

## DMM Terms of Use

### Version 1.0

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Please review these Terms of Use (the “DMM Terms”) carefully, as they set forth legally binding terms and conditions that govern your use of the Dynamic Market Maker Smart Contracts (the “DMM Smart Contracts”) published at Github at <https://github.com/dynamic-amm/smart-contracts> and which have been deployed (including related trademarks, and other intellectual property (together, and with the Website, the “DMM Services”) whether such use is via the website located at <https://dmm.exchange> (the “Website”) or command line (“Direct Access”).

By accessing or using the DMM Services, you (“you” or the “User”) agree to these DMM Terms on behalf of yourself and any entity you represent, and you represent and warrant that you have the right and authority to do so. You further represent and warrant that are fully able and competent to enter into, and abide by and comply with, the DMM Terms.

By accessing or using the DMM Services and to the extent you are (a) an individual, you represent that you are of the legal age of majority in your jurisdiction as may be required to access and use the DMM Services; and (b) a body corporate, you represent that you duly incorporated and in good standing in your jurisdiction of incorporation.

The Website and the DMM Smart Contracts are copyrighted works belonging to DMM Technology Inc., an entity formed under the laws of the British Virgin Islands (“DMM Technology,” “Company,” “us,” “our,” and “we”). If you submit information, including personal information, through or in connection with the DMM Services, it will be governed by the privacy policy, as updated from time to time, and available <http://files.dmm.exchange/privacy.pdf> (the “Privacy Policy”). You will be prompted to accept the Privacy Policy and these DMM Terms - before connecting a wallet to access and use the DMM Services.

### 1. The Dynamic Market Maker

The Website is a user interface designed to provide convenient access to open-source software comprised of a suite of publicly available smart contracts, being the DMM Smart Contracts, deployed to the Ethereum public blockchain that allow for the creation of liquidity pools for digital asset pairs – although the DMM Smart Contracts are also accessible via Direct Access. Digital assets can be contributed to these liquidity pools on a fully permissionless basis by anyone, and any taker may access this liquidity by purchasing digital assets from a pool. DMM Technology developed and deployed (“**Deployment**”) the DMM Smart Contracts that can be used to create and operate liquidity pools, but DMM Technology does not and will not create or operate any liquidity pools itself and does not and will not itself have the authority to modify or update the DMM Smart Contracts.

Because the DMM Smart Contracts are, on Deployment, deployed on a public blockchain, they may also be accessible now or in the future through other Ethereum-based smart contract decentralized applications (“dApps”). On Deployment, the Ethereum address associated with the DMM Smart Contracts holds no digital assets. The Website and related technology allows a user to read and display data associated with an Ethereum blockchain address for which that user controls the associated private key and to interact with the DMM Smart Contracts by generating standardized transaction messages in order to engage in swap transactions by accessing the liquidity pools created using the DMM Smart Contracts or to create or provide liquidity to such liquidity pools. With the necessary technical expertise, it is possible to generate transaction messages to interact with the DMM Smart Contracts via Direct Access directly without use of the Website, and there is no prohibition herein, or separate license required or fee payable to DMM Technology, for so doing.

The DMM Smart Contracts improve upon constant product automated market makers through the use of two mechanisms designed to reduce the risk of impermanent loss and increase capital efficiency: amplification factors and liquidity provider fees. These mechanisms allow liquidity pool creators to customize and optimize their liquidity pools to increase capital efficiency.

1.1 Amplification Factors. The DMM Smart Contracts provide for use of an amplification factor to establish a dynamic pricing curve model for specific asset pairs. Applying an amplification factor to the real asset balances in a pool generates virtual asset balances larger than the real asset balance by an order of magnitude equal to the amplification factor. The dynamic pricing curve model is created based on the resulting virtual asset balances, to achieve a spread and slippage equivalent to a larger pool of assets.

When an amplification factor is applied to establish a dynamic pricing curve, the price range for the asset pair will no longer be unbounded and a minimum and maximum price range will be established. This presents a risk of inactivity in a pool when the market price of the asset pair is outside of the minimum and maximum price range of the pool for that asset pair. That risk is higher for pairs of assets that are less correlated with each other and are accordingly subject to more significant volatility.

Pool Creators will set the amplification rate for the asset pair in the pool they create. The DMM Smart Contracts may also place limits on the available amplification factor for certain asset pairs, but it will not control the amplification factor set by Pool Creators.

1.2 Liquidity Provider Fees. The DMM Smart Contracts use a dynamic fee model that adjusts the fee levels paid to liquidity providers from time to time based on market conditions. Liquidity provider fees will be determined based on two elements: a fixed base fee and a dynamic fee range. In less volatile markets, the liquidity provider fees are programmatically reduced by the DMM Smart Contracts toward the lower end of the dynamic fee range and, in more volatile markets, the liquidity provider fees are programmatically increased by the DMM Smart Contracts toward the higher end of the dynamic fee range. The fee applicable to any particular transaction will be determined at the

time of the transaction. Users who access the DMM Smart Contracts through the Website will see the fee for each transaction displayed prior to confirmation of the transaction.

1.3 Connecting a Wallet. In order to access the DMM Smart Contracts to engage in transactions using the Website or Direct Access, a User must first connect a wallet (“Wallet”) to the DMM Smart Contracts. Users of the Website can connect a Metamask, Coinbase, Trezor, or Ledger Wallet or any other wallet compatible with the WalletConnect protocol in order to access the DMM Smart Contracts and engage in swap transactions or begin providing liquidity or create a new liquidity pool.

1.4 Governance. The Website but not the Direct Access nor DMM Smart Contracts will be overseen by DMM Technology. DMM Technology may modify or discontinue support for the Website at any time without prior notice, in its sole discretion. The DMM Smart Contracts will not be maintained or modifiable by DMM Technology but will instead be maintained and modified in accordance with a decentralized governance protocol implemented by the KyberDAO. KyberDAO participants may update or alter the DMM Smart Contracts from time to time in order to add new features and functionality, in response to forks, chain migrations, or other changes to the underlying Ethereum blockchain, in order to address security incidents or vulnerabilities, or as otherwise determined by the KyberDAO. For more information regarding the KyberDAO, please see the KyberDAO documentation available at <https://kyber.org>.

1.5 Transaction Fees. A transaction fee may be charged for each transaction executed through the DMM Smart Contracts. The fees may be modified by the KyberDAO, in its sole discretion, and will be payable in either the source digital asset or the destination digital asset at the discretion of the KyberDAO. DMM Technology will publish a fee schedule (with such modifications, if any, as determined by KyberDAO) accessible on the Website. The transaction fee for a specific transaction will be displayed to Users of the Website during the initiation of a transaction and must be accepted by the User before executing such a transaction. The User hereby consents to such fees being debited from either or a combination of both of their source digital asset or destination digital asset at the time the transaction is processed. Users accessing and using the DMM Smart Contracts via Direct Access will also see a similar fee schedule. Transaction fee is unable at the moment and will be updated by KyberDAO.

1.6 License. You are hereby granted a non-exclusive, non-transferable, revocable, limited license to electronically access and use the Website in the manner described in this Agreement. You do not have the right to sublicense the Website. We may revoke or terminate this license at any time if you use, or attempt to use, the Website in a manner prohibited by this Agreement, or if this Agreement is terminated pursuant to Section 6 herein.

The DMM Smart Contracts are open-source software accessible pursuant to the MIT License referred to below and are not subject to the limited license described above. For more information regarding the MIT License applicable to the DMM Smart Contracts (the “MIT

License”), please refer to the protocol documentation <https://github.com/dynamic-amm/smart-contracts>.

## **2. DMM Participants**

2.1 Pool Creators. Pool Creators are able to use the DMM Smart Contracts to create customized liquidity pools containing digital asset pairs. These liquidity pools will allow for trading by third parties (“takers”) of the digital asset pairs in the pool. Pool Creators will be able to set the desired amplification rate to establish a dynamic pricing curve for the pool. The base and dynamic components of the liquidity provider fee will be determined programmatically by the DMM Smart Contracts after the amplification rate is established. Once these variables have been determined and the smart contract for the liquidity pool has been launched, Pool Creators will supply digital assets to the liquidity pool in order to begin providing liquidity. Pool Creators will set the initial price of the digital assets in the liquidity pool and the minimum and maximum prices supported by the liquidity pool will be determined based on the amplification factor specified by the Pool Creators.

When a Pool Creator adds the initial digital assets to a liquidity pool, the Pool Creator will receive pool tokens that are minted and sent, programmatically, by the smart contract for the liquidity pool to the address designated by the Pool Creator. Pool tokens can be sent back to the smart contract for the liquidity pool at any time and the sending address will receive an amount of the digital assets in the liquidity pool proportionate to the amount of pool tokens sent relative to all pool tokens for that liquidity pool then outstanding.

2.2 Liquidity Providers. Liquidity providers can increase the liquidity in a liquidity pool by sending pairs of the relevant digital assets to the smart contract for the liquidity pool in proportion to the number of each of the digital assets in the pool at that time. In exchange for adding liquidity to the pool, liquidity providers will receive pool tokens. Liquidity Providers adding digital assets to a liquidity pool in an amount not in proportion to the number of each of the digital assets in the pool at that time will create an arbitrage opportunity for takers.

2.3 Takers. Takers can execute token swaps involving the digital assets in liquidity pools, allowing them to swap an amount of one digital asset for an amount of another digital asset. Takers accomplish this by specifying an amount of input digital assets they wish to swap in exchange for an amount of output digital assets determined programmatically by the DMM Smart Contracts based on the implied price of the digital assets in the relevant liquidity pool.

## **3. Representations & Warranties**

You make the following representations and warranties regarding your use of the DMM Services:

3.1 You represent and warrant that you are legally permitted to use the DMM Services in your jurisdiction, including that you are legally permitted to own the digital assets and

interact with the DMM Services you use. You further represent and warrant you are responsible for ensuring compliance with the laws of your jurisdiction in connection with your use of the DMM Services and acknowledge that DMM Technology is not liable for your compliance or non-compliance with any such laws.

3.2 You represent and warrant that agreeing to the DMM Terms and your use of the DMM Services does not constitute, and that you do not expect it to result in, a breach, default, or violation of any applicable law or any contract or agreement to which you are a party or are otherwise bound.

3.3 You represent and warrant that you are not a person, entity controlled by a person, or entity identified on, or controlling a blockchain address identified on, a list of persons or blockchain addresses that have been specially designated, considered parties of concern, or blocked that is established and maintained by the United Nations, the European Union, or the Office of Foreign Asset Control of the United States Treasury Department.

3.4 You represent and warrant that you are not a resident of, or located in, or accessing and using the DMM Services from any of the countries that are designated as high risk by the Financial Action Task Force, that are subject to embargos or sanctions implemented by the United Nations, Singapore, the European Union, or the Office of Foreign Asset Control of the United States Treasury Department, or are included on a list of jurisdictions not permitted to use the DMM Services as determined by DMM Technology (each, a “Prohibited Jurisdiction”).

3.5 You represent and warrant that you will not, and will not attempt to, authorize anyone other than you to access any liquidity pool available through the DMM Services using a Wallet owned by you or a blockchain address for which you control the private keys or otherwise engage in Prohibited Use (as defined below) of the Wallet.

3.6 You represent and warrant that you will not disrupt, interfere with, or otherwise adversely affect the normal flow of the DMM Services or otherwise act in a manner that may negatively affect other users' experience when using the DMM Services. This includes taking advantage of software vulnerabilities and any other act that intentionally abuses or exploits the design of the DMM Services.

3.7 You represent and warrant that you are sophisticated in using and evaluating blockchain technologies and related blockchain-based digital assets, including the Ethereum network, smart contract systems, ERC-20 tokens, automated market making protocols, and automated lending protocols. Specifically, you represent and warrant that you have evaluated and understand the operation of the DMM Services and the liquidity pools using the DMM Smart Contracts and have not relied on any information, statement, representation, or warranty, express or implied, made by or on behalf of DMM Technology with respect to the DMM Services and associated liquidity pools.

3.8 All of the above representations and warranties are true, complete, accurate and not misleading from the time of your acceptance of the DMM Terms and are deemed repeated each time you use the DMM Services.

#### **4. Prohibited Use**

Users of the DMM Services may not, directly or indirectly, engage in any of the following activities in connection with their use of the DMM Services (“Prohibited Uses”):

4.1 A violation of any law, rule, or regulation of any jurisdiction that is applicable to the User;

4.2 Violations or breaches of the terms of these DMM Terms or any other document from time to time governing the use of the DMM Services;

4.3 Permit others to access the DMM Services through your wallet or a blockchain address you control or otherwise engage in transactions using the DMM Services for any person other than the Wallet owner;

4.4 Perform, or attempt to perform, any actions that would interfere with the normal operation of the DMM Services or affect the use of the Services by other users;

4.5 Engage in, or knowingly facilitate, any fraudulent, deceptive, or manipulative transaction activity in any digital asset using the DMM Services, including by engaging or participating in “front-running”, “wash trading”, “pump and dump schemes”, or similar activities;

4.6 Engage in, or knowingly facilitate, any money laundering, terrorist financing, or other illegal activities;

4.7 Access or attempt to access non-public DMM Technology systems, programs, data, or services;

4.8 Copy, reproduce, republish, upload, post, transmit, resell, or distribute in any way, any data, content, or any part of the DMM Services except as expressly permitted by applicable laws; and

4.9 Reverse engineer or attempt to reverse engineer the DMM Services except as expressly permitted by applicable law.

#### **5. Waivers**

5.1 You agree and acknowledge that DMM Technology and its Affiliates shall not be liable for any direct, indirect, special, incidental, consequential or other losses of any kind, in tort, contract or otherwise (including but not limited to loss of revenue, income or profits, and loss of use or data), arising out of or in connection with your use of the DMM Services.

For purposes of the DMM Terms, “Affiliates” means the owners, directors, officers employees, advisors, agents of DMM Technology or companies in which DMM Technology has an interest.

5.2 You undertake not to initiate or participate, and waive the right to participate in, any class action lawsuit or a class wide arbitration against DMM Technology and/or its Affiliates.

5.3 By accepting the DMM Terms, you waive all rights, claims and/or causes of action (present or future) under law (including any tortious claims) or contract against DMM Technology and/or its Affiliates in connection with your use of the DMM Services.

## **6. Termination**

These DMM Terms will remain in full force and effect for so long as you use the DMM Services. We may suspend or terminate your rights to use the DMM Services at any time for any reason at our sole discretion without prior notice, including for any use of the DMM Services in violation of these DMM Terms. Upon termination of your rights under these DMM Terms, your right to access and use the DMM Services will terminate immediately. DMM Technology will not have any liability whatsoever to you for any termination of your rights under these DMM Terms, including for deleting your account or blacklisting any network address you provide to us. Even after your rights under these DMM Terms are terminated, Sections 7 and 8 of these DMM Terms will remain in effect.

## **7. Disclaimers and Limitation of Liability**

7.1 Disclaimer. THE DMM SERVICES ARE PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS, AND DMM TECHNOLOGY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE DMM SERVICES WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE DMM SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

DMM TECHNOLOGY DOES NOT ENDORSE ANY THIRD PARTY AND SHALL NOT BE RESPONSIBLE IN ANY WAY FOR ANY TRANSACTIONS YOU ENTER INTO WITH ANY OTHER THIRD PARTY. YOU AGREE THAT DMM TECHNOLOGY WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGES OF ANY SORT INCURRED

AS THE RESULT OF ANY INTERACTIONS BETWEEN YOU AND ANY THIRD PARTY.

7.2 Limitation of Liability. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, INCLUDING LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE FOLLOWING LIMITATION MAY NOT APPLY TO YOU AND YOU MAY HAVE ADDITIONAL RIGHTS.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL DMM TECHNOLOGY BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF YOUR USE OF THE DMM SERVICES, EVEN IF DMM TECHNOLOGY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE DMM SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

DMM TECHNOLOGY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING OUT OF YOUR FAILURE TO KEEP YOUR PRIVATE KEYS OR LOGIN CREDENTIALS TO YOUR WALLET SECURE OR ANY OTHER UNAUTHORIZED ACCESS TO OR TRANSACTIONS INVOLVING YOUR WALLET.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF THE AMOUNT OF TRANSACTION FEES PAID BY YOU IN CONNECTION WITH YOUR USE OF THE DMM SERVICES DURING THE PRECEDING TWELVE (12) MONTHS. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

7.3 Indemnification. You agree to indemnify and hold DMM Technology and its Affiliates harmless, including costs and attorneys' fees, from any loss, claim or demand made due to or arising out of: (i) your use of the DMM Services; (ii) your violation of these DMM Terms; (iii) or your violation of applicable laws or regulations. DMM Technology or the relevant indemnified party reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to provide indemnification, and you agree to cooperate in the defense of these claims. You agree not to settle any matter without the prior written consent of the relevant indemnified party or parties. DMM Technology will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.



7.4 Taxes. You are solely responsible for determining the tax implications and tax reporting requirements associated with transactions you engage in involving the DMM Services, and for paying any applicable taxes in each applicable jurisdiction. DMM Technology is not responsible for determining whether there are tax implications in connection with transactions involving the DMM Services, for reporting any such transactions, or for paying any applicable taxes.

7.5 Potential Risks Associated with Use of the Website and DMM Smart Contracts.

7.5.1. Like all software, the Website and the DMM Smart Contracts may be subject to exploits. We are not responsible for exploits that are not reasonably foreseeable. While we have taken a number of precautions to ensure the security of the Website and the DMM Smart Contracts, the technology is relatively new and it is not possible to guarantee that the code is completely free from bugs or errors. Users accept all risks that arise from using the Website and the DMM Smart Contracts, including, and not limited to, the risk of any funds being lost due to a failure or exploit of the Website or the DMM Smart Contracts.

7.5.2. You are solely responsible for securing the private keys associated with any wallet or blockchain address you may use when accessing the DMM Services. You understand that anyone who obtains your private keys and access to your device may access your wallet or a blockchain address controlled with those private keys with or without your authorization and may transfer any digital assets accessible through your wallet.

7.5.3. The value of any digital asset, where value is attached to such an asset, may fluctuate. We make no guarantees as to the price or value of any digital asset on any secondary market, including the liquidity pools accessible using the DMM Services. Some digital asset values are more volatile than others and rates associated with digital asset pairs including more volatile digital asset values are more likely to experience significant fluctuations.

7.5.4. Liquidity pools using the DMM Smart Contracts may employ an amplification rate designed to reduce impermanent loss and increase capital efficiency. One byproduct of using an amplification rate is a dynamic pricing curve that has a minimum and maximum price for the digital assets that make up the trading pair. Accordingly, there is a risk of inactivity in these types of liquidity pools if the market rates associated with the digital assets that make up the liquidity pool fall outside the minimum and maximum prices supported. Pool creators, liquidity providers, and takers should determine for themselves whether an amplification factor is being used to establish a dynamic pricing curve, and, if so, what the minimum and maximum prices are.

7.5.5. The following risks are associated with blockchain-based digital assets that may be supplied to, and available from, liquidity pools using the DMM Services: the risk of losing private keys, theft resulting from third parties discovering your private key, value fluctuation of digital assets on the secondary market, disruptions to the Ethereum blockchain caused by network congestion, lack of usability of, or loss of value with respect to, digital assets due to

a hard fork or other disruption to the Ethereum blockchain, or errors or vulnerabilities in the smart contract code associated with a given digital asset or transactions involving digital assets. Transfers on the Ethereum blockchain are irreversible. Once an instruction, signed by the required private key(s), to transfer a digital asset from one blockchain address to another has been executed, it cannot be undone.

7.5.6. Support for the Website or DMM Smart Contracts may be modified or discontinued at any time. We reserve the right, at any time, in our sole discretion, without prior notice, to modify the Website. The DMM Smart Contracts may be modified only in accordance with the governance protocol as implemented by the KyberDAO.

7.5.7. In the event of a change to an underlying blockchain network, or other network disruption, resulting in a fork of the existing blockchain into one (or more) additional blockchains, the DMM Services may not support activity related to any new digital assets created as a result of the fork. In addition, in the event of a fork, transactions on the network may be disrupted, including transactions involving the DMM Smart Contracts.

7.5.8. The Ethereum blockchain network charges a fee for engaging in a transaction on the network. Those network transaction fees fluctuate over time depending on a variety of factors. You are solely responsible for paying network transaction fees associated with transactions you engage in on the Ethereum blockchain network using the DMM Services. You are also solely responsible for any other third-party fees that may be incurred in connection with your use of the DMM Services.

## **8. Dispute Resolution**

Subject always to Clause 5 of these DMM Terms, any claim, suit, or dispute arising out of or in connection with these DMM Terms, including any question regarding its existence, validity or termination, shall be referred to and finally be resolved by arbitration in accordance with the British Virgin Islands International Arbitration Center (“BVI IAC”) Arbitration Rules, before a panel of three (3) arbitrators. Each of the Parties hereby has the right to appoint an arbitrator, and the two (2) appointed arbitrators shall select the third arbitrator. The panel shall reach its decisions by a vote of a majority. Any claim shall be brought individually on behalf of the person or entity seeking relief, not on behalf of a class or other persons or entities not participating in the arbitration and shall not be consolidated with the claim of any person who is not asserting a claim arising under or relating to this contract. The seat of arbitration shall be the British Virgin Islands and the language of any arbitration shall be English. Judgment on any award rendered by the arbitrators may be entered by any court of competent jurisdiction.

## **9. Electronic Communications**

The communications between you and DMM Technology use electronic means, either through the Website, or electronic mail, or whether DMM Technology communicates by posting notices on the Website, or communicates with you via email. For contractual

purposes, you: (i) hereby consent to receive communications from DMM Technology in any electronic form; and (ii) hereby agree that all terms and conditions, agreements, notices, disclosures, and other communications that DMM Technology provides to you electronically satisfy any legal requirement that would also be satisfied if such communications were to be in a hardcopy writing. The foregoing does not affect your non-waivable rights under any applicable law.

## **10. Governing Law and Jurisdiction**

10.1 These DMM Terms of Use and any dispute or claim arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of the British Virgin Islands. You agree that the courts of the British Virgin Islands shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with the subject matter or formation (including non-contractual disputes or claims) of these DMM Terms of Use, including to enforce the agreement to arbitrate as provided in Section 8.

10.2 The DMM Services may not be appropriate or available for use in some jurisdictions. DMM Technology and its affiliates and partners do not represent or warrant that the DMM Services or any part thereof is appropriate or available for use in any particular jurisdiction other than the British Virgin Islands. In choosing to access the DMM Services, you do so on your own initiative and at your own risk, and you are responsible for complying with all applicable local laws, rules and regulations.

## **11. General**

11.1 Entire Terms. These DMM Terms constitute the entire agreement between you and us regarding the use of the DMM Services. The section titles in these DMM Terms are for convenience only and have no legal or contractual effect. The word “including” means “including without limitation.”

11.2 Severability. If any provision of these DMM Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these DMM Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

11.3 Relationship of the Parties. Nothing contained in this Agreement will be deemed to be construed by the Parties or any third party as creating a partnership, an agency relationship or joint venture between the Parties or any of their respective employees, representatives, or agents.

11.4 Assignment. These DMM Terms, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without DMM Technology’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. DMM Technology may freely

assign these DMM Terms. The terms and conditions set forth in these DMM Terms shall be binding upon assignees.

11.5 Changes. Unless otherwise required by applicable laws, these DMM Terms are subject to occasional revision. If we make any substantial changes, you will be notified of those changes and accept the updated DMM Terms when you next use the DMM Services. These changes will be effective upon your acceptance of the updated DMM Terms. In addition, continued use of the DMM Services following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

11.6 Waiver. A waiver by DMM Technology of any right or remedy under these DMM Terms shall only be effective if it is in writing, executed by a duly authorized representative of DMM Technology and shall apply only to the circumstances for which it is given. Our failure to exercise or enforce any right or remedy under these DMM Terms shall not operate as a waiver of such right or remedy, nor shall it prevent any future exercise or enforcement of such right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of any such right or remedy or other rights or remedies.