

**TERMS OF SERVICE
SMS MESSAGING
LIVING DIGITALLY LLP**

Your use of Our Service (whether or not You have signed these Terms of Service and/or registered with Us), and/or opening an account with Us, is as an acknowledgement that You have read, understood and accept these Terms of Service.

The Service and the Site are operated and provided by Living Digitally LLP (company no. OC393216), having its registered office at 3 Chesham Road, Wilmslow, Cheshire, SK9 6EZ, U.K. which trades as Living Digitally.

If You have any questions regarding these Terms of Service please contact Us at sales@livingdigitally.co.uk or on +44 (0)1625 582 511.

These Terms of Service refer to the following additional Policies, which also apply to Your use of Our Site and Our Service:

Our Privacy Policy which can be found on Our website, www.livingdigitally.co.uk.

Our Website Acceptable Use Policy which can be found on Our website, www.livingdigitally.co.uk.

Our Cookie Policy which can be found on Our website, www.livingdigitally.co.uk.

1. Definitions and interpretation

1.1. In these Terms of Service, the following definitions apply:

“Account Manager” shall mean the person or persons within Living Digitally who is Your point of contact for the Service and manages Your account with Us.

“Cookie Policy” shall mean Our policy (which can be found on Our Site) that sets out information about the cookies on Our Site and any amendments, updates and versions of this policy from time to time.

“Contact Details” shall mean a mobile phone number and associated information such as name, email address, residential address and other personal information uploaded and stored in Your account or on Our platform and “Contact” shall be construed accordingly.

“Content” shall mean any text, graphics, photos, data, software, music, sound, or other materials uploaded to or sent through or submitted through Our platform or otherwise used by You when You are using the Service.

“Credits” shall mean the units of credit purchased, ordered and/or used by You in relation to the Service.

“Message” shall mean SMS and MMS.

“MMS” shall mean a multimedia message service that can be sent or received by a mobile phone or online that includes multimedia content.

“Our”, “Us” or “We” shall mean Living Digitally LLP.

“Privacy Policy” shall mean Our policy (which can be found on Our Site) which sets out Our procedures for gathering, using, disclosing and managing Our customers data and any amendments, updates and versions of this policy from time to time.

“Policies” shall mean the Cookie Policy, the Privacy Policy and Website Acceptable Use Policy and any other terms and policies incorporated from time to time.

“Service” shall mean any and all services provided by Us including but not limited to the services set out in clause 3 of these Terms of Service.

“Site” shall mean Our website, www.livingdigitally.co.uk, sms.livingdigitally.co.uk and any other website which We use to provide any of the Service.

“SMS” shall mean a short message service by which a message of up to 160 text characters can be sent or received online or by a mobile phone.

“Terms of Service” shall mean these terms of service together with the Policies and any amendments, updates and versions of these terms of service from time to time.

“You” shall mean the person or the company or entity using the Service or any party of it and “You” and “Yourself” shall be construed accordingly.

“Website Acceptable Use Policy” shall mean Our policy (which can be found on Our Site) which sets out the terms on which on which visitors are permitted to use the features of Our Site and any amendments, updates and versions of this policy from time to time.

1.2. We may modify, update and/or change these Terms of Service without notice to You and unless stated to the contrary, all previous versions of the Terms of Service shall be superseded by the most recent version, which will be

available on the Site. You are responsible for reviewing the most recent version of the Terms of Service and being aware of any changes. Continued use of the Service after a change to the Terms of Service constitutes Your acceptance of such change and You shall immediately be bound by the most recent Terms of Service each time You use the Service.

1.3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2. Basis of contract

2.1. If You are opening an account with Us on behalf of a business or organisation, You hereby confirm that You have authority to do so.

2.2. Your account will be deemed active on the earlier of when You have agreed to Our Terms of Service and/or registered with Us and/or used Our Service, on which date You will have entered into a binding contract with Living Digitally as set out in these Terms of Service.

3. Our Service

3.1. We provide an online mobile messaging service to Our customers, with access to various resources to assist with: direct marketing, communication with Your clients, sending documents, distributing reward vouchers, and You sending and receiving Messages through Our platform.

3.2. The Service provided by Us to You and Your Use of Our Site shall be subject to these Terms of Service.

3.3. We reserve the right at any time to modify, change, suspend and/or discontinue Our Service (or any part thereof), whether permanently or temporarily without notice to You.

3.4. As part of providing the Service, We may need to send You announcements and messages. You may not be able to opt-out of receiving such communications whilst using the Service or have an account with Us. You consent to the use of Your Contact Details by Living Digitally, for these purposes.

3.5. As an account holder, You have a personal, non-assignable and non-exclusive license to use the software that is provided to You by Us as part of the Service for the sole purpose of allowing You to use the Service, in the manner permitted by these Terms of Service and all applicable laws, regulations and industry codes of practice.

3.6. We give no warranties that the Service will be provided in a timely manner free from interruptions or errors or that Messages will be delivered.

3.7. You will be charged for every Message You send regardless of the final delivery status of the Message and We shall not be liable for any Message not delivered, or not delivered in a reasonable period of time.

3.8. We are not responsible for the back-up of any information including Content and Contact Details that You use as part of the Service and shall not be liable for any loss of such information.

3.9. We shall not be liable for any loss resulting from failed or late delivery of the Service.

4. Our Site

4.1. Our Site is controlled and operated by Us from England. We do not make any representation that Our Site, its contents or the Service are appropriate or suitable for use in countries other than England, or that they comply with any legal or regulatory requirements in any other countries. In accessing the Site, You do so at Your own risk and on Your own initiative, and are responsible for compliance with local laws, to the extent any local laws are applicable. If it is prohibited to make this Site, its content or the Service (or any part of thereof) available in Your country, or to You (whether by reason of nationality, residence or otherwise, this Site, its content or the Service (or any part of thereof) are not directed at You).

4.2. You may link to the home page of Our Site, provided You do so in a way that is fair and legal and does not damage Our reputation or take advantage of it. You must not establish a link in such a way as to suggest any form of association, approval or endorsement on Our part where none exists. You must not establish a link to Our Site in any website that is not owned by You. Our Site must not be framed on any other website, nor may You create a link to any part of Our Site other than the home page. We reserve the right to withdraw linking permission without notice. The website to which You are linking must comply in all respects with the content standards set out in Our Website Acceptable Use Policy which can be found on Our website, www.textlocal.com.

4.3. If You wish to make any use of content on Our Site other than that set out above, please contact Us at sales@livingdigitally.co.uk.

5. Availability of Our Site and Our Service

We try to ensure that the Site and the Service are available to You at all times. However, there may be occasions where We are forced to withdraw the Site or Service for periods of time. While We shall endeavour to limit any such period, We shall not be liable for any loss suffered resulting from the Site or Service being unavailable.

6. Suspending and varying the Site and the Service

Sometimes We will update the Site and the Service in an effort to ensure We provide the most up to date and efficient Service. This may involve varying the technical specifications set out on the Site or otherwise communicated to You. This may involve suspending access to the Site or Service for a period of time and We hereby reserve the right to suspend access to the Site or Service for such reasons and in addition to this for operational reasons such as repairs, maintenance, upgrading the functionality of the Service and the Site or for the introduction of new Services. We shall endeavour to limit the frequency and duration of these disruptions.

7. Your account and registration

7.1. There are two ways to open an account with Us:

7.1.1. by registering on Our Site; or

7.1.2. by contacting Us to set up an account for You.

7.2. When creating an account with Us, You will be asked to provide details and information about Yourself. All data submitted to Us in accordance with this clause 7 will be handled in accordance with Our Privacy Policy which can be found on Our website, www.livingdigitally.co.uk.

7.3. You agree that We are entitled to treat any use of Your account under Your username and password as use by You.

7.4. If You are under the age of 18, You are not authorised to use Our Service, register with Us and/or open an account with Us. You warrant and represent to Us that You are at least 18 years old. We may close or suspend Your account at any time if You are or if We suspect You are under the age of 18.

7.5. You are only entitled to set up 1 account with Us, unless otherwise agreed with Us. We reserve the right to cancel any accounts operated or registered by You where We find that You have more than 1 account.

7.6. We suggest that You to use a “strong” password, to provide for greater security and We will not be liable for any loss or damage arising from Your failure to protect the security of Your account. We will provide You with a replacement password and/or username upon request, provided You meet the appropriate security checks. We will not be liable for any loss You suffer as a result of You forgetting Your username and password.

7.7. We reserve the right to require You to change Your password and username at any time, without cause.

7.8. You agree to indemnify Living Digitally against all claims made against Us in respect of use of Your account.

8. Invoiced Credits and credit arrangements

8.1. Once You have opened an account with Us, You may purchase Credits at any time by contacting Your Account Manager.

8.2. In consideration of the provision of the Service pursuant to a credit arrangement, You shall pay to Us fees for the Credits used at the rates previously agreed by Your Account Manager or as otherwise set out in Our invoices, which will be issued to You from time to time.

8.3. You shall pay each of Our invoices, in full within due by date stated in the invoice (no more than 2 weeks).

8.4. If payment or part payment of an invoice is delayed:

8.4.1. We shall be entitled to charge You interest at a rate of 3% on any sums that you owe to Us; and

8.4.2. sums due to Us by You may be set off against the value of any Credits which You have already paid for (and those Credits will be withdrawn from Your account) and/or any sums of money payable by Us to You under any other agreement between Living Digitally and any other member of Our group of companies and You; and

8.4.3. We shall be entitled to recover Our reasonable costs of recovering the amounts owed to Us to include but not limited to; management time spent collecting the debt, debt recovery agency fees and legal fees; and

8.4.4. We shall be entitled to terminate or suspend Your account and the Service with immediate effect.

8.5. Notwithstanding the provisions of this clause 8, We reserve the right to withdraw any credit arrangement with You at any time with or without cause at which time all sums due to Us for unpaid Credits shall become payable immediately on demand.

9. Pricing

It is always possible that, despite Our reasonable efforts some of the prices on Our Site are incorrect. We will normally check prices at regular intervals and:

9.1. where the correct price of the Credit is less than the price stated on Our Site, We will credit the difference to Your account with Credits. However, if the pricing error is obvious and unmistakable and could have reasonably been recognised by You as a mispricing, We do not have to provide Credits to make up the difference; and

9.2. if the Credit price is higher than the price stated on Our Site, We will contact You as soon as reasonably practicable to inform You of this error and We will give You the option of setting off the sums due to Us by cancelling Credits from Your account up to that value or cancelling that order of Credits. If We are unable to contact You about this, We will treat the order of Credits as cancelled.

9.3. We reserve the right to vary Our prices or to introduce new administrative fees at any time.

10. Your use of the Service and Your obligations

10.1. Living Digitally accepts no liability for any breach of Your obligations under these Terms of Service. We provide the Service as a medium between You and third parties and We are in no way responsible for Your use of the Service.

10.2. You will comply with all applicable laws, regulations and industry codes of practice in relation to Your use of the Service.

10.3. You agree that You are solely responsible for:

10.3.1. maintaining Your account and Contact Details and ensuring that the information provided by You is true, accurate, complete and not misleading at all times;

10.3.2. maintaining the confidentiality of Your password, username and account;

10.3.3. all activities that occur on and through use of Your account and the Service whether authorised by You or not and any consequences and/or liability in respect thereof;

10.3.4. Your conduct in using Your account and the Service and any consequences thereof;

10.3.5. the Content that You send via the Service and any consequences and/or liability in respect thereof, as more specifically set out below in clause 11;

10.3.6. backing up any Content, Contact Details or other information that You store or send through Us.

10.4. You warrant and represent that You shall not use the Service:

10.4.1. to initiate the sending of unsolicited advertising or promotional material including, without limit, junk-mail for commercial or non-commercial purposes;

10.4.2. to send anything which consists of or contains viruses;

10.4.3. to do anything that will harm Our reputation and Our good will with Our customers or otherwise;

10.4.4. to store or send any Sensitive Personal Data (as defined in the Data Protection Act 1998 (DPA)) or any bank account details, personal identification numbers, passwords and medical information and any confidential information.

10.5. In the case of 10.4.3 above, what is harmful to Our reputation and Our good will shall be determined at Our sole discretion;

10.6. You agree to indemnify Living Digitally from any loss suffered resulting from Your breach of Your legal obligations when utilising the Service. This indemnity includes loss suffered due to damage caused to Our reputation resulting from Your breach.

11. Your Content and Your obligations

11.1. Any Content You create during the use of the Service is owned by You and You are responsible for the Content.

11.2. By submitting and sending Content through Us and uploading it to Our platform, You grant us permission to store, process and transmit the Content as necessary to deliver the Service.

11.3. In order to deliver the Service, We may need to modify the Content as necessary to meet any requirements or limitations of any network operators, devices, services or media.

11.4. You are responsible for the use of any Content (other than any use by Us in breach of these Terms of Service) and for any consequences thereof, including the use of the Content by the recipients of the Content.

11.5. You represent and warrant that You have obtained all the necessary licenses, permissions, consents, rights, and have the power and authority necessary to use, upload and publish the Content and any other material You have used and send via the Service and grant the rights granted herein to any Content and any other material You have used and send via the Service.

11.6. You represent and warrant that:

11.6.1. any Content You create or provide, will not: infringe any third party intellectual property rights; be abusive; be unlawful; be pornographic; be libellous; racist or discriminatory in any way;

11.6.2. the Content provided by You shall not constitute a criminal offence or give rise to a civil action against You or Us;

11.6.3. where You are a business user using the Service for direct marketing purposes You will comply fully with the applicable direct marketing and advertising industry guidelines and codes at the time of using the Service.

11.7. You agree to indemnify Living Digitally against all liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Living Digitally arising out of or in connection with Your Content.

11.8. We may remove or refuse to transmit Content without notice, at Our sole discretion, and without liability to You.

11.9. We will not monitor, edit or remove any of Your Content before it is transmitted as part of the Service and any transmission of the Content or other use of the Content in connection with the Service does not constitute acceptance by Us that the Content does not breach these Terms of Service.

11.10. We reserve the right to review Content which has already been sent, in response to a complaint received by a third party.

11.11. We reserve the right for any reason to access, read, preserve and disclose any of the Content whether or not it has been transmitted, where, particular, We believe it necessary to do so in order to do the following, which is not an exhaustive list:

11.11.1. comply any applicable laws, regulations, police, regulator, legal process or governmental request;

11.11.2. enforce these Terms of Service, including investigating any potential breach thereof;

11.11.3. detect, prevent or otherwise address fraud, security or technical issues;

11.11.4. respond to request or query from a third party who has received the Content;

11.11.5. protect the rights, property or safety of Living Digitally, its users, its staff, its officers, its agents, its advisers and the public.

11.12. Any commercial Content should also be clearly identified as such and should contain the name of the natural or legal person on whose behalf it is being sent. Any promotional offers or games must be clearly identified as such.

12. Your Contacts

12.1. It is Your responsibility to ensure Your Contacts have expressly consented to the use of their data in relation to the Service and You represent and warrant that You have properly obtained such consent from each Contact within the last 12 months and that such consent has not been withdrawn. You are responsible for ensuring that You have the necessary permission to transfer Contacts to Us and to allow Living Digitally to receive and process data and send communications to Your Contacts on Your behalf.

12.2. You warrant and represent that You will comply with all laws and regulations, including data protection, electronic commerce, electronic communication and privacy laws, that apply to the collection, storage, transfer and use of Contact Details contained in Your account. You agree that You are solely responsible for ensuring such compliance.

12.3. You must be able to provide written evidence to Us on request of each Contact's "opt-in" to Your database.

12.4. We have the right to permanently block Your ability to send Messages to third parties and We are under no obligation to inform You of that a block has been placed before doing so.

12.5. We reserve the right to keep records of how Your Contacts interact with links across Our Service, including, but not limited to, recording whether Your Contact has clicked a link provided as part of the Service, the time of click, the number of times the link was clicked and Internet protocol (IP) address. We do this to help provide You with reports on Your Contacts' interactions if requested by You and provided at Our sole discretion. In order to do this, We may need to shorten links and this will be done automatically and We accept no liability for the linked content.

12.6. You agree to indemnify Living Digitally against all liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Living Digitally arising out of Your failure to obtain such consent from Contacts to use Contacts Details and other data in relation to the Service and any use You make of

Contacts Details and other data.

12.7. You warrant and represent that all Contact Details provided (including Your own) are true, accurate, complete and not misleading at all times and You agree to indemnify Us from any claim made against Us or loss suffered by Us resulting from a breach of this clause 12.7, Should You provide false information and data to Us or fail to adequately update this information or data We retain the right to cancel or suspend Your account without notice.

13. "opt-out"

13.1. You warrant that whenever You send Messages You will include an "opt-out" for recipients of those Messages. Failure to include an "opt-out" will result in a breach of Your obligations under the relevant electronic commerce and electronic communications laws and regulations.

13.2. You agree that We can temporarily or permanently "opt-out" one or more of Your Contacts or any of their Contact Details at any time for any reason including a request to "opt-out" from the Contact directly and/or a network operator. You cannot re-"opt-in" a Contact unless they subsequently agree to receive communications from You.

13.3. We bear no responsibility for ensuring You comply with the applicable laws and regulations referred to at 13.1, this is entirely Your responsibility and We will not be liable for any breach of these obligations by You.

14. Intellectual property

14.1. We are the owner or the licensee of all intellectual property rights in Our Site and the Service.

14.2. All material published on the Site is protected by copyright laws and treaties around the world. All such rights are reserved.

14.3. You may print off one copy, and may download extracts, of any page(s) from Our Site for Your personal use and You may draw the attention of others within Your organisation to material posted on Our Site.

14.4. You must not modify the paper or digital copies of any materials You have printed off or downloaded in any way, and You must not use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text.

14.5. Our status (and that of any identified contributors) as the authors of material on Our Site must always be acknowledged.

14.6. You must not use any part of the material on Our Site for commercial purposes without obtaining a licence from Us to do so.

14.7. If You print off, copy or download any part of Our Site in breach of these Terms of Service Your right to use Our Site will cease immediately and You must, at Our option, return or destroy any copies of the materials You have made.

14.8. You acknowledge and agree that We and/or Our licensors own all intellectual property rights in the Service. These Terms of Service does not grant You any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Service.

14.9. Nothing in these Terms of Service gives You the right to use the Living Digitally name or any of Our trade marks, logos, domain names and other distinctive brand features.

15. Suspension of the Service

We reserve the right to suspend Your account and Your use of the Service at any time without notice and without cause and during such suspension these Terms of Service shall continue to apply until such time as Your use of the Service is terminated and Your account is closed.

16. Term and termination

16.1. These Terms of Service shall continue to apply to Your use of the Service and the Site unless otherwise terminated as provided in this clause 16.

16.2. We may terminate Your account and Your right to use the Service at any time with immediate effect without notice and without cause.

16.4. If You stop using Your account or the Service, You will not be entitled to any refunds and if You have a credit arrangement with Us, You are still liable to pay all monies due to Us including interest (where applicable) in accordance with these Terms of Service.

16.5. Termination of Your use of the Service and closure of Your account for cause shall include but not be limited to the following:

16.5.1. any claims are made or threatened to be made against You by a third party in connection with Your use of the Service;

16.5.2. You are unable to pay Your debts as they fall due or You admit inability to pay Your debts or You are deemed unable to pay Your debts within the meaning of section 123 of the Insolvency Act 1986;

16.5.3. You commence negotiations with all or any class of Your creditors with a view to rescheduling any of Your debts, or You make a proposal for or enter into any compromise or arrangement with Your creditors;

16.5.4. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with Your winding up or Your bankruptcy (as applicable);

16.5.5. You are declared bankrupt or enter into an individual voluntary arrangement;

16.5.6. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over You;

16.5.7. the holder of a qualifying floating charge over Your assets has become entitled to appoint or has appointed an administrative receiver;

16.5.8. a person becomes entitled to appoint a receiver over Your assets or a receiver is appointed over Your assets;

16.5.9. a creditor or encumbrancer of Yours attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of Your assets;

16.5.10. any event occurs, or proceeding is taken, with respect to You in any jurisdiction to which You are subject and that has an effect equivalent or similar to any of the events mentioned in this clause 16.5;

16.5.11. You suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of Your business;

16.5.12. You are subject to a change of control;

16.5.13. You are in breach of Your obligations and responsibilities under these Terms of Service;

16.5.14. any warranty given by You in these Terms of Service is breached or found to be untrue or misleading.

16.6. On termination of these Terms of Service for any reason:

16.6.1. all licences granted under these Terms of Service shall immediately terminate;

16.6.2. We may destroy, delete or otherwise dispose of any of the Contact Details and any other information provided by You which is in Our possession.

16.6.3. any rights, remedies, obligations or liabilities that have accrued up to the date of termination of the Service and/or closure of Your account, including the right to claim damages in respect of any breach of these Terms of Service which existed at or before the date of termination shall not be affected or prejudiced.

16.7. We may choose to retain Contact Details and any other information provided by You to Us after termination of Your use of the Service and after Your account is closed if We believe it is necessary to address:

16.7.1. any future claims of breach of laws and/or regulations;

16.7.2. claims of intellectual property infringement;

16.7.3. claims of fraud;

16.7.4. identifying future risks of breaches of law and/or regulations, fraud, security or technical issues.

16.8. You consent to the retention of Your Contact Details and any other information in Your account for these purposes set out in clause 16.7

17. Limitations on liability

17.1. Nothing in Terms of Service exclude or limit Our liability for death or personal injury arising from Our negligence, or Our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

17.2. To the extent permitted by law, We exclude all conditions, warranties, representations or other terms which may apply to Our Site or any content on it and to Our Service, whether express or implied.

17.3. In addition to the limitations of liability set out elsewhere in the Terms of Service We will not be liable to You for:

17.3.1. any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:

17.3.1.1. Your use of, or inability to use Our Site and Our Service;

17.3.1.2. Your reliance on any information displayed on Our Site.

17.3.2. loss or destruction of Your data or other information;

17.3.3. claims made against You by third parties in relation to Your use of the Site and the Service;

17.3.4. any advice given to You by Living Digitally, whether oral or written;

17.3.5. any of Your devices not supporting Our Service;

17.3.6. if You are a business user,

17.3.6.1. loss of profits, sales, business, or revenue;

17.3.6.2. business interruption;

17.3.6.3. loss of anticipated savings;

17.3.6.4. loss of business opportunity, goodwill or reputation; or

17.3.6.5. any indirect or consequential loss or damage;

17.4. If You are a consumer user, please note that We only provide Our Site and

Our Service for domestic and private use. You agree not to use Our Site for any commercial or business purposes, and We have no liability to You for any loss of profit, loss of business, business interruption, or loss of business opportunity.

17.5. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect Your computer equipment, computer programs, data or other proprietary material due to Your use of Our Site and Our Service or to Your downloading of any material on Our Site or on any website linked to it.

17.6. Any failure to provide the Service because of something beyond Our reasonable control such as technical failure, lightning, flooding, exceptionally severe weather, fire or explosion, civil disorder, war, military operations, industrial disputes of any kind (including those involving Our employees), natural or local emergency, the acts or omissions of other providers of internet services or the failure of any network operator or anything done by regulating bodies, the government or other competent authorities.

17.7. Our maximum aggregate liability arising out of or in connection with these Terms of Service whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused, including by negligence and/or arising from a breach of, or a failure to perform the Service or otherwise in relation to the Service or the Site or operation thereof will be limited to a maximum of 100% (one hundred percent) of the sums You have paid for the service during the 12 months preceding the date on which the claim arose. The financial limit on liability set out above is the maximum liability of Living Digitally any of its partners, employees, affiliates or other representatives and group companies.

18. Indemnity

In addition to other indemnities given elsewhere in these Terms of Service, You agree to indemnify Us against any claims or legal proceedings which are brought or threatened against Us by a third party because of Your use of the Site or the Service in breach of the provisions of these Terms of Service.

19. Disputes with third parties

You undertake to tell Us immediately if anyone makes or threatens to make any claim or issue legal proceedings against You in relation to Your use of the Service. You warrant that at Our request You will immediately stop the act complained of and should We ask You to, provide a written statement detailing any such claims or legal proceedings.

20. Conflict

If there is an inconsistency between any of the provisions of the main body of these Terms of Service and the Polices, the provisions of the main body of these Terms of Service shall prevail.

21. Waiver

The failure or delay of Living Digitally to enforce any of the provisions of these Terms of Service and exercise any of the rights and remedies contained herein or by law, shall not be deemed to be a waiver of those provisions or rights or remedies or any other rights or remedies, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise

of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22. Severance

If any provision (or part of a provision) of the Terms of Service is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

23. Survivability

All warranties, indemnities and undertakings given by You and Your obligation to pay outstanding sums due to Us pursuant to these Terms of Service shall survive their termination.

24. Assignment

24.1. You shall not, assign, transfer, charge, sub-contract or deal in any other manner with all or any of Your rights or obligations under these Terms of Service.

24.2. Living Digitally may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of Our rights or obligations under the Terms of Service.

25. No partnership or agency

Nothing in the Terms of Service is intended to or shall operate to create a partnership between You and Living Digitally, or authorise either You or Living Digitally to act as agent for the other. Neither You nor Living Digitally shall have the authority to act in the name or on behalf of the other to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

26. Third party rights

These Terms of Service do not confer any rights on any person or party (other than either of You and Living Digitally and, where applicable, the successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

27. Notices

27.1. Any notice required to be given under these Terms of Service shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to, in the case of Living Digitally its registered office and in Your case the address or fax number that You either give to Your Account Manager or submit when You register with Us online or such other address as may have been notified by either party for such purposes.

27.2. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at

which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

28. Governing law

These Terms of Service and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

29. Jurisdiction

You hereby irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms of Service or its subject matter or formation (including non-contractual disputes or claims).