, you will provide us with written evidence of the Charity’s good standing and charitable status in all applicable jurisdictions, and that you will promptly remove the identification if the Charity ceases to be in good standing; (iv) represent and warrant that you will be responsible for making any payment to the Charity (unless we expressly agree in writing in advance to do so on your behalf and in satisfaction of our payment obligations to you under these Terms); and (v) represent and warrant that you have all rights necessary to authorize use of the Charity’s name and logo in connection with (and on) our Site, in the identification, and in any social and other media. You further acknowledge and agree that we may add a statement to your booking page disclaiming a connection between DIGITAL AGENT and the Charity, as we determine in our sole discretion.
- g. Influencer Agreements: Notwithstanding [Section 4.c](#), or any other provision of these Terms to the contrary, for any Business DIGITAL AGENT Reviews you choose to fulfill, you may, in your discretion and subject to any obligations between you and the Screen Actors Guild – American Federation of Television and Radio Artists (“SAG-AFTRA”), choose to produce such Business DIGITAL AGENT Reviews pursuant to the terms of the Brand-Produced DIGITAL AGENT for Business Sponsored Content Agreement or another Influencer-Produced Sponsored Content Agreement made available by SAG-AFTRA (each, an “Influencer Agreement”). In the event you choose to produce a Business DIGITAL AGENT Reviews pursuant to an Influencer Agreement, you represent, warrant and covenant that: (i) your qualifying loan-out company (“Lender”) is, or will become in connection such Influencer Agreement, a SAG-AFTRA signatory in good standing; (ii) you and Lender shall be solely responsible for compliance with the terms of the Influencer Agreement, including, without limitation, ensuring that benefit plan contributions are made as required by the Influencer

Agreement; (iii) DIGITAL AGENT and the User shall have no obligation to you or your Lender other than as set forth in these Terms; and (iv) with respect to any dispute between you and/or your Lender, on the one hand, and a User and/or SAG-AFTRA, on the other, DIGITAL AGENT shall not be added as a party to any such proceeding without its express written consent but may intercede in its discretion. For more information on and to sign up to produce your Business DIGITAL AGENT Reviews pursuant to an Influencer Agreement, please visit [here](#).

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5. Brand Content

- a. License Grant to Brand Content: Our Site allows you to upload, submit, store, send, transmit, approve, and receive content and data, including your Digital Agent Reviews and Promotional Materials (collectively, “Brand Content”). When you upload, submit, store, send, transmit approve, or receive Brand Content to or through our Site, you grant to us a non-exclusive, royalty-free, fully paid, unlimited, universal, sublicensable (through multiple tiers of sublicenses), perpetual, and irrevocable license in any and all manner and media, whether now known or hereinafter invented or devised (including social media channels and third party websites and platforms), to use, reproduce, license, distribute, modify, adapt, publicly perform, publicly display, and create derivative works (for example, translations, adaptations, compilations, excerpts, or other modifications) of your Brand Content for the purposes of operating and providing our Site, to develop and improve our products and services, and to advertise, market, and promote our Site, products, and services, and you agree that such Brand Content may, in DIGITAL AGENT’s sole discretion, be used, including performed or displayed, in connection with any other elements, materials, copyrights, rights of publicity, or copyrighted materials. Please remember that third parties (including Users) may search for and see any Brand Content you submit to public areas of our Site. You agree that we may display advertising with or in connection with your Brand Content. You further acknowledge and agree that DIGITAL AGENT has no obligation to you in connection with any advertising displayed on or in connection with our Site (including no obligation to share any revenue received by DIGITAL AGENT as a result of any such advertising). Notwithstanding the foregoing, if you do not wish for DIGITAL AGENT to use, reproduce, license, distribute, publicly perform, or publicly display your Brand Content or adaptations, modifications or derivative works thereof in paid advertising, you may opt out of such paid uses by notifying DIGITAL AGENT in writing at Brand-advertising-choice@DIGITAL AGENT.com using the email address associated with your account.
- b. License Grant to Users:
 - i. For each DIGITAL AGENT Reviews (other than a Business DIGITAL AGENT Reviews), you hereby grant to the User and the Recipient a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, and perpetual license to use, reproduce, distribute, and publicly display the DIGITAL AGENT Reviews, in each case, solely in accordance with the [Site Terms](#), in any and all media, whether now known or hereafter invented or devised (including social media channels and third-party websites and platforms).
 - ii. For each Business DIGITAL AGENT Reviews, you hereby grant to User and the Business for up to 90 days (and for any additional 90-day periods to which you agree) beginning from the earlier of (i) the date the Business DIGITAL AGENT Reviews is downloaded by the User from the Site or first used, reproduced, distributed or publicly displayed by the User or the Business and (ii) 30 days after the date that DIGITAL

AGENT notified the User that the Business DIGITAL AGENT Reviews was completed:

A. An exclusive (including as to you but excluding the license granted to DIGITAL AGENT hereunder), royalty-free, fully paid, worldwide, sublicensable, irrevocable license to use, reproduce, distribute, and publicly display the Business DIGITAL AGENT Reviews on or in an unlimited number of (A) social media platforms, such as Facebook, Instagram, LinkedIn, Snapchat, TikTok, YouTube or Twitter, on accounts wholly owned, operated, and controlled by the Business (each, a “Business Social Media Account”), along with the right to advertise and promote the display of the Business DIGITAL AGENT Reviews on the Business Social Media Account through advertising on such social media platform, (B) websites, landing pages, mobile applications, communication sent through a Business-operated and controlled channel of communication (such as email blasts or text messages to customers or internal company emails or meetings), or other similar channel owned, operated and controlled by the Business and approved in advance by DIGITAL AGENT in writing, and (C) online platforms display networks and/or in-app advertising, including through digital demand side platform or advertising network accounts, but specifically excluding, in all cases, television, over the top (OTT), connected television (CTV), Out Of Home (OOH) and similar streaming media; and

B. in addition to the exclusive rights granted above, the non-exclusive right, with DIGITAL AGENT’s prior written approval, to modify, adapt, and create derivative works (for example, translations, adaptations, compilations, excerpts, or other modifications) of the Business DIGITAL AGENT Reviews and to use such Business DIGITAL AGENT Reviews (including the performance or display thereof) in connection with any other elements, materials, copyrights, rights of publicity, or copyrighted materials. You acknowledge and agree that authorized posts on a Business Social Media Account will not be archived or deleted at the end of the license period unless you request removal in writing.

- c. Right to Remove Digital Agent Reviews of Other Offerings: You acknowledge and agree that we cannot restrict the use of your Digital Agent Reviews or other offerings by the Users for whom you created them or by any third party with whom they have already been shared (including Recipients) and we have no obligation to remove those uses (including from social media channels or third-party websites or platforms). If we do seek to remove a DIGITAL AGENT Reviews of other offering from a social media channel or third-party website or platform, we may notify you of our intent to do so. As owner of the copyright in your Brand Content, you hereby authorize DIGITAL AGENT to act as your agent in order to submit any DMCA notice or other demand with respect to your Digital Agent Reviews or other offerings. You will promptly notify us if you learn that any Business DIGITAL AGENT Reviews is being used in violation of the [Site Terms](#). We will reasonably cooperate with your efforts to address the violation. However, you acknowledge and agree that we are not responsible or liable for any damages, losses, costs, expenses, or liabilities related to use of the Business DIGITAL AGENT Reviews for any reason, including if the use exceeds the license in [Section 1a\(ii\)](#) or otherwise violates the [Site Terms](#).
- d. Licenses: You may not sell, resell, commercialize, or encumber your rights in any DIGITAL AGENT Reviews or other offering, including creating a non-fungible token (“NFT”) from any DIGITAL AGENT Reviews or other offering except as agreed by DIGITAL AGENT in writing. Please note that the licenses granted in this [Section 6](#) are fully-paid and royalty free, meaning we do not owe you anything in connection with the use of your Brand Content, by us, Users, or third parties (including Recipients and, in the case of a Business DIGITAL AGENT Reviews, the Business), other than the payment set forth in [Section 4](#). We may exercise our rights under this license anywhere in the universe. We may sublicense our rights as needed to provide and promote our Site or otherwise in accordance with these Terms, and Users may

sublicense their rights subject to the [Site Terms](#). Finally, the licenses granted in this [Section 6](#) are perpetual, meaning that the rights granted under these licenses continue even after you stop using our Site.

- e. Brand Content Representations and Warranties: You represent and warrant to DIGITAL AGENT and the User that:
- i. you own all rights in and to your Brand Content and Feedback (defined below) and that you have the right to grant the rights described in these Terms;
 - ii. you have paid and will pay in full any fees, royalties, or other payments that are due or may become due in connection with any use of your Brand Content and Feedback by us, Users, or third parties (including Recipients) as described in these Terms;
 - iii. your agreement to, and provision of services under, these Terms does not violate any agreement that you may have with any third party;
 - iv. In connection with each Business DIGITAL AGENT Reviews:
 - A. any statements that you make in connection with the Business are factually correct and not misleading, are not disparaging or defamatory, and represent your true opinion; and
 - B. you will comply with all applicable laws, rules, and regulations, including the Federal Trade Commission "Guides Concerning the Use of Endorsements and Testimonials in Advertising," which may require adding an appropriate hashtag (e.g. #ad, #sponsored) or other disclosure to the Business DIGITAL AGENT Reviews.
 - v. your Brand Content and Feedback does not infringe, misappropriate, or otherwise use without necessary authorization, any intellectual property, privacy, publicity, moral, or other rights of any third party, or violate any law, regulation, or court order;
 - vi. you will not post or make publicly available any DIGITAL AGENT Reviews that the User has requested not be posted to your booking page;
 - vii. you will not contact, respond to, or communicate with any User that you meet on or through our Site, except as expressly permitted through our Site.
 - viii. you will not provide your contact information to any User or send merchandise or anything else to a User other than as permitted by these Terms;
 - ix. you will not edit, change, modify, or remove the watermark from any DIGITAL AGENT Reviews or assist or encourage any third party to do so;
 - x. you will not ask us for permission or to assist you with the actions prohibited by Sections 6.e(v) through 6.e(viii); and
 - xi. except for a DIGITAL AGENT Reviews that you choose to remake (at no additional cost to the User and with no additional payment due from us) if you receive a review of three stars or less, you will not remake any DIGITAL AGENT Reviews unless asked by us to do so.
- f. Treatment of Brand Content: Any Brand Content is non-confidential, non-proprietary, and must not contain or include any information which you do not have the right to disclose or that you do not wish to be disclosed. We will not be responsible or liable for any use or disclosure of Brand Content, including any personal information included in that Brand Content. You acknowledge and agree that your relationship with us is not a confidential, fiduciary, joint-venture, employer/employee, agency, or other type of special relationship, and that your decision to participate in our Site or submit any Brand Content does not place us in a position that is any different from the position held by members of the general public, including with regard to your Brand Content. None of your Brand Content will be subject to any obligation of confidence by us, Users, or third parties (including Recipients), and we will not be liable or responsible for any use or disclosure of any Brand Content.
- g. Refusal and Removal of Brand Content: We may refuse to accept or transmit Brand Content for any reason without notice to you. We may remove Brand Content from our Site for any reason without notice to you.

- h. Cancellation of Site Account: If you cancel your Site account, you may, on at least three business days' advance written notice to us, request that we no longer include your Digital Agent Reviews on our Site and that we not make any new public use of them. As noted in [Section 6.c](#), we have no obligation as to any use of your Digital Agent Reviews by the Users for whom you created them or by any third party with whom they have already been shared (including Recipients) (including from social media channels or third-party websites or platforms).
- i. Third-Party Beneficiary: The User is an intended third-party beneficiary of Section 6.e. of these Terms, with full power and authority to enforce, in User's own name, any rights granted to it or DIGITAL AGENT pursuant to such Section.

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6. Ownership

- a. Other than Brand Content, we or our licensors own all right, title, and interest in and to: (i) our Site and the "look and feel" of our Site, including all software, ideas, processes, data, text, media, HTML/CSS, JavaScript, visual design elements, and other content available on our Site (individually, and collectively, "DIGITAL AGENT Content"); and (ii) our trademarks, logos, and brand elements ("Marks"). Our Site, DIGITAL AGENT Content, and Marks are each protected under U.S. and international laws. You may not duplicate, copy, sell, resell, commercialize, or reuse any portion of DIGITAL AGENT Content or Marks without our prior express written consent. You acknowledge and agree that each request or message from a User is a Submission (as defined in the [Site Terms](#)) owned by the User who created it.
- b. DIGITAL AGENT desires to avoid the possibility of misunderstandings if a project developed by us, our employees, or our contractors might seem similar to material submitted to us by you or a third party. To the extent you submit any ideas, suggestions, proposals, plans, or other materials related to our business (individually, and collectively, "Feedback"), you acknowledge and agree that you are submitting that Feedback at your own risk and that DIGITAL AGENT has no obligation (including of confidentiality or privacy) with respect to your Feedback, and you grant to DIGITAL AGENT a non-exclusive, royalty-free, fully paid, unlimited, universal, sublicensable (through multiple tiers of sublicenses), perpetual, and irrevocable license, in any and all manner and media, whether now known or hereinafter invented or devised, to reproduce, license, distribute, modify, adapt, publicly perform, publicly display, create derivative works of, and otherwise use and exploit in any manner (including commercially), any and all Feedback.
- c. You hereby waive any and all moral rights or "droit moral" that you may have in Brand Content or Feedback, and you represent and warrant that no third party has any moral, "droit moral" or other rights in the Brand Content or Feedback.

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7. Additional Terms

Some products or services offered through the Site may have additional terms and conditions ("Additional Terms"). If Additional Terms apply, we will make them available for you to read in

connection with that product or service. By using that product or service, you agree to the Additional Terms. To the extent that the Additional Terms conflict with any of these Terms, these Terms will govern unless the Additional Terms say that all or some of these Terms don't apply.

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8. Eligibility

- a. **Age:** You must be at least 13 years old (or, outside of the United States, the applicable legal age to enter into a contract) to use our Site. If you are a minor or under the age of majority in your state of residence, your parent or legal guardian must agree to these Terms on your behalf and you may access and use our Site only with permission from your parent or legal guardian.
- b. **National College Athletic Association ("NCAA") and Other Amateur Organizations:** If you are or may become subject to NCAA rules and regulations or those of any other association, group, authority or organization, you represent and warrant that you have checked the rules and regulations to verify and confirm that your participation on our Site does not or will not affect your current or future eligibility with respect to any such association, group, authority or organization.
- c. **Eligibility Representations and Warranties:** You represent and warrant that:
 - i. you have not been prohibited from using or accessing any aspect of our Site by us or pursuant to any applicable law or regulation;
 - ii. you will comply with all applicable terms of any third-party payment provider we select, and you are not on a prohibited list of that payment provider;
 - iii. you will not use the Site or any DIGITAL AGENT product or service for any partisan political purpose - including to promote or solicit contributions on behalf of your candidacy for public office, the candidacy of another person seeking public office, any political party or political committee, or any other person or organization promoting or soliciting contributions on behalf of any candidate for public office or political party - without first entering into a separate agreement with DIGITAL AGENT to govern such use;
 - iv. if you include an animal in any DIGITAL AGENT Reviews, you will cause no harm to the animal and will comply with all applicable laws and regulations;
 - v. you (and any Site account that you created or control) have not been previously banned or removed from our Site for any reason; and
 - vi. you are not a convicted sex offender.
- d. **Export Control:** You may not use, export, import, or transfer any part of our Site except as authorized by United States law, the laws of the jurisdiction in which you use or access our Site, or any other applicable laws. In particular, but without limitation, no part of our Site may be exported or re-exported: (i) into any country embargoed by the U.S.; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List or Entity List. By using our Site, you represent and warrant that: (x) you are not located in a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country; and (y) you are not listed on any U.S. government list of prohibited or restricted parties. You also will not use our Site for any purpose prohibited by law. You acknowledge and agree that products, services, and technology provided by DIGITAL AGENT are subject to the export control laws and regulations of the U.S. You will comply with those laws and regulations and will not, without prior U.S. government authorization, export, re-export, or

transfer DIGITAL AGENT products, services, or technology, either directly or indirectly, to any country in violation of those laws and regulations.

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9. Copyright and Intellectual Property Policy

- a. **Digital Millennium Copyright Act Notice:** We respond to notices of alleged copyright infringement and terminate access to our Site for repeat infringers. If you believe that your material has been copied in a way that constitutes copyright infringement, please forward the following information to the Copyright Agent named below:
- i. your address, telephone number, and email address;
 - ii. a description of the work that you claim is being infringed;
 - iii. a description of the material that you claim is infringing and are requesting be removed along with information about where it is located;
 - iv. a statement that you have “a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law”;
 - v. an electronic or physical signature of the copyright owner (or a person authorized to act for the copyright owner); and
 - vi. a statement by you, made under penalty of perjury, that the information you are providing is accurate and that you are the copyright owner or authorized to act on behalf of the copyright owner.

Copyright Agent:

d/b/a DIGITAL AGENT SP Z O O, 81b-73a Ul. Solec Warszawa, PL

support@di-agents.com

If you do not follow these requirements, your notice may not be valid. Please note, only notices of alleged copyright infringement should be sent to our Copyright Agent.

- b. **Termination Policy:** If we determine that you are a repeat infringer, we may terminate your access to our Site, remove or ban you (and any Site account you created or control), and take other appropriate action in our sole discretion.

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10. Privacy

Your privacy is important to us. Our Privacy Policy explains how we collect, use, and share personal information and other data. By using our Site, you agree to our Privacy Policy.

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11. Third-Party Content and Interactions

Our Site may contain features and functionalities that link to or provide you with access to third party content, that is completely independent of DIGITAL AGENT, including Digital Agent Reviews, websites, platforms, directories, servers, networks, systems, information, databases, applications, software, programs, products or services, and the Internet in general. The contents of Digital Agent Reviews and other offerings that allow interactions with third parties, including Users, on DIGITAL AGENT are the sole responsibility of the people involved in those interactions. DIGITAL AGENT is not responsible for the content of the interactions you may have with third parties through Digital Agent Reviews or other offerings. However, DIGITAL AGENT may, in its sole discretion, intercede in selected interactions and you will reasonably cooperate with DIGITAL AGENT if it does so. You acknowledge and agree that DIGITAL AGENT will not be responsible for any damages, losses, costs, expenses, or liabilities incurred as the result of such interactions, including any requests or Submissions from Users. You agree to contact Users about matters relating to our Site only through the Site. You hereby release each DIGITAL AGENT Party (defined below) from claims, demands, and damages (actual and consequential) of every kind or nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to such interactions or our Site. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 (AND ANY OTHER SIMILAR APPLICABLE STATE STATUTE), WHICH PROVIDES: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

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12. Business Relationship with DIGITAL AGENT

- a. You and DIGITAL AGENT agree and declare you and DIGITAL AGENT are in a direct business relationship and the relationship between the parties, including these Terms, is solely an independent contractor relationship. It is the parties' express intent that their relationship be interpreted and held to be that of independent contractor for all purposes. You acknowledge and agree that you are not a joint venturer, franchisee, partner, agent, or employee of DIGITAL AGENT, and will not represent yourself as such. As an independent contractor using our platform to provide marketing, artistic, writing, and photography services to Users, you are solely and exclusively responsible for determining the manner, method, details, and means of your performance under these Terms and you acknowledge and agree that we do not control those elements of your performance. You also retain the option to accept, decline, or ignore any User request. We have no right to, and will not, control the manner or determine the method of accomplishing your performance. You represent and warrant that you are customarily engaged in an independently established trade, occupation, or business.

- b. You represent and warrant that as between DIGITAL AGENT and you (whether a Brand User, parent or legal guardian of a Brand User, an Organization, Affiliated Brand, DIGITAL AGENT Partner, or otherwise), you assume sole liability for and will pay or cause to be paid all applicable contributions, payments, taxes, and deductions for Social Security, retirement or other benefits, healthcare insurance, unemployment insurance, annuities, pension and welfare fund payments required by law, regulation, or any labor union, and all withholding and income taxes, and make any reports required as a result of participation on our Site under these Terms.
- c. You will use your own equipment to perform your obligations under these Terms.
- d. You are solely responsible for making any disclosure required by any applicable law, regulation, court order or any agreement you may have with any third parties to any person or entity regarding your performance under these Terms.
- e. Your relationship with DIGITAL AGENT is non-exclusive, meaning that you may provide similar services to third parties, including DIGITAL AGENT's competitors, and you may engage in other business or employment activities. Similarly, we can and do engage third parties to provide services similar to those that you may provide under these Terms.

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13. Links

Our Site may contain links to social media platforms or third-party websites. You acknowledge and agree that: (a) the link does not mean that we endorse or are affiliated with the platform or website; and (b) we are not responsible or liable for any damages, losses, costs, expenses, or liabilities related to your use of the platform or website. You should always read the terms and conditions and privacy policy of a platform or website before using it.

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14. Changes to our Site

You acknowledge and agree we may change or discontinue any aspect of our Site at any time, without notice to you. You acknowledge and agree we may change or discontinue any aspect of our Site at any time, without notice to you.

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15. Termination and Reservation of Rights

You may cancel your Site account at any time by contacting a member of the DIGITAL AGENT team at support@di-agenrs.com. We reserve the right to terminate access to our Site to any person,

including you, at any time, for any reason, in our sole discretion. If you violate any of these Terms, your permission to use our Site automatically terminates.

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16. Disclaimers and Limitations on our Liability

- a. **You acknowledge and agree that your use of our Site is at your own risk and that our Site is provided on an “as is” and “as available” basis. To the extent permitted by applicable law, the DIGITAL AGENT Parties disclaim all warranties, conditions, and representations of any kind, whether express, implied, statutory, or otherwise, including those related to merchantability, fitness for a particular purpose, non-infringement, and arising out of course of dealing or usage of trade.**
- b. **In particular, the DIGITAL AGENT Parties make no representations or warranties about the accuracy or completeness of content available on or through our Site or the content of any social media platform or third-party website linked to or integrated with our Site. You acknowledge and agree that the DIGITAL AGENT Parties will have no liability for any: (i) errors, mistakes, or inaccuracies of content; (ii) personal injury, property damage, or other harm resulting from your access to or use of our Site; (iii) any unauthorized access to or use of our servers, any personal information, or user data; (iv) any interruption of transmission to or from our Site; (v) any bugs, viruses, trojan horses, or the like that may be transmitted on or through our Site; or (vi) any damages, losses, costs, expenses, or liabilities of any kind incurred as a result of any content or the use of any content posted or shared through our Site.**
- c. **You acknowledge and agree that any material or information downloaded or otherwise obtained through our Site, including a User request, is done at your own risk and that you will be solely responsible for any damages, losses, costs, expenses, or liabilities arising from or in connection with doing so. No advice or information, whether oral or written, obtained by you from us or through our Site, including through a DIGITAL AGENT Reviews, will create any warranty not expressly made by us.**
- d. **You acknowledge and agree that when using our Site, you will be exposed to content from a variety of sources, and that DIGITAL AGENT is not responsible for the accuracy, usefulness, safety, legality, or intellectual property rights of or relating to any such content. You further understand and acknowledge that you may be exposed to content that is inaccurate, offensive, indecent, objectionable, or harassing, and you agree to waive, and do hereby waive, any legal or equitable rights or remedies you have or may have against any DIGITAL AGENT Party with respect thereto.**
- e. **To the fullest extent permitted by applicable law, you acknowledge and agree that in no event will any DIGITAL AGENT Party be liable to you or to any third party for any indirect, special, incidental, punitive, or consequential damages (including for loss of profits, revenue, or data) or for the cost of obtaining substitute products, arising out of or in connection with these Terms, however caused, whether such liability arises from any claim based upon contract, warranty, tort (including negligence), strict liability or otherwise, and whether or not DIGITAL AGENT has been advised of the possibility of such damages.**
- f. **To the maximum extent permitted by applicable law, our total cumulative liability to you or any third party under these Terms, including from all causes of action and all theories of liability, will be limited to and will not exceed the fees actually received by**

DIGITAL AGENT from you during the 12 months preceding the claim giving rise to such liability.

- g. Certain jurisdictions do not allow the exclusion or limitation of certain damages. If those laws apply to you, some or all of the above exclusions or limitations may not apply to you, and you might have additional rights.**
- h. You agree that the limitations of damages set forth above are fundamental elements of the basis of the bargain between DIGITAL AGENT and you.**

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17. Indemnification

You agree to indemnify, defend, and hold harmless DIGITAL AGENT and its parents, subsidiaries, affiliates, officers, employees, directors, shareholders, agents, partners, and licensors (each, a “DIGITAL AGENT Party, “ and collectively, “DIGITAL AGENT Parties”) from and against any and all claims, costs, proceedings, demands, losses, damages, and expenses (including reasonable attorneys’ fees and costs) of any kind or nature, arising from, out of, in connection with, or relating to: (a) these Terms; (b) use of our Site; (c) your negligence, misconduct, or fraud; (d) any action or inaction by you or anyone acting on your behalf; (e) any Organization or Affiliated Brand; (f) any Charity; (g) your status as a parent or legal guardian of a Brand User; (h) Brand Content; (i) Feedback; (j) your eligibility with the NCAA or any other association, group, authority, or organization referenced in [Section 9.b](#); or (k) your participation in the Referral Program. DIGITAL AGENT may select counsel and control the defense of any claim that you are indemnifying. You will reasonably cooperate with us in connection with any claim.

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18. Arbitration Agreement and Waiver of Certain Rights

- a. Arbitration:** You and DIGITAL AGENT agree to resolve any disputes between you and DIGITAL AGENT through binding and final arbitration instead of through court proceedings. You and DIGITAL AGENT each hereby waive any right to a jury trial of any controversy, claim, counterclaim, or other dispute arising between you and DIGITAL AGENT relating to these Terms or our Site (each a “Claim,” and collectively, “Claims”). Any Claim will be submitted for binding arbitration in accordance with the Rules of the American Arbitration Association (“AAA Rules”). The arbitration will be heard and determined by a single arbitrator. The arbitrator’s decision will be in writing, will include the arbitrator’s reasons for the decision, will be final and binding upon the parties, and may be enforced in any court of competent jurisdiction. The parties agree that the arbitration will be kept confidential and that the existence of the proceeding and any element of it (including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions, and awards) will not be disclosed beyond the arbitration proceedings, except as may lawfully be required in judicial proceedings relating to the arbitration or by applicable disclosure rules and regulations of securities regulatory authorities or other governmental agencies.

- b. **Costs and Fees:** If you demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, DIGITAL AGENT will pay as much of the administrative costs and arbitrator's fees required for the arbitration as the arbitrator deems necessary to prevent the cost of the arbitration from being prohibitive. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate.
- c. **No Preclusions:** This arbitration agreement does not preclude you or DIGITAL AGENT from seeking action by federal, state, or local government agencies. You and DIGITAL AGENT each also have the right to bring any qualifying Claim in small claims court. In addition, you and DIGITAL AGENT each retain the right to apply to any court of competent jurisdiction for provisional relief, including pre-arbitral attachments or preliminary injunctions, and any such request will not be deemed to be either incompatible with these Terms or a waiver of the right to have disputes submitted to arbitration as provided in these Terms.
- d. **No Class Representative or Private Attorney General:** Each of you and DIGITAL AGENT agree that with respect to any Claim, neither may: (i) act as a class representative or private attorney general; or (ii) participate as a member of a class of claimants. You agree that no Claim may be arbitrated on a class or representative basis. The arbitrator can decide only individual Claims (whether brought by you or DIGITAL AGENT). The arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated.
- e. **Severability/No Waiver/Survival:** If any provision of this [Section 19](#) is found to be invalid or unenforceable, that provision will be deemed appropriately modified to give effect to the intent of the provision or, if modification is not possible, will be severed and the remainder of this [Section 19](#) will continue in full force and effect. No waiver of any provision of this [Section 19](#) will be effective or enforceable unless recorded in a writing signed by the party waiving such a right or requirement. Such a waiver will not waive or affect any other provision of these Terms. This [Section 19](#) will survive the termination of your relationship with DIGITAL AGENT.
- f. **30-Day Opt-Out Right:** You have the right to opt out of the provisions of this Arbitration Agreement by sending, within 30 days after first becoming subject to this Arbitration Agreement, written notice of your decision to opt out to the following address: dba DIGITAL AGENT SP Z O O, 81b-73a Ul. Solec Warszawa, PL
- g. Your notice must include your name and address, any usernames, each email address you have used to set up an account on our Site, and an unequivocal statement that you want to opt out of this Arbitration Agreement. You agree that if you opt out of this Arbitration Agreement, all other parts of these Terms will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.
- h. **LIMITATIONS:** This [Section 19](#) limits certain rights, including the right to maintain certain court actions, the right to a jury trial, the right to participate in any form of class or representative claim, the right to engage in discovery except as provided in AAA rules, and the right to certain remedies and forms of relief. In addition, other rights that you or DIGITAL AGENT would have in court may not be available in arbitration.

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19. Other Provisions

- a. **Force Majeure:** Under no circumstances will any DIGITAL AGENT Party be liable for any delay or failure in performance due in whole or in part to any acts of God (such as earthquakes, storms, floods, etc.), epidemics, natural disasters, unavoidable accidents,

cybersecurity incidents, internet or communication service interruptions, laws, rules, regulations or orders of government authorities, acts of war (declared or not), terrorism, hostilities, blockades, civil disturbances, embargoes, strikes, or any other event or cause beyond the reasonable control of any DIGITAL AGENT Party.

- b. Choice of Law and Jurisdiction: These Terms will be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to any conflict of laws rules or provisions. You agree that any action of whatever nature arising from or relating to these Terms or our Site will be filed only in the state or federal courts located in Chicago, Illinois. You consent and submit to the personal jurisdiction of such courts for the purposes of any such action.
- c. Severability: If any provision of these Terms is found to be invalid or unenforceable, that provision will be deemed appropriately modified to give effect to the intent of the provision or, if modification is not possible, will be severed from these Terms and will not affect the enforceability of any other provision.
- d. No Waiver or Amendment: The failure by DIGITAL AGENT to enforce any right or provision of these Terms will not prevent DIGITAL AGENT from enforcing such right or provision in the future and will not be deemed to modify these Terms.
- e. Assignment: DIGITAL AGENT may, at any time, assign its rights and obligations under these Terms, including to an affiliated entity or in connection with a sale of assets, merger, acquisition, reorganization, bankruptcy, other transaction, or by operation of law.
- f. Miscellaneous: The term “including” in these Terms will be interpreted broadly and will mean “including, without limitation.” Titles are for convenience only and will not be considered when interpreting these Terms.

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20. Changes to these Terms

We may change these Terms. If we do, we will post the revised Terms on our Site and update the “Last Updated” date at the top of these Terms. The revised Terms will be effective immediately if you accept them (for example, by agreeing when you create an account or login to an existing account, or using or continuing to use our Site after the revised Terms have been posted); otherwise, they will be effective 30 days after posting.

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Additional Brand Terms

PLEASE READ THE FOLLOWING CAREFULLY. By offering the product or service, you agree to the applicable additional terms that apply (which are Additional Terms as described in [Section 8](#) of the Brand Terms of Service (“Brand Terms”)). These Additional Terms will be governed by,

and are incorporated into, the Brand Terms. Terms that are defined in the Brand Terms or the Site Terms of Service (“Site Terms”) will have the same meaning in these Additional Terms.

From time to time, we may change these Additional Terms. If we do, we will give you notice by posting them on our Site and updating the “Last Updated” date. The revised Additional Terms will be effective immediately. By offering or using or continuing to offer or use the applicable product or service, you represent and warrant that you have read, understand, and agree to these Additional Terms.

DIGITAL AGENT Follower Feed and Subscriptions

Last Updated: March 3, 2022

1. Follower Feed

You may post messages and other content to your Follower Feed. Users may also post, view, reply to, or “like” such content in your Follower Feed (each such message, reply, like, or other content is a “Message”).

2. Paid Features

You may offer your Followers the opportunity to subscribe to other features such as VIP membership (each, a “Paid Feature”), which may also include the ability to post Messages. You will participate and interact with your subscribers in a manner consistent with your promises to those subscribers, the [Brand Terms](#), including these Additional Terms.

3. Payment

- a. Membership in your Follower Feed is free; there is no compensation to you.
- b. Except as specified by DIGITAL AGENT, you set your subscription price for a Paid Feature (subject to any minimum that we specify), provided your price on the App for iOS must be an available Apple SKU.
- c. If you offer a Paid Feature, we will pay you 75% of the subscription price actually received by DIGITAL AGENT from each User after subtracting any payment to, or deduction by, the application platform, on the same terms as in [Section 4.b](#) of the [Brand Terms](#). Unless otherwise specified by DIGITAL AGENT, we will pay you monthly, one month after the subscription price is received by us.

4. Acknowledgement

You acknowledge and agree that:

- a. Your Follower Feed and any Paid Feature is open to any User. Your Messages will not be private and you will not share or disclose any personal, private, or sensitive information relating to you or a third party;
- b. you hereby grant to each User the following limited rights to use your Messages **solely for their own personal, non-commercial, and non-promotional purposes**, subject to these Additional Terms: a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, revocable license to use, reproduce, distribute, and publicly display those Messages **only on social media platforms and personal websites; in text and email messages; and in other personal storage media**; and, you may use Messages created by Users in the same manner; in addition, you may use Messages to promote your participation on our Site;
- c. each Message you create is Brand Content under the [Brand Terms](#);
- d. each Message is subject to the [Acceptable Use Policy](#) / [Community Guidelines](#);

- e. if you believe that a User or Follower Feed activity has violated the [Acceptable Use Policy / Community Guidelines](#), you may notify DIGITAL AGENT in writing at support@di-agents.com or report Messages by a long-press in the App;
- f. DIGITAL AGENT may monitor any Paid Feature, Follower Feed activity, and Messages, and DIGITAL AGENT retains the right, in its sole discretion, to cancel any subscription or other Paid Feature; and
- g. DIGITAL AGENT will not be responsible or liable for any Message from any User or any Brand Content (including any Message from you).

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DIGITAL AGENT Direct

Last Updated: September 15, 2023

1. DIGITAL AGENT Direct

You may choose to offer Users the opportunity to send you a paid direct message as permitted through the DIGITAL AGENT Direct feature (if the feature is available).

- a. If you choose to do so, a User may send you:
 - i. a User-created message (for example, a message of up to a specified number of characters, a video file of up to specified size, a thank you note, etc.) (each such message, and any response sent through the DIGITAL AGENT Direct feature, a “Message”); or
 - ii. a sticker from among a collection of images made available by DIGITAL AGENT (each such image, a “Sticker”).
- b. When a User sends you a Message or Sticker, you may, but have no obligation to, respond.
- c. Any additional Message or Sticker sent by the User will be at the applicable price.

2. Payment

- a. You set your price for a Message, provided your price on the App for iOS must be an available Apple SKU (i.e., ending in US\$0.99).
- b. We will pay you 75% of the applicable price actually received by DIGITAL AGENT for each paid Message after subtracting any payment to, or deduction by, the application platform (e.g., Apple deducts a 30% commission) on the same terms as in [Section 4.b](#) of the Brand Terms.

3. Acknowledgement

You acknowledge and agree that:

- a. each Message you create is Brand Content under the [Brand Terms](#) and each Message from a User is a Submission owned by the User who created it
- b. each Message (whether created by you or a User) is subject to the [Acceptable Use Policy/ Community Guidelines](#);
- c. you grant to each User the right to use each Message you create a non-exclusive, royalty-free, fully paid, worldwide, sublicensable, and perpetual license to use, reproduce, distribute, and publicly display that Message, in each case, solely in accordance with the Site Terms and the Additional Site Terms for “DIGITAL AGENT

- Direct” in any and all media, whether now known or hereafter invented or devised (including social media channels and third-party websites and platforms); and
- d. DIGITAL AGENT will not be liable or responsible for any Submission (including any Message or Sticker from the User) or any Brand Content (including any Message you send).

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