

## **ZILINGO TERMS OF USE**

This application software, website and any logos, designs, artwork, labels, symbols or any other product details not limited to those mentioned above are the sole property of Zilingo Pty. Ltd. (“**ZILINGO**”), a company incorporated in Australia having its registered office at Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000.

### **(1) Definitions and Interpretation:**

Capitalised terms or phrases as used in the Terms and Conditions (“**Terms and Conditions**”), if not defined in this section, shall have the meaning assigned to them in the sentence immediately preceding the bold alphabets enclosed within quotes (“ “), such as in the para above. Additionally, in these Terms and Conditions, the following definitions apply:

#### **Definitions:**

“**Account**” refers to the user account that will be needed to create/register on Zilingo’s mobile application/Website to purchase products through the Zilingo platform.

“**Business Day**” refers to working days in Australia and shall relate to days on which banks in Australia are operational and/or open for business.

“**Conditions**” refer to the terms of reference or use of Zilingo Products in accordance with these Terms and Conditions.

“**Contract**” refers to the act of placing an order for a product(s) by you on Zilingo’s platform in line with its Terms and Conditions followed by Zilingo’s acceptance of the order in accordance with the process outlined in Clause 11 below.

“**User**” refers to you, i.e. any person browsing the website or placing any order(s), which are accepted, on the Zilingo Mobile Application (“**App**”) and Zilingo Website (“**Website**”).

“**Order**” Refers to the Order submitted by you on the App or Website to purchase a product on our App or Website.

“**Order Confirmation**” refers to the correspondence provided by Zilingo to you, in which your Order is acknowledged and confirmation given that such Order has been placed in accordance with Clause 12 mentioned below.

#### **Interpretations:**

The following rules will apply to these Terms and Conditions unless the context requires otherwise or unless it is expressly stated otherwise:

- (i) Any references to “clauses” in this document refer to clauses stated within these Terms and Conditions;
- (ii) The singular includes the plural and conversely;
- (iii) A gender includes all genders;
- (iv) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(v) Mentioning anything after **include, includes** or **including** does not limit what else might be included;

## **(2) Circumstances Beyond Our Control (Force Majeure)**

Zilingo shall not be liable for any delay or failure to perform its obligations under a Contract which is caused by events beyond its reasonable control. Such events shall include strikes, lock outs and industrial actions, floods, earthquakes, firestorms, riots, terrorist attacks or threats of terrorist attacks, war or threats of war, non functioning public transport or wireless or telecommunications or any change in acts decrees or legislation governing the implementation of the Contract. If such force majeure lasts for more than one week, either you or Zilingo may terminate the contract forthwith by written notice. You will be entitled to a refund only, in the event of non fulfilment of contract under this clause.

## **(3) Governing Law**

These Terms and Conditions and the Contract between you and Zilingo and all obligations arising directly or indirectly from them shall be construed in all respects in accordance with the laws of Australia. All disputes between you and Zilingo arising from them shall be subject to the exclusive jurisdiction of the court in NSW, Australia.

## **(4) Severability**

If any provision of the Terms and Conditions is found, by any court or administrative body of competent jurisdiction, to be invalid, unenforceable or in conflict with any applicable law, that provision shall be severed from the Terms and Conditions but the validity or enforceability of the remaining provisions shall not be affected and shall, as far as possible, remain in force.

If any provision of the Terms and Conditions is found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

## **(5) Waiver**

No failure or delay by any party in exercising, wholly or partially, any of its rights with regard to any breach or default of these Terms and Conditions or of a Contract by the other party shall constitute a waiver of such rights. Further, no waiver of any such breach or default shall be deemed to constitute a waiver of (i) any other rights or; (ii) any subsequent or continuing breach of default.

## **(6) Assignment**

User cannot assign, transfer, change, sub contract or deal in any other similar manner with their rights or their obligations under these Terms and Conditions or under a Contract.

## **(7) Relationship**

Nothing in the Terms and Conditions or in any Contract shall create or be deemed to create a partnership, an agency or an employer-employee relationship between a User, or any party and ZILINGO.

## **(8) Notices**

Any notice under a Contract shall be given in writing through either letter or email to the relevant party at the address or email address last known to the other.

- (a) Notices given by post shall be deemed to have been served within 2 Business Days of being posted to the recipient's address within Australia.
- (b) Any notice given by email shall be deemed to have been served within 1 Business Day of the email being sent.
- (c) In proving such service it shall be sufficient to prove that the letter or email was properly addressed and, as the case may be, posted as a prepaid or recorded delivery letter or dispatched or a delivery report received.

### **(9) Eligibility**

To effectively place an order with Zilingo, you must be at least 18 years of age. In case you are under 18 and wish to use the App/Website to make a purchase, you can only do so with the involvement and under the supervision of a parent or guardian.

### **(10) Usage**

User may not misuse the App/Website in any way such as by transmitting or distributing any malware or virus, in any form, which is malicious, technologically harmful, in breach of confidence or offensive. Criminal misuse of the App/Website is strictly prohibited. No person may hack into any aspect of the App/Website, corrupt data, infringe any person's proprietary rights, send unsolicited material or in any way interfere with the performance or functionality of any computer facilities accessed through the App/Website. Any breach of these provisions shall be construed as a criminal act under applicable laws, including under applicable laws and offenders shall be subject to the strict penalties imposed therein.

### **(11) App/Website Registration Process**

To place an Order through ZILINGO, User will have to register by creating an Account on the App/Website through the different channels as mentioned on the App/Website. You must also agree to only input into the App/Website information which is completely accurate, true and up to date. You shall ensure this by agreeing to inform us in case of any changes, either by directly contacting us through our User case email id: [contact.au@zilingo.com](mailto:contact.au@zilingo.com) or by updating the relevant sections of the App/Website. Users are not allowed to misuse the App/Website through creation of multiple accounts.

### **(12) Order Confirmation and Delivery**

To place an order on ZILINGO, User will have to go through the order process on the App/Website. After completing the process, users will receive an Order Confirmation message through e-mail and/or SMS which will act as an acknowledgement of the Order. If the Order consists of more than one product, the products may be delivered in separate packages and at separate times to the User.

### **(13) Payments**

ZILINGO offers its User several options for making payments. Users can pay using:

- (a) ZILINGO's third party payment partners listed on the App/Website;

(b) Cash on delivery;

(c) Users using e-gift cards, wallet credit or promotional vouchers may also choose to pay only a part of the total price.

ZILINGO's third party payment partners undertake all requisite measures to minimise the risk of unauthorised access and to address all safety and privacy concerns relating to your card data and usage. Cards are subject to validation checks and authorisation by card issuers. If the required authorisation is not received, then there may be no delivery, or significant delays, in delivery of the ordered product and neither ZILINGO, nor its partners will be liable for the same, we will however suitably notify you regarding the same.

Post receipt of appropriate authorisation by our third party payment partners, the payment will be authorised and when you will be required to click on the order button you are confirming that the card belongs to you or that you are the legitimate holder of the e-gift card or promotional voucher and that you have sufficient funds to pay for the Product (s) you have ordered.

While it will be our utmost effort to ensure that all descriptions, prices and payment related details remain dynamically updated on the App/Website at all points in time, you agree and accept that since ZILINGO is a dynamic marketplace, with several sellers listing their products at any given point in time, errors may take place. In such a scenario, if you place an Order and there is an error, we will make our best efforts to inform you at the earliest so that you can make an informed decision. In case we are unable to inform you of the same, we will treat the Order as cancelled. In the event that you cancel your Order before we have shipped it to you, but you have already paid for your Order, you will receive a full refund from ZILINGO. In the event that you would like to obtain a specific tax invoice for your order, please write to [contact.au@zilingo.com](mailto:contact.au@zilingo.com).

#### **(14) Order Refusal**

Since ZILINGO is a dynamic mobile marketplace, it reserves the right to withdraw any Product from the App/Website at any time and/or remove or edit any material or content on the App/Website and will not be held liable for doing so either by you or by any other third party. Zilingo will make best efforts to always process all Orders, but there may be exceptional circumstances wherein, we may not be able to or refuse to process an Order after we have sent you an Order Confirmation. We reserve the right to do the same at any time, at our sole discretion. Zilingo will notify you of any order cancellation at the earliest, so as to minimize any inconvenience that may be caused. If any Order placed by you has been canceled by us for any reason, post the payment has been completed by you, we will ensure that you are refunded the full amount.

#### **(15) Cancellation by User of a Non Faulty Product:**

If you wish to cancel your Order after it has been placed or after being paid for by you, please contact our Customer care Team on [contact.au@zilingo.com](mailto:contact.au@zilingo.com). For orders cancelled before dispatch, no cancellation fee will be applicable. In case the Order or a part of it has been dispatched and received by you, it will need to be returned back to ZILINGO and such returns will take place, on the basis of ZILINGO Returns and Refunds Policy. The Customer Team and ZILINGO, however, reserve the right to assess the returns and refunds on a case by case basis, as mentioned in the ZILINGO Returns and Refunds Policy.

#### **(16) Zilingo Returns and Refunds Policies**

ZILINGO's Refunds and Returns Policy has been separately published on the App/Website and is a part of these Terms and Conditions. By accepting these Terms and Conditions, you are also agreeing to the ZILINGO Refunds and Returns Policy.

### **(17) Delivery of Products**

- (a) ZILINGO will try its best to deliver the Product to you, at the shipping address, as specified and requested by you while placing the Order.
- (b) In case a specific delivery date has been specified by us during your checkout or through the delivery process on the App, we will try our best to deliver it to you within the stipulated timelines. However, we shall notify you if we expect any delays on our part. You accept that we shall not be liable to you for any losses, liabilities, costs, damages, charges or expenses arising out of any delayed delivery.
- (c) At the time of the delivery, you may be required by our third party logistics partner's team to sign the acknowledgment of the delivery. In case of any issues post delivery, please feel free to contact ZILINGO Customer Team at [contact.au@zilingo.com](mailto:contact.au@zilingo.com). You must, however, comply with the requirements as specified by the Customer Team as well as in ZILINGO's Returns and Refunds Policy. Should you face any inconveniences or difficulties during ZILINGO's Order fulfilment process and experience, do not hesitate to get in touch with us at the earliest.
- (d) Although the dynamic nature and functionality of the ZILINGO App/Website will ensure at any point in time whether the information entered by you corresponds to the locations that are available for delivery through our third party logistics partners. In the unfortunate event that we are not able to communicate to you at the very outset that the Order cannot be delivered to your preferred location, we will ensure that we inform you of the same at the earliest using the contact details that you provide to us at the time of placing the Order and also arrange for either the cancellation of the Order or delivery to an alternate address, as mutually feasible to both parties.
- (e) You will receive your delivery in our standard ZILINGO packaging. Any specific packaging requests at your end will be assessed at our end and processed if feasible and you will be notified of any change.
- (f) Our third party logistics partners and Customer Team will do their best to ensure that the delivery takes place at a mutually convenient time and will make 3 attempts for each delivery. However, if delivery or collection is delayed through your unreasonable refusal to accept delivery or if you do not accept delivery or collect the Product from the carrier within the time period mutually agreed upon, or in case of cash on delivery, are unable to provide the required cash amount for delivery, we reserve the right to do either or both of the following:
  - (i) charge you for any fee and other costs incurred by us outside of the standard pickup and delivery costs that we incur with our third party logistics partners;
  - (ii) cancel the Contract, and refund you with an amount equal to the amount paid by you (in case of an online payment) minus any additional costs as incurred by us as mentioned in f.i. above.

### **(18) The Product**

By accepting these Terms and Conditions, you acknowledge:

- (a) That the Products listed on the App/Website are not custom made and cannot be tailored or altered to meet your requirements; and
- (b) Once the Product has been delivered to you, any risk related to the Product passes to you and ZILINGO will not be liable for any damage, destruction or loss to the Product thereafter.

**(19) Vouchers**

- (a) As mentioned above in Payments, from time to time, ZILINGO will make available promotional vouchers, discount coupons or e-gift cards which you can avail and use while making payments for Products that you purchase on the App, as below:
  - (i) charge you for any fee and other costs incurred by us outside of the standard pickup and delivery costs that we incur with our third party logistics partners
  - (ii) You accept and agree that the credit provided to you through a promotional voucher neither accrues interest nor does it have any cash value. Further, ZILINGO reserves the right, to be able to, at its sole discretion discontinue or cancel any voucher previously issued on the App/Website and will not be responsible for any losses arising therefrom.
  - (iii) Please note that the credit of a promotional voucher may be insufficient or not applicable to pay for the Order that you wish to place, in that scenario, you would be required to make up the difference in the amount using one of our accepted payment methods.
  - (iv) Please be careful to note that in case you place an Order for a Product that is priced at less than the value of the promotional voucher you wish to redeem or avail of, ZILINGO will not be able to refund or offer you residual credit.
  - (v) Promotional vouchers will be valid for the period specifically stated on the App/Website and they can only be availed once. You may not be able to use them in conjunction with other promotional vouchers available to you through the App/Website. You may also not be able to use them along with other discounted items as mentioned on the App/Website. ZILINGO also reserves the right to exclude individual brands or stores from certain voucher promotions as and when required based on our sales and marketing strategies. Information of the same, however, will be duly provided to you through the App/Website.
  - (vi) Promotions are not valid for cash or cash equivalent. Promotions cannot be applied to previous purchases nor combined with any other offers or discounts including price matching of any other retailer.  
Promotions may not be combined with any other offers unless explicitly noted. Qualifying promotion amount applies to merchandise only, excluding Gift cards and shipping and handling charges.
  - (vii) Offers are non-transferable. All monetary amounts specified in these terms and conditions are in Australian dollars (AUD). Promotions may be subject to availability.

- (viii) ZILINGO reserves the right to close your Account or suspend your activities on the App/Website in the event of discovery of any form of fraud, deception or suspicion of other illegal activities in connection with gift cards or vouchers on the App/Website.
- (ix) ZILINGO assumes no Liability for the loss, theft or illegibility of gift or promotional vouchers. In case of any issues arising in connection of the same, you are requested to get in touch with our customer team at [contact.au@zilingo.com](mailto:contact.au@zilingo.com) and we will try to assist you to the best of our abilities.
- (x) E-gift cards cannot be used to buy further e-gift cards. E-gift cards may only be purchased through debit card, credit card, PayPal or wallet credit and will be sent to you via email.

## **(20) Cashback**

- (a) From time to time, ZILINGO will make available to earn cashback to your Zilingo account which you can avail and use while making payments for Products that you purchase on the App, as below:
  - (i) You accept and agree that the credit provided to you through cashback neither accrues interest nor does it have any cash value. Further, ZILINGO reserves the right, to be able to, at its sole discretion discontinue or cancel any cashback previously issued on the App/Website and will not be responsible for any losses arising therefrom.
  - (ii) Please note that the cashback given may be insufficient or not applicable to pay for the Order that you wish to place, in that scenario, you would be required to make up the difference in the amount using one of our accepted payment methods.
  - (iii) Please note that cashback given is valid for one year from the received cashback date. Cashback not used within a year from the earned date, will automatically be deducted from your cashback account.
  - (iv) You are not able to use cashback in conjunction with other promotional vouchers available to you through the App/Website. You can also not use them along with other discounted items as mentioned on the App/Website. ZILINGO also reserves the right to exclude individual brands or stores from certain cashback promotions as and when required based on our sales and marketing strategies. Information of the same, however, will be duly provided to you through the App/Website.
  - (v) You are not able to use cashback in conjunction with a coupon on the same purchase. But you are able to earn cashback in conjunction with using a coupon on the same purchase.
  - (vi) ZILINGO reserves the right to close your Account or suspend your activities on the App/Website in the event of discovery of any form of fraud, deception or suspicion of other illegal activities in connection with cashback on the App/Website.
  - (vii) ZILINGO assumes no Liability for the loss, theft or illegibility of cashback. In case of any issues arising in connection of the same, you are requested to get in touch with our customer team at [contact.au@zilingo.com](mailto:contact.au@zilingo.com) and we will try to assist you to the best of our abilities.

- (viii) Cashback cannot be used to buy e-gift cards. E-gift cards may only be purchased through debit card, credit card, PayPal or wallet credit and will be sent to you via email.

**(21) Pay Later**

- (a) ZILINGO shall make available the 'Pay Later' option as a mode of payment for your transactions which you can avail and use on the website/app, as per the following conditions:
  - (i) You acknowledge and agree that you are a resident of Australia and are above the age of 18.
  - (ii) You acknowledge that Zilingo is not a licensed moneylender and it assumes no advisory or fiduciary responsibility with respect to you in connection of its services. You are availing this credit at your own discretion.
  - (iii) You agree and acknowledge that Zilingo has the right to decide eligibility of account holders for Zilingo 'Pay Later' as per its own discretion.
  - (iv) You hereby agree that you must pay your due amount on or before the date that will be informed to you at the time of placing the order. You understand and confirm that notwithstanding any relief or recourse provided under these terms and conditions, a breach of this trust shall amount to dishonestly misappropriating the benefits of this scheme in violation of these terms and conditions, and shall entitle Zilingo to take any action against you as may be prescribed under the law.
  - (v) You can pay your due amount using all online and offline digital payment modes available on Zilingo. Cash payment (COD) in part or full will not be accepted.
  - (vi) Zilingo reserves the right to alter or terminate this facility at its discretion.
  - (vii) You cannot use 'Pay Later' in conjunction with another payment option at the time of checkout.
  - (viii) 'Pay Later' cannot be used to buy e-gift cards. E-gift cards may only be purchased through debit card, credit card, PayPal or wallet credit and will be sent to you via email.
  - (ix) You will be able to avail 'Pay Later' only to the extent of the total monthly limit assigned to you.
  - (x) Pay Later availability can be limited to certain categories and certain sellers - as stated on each product page.
  - (xi) You hereby acknowledge and abide by the full Terms and Conditions on Zilingo website/ app.
  - (xii) You hereby authorize Zilingo to charge a 'Late Payment Fee' as liquidated damages in the case that you are not able to pay by the due date.
  - (xiii) Any returns will be subject to our Standard Returns Policy.
  - (xiv) Zilingo reserves the ownership of any and all products until full payment has been made by you to Zilingo and the right to pursue any remedy available to us in the

case that you do not repay the amount within the agreed upon date, which could include terminating / suspending your account and could extend to taking Legal Action against you.

## **(22) Limitation of Liability**

The following provisions shall set out the entire financial liability of ZILINGO in relation to the any users of the App/Website for breach of or in any way related to representations. Statements or tortious acts by ZILINGO under these Terms and Conditions and the Contracts.

- (a) Except as expressly provided in the Terms and Conditions/Contracts, ZILINGO and its suppliers/sellers, content providers and advertisers expressly exclude all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- (b) ZILINGO shall not be liable to the User for any loss or damage, costs or expenses (whether direct, indirect, incidental or consequential and whether relating to loss of profit, loss of business, business interruption, loss of data, depletion of goodwill or other such losses), suffered by the User which arise out of or in connection with the use of the ZILINGO website or App and any materials posted there.
- (c) The User assumes all risks as to the sustainability, quality and performance of Service.

## **(23) Indemnity**

Users agree to indemnify, defend and hold harmless ZILINGO, its directors, officers, employees, consultants, agents and affiliates from any and all third party claims and damages including costs (including but not limited to legal fees) arising from their use of the ZILINGO website or App.

## **(24) Privacy Policy**

For a detailed understanding of how ZILINGO endeavors to protect your data or privacy, please refer to ZILINGO's Privacy Policy, which forms a part of these Terms and Conditions. By accepting these Terms and Conditions, you are deemed to have accepted, ZILINGO's Privacy Policy.

## **(25) Customer / User Happiness**

- (a) ZILINGO takes great pride in being able to deliver happiness and provide the best possible service and experience to its customers/ users, while fulfilling its obligations as stated in these Terms and Conditions.
- (b) Our Customer Happiness Team is available to sort out all your issues in the event that the experience provided by us does not meet your expectations or satisfaction. In such an unlikely event, please feel free to contact us at any time by either writing to us at [contact.au@zilingo.com](mailto:contact.au@zilingo.com).
- (c) Please note - for products that come with warranties from the actual brands or manufacturers, you will be required to contact the relevant brands or manufacturers directly as specified in the warranty cards or other such details provided by them.
- (d) To help us serve you better and resolve your issues at the earliest, please make sure to send us copies of the Order or at least the Order ID/Sub-Order ID that we assign you in

the Order Confirmation email and message. Should you not have received any response from us within 5 Business Days, owing to any unforeseen logistical, technical or other such difficulties, please don't hesitate to contact us again.

#### **(26) Advertising**

ZILINGO will comply with regulations relevant to its business and operations as published by the Office of The Consumer Protection Board while advertising on the ZILINGO website, application or social media.

#### **(27) Links**

Users are allowed to link to the ZILINGO website home page or App download screen, provided it is done in a way that is legal and is not likely to damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on ZILINGO's part where none exists. We reserve the right to withdraw linking permission without notice, in case of any breach of these Terms and Conditions.

#### **(28) Entire Agreement**

These Terms and Conditions together with the Privacy Policy, the Refunds Policy and every one of the Orders and Contracts, made or to be made by ZILINGO as a marketplace and intermediary of goods sold and supplied on the platform, constitute the entire agreement between you and ZILINGO. Any waiver of the agreement shall be valid, only if accepted by ZILINGO in writing.

In accepting these Terms and Conditions, you accept that you have not relied on any representations or implied statements by ZILINGO and that your relationship with ZILINGO is covered only by the express terms and conditions of this document.

#### **(29) Variation**

ZILINGO reserves the right to amend these Terms and Conditions at any time. Any such amendment will be posted on the ZILINGO App and Website. Continued use of the App or the Website post amendment will deem to constitute acceptance of the new Terms and Conditions.

ZILINGO reserves the right to withhold your ability to shop at ZILINGO in case of any breach of these Terms and Conditions or any breach of your obligations of any Contract under these terms.