

## TERMS OF BUSINESS

These terms apply to any orders for services or digital content that you order from this website.

Your attention is particularly drawn to the provisions of clause 123 (Limitation of liability).

### 1 ABOUT US

- 1.1 **Company details.** Data Protection Consulting Limited (company number 4454767) (**we** and **us**) is a company registered in England and Wales and our registered office is at 76 Stanton Road, Burton-on-Trent, DE15 9RS. Our VAT number is **793 8144 90**.
- 1.2 **Contacting us.** To contact us e-mail enquiries@dp-smart.co.uk. How to give us formal notice of any matter under the Contract is set out in clause 16.2.

### 2 OUR CONTRACT WITH YOU

- 2.1 **Our contract.** These terms and conditions (**Terms**) apply to all orders that you place on this website. These terms together with your order and our acceptance of your order form a legal contract between us ("**Contract**"). The Contract applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 **Entire agreement.** The Contract is the entire agreement between you and us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.
- 2.3 **Language.** These Terms and the Contract are made only in the English language.

### 3 PLACING AN ORDER AND ITS ACCEPTANCE

- 3.1 **Placing your order.** Please follow the onscreen prompts to place an order. You may only submit an order using the method set out on the site. Each order is an offer by you to buy the services specified in the order (**Services**) subject to these Terms.
- 3.2 **Correcting input errors.** Our order process allows you to check and amend any errors before submitting your order to us. Please check the order carefully before confirming it. You are responsible for ensuring that your order is complete and accurate.
- 3.3 **Accepting your order.** Our acceptance of your order takes place when you receive your download of the Services from our website and the receipt. At which point and on which date (**Commencement Date**) the Contract between you and us will come into existence. The Contract will relate only to those Services confirmed in the receipt.
- 3.4 **If we cannot accept your order.** If we are unable to supply you with the Services for any reason, we will inform you of this by email and we will not process your order. If you have already paid for the Services, we will refund you the full amount.

## 4 OUR SERVICES

- 4.1 **Updates to Toolkit.** If you have purchased the "Toolkit", we will send you updates by email for twelve months following the Commencement Date and offer renewal within one month of the anniversary of the Commencement Date.
- 4.2 **Compliance with specification.** Subject to our right to amend the specification (see clause 4.3) we will supply the Services to you in accordance with the specification for the Services appearing on our website at the date of your order in all material respects.
- 4.3 **Changes to specification.** We reserve the right to amend the specification of the Services if required by any applicable statutory or regulatory requirement or if the amendment will not materially affect the nature or quality of the Services.
- 4.4 **Reasonable care and skill.** We warrant to you that the Services will be provided using reasonable care and skill.
- 4.5 **Service interruption.** We do not guarantee that the Services will be operated without interruptions.
- 4.6 **Viruses.** We do not guarantee that our site will be secure or free from bugs or viruses. You are responsible for configuring your information technology, computer programmes and platform to access our site. You should use your own virus protection software.

## 5 DISCLAIMER

- 5.1 The material that you will download is, to the best of our knowledge, accurate at the time of publication. However, laws and regulations may change, as does their interpretation by regulators, industry bodies and the courts. We endeavour to keep our content current to reflect all such changes.
- 5.2 The information in the material you will download provides a pathway to regulatory compliance but it is not tailored to your specific situation. It should therefore not be treated as specific advice on how laws and regulations apply to your specific circumstances.

## 6 CHARGES

- 6.1 In consideration of us providing the Services you must pay our charges (**Charges**) in accordance with this clause 6.6.
- 6.2 The Charges are the prices quoted on our site at the time you submit your order.
- 6.3 We take all reasonable care to ensure that the prices stated for the Services are correct at the time when the relevant information was entered into the system. However, please see clause 6.6 for what happens if we discover an error in the price of the Services you ordered.
- 6.4 Our Charges may change from time to time, but changes will not affect any order you have already placed.
- 6.5 Our Charges include VAT.

6.6 It is always possible that, despite our reasonable efforts, some of the Services on our site may be incorrectly priced. If the correct price for the Services is higher than the price stated on our site, we will contact you as soon as possible to inform you of this error and we will give you the option of continuing to purchase the Services at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing. However, if we mistakenly accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel supply of the Services and refund you any sums you have paid.

## **7 HOW TO PAY**

7.1 We charge a one-off fee for the "Toolkit" which is payable in advance. We will take the payment upon acceptance of your order.

7.2 We will offer renewal within one month of the anniversary of the Commencement date at the then current renewal price.

7.3 You must pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **8 COMPLAINTS**

8.1 If a problem arises or you are dissatisfied with the Services, please contact enquiries@dp-smart.co.uk

## **9 INTELLECTUAL PROPERTY RIGHTS**

9.1 All copyright and other intellectual property rights in or arising out of or in connection with the Services will be owned by Websters IP Limited. This includes the rights in the information, tools, materials and other content that you will access through the Service (**Content**).

9.2 You may download and use all Content for your own internal business use only.

9.3 You are not allowed to:

9.3.1 use the Content for the benefit of any third parties;

9.3.2 use the Content other than for your own internal business purposes;

9.3.3 share the Content with any person not employed by your business, with the exception that this shall not prevent you from using the templates we provide to you for the purposes that they are intended for;

9.3.4 copy all or parts of the Content to create products or services that compete with the services that we provide.

## **10 HOW WE MAY USE YOUR PERSONAL INFORMATION**

10.1 We will use any personal information you provide to us to:

10.1.1 provide the Services; and

10.1.2 process your payment for the Services.

10.2 Further details of how we will process personal information are set out in our Privacy Policy.

## **11 INDEMNITY**

11.1 You agree to indemnify us against all loss, damage, liability or expenses that we may incur or suffer as a result of your breach of these terms of business.

## **12 LIMITATION OF LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

12.1 Nothing in the Contract limits or excludes our liability for:

12.1.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

12.2 Subject to clause 12.1, we will not be liable to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

12.2.1 loss of profits;

12.2.2 loss of sales or business;

12.2.3 loss of agreements or contracts;

12.2.4 loss of anticipated savings;

12.2.5 loss of use or corruption of software, data or information;

12.2.6 loss of or damage to goodwill; and

12.2.7 any indirect or consequential loss.

12.3 Subject to clause 12.1, our total liability to you arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will be limited to 125% of the total annual Charges paid under the Contract.

12.4 Except as expressly stated in these Terms, we do not give any representations, warranties or undertakings in relation to the Services. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, including without limitation the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982, by common law or otherwise are, to the fullest extent permitted by law, excluded from the Contract.

12.5 Nothing in these Terms limits or affects the exclusions and limitations set out in our website terms and conditions.

12.6 This clause 11 will survive termination of the Contract.

### **13 CONFIDENTIALITY**

13.1 We each undertake that we will not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning one another's business, affairs, customers, clients or suppliers, except as permitted by clause 13.2.

13.2 We each may disclose the other's confidential information:

13.2.1 to such of our respective employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out our respective obligations under the Contract. We will each ensure that such employees, officers, representatives, subcontractors or advisers comply with this clause 133; and

13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Each of us may only use the other's confidential information for the purpose of fulfilling our respective obligations under the Contract.

### **14 TERMINATION**

14.1 If you have purchased the "Toolkit" subscription service, you may terminate your annual subscription by serving notice of termination to us at least 30 days prior to the expiry of your then current annual subscription term. Please send your notice to enquiries@dp-smart.co.uk

14.2 Without limiting any of our other rights, we may suspend the performance of the Services, or terminate the Contract with immediate effect by giving written notice to you if:

14.2.1 you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 7 days of you being notified in writing to do so;

14.2.2 you fail to pay any amount due under the Contract on the due date for payment;

14.2.3 you take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

14.2.4 you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or

14.2.5 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.

14.3 Termination of the Contract will not affect your or our rights and remedies that have accrued as at termination.

14.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## **15 EVENTS OUTSIDE OUR CONTROL**

15.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).

15.2 If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:

15.2.1 we will contact you as soon as reasonably possible to notify you; and

15.2.2 our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. We will arrange a new date for performance of the Services with you after the Event Outside Our Control is over.

## **16 COMMUNICATIONS BETWEEN US**

16.1 When we refer to "in writing" in these Terms, this includes email.

16.2 Any notice or other communication given by one of us to the other under or in connection with the Contract must be in writing and be delivered personally, sent by pre-paid first class post or other next working day delivery service, or email.

16.3 A notice or other communication is deemed to have been received:

16.3.1 if delivered personally, on signature of a delivery receipt [or at the time the notice is left at the proper address;

16.3.2 if sent by pre-paid first class post or other next working day delivery service, at [9.00 am] on the second working day after posting; or

16.3.3 if sent by email, at 9.00 am the next working day after transmission.

16.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

16.5 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

## 17 GENERAL

### 17.1 Assignment and transfer.

17.1.1 We may assign or transfer our rights and obligations under the Contract to another entity but will always notify you in writing or by posting on this webpage if this happens.

17.1.2 You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

17.2 **Variation.** Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

17.3 **Waiver.** If we do not insist that you perform any of your obligations under the Contract, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you or that you do not have to comply with those obligations. If we do waive any rights, we will only do so in writing, and that will not mean that we will automatically waive any right related to any later default by you.

17.4 **Severance.** Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

17.5 **Third party rights.** The Contract is between you and us. No other person has any rights to enforce any of its terms.

17.6 **Governing law and jurisdiction.** The Contract is governed by English law and we each irrevocably agree to submit all disputes arising out of or in connection with the Contract to the exclusive jurisdiction of the English courts.