

## My Digital Accounts (Trading as My Texas Ltd) Terms of Service

### OVERVIEW OF THIS AGREEMENT

These Terms of Service together with the Order Form, make up the Agreement. The Agreement is governed by the laws of England & Wales. Please ensure that you understand this Agreement before entering into it and seek legal advice if you have any questions including interpretation.

### DEFINED TERMS

In these Terms of Service, unless otherwise defined, capitalised terms shall have the following meanings:

- a) **"Acceptable Use Policy"** means the acceptable use policy on our website;
- b) **"Affiliate"** means an entity that controls, is controlled by, or is under common control with the relevant entity;
- c) **"Agreement"** means the agreement between us and you relating to the Service comprising these Terms and the Order Form and any amendments to the Agreement from time to time;
- d) **"Anti-Corruption Laws"** means the laws and regulations of the Relevant Jurisdiction relating to bribery and corruption as applicable to the parties;
- e) **"Billing Period"** means the period in respect of which we invoice for the Service;
- f) **"Business Day"** means any week day, other than a bank or public holiday in the Relevant Jurisdiction;
- g) **"Business Hours"** means between 09:00 and 17:30 on a Business Day;
- h) **"Business User"** means a customer of ours (typically an employment agency) whose temporary candidate's data we process;
- i) **"Candidate"** means a temporary worker contracted by a Business User to work for that Business User;
- j) **"Confidential Information"** means any information which is marked as 'confidential' or which is proprietary or confidential in nature but shall not include any information which the recipient can show: (i) was at the time of disclosure or has subsequently become public knowledge other than by breach of this Agreement; (ii) is received by the recipient from an independent third party who has a lawful right to disclose the same without restriction; or (iii) was already in the recipient's lawful possession at the date of disclosure without obligation of confidence;
- k) **"Customer Materials"** means all information, data and material uploaded to, stored on, generated by, processed using or transmitted via the Service by or on behalf of User or Business User or otherwise provided by any User to us in connection with the Service;
- l) **"data controller", "data processor", "personal data", "process" and "processing"** shall have the meanings given in the Data Protection Legislation;
- m) **"Data Protection Legislation"** means the applicable data protection laws and regulations in the Relevant Jurisdiction;
- n) **"Data Subject"**: An individual who is a user of our website, whose private data and/or sensitive personal data we hold.
- o) **"Documentation"** means the documentation relating to the Service which we may from time to time produce and make available to you specifying how the Service should be used;
- p) **"Effective Date"** the date on which the Order Form is signed by you being the date the Agreement is made being the date on which you accept these Terms of Service;
- q) **"Fees"** means the fees payable in respect of the Service as set out and agreed in writing between the Parties from time to time, initially in the Order Form and any such other fees as are expressed in these Terms of Service;
- r) **"Initial Period"** means the Initial period of the Agreement, being from the Effective Date, to the last day of the month 12 months after the month of the Effective Date. For example, if the Effective Date is 1<sup>st</sup> July, the Initial Period will be from 1<sup>st</sup> July to 30<sup>th</sup> June in the following year;
- s) **"Intellectual Property Rights"** means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);
- t) **"My Digital Accounts", "we", "us", "our" and "ours"** shall refer to the My Digital Accounts contracting entities as set out at the beginning of these Terms of Service corresponding to your place of establishment as set out in the Order Form;
- u) **"My Digital Accounts Material"** means the audio and visual information, documents, software, products and services made available to you as part of the Service;
- v) **"My Digital Accounts"** means all of our proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) which we make available in the course of providing the Service;

- w) **“Order Form(s)”** means the form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of Candidates, any licences or other services contracted for, the applicable fees for the Initial Period and other charges as agreed to between the parties from time to time, each such Order Form to be incorporated into and to become a part of the Agreement;
- x) **“Parties”**: My Digital Accounts/us and User/Business User for the purposes of the Agreement.
- y) **“Payment Terms”**: All payments must be made within 14 days of an invoice being raised. This service is a SAAS service.
- z) **“Relevant Jurisdiction”** means England and Wales
- aa) **“Schedule”** means a schedule attached to the Agreement;
- bb) **“Service”** means all the My Digital Accounts Ltd services and products provided or to be provided by us to the Customer, including without limitation the provision of the online timesheet service and (where applicable) support services;
- cc) **“Terms of Service”**: This document in its entirety.
- dd) **“User(s)”** means a Customer employee, representative, consultant, contractor or agent who is authorized to use the Service and has been supplied user identifications and passwords by Business User (or by us at your request); and
- ee) **“you”, “your”, “yours”** shall be a reference to the User or Business User identified in the Order Form.

## INTERPRETATION

References to you performing any obligation or being subject to any restriction shall be deemed to include a reference to you procuring your Users (as defined in the Order Form) to comply with that obligation or restriction.

Words in the singular include the plural and vice versa and words in one gender include any other gender.

A reference to:

- a) any party includes its successors in title and permitted assigns.
- b) clauses, schedules and appendices are to clauses, schedules and appendices (as applicable) of the Agreement and references to sub-clauses and paragraphs are references to sub-clauses and paragraphs of the clause or schedule or appendix in which they appear.

Headings are for convenience only and shall not affect the interpretation of the Agreement.

A reference to a statute or statutory provision includes:

- c) any subordinate legislation made under it;
- d) any repealed statute or statutory provision which it re-enacts (with or without modification)
- e) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it.

## WHO WE ARE AND HOW TO CONTACT US

www.mydigitalaccounts.com is a site operated by My Digital Accounts. We are registered in England and Wales under company number 09514480 and have our registered office Springfield House, Wilmslow. We are regulated by the ICO (for data protection purposes).

We are data processors, assisting Users and Business Users in facilitating their respective agency back office duties.

We are an innovative technology services firm providing support services to business customers.

To contact us, please telephone our customer service line on: 0161 925 6162 option 1

## **1. BY USING OUR SITE YOU ACCEPT THESE TERMS**

- 1.1. By using our site, User confirms acceptance of these Terms of Service and agrees to comply with them. If acting on behalf of an entity, User represents that he has the authority to agree to these Terms of Service on behalf of the entity.
- 1.2. These Terms of Service, together with the Order Form, make up the full agreement ("Agreement") between User and us.
- 1.3. If you do not agree to these terms, you must not use our site.
- 1.4. We recommend that you print a copy of these terms for future reference.

## **2. THERE ARE OTHER TERMS THAT MAY APPLY TO YOU**

- 2.1. These Terms of Service refer to the following additional terms, which also apply to your use of our site:
- 2.2. Our Privacy Policy <https://www.mydigitalaccounts.com>. See further under clause 9.
- 2.3. Our Acceptable Use Policy <https://www.MyDigitalAccounts.com/acceptable-use-policy>, which sets out the permitted uses and prohibited uses of our site. When using our site, you must comply with this Acceptable Use Policy.
- 2.4. Our Cookie Policy <https://www.MyDigitalAccounts.com/cookie-policy>, which sets out information about the cookies on our site.

## **3. WE MAY MAKE CHANGES TO THESE TERMS**

- 3.1. We may update and change the Terms of Service from time to time, to reflect legal obligations, or changes to our service offerings, Users' needs and our business priorities.

## **4. COMMENCEMENT AND DURATION**

- 4.1. The Agreement shall take effect on the Effective Date set out in the Order Form and shall continue in force for the Initial Period.
- 4.2. At the end of the Initial Period, and any further period arising under this clause 4, the Agreement shall automatically renew for successive calendar months (each a "Renewal Period") at our then current Fees unless one of the Parties gives the other written notice of termination before the end of the previous month. For instance, if one party gives notice on 12 October, the Agreement would continue until 30 November of the same year, after which it would terminate.

## **5. SERVICES**

- 5.1. In consideration of the Fees, we shall make the Service available to User by setting up an account and providing login details for that account as soon as practicable following the Effective Date and we permit User to access the Service for the duration of the Agreement.
- 5.2. We shall provide the Service to User with reasonable care and skill.

## **6. LICENCE**

- 6.1. The licence granted to the User under this clause 6 shall be subject to the restrictions on use set out in clauses relating to User's use of the Service and restrictions on User's use of the Service.
- 6.2. We grant User a non-exclusive, non-transferable licence (with no right to sub-licence) during the Period of the Agreement, to permit User to access and use the Service via a standard web browser, for a Business User to process timesheets, payment and billing for business purposes. This licence includes our permission for User to upload information to the Service for processing data.
- 6.3. Business User may, with our prior written consent, allow an Affiliate company to permit access and use of the Service by its users, provided that the terms of the Agreement shall apply to such use by the Affiliates. Business User is responsible for all acts and omissions of its Affiliates and users as if they were Data Business User's acts and omissions.
- 6.4. Nothing in this Agreement restricts us from providing the Service to any third party.

## **7. USE OF THE SERVICE**

- 7.1. Business User shall comply and shall procure that all its authorised Users comply with the terms of the Acceptable Use Policy set out on our website.
- 7.2. User shall ensure that no unauthorised person accesses the Service using User's account and shall immediately notify us upon knowing or suspecting unauthorised access or other security breach.
- 7.3. Business User must appoint one User from its organisation who will have comprehensive knowledge of its systems to act as the single point of contact for User's organisation in relation to our support of the Service.
- 7.4. Our provision of data storage to the User may be subject to a fair use policy notified to the User from time to time.
- 7.5. We may from time to time during this Agreement and for a reasonable period following its termination, at our own expense, monitor and electronically audit User's use of the Service to ensure compliance with the Agreement. The audit will only relate to information held on our systems and will not involve any inspection of User's systems. We will conduct the audit in such a manner as to not substantially interfere with User's use of the Service. If our audit reveals that User has underpaid Fees, User agrees to promptly pay us an amount equal to such underpayment, following our written request for the same together with interest (if any).
- 7.6. User will at all times, comply with the laws and regulations of the jurisdiction(s) in which it operates, including in respect of the Service.
- 7.7. User will be solely responsible for:
- 7.8. Obtaining and maintaining all necessary licences, consents, and permissions necessary for us, for our contractors and agents to perform their obligations under the Agreement, including without limitation, the Services;

- 7.9. Ensuring that User's network and systems comply with any relevant specifications provided by us from time to time;
- 7.10. Procuring and maintaining own network connections and telecommunication links from own systems to the Service; and
- 7.11. All problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to User's network connections or telecommunication links or caused by the internet.

## **8. RESTRICTIONS ON USE OF SERVICE**

- 8.1. To the extent permitted by applicable law, the licence granted, shall be subject to the following prohibitions, and unless we expressly agree otherwise in the Agreement, User shall:
  - 8.2. Not modify or make derivative works to the Service
  - 8.3. Not reverse engineer or access My Digital Accounts, Material or the Service in order to:
    - 8.4. Build a competitive product or service
    - 8.5. Build a product using similar ideas, features, functions or graphics of the Service
    - 8.6. Copy any ideas, features, functions or graphics
  - 8.7. Not provide false identity information to gain access to the Service or to use the Service;
  - 8.8. Not sub-licence, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party, the User's permission to access and use the Service, or allow any unauthorised person to access or use the Service (except to the limited extent we expressly permit in relation to User's Affiliates);
  - 8.9. Not use the Service on behalf of a third party or use the Service for inclusion in any product and/or service which User sells or provides to others;
  - 8.10. Not frame or otherwise re-publish or re-distribute the Service, save as to:
    - 8.11. creating Internet 'links' from User's own website for User's own branded log-in screen of the Service; and
    - 8.12. creating other links via APIs to My Digital Accounts interface with our prior written consent;
  - 8.13. Not use the Service in a way that is unlawful, illegal, fraudulent or harmful;
  - 8.14. Not alter or adapt or edit the Service save as expressly permitted by the Documentation;
  - 8.15. Not access or use the Service if User is (or the entity he acts for is) a direct competitor of My Digital Accounts.
  - 8.16. User is not authorised either during or following the Term of the Agreement, to access the object code or source code that we use to provide the Service.

## **9. DATA**

All data is handled according to our Privacy Policy which is available on our website [www.mydigitalaccounts.com](http://www.mydigitalaccounts.com)

## **10. SUPPORT**

User will be provided with account and technical contact information. Support will be delivered during local business hours.

## **11. FEES**

- 11.1. Unless otherwise stated in the Order Form, the initial fees will be equal to the first part month's subscription fee, plus the next month's subscription fee, and any setup and training charges where applicable.
- 11.2. Invoices shall be issued in respect of each Billing Period or as otherwise mutually agreed upon.
- 11.3. User will make and we will receive payment as follows:
  - a) for Monthly Fees, User will pay, in advance of our provision of the Service for each Billing Period, the fixed amount specified on My Digital Accounts Website (or as may be varied in accordance with the notification clause of these Terms of Service);
  - b) for Usage Fees, User will pay at the end of each Billing Period, the amount per Candidate specified in the Order Form (or as may be varied in accordance with these Terms of Service).
- 11.4. Charging in relation to the Service shall commence from the date when we activate the Service for User (by making the Service accessible to User through web pages and by providing login details to User).
- 11.5. Fees shall be calculated on the basis set out in the Order Form.
- 11.6. User is responsible for paying the Fees for each Billing Period during the Period of the Agreement. At the end of each Billing Period we will reconcile User's actual usage against the basis set out in the Order Form and we will adjust the invoice for the following Billing Period to include additional Fees due in respect of any excess usage. We will not issue a credit or refund if User's actual usage is less than the relevant allocation set out in the Order Form.
- 11.7. Fees must be paid by direct debit, standing order or bank transfer (using such payment details as we will notify User from time to time) and User agrees to assist us in setting up the agreed payment method.
- 11.8. All amounts and fees referred to in this Agreement are payable in pounds sterling or such other currency specified in the Order Form and are exclusive of value added tax or applicable sales tax which shall be added at the appropriate rate.
- 11.9. User shall provide us with complete and accurate billing and contact information at all times during the term of the Agreement.
- 11.10. If User reasonably and in good faith disputes an invoice or part of it, User shall notify us of the dispute within 7 days of receipt of the disputed invoice, including details of why the invoiced amount is incorrect and, if possible, how much User considers is due and User and we shall endeavour to promptly resolve any such dispute in accordance with the dispute resolution procedure set out in clause 21. User will pay all undisputed Fees by their due date.

- 11.11. On initially logging in, User may be asked whether or not he wishes to receive marketing and other non-critical Service-related communications from us from time to time. User may opt out of receiving such communications at that time or at any subsequent time by changing his preferences under 'Personal Setup'. User acknowledges and agrees that we may also communicate directly with individual Users in relation to the Service.
- 11.12. Business User agrees to My Digital Accounts disclosing that Business User is a customer for the purposes of the Service. If User does not pay any amount properly due to us, the latter may claim interest on the late payments at the rate of 2% above the base lending rate of Barclays Bank Plc from the due date until the date on which the payment is made in full.
- 11.13. Without limiting our rights under clauses 17.1 and 18.3, and without any liability to User, we may suspend the Service if User either:
  - 11.14. cancels direct debit instruction or standing order for payment of the Fees; or
  - 11.15. defaults in User's payment obligations for a continuous period of 30 days, such period to be calculated from the due date provided that we have given User at least seven (7) days prior written notice that Fees are overdue.
- 11.16. If, following a suspension the Service, we receive from User by way of cleared funds to our bank account all outstanding amounts due and (for suspension under (i) above) User sets up a new direct debit instruction or standing order for the payment of Fees, the Service shall no longer be suspended, and we shall resume the provision of the Service. Resumption of the Service shall not apply where we have terminated the Agreement under clause 18.3.
- 11.17. We may increase the Fees in accordance with clause 20 (Changes).
- 11.18. Where we agree to provide professional services in respect of work which is outside the scope of the Service, we shall charge for such professional services at our prevailing rates on the basis mutually agreed upon at the time the request is made.
- 11.19. User cannot cancel payment obligations regarding the Fees and User is not entitled to a refund of Fees which User has paid to us.
- 11.20. We reserve the right to close User's account and withhold any monies, where User becomes bankrupt.

## **12. CONFIDENTIAL INFORMATION**

- 12.1. Each party will keep secret and treat in strictest confidence all Confidential Information of the other party obtained in connection with the Agreement. Neither party will, without prior consent of the other, disclose or make any Confidential Information available to any third party, or use the same for its own benefit, other than as contemplated by the Agreement.
- 12.2. User acknowledges that details of the Service (including pricing information and the terms of the Agreement) constitute our Confidential Information. We acknowledge that the Customer Materials and all personal data relating to User are Confidential Information which belongs to User.
- 12.3. Each party may disclose Confidential Information to those of its personnel and its sub-contractors who need to know the Confidential Information for the purposes of implementing the Agreement provided that, prior to such disclosure, each of those sub-contractors and members of its personnel are made aware of these confidentiality obligations and agree to adhere to such terms.

## **13. INTELLECTUAL PROPERTY**

- 13.1. All Intellectual Property Rights to My Digital Accounts, My Digital Accounts Materials and the Service belong to us and our licensors at all times during the Agreement. All Intellectual Property Rights in the User Materials belong to User.
- 13.2. We warrant to Business User that we have the right to permit Business User's candidates to access and use the Service and that their use of the same in accordance with the Agreement shall not infringe third party Intellectual Property Rights.
- 13.3. User warrants to us that in relation to any consent User provides or Submits to us or to the Services:
  - a) User grants to us a non-exclusive licence to store, copy and otherwise use the User Materials on the Service for the purposes of performing the Agreement.
  - b) User grants to us a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Service any suggestion, enhancement request, recommendation, correction or other feedback provided by User in relating to the operation of the Service.

## **14. THIRD PARTY APPLICATIONS**

- 14.1. My Digital Accounts or third parties may (without obligation) make available interfaces such as APIs to facilitate the transfer of data between the Service and third-party applications. Third party applications may also contain the capability to transfer data directly to the Service and receive data directly from the Service. In relation to the transmission of any data between the Service and any third-party application used by Business User's candidate or Business User's behalf, whether directly or via an interface:
  - a) Business User expressly permits us to transmit Business User's data to the third-party application(s); and
  - b) My Digital Accounts or the relevant third party shall own all Intellectual Property Right to such interfaces.
- 14.2. User acknowledges that the transmission of data between the Service and third-party applications does not form part of the Service and requires expert technical knowledge. User agrees that any such data transfers are undertaken at User's risk and we do not accept any responsibility for any loss, destruction or corruption of data arising from any such data transfer.

**15. DISCLAIMER**

Our commitments relating to the Service (including the warranty we give to User in clause 5.2) are comprehensively expressed in the Agreement and are given in lieu of all other representations, warranties, terms and conditions (whether oral or written, express or implied) including satisfactory quality, fitness for any particular purpose and availability, which are excluded to the maximum extent permitted by law. Except to the extent expressed in the Agreement, the Services are provided on an 'as is' and 'as available' basis.

**16. OUR LIABILITY TO USER**

- 16.1. Nothing in this Agreement excludes the liability of either party for:
- a) death or personal injury caused by negligence; and
  - b) fraud or fraudulent misrepresentation.
- 16.2. We shall not be liable to User for indirect or consequential loss or for the following types of loss irrespective of whether they are a foreseeable consequence of our breach:
- a) loss of profit;
  - b) loss of business;
  - c) loss of revenue;
  - d) loss of opportunity;
  - e) loss of goodwill;
  - f) loss of anticipated savings; and
  - g) loss of contracts.
- 16.3. Our total liability to User under the Agreement in respect of all claims in any year shall be limited to the annual Fees paid by User for that calendar year.
- 16.4. We shall not be liable for any delay or failure in the provision of the Service to User to the extent that such delay or failure is caused by User's failure to comply with User's obligations under the Agreement.
- 16.5. We shall not be liable for any error, inaccuracy or omission in the output of the Service based on any inaccurate or incomplete information which User has provided to us.
- 16.6. We shall not be liable to User for any act or omission by us, due to events outside of our reasonable control including but not limited to acts or restraints of governments or public authorities; war, revolution, riot or civil commotion; strikes, lock-outs or other industrial action; failure of supplies of power, fuel, transport, equipment, or other goods or services (including internet and telecommunications equipment and services); denial of service attacks; explosion, fire, flood or natural disaster.

**17. SUSPENDING THE SERVICE**

- 17.1. Without limiting clause 11.15, we may suspend or restrict User's use of the Service if we reasonably believe that User is in breach of the Agreement or is likely to be in breach of the Agreement while we investigate the suspected breach. Any investigation will be carried out promptly and User agrees to cooperate with us in connection with any such investigation.
- 17.2. We can suspend or restrict the Service to carry out necessary planned maintenance services or during any technical failure of the Service where it is necessary to protect the security of the Service or the data or our systems provided that in each case we will aim to keep all service suspensions to a minimum. We shall use reasonable efforts to carry out planned maintenance outside Business Hours and shall endeavour to give User at least 8 hours prior notice of any planned maintenance.
- 17.3. Any suspension of the Service will not affect User's obligation to pay the Fees due during any period of suspension.

**18. TERMINATION OF AGREEMENT**

- 18.1. Either Party may terminate the Agreement for convenience at the end of the Initial Period or then current Renewal Period by giving written notice to the other party at least thirty (30) Business Days prior to the date of the invoice for the following Renewal Period.
- 18.2. Either party may terminate a demonstration account used for the purpose of evaluating the Service at any time.
- 18.3. Either party may terminate the Agreement immediately on written notice if the other party:
- a) commits a material breach of the Agreement and where such breach is capable of remedy but has not been remedied within 30 days of the date of notice of the breach; or
  - b) is unable to pay its debts when they fall due or becomes bankrupt, insolvent or goes into liquidation or enters into a voluntary arrangement or has a receiver or an administrator appointed over any or all of its assets or suffers any similar event in any jurisdiction.
- 18.4. We may terminate the Agreement immediately on written notice to User if we reasonably believe that any User has behaved towards our personnel in a manner which is threatening, abusive or which amounts to harassment.

## **19. CONSEQUENCES OF EXPIRY OR TERMINATION**

- 19.1. Subject to clause 20 below, where the Agreement comes to an end for any reason:
- a) Our rights and User's rights accruing or accrued prior to termination or expiry shall not be affected;
  - b) All licenses and permissions granted to User under the Agreement shall immediately terminate;
  - c) User shall stop using the Service;
  - d) User shall immediately pay any amounts which User owes to us at the date of termination (whether or not due at the date of termination);
  - e) each party shall promptly return to the other all Confidential Information and any copies thereof, or destroy the Confidential Information at that party's request and provide evidence of the execution;
  - f) We may retain any document (including any electronic document) containing User's Confidential Information after the termination of the Agreement if we are obliged to retain such document by law or regulation or the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar, document addressed to My Digital Accounts; and
  - g) the following provisions shall survive any termination of the Agreement: clauses 4, 7.5, 11 to 16 (inclusive), 19, 21 to 24 (inclusive) and any other provisions which by their nature are intended to survive such termination or expiry.
- 19.2. It is User's responsibility to remove Customer Materials promptly following termination, and following 30 days from the Termination Date we shall, without further notice, irrevocably delete from the Service all of User's Confidential Information and Customer Materials.
- 19.3. Clause 19.2 not apply to Customer Materials stored in relation to a demonstration account used for evaluation purposes only, which we shall irrevocably delete from the Service on termination of the account without further notice to User.

## **20. CHANGES**

- 20.1. We can make changes to the Service, the Fees and/or the Agreement at any time, by giving User at least 30 days prior written notice (the "Notice Period") of the change. If we do make changes to the Service or the Fees or the Agreement which are materially to User's detriment which User does not accept, then User may terminate the Agreement on written notice to us at any time during the Notice Period. If User has not terminated this Agreement during the Notice Period then the changes will apply from the end of the Notice Period.

## **21. DISPUTES**

- 21.1. The parties shall use their best efforts to negotiate in good faith and settle amicably any dispute that may arise out of or relating to the Agreement (or its construction, validity or termination) (a "Dispute "). If a Dispute cannot be so settled, either party may give to the other notice in writing (a "Dispute Notice "). Within seven (7) Business Days of the Dispute Notice being given the parties shall each refer the Dispute to a senior director of My Digital Accounts, and a senior director of User (or equivalent) shall meet with us in order to attempt to resolve the Dispute.
- 21.2. If the Dispute is not settled by agreement in writing between the parties within ten (10) Business Days of the Dispute Notice, the parties shall act in good faith in seeking to agree whether the Dispute should be settled through mediation.

## **22. NOTICES**

- 22.1. We may give notice to User by:
- a) a general notice on the Service or the My Digital Accounts Website;
  - b) electronic mail to User's e-mail address on record in our account information; or
  - c) by written communication sent by first class mail or pre-paid post to User's address on record in our account information.
- 22.2. such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email).
- 22.3. User may give notice to My Digital Accounts (such notice shall be deemed given when received by us) by both electronic mail to the e-mail address of our C.E.O, with a read receipt or confirmation reply being received, and also by letter addressed to our C.E.O and delivered by nationally recognized overnight delivery service or first-class postage prepaid mail to us at the office location address set out at the top of these Terms of Service.

## **23. GENERAL**

- 23.1. User may not transfer, assign or otherwise dispose of the Agreement to any person without our consent. We may assign the Agreement upon giving notice to User. We may appoint sub-contractors to perform some or all of our obligations under the Agreement provided that we shall remain fully liable to User for the acts and omissions of our subcontractors.
- 23.2. The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

- 23.3. The Agreement and the Acceptable Use Policy set out on the My Digital Accounts website contains the entire Agreement between User and My Digital Accounts relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between User and My Digital Accounts in relation to such matters. User and My Digital Accounts acknowledge that neither User nor My Digital Accounts respectively, has entered the Agreement relying on any non-fraudulent statement which is not expressed in this Agreement.
- 23.4. By signing the Order Form, User confirms that he has not relied on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 23.5. Both Parties agree that neither of us shall have a claim for innocent or negligent misrepresentation or negligent misstatement, based on any statement in the Agreement.
- 23.6. Except as set out in clause 20, the Agreement may only be varied by a document signed by both parties.
- 23.7. Each party shall comply with applicable Anti-Corruption Laws and shall not do, nor omit to do, any act that will cause the other party to be in breach of any Anti-Corruption Laws.
- 23.8. The Parties are independent contractors and nothing in the Agreement and no action taken by either or both of the Parties under the Agreement shall operate to constitute a relationship of principal/agent, partnership or joint venture of any kind.
- 23.9. If we fail to enforce a right under the Agreement, that failure will not prevent us from enforcing other rights or the same type of right on a later occasion.

**24. GOVERNING LAW, JURISDICTION, CONTRACTING**

- 24.1. The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England & Wales, and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.