

# OPENSERVE DIGITAL PLATFORM ACCEPTABLE USAGE TERMS AND CONDITIONS

## 1. Introduction

- 1.1. In terms of section 11 of the ECT Act, these Terms of Use are valid, binding and enforceable against all persons that access the Openserve DIGITAL PLATFORMS, web pages, app pages or any part thereof.
- 1.2. By accessing the Openserve DIGITAL PLATFORMS, web pages, app pages or any part thereof for any reason whatsoever, the User agrees to the terms and conditions as set out below and the Openserve Privacy Statement incorporated herein by reference.

## 2. Definitions

- 2.1. "ECT Act" means the Electronic Communications and the Transactions Act 25 of 2002;
- 2.2. "Openserve" means Openserve Proprietary Limited, a wholly owned subsidiary of Telkom and a company duly registered in terms of the South African Company Laws with registration number 2019/387229/07;
- 2.3. "POPIA" means the Protection of Personal Information Act 4 of 2013;
- 2.4. "Telkom" means Telkom SA SOC Limited, a company duly registered in terms of the South African Company Laws with registration number 1991/005476/30, including its divisions, operating business units and, where relevant, subsidiaries;
- 2.5. "Terms of Use" means the terms and conditions of use as set out in this document;
- 2.6. "User" means any person, whether a natural person or juristic entity, who accesses or uses the Openserve DIGITAL PLATFORM, notwithstanding that such a person only visits the Openserve DIGITAL PLATFORM home page; and
- 2.7. "DIGITAL PLATFORM" means [www.openserve.co.za](http://www.openserve.co.za), and Openserve Connect App operated and owned by Openserve, including any page, part or element thereof.

### 3. Acceptable use

- 3.1. The DIGITAL PLATFORM is intended to provide the User only with information regarding Openseve and the services it offers and / or products it sells. Openseve does not warrant the accuracy or correctness of any information published herein and shall not be liable for any losses incurred or damages suffered arising from reliance on the information provided on the DIGITAL PLATFORM.
- 3.2. Content from the DIGITAL PLATFORM may not be used or exploited by Users for any commercial or private purposes without prior written consent of a duly authorised official of Openseve, which consent Openseve may withhold in its sole and absolute discretion.
- 3.3. Users may not use the Openseve DIGITAL PLATFORM for:
  - 3.3.1 illegal purposes;
  - 3.3.2 harmful purposes; and
  - 3.3.3 the creation, storage and sending of unsolicited commercial communications.
- 3.4. Should any User use content from the DIGITAL PLATFORM in breach of the provisions detailed herein, Openseve:
  - 3.4.1. reserves the right to claim damages from the User;
  - 3.4.2. reserves the right to institute criminal proceedings against the User; and
  - 3.4.3. shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of such content by the User or any third party who may have obtained consent from the User.
- 3.5. Hyperlinks to the DIGITAL PLATFORM from any other source shall be directed at the home page of the DIGITAL PLATFORM. Links beyond the Openseve home page may only be used with Openseve's prior written consent from a duly authorised employee.
- 3.6. Openseve shall not be liable, in any manner whatsoever, for any damage, loss or liability resulting from the use of content, products or services available from the DIGITAL PLATFORM, if such content, products or services was accessed through a hyperlink not directed at the home page of the DIGITAL PLATFORM. Persons that wish to link to pages beyond the home page of the DIGITAL PLATFORM without Openseve's prior written consent shall do so at their own risk and they indemnify Openseve against any loss, liability or damage that may result from the use of such hyperlinks. Openseve's exclusion from liability for deep linking is based on the fact that deep links bypass these terms and

conditions.

- 3.7. Apart from bona-fide search engine operators and use of the search facility provided on the DIGITAL PLATFORM by Users, no person may use or attempt to use any technology or applications (including but not limited to web crawlers, robots or web spiders) to search, collect or copy content from the Openseve DIGITAL PLATFORM for any purpose whatsoever, without Openseve's prior written consent from a duly authorised representative. No modification and/or reverse engineering whatsoever of any content of this DIGITAL PLATFORM is permitted; and

- 3.7.1. E-mail addresses, names, telephone numbers and fax numbers published on the DIGITAL PLATFORM may not be incorporated into any database used for electronic marketing or similar purposes. No permission is given or should be implied that information on the Openseve DIGITAL PLATFORMs may be used to send unsolicited communications to Openseve, its customers or any other party and section 45 of the ECT Act shall apply in full in respect of Openseve and the DIGITAL PLATFORM unless reliance on any provision thereof is expressly waived in writing by a duly authorised representative of Openseve.

## 4. Changes to these terms of use

- 4.1. Openseve may amend these Terms of Use at any time in its sole discretion without prior notice to the User, in which event the User's continued usage of the DIGITAL PLATFORM after any such changes to these Terms of Use shall indicate that the User accepts those changes.
- 4.2. Openseve reserves the right to change and / or amend, without notice the information contained on the DIGITAL PLATFORM.

## 5. Intellectual property rights

- 5.1. All content, trademarks and data on this DIGITAL PLATFORM, including but not limited to, software, databases, text, graphics, icons, logos, hyperlinks, private information, and designs are the property of and or/ licensed to, Openseve, and as such, are protected from infringement by domestic and international legislation and treaties.
- 5.2. Intellectual property rights on this DIGITAL PLATFORM are expressly reserved.

## 6. Electronic communications

- 6.1. By using the DIGITAL PLATFORM or communicating with Openseve by electronic means, the User consents and acknowledges that any and all agreements, notices, disclosures, or any other communications satisfy any

legal requirement, including but not limited to the requirement that such communications should be “in writing” as defined in the ECT Act.

## 7. Privacy policy and conditions for lawful processing of personal information according to Chapter 3 of POPIA

- 7.1. These Terms of Use must be read with the Privacy Statement ([https://media.telkom.co.za/today/media/downloads/TelkomPrivacyStatement\\_30062021.pdf](https://media.telkom.co.za/today/media/downloads/TelkomPrivacyStatement_30062021.pdf)), as is appropriate, to enable the User to understand the manner in which Openserve processes personal information.
- 7.2. The User may access most areas of the DIGITAL PLATFORM without having to register as a User, however certain restricted areas require registration. Should the User decide to register as a User of the DIGITAL PLATFORM, Openserve may require the User to provide personal information which includes but is not limited to:
  - 7.2.1.1. Name and surname;
  - 7.2.1.2. Identity number;
  - 7.2.1.3. Openserve account number;
  - 7.2.1.4. Street and postal address;
  - 7.2.1.5. Contact numbers; and
  - 7.2.1.6. E-mail address.
- 7.3. Openserve uses cookie technology that automatically processes certain personal information as the User navigates the DIGITAL PLATFORM, which includes but is not limited to non-personal browsing habits and click patterns, and the User’s IP address. Users may determine cookie use independently through their browser settings. Cookies ensure that Openserve can continually improve its DIGITAL PLATFORM. Openserve utilises “first party cookies” (originating from Openserve) to track the User’s visits between sessions and to deliver a personalised experience. We also utilise “third party cookies” (not originating from Openserve) to provide traffic analysis and tracking.
- 7.4. The User consents to Openserve using the User’s personal information for the purpose for which it was disclosed.
- 7.5. Openserve may use the User’s personal information for general and statistical purposes.

## 8. Agreements in Terms of Section 21 of the ECT Act

- 8.1. No information or data on the DIGITAL PLATFORM constitutes an offer to do business but is merely an invitation to do business.
- 8.2. No agreements shall be concluded merely by sending a data message to the DIGITAL PLATFORM or its owners. Valid agreements will require a written acceptance of a written offer by Openseve.
- 8.3. No e-mail message shall be deemed to have been received by Openseve until a directed response has been issued from Openseve. An automated response, from Openseve, shall not satisfy this requirement.

## 9. Searching Technology

- 9.1. The use of search technology, such as “web-crawlers” or “web-spiders”, to search and gain information from the DIGITAL PLATFORM is not permitted, if such technology will result in slowing down of the DIGITAL PLATFORM’s server or copyright infringement of any data and information available from the DIGITAL PLATFORM.

## 10. Links to Third Party Sites

- 10.1. Openseve may provide links to other DIGITAL PLATFORMs only as a convenience to the User and the inclusion of any link does not imply Openseve’s endorsement of such DIGITAL PLATFORMs.
- 10.2. Linked DIGITAL PLATFORMs or pages are not subject to the control of Openseve. Openseve shall not be held responsible or liable, directly or indirectly, in any way for the contents, use, or inability to use or access any linked DIGITAL PLATFORMs or any links contained in a linked DIGITAL PLATFORM.

## 11. Security of Information

- 11.1. Openseve shall take all reasonable steps to secure a User’s information.
- 11.2. Users undertake not to divulge their username and password to any other person.
- 11.3. It is expressly prohibited for any person, business, or entity to gain or attempt to gain unauthorised access to any information on the DIGITAL PLATFORM, or to deliver or attempt to deliver any unauthorised, damaging or malicious code to the DIGITAL PLATFORM.
- 11.4. Users may not deliver or attempt to deliver, whether on purpose or negligently, any damaging code, such as computer viruses, robots or spy ware, to the DIGITAL PLATFORM or the server and computer network that supports the

## DIGITAL PLATFORM.

- 11.5. Any person who delivers or attempts to deliver any unauthorised, damaging or malicious code to the Openserve DIGITAL PLATFORMs or attempts to gain unauthorised access to any page on this DIGITAL PLATFORM shall be held criminally liable, and in the event that Openserve should suffer any damage or loss, civil damages will be claimed.

## 12. Disclaimer and limitation of liability

- 12.1. Subject to the provisions of sections 43(5) and 43(6) of the ECT Act, Openserve shall not be liable for any damage, loss or liability of whatsoever nature arising from the use or inability to use the DIGITAL PLATFORM or the services or content provided from and through this DIGITAL PLATFORM. Furthermore, Openserve makes no representations or warranties, implied or otherwise, that, amongst others, the content and technology available from the DIGITAL PLATFORM are free from errors or omissions or that the service will be uninterrupted and error free.
- 12.2. The DIGITAL PLATFORM is supplied on an “as is” basis to the extent permitted by law and has not been compiled or supplied to meet the User’s individual requirements. It is the sole responsibility of the User to satisfy him or herself, prior to entering into this agreement with Openserve, that the service available from and through the DIGITAL PLATFORM will meet the User’s individual requirements and be compatible with the User’s hardware and/or software.
- 12.3. Information, ideas and opinions expressed on this site should not be regarded as professional advice or the official opinion of Openserve.
- 12.4. Neither Openserve nor any of its agents or representatives shall be liable for any damage, loss or liability of whatsoever nature arising from the use or inability to use any information and/or services on the DIGITAL PLATFORM.

## 13. Offensive e-mail content

- 13.1. Openserve’s employees and other Users of the Openserve e-mail system are subject to policies that prohibit:
- 13.1.1. the obscuring, suppressing, or replacing another User’s identity on an e-mail (pretending to be someone else);
  - 13.1.2. the use of Openserve’s information and communications systems for the exercise of the employee’s right to free speech;
  - 13.1.3. sexual, religious, political and racial harassment;

13.1.4. profanity, obscene, offensive, derogatory or defamatory remarks; and

13.1.5. otherwise unlawful communication via e-mail.

13.2. Accordingly, if an e-mail sent by an Openserve User breaches any of these provisions, that e-mail is sent in that person's personal capacity and Openserve is not liable for such messages. Openserve will take appropriate disciplinary action against any person breaching these provisions and the User can report any such breach to [Palesa.Madumo@telkom.co.za](mailto:Palesa.Madumo@telkom.co.za).

## 14. Severability

14.1. These Terms of Use constitute the entire agreement between Openserve and the User of the DIGITAL PLATFORM. Any failure by Openserve to exercise or enforce any right or provision of these Terms and Conditions of Use shall in no way constitute a waiver of such right or provision.

14.2. If any term or condition of the use of the DIGITAL PLATFORM is not fully enforceable or valid for any reason, such term(s) or condition(s) shall be severable from the remaining terms and conditions. The remaining terms and conditions shall not be affected by such unenforceability or invalidity and shall remain enforceable and applicable.

## 15. Applicable and governing law

15.1. The DIGITAL PLATFORM is hosted, controlled and operated from the Republic of South Africa, and South African law governs the use or inability to use the DIGITAL PLATFORM and these Terms of Use.

## 16. Domicilium Citandi Et Executandi

16.1. If a User has any questions, queries or wishes to request permission to use any part of the DIGITAL PLATFORM, including, linking, framing, or searching, please contact Telkom at:

Address: 61 Oak Avenue, Centurion, 0157.  
Attention: Group Executive: Legal Services  
Email: [legalservices@telkom.co.za](mailto:legalservices@telkom.co.za)

## 17. General

17.1. No indulgence which Openserve may grant to the User shall constitute a waiver, whether by estoppel or otherwise, limit any of the existing or future rights of Openserve in terms hereof, save in the event and to the extent that Openserve has signed a written document expressly waiving or limiting such right.