

Services Terms and Conditions



1. Definitions

- 1.1. In this Agreement the following terms and phrases shall have the following meaning unless the context requires otherwise:

Commencement Date	
Agreement	This agreement between DPAS and the Company, including its Schedule.
Confidential Information	All information that one party (discloser) discloses or makes available to the other party (recipient) in connection with this agreement and which would be regarded as confidential by a reasonable business person. It does not include information that: (a) is or becomes generally available to the public (other than as a result of the recipient's breach); (b) was available to the recipient on a non-confidential basis before disclosure by the discloser; (c) was, is or becomes available to the recipient on a non-confidential basis from a person who, to the recipient's knowledge, is not bound by a confidentiality agreement with the discloser or otherwise prohibited from disclosing the information to the recipient; (d) is developed by or for the recipient independently of the information disclosed by the discloser; or (e) the parties agree in writing is not confidential or may be disclosed.
Data Protection Legislation	Collectively the Data Protection Act 2018, the Privacy and Electronic Communications Regulation, and the GDPR, as they apply in England and Wales and the EU.
Force Majeure	Any unforeseen circumstance not within a Party's reasonable control including acts of God, flood, drought, earthquake or other natural disaster, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict,

	imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination; any unforeseeable change in law or any action taken by a government or public authority; Political interference with the normal operations and any labour or trade dispute, strikes, industrial action or lockouts.
UK GDPR	The UK retained version of Regulation (EU) 2016/679 (General Data Protection Regulation).
Services	The services to be performed by DPAS in the course of its appointment hereunder as set out in the Schedule of Works.
Termination Date	The date on which DPAS's appointment hereunder is terminated.

1.2. In this Agreement, unless otherwise specified:

- 1.2.1 References to Clauses and Schedules are to the clauses of, and schedules to, this Agreement.
- 1.2.2 Headings are for convenience only and do not affect the interpretation of this Agreement.
- 1.2.3 References to a person includes a body corporate or unincorporated body, and references to a Company includes any Company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.2.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa and reference to any specific gender shall include all other genders.
- 1.2.5 References to approvals or notices being "in writing" or "written" shall include email.
- 1.2.6 Any reference to a statute or statutory provision is a reference to it as amended, extended, re-enacted and/or replaced from time to time.
- 1.2.7 'Including' means 'including but not limited to' and 'include' and 'includes' shall be construed accordingly.

2. **Appointment**

With effect from the Commencement Date, DPAS is appointed as an independent contractor to the Company to carry out outsourced data protection consultancy services as set out in this Agreement and specifically the Schedules of Work.

3. **Duties**

DPAS agrees:

- 3.1 To undertake and provide the Services in accordance with any brief and deadline set by the Company which is within scope of the Schedule of Works.
- 3.2 To manage and carry out the Services in an expert and diligent manner and to provide services,

making all reasonable endeavours to utilise its commercial, technical, and creative skills in line with good industry standards.

- 3.3 To use reasonable endeavours to comply with and observe all lawful, reasonable, and proper requests which may from time to time be given to it by the Company, where this is within the scope of the Schedule of Works.
- 3.4 Not to undertake any additional activities or accept other engagements which lead to any conflict of interest between DPAS and the best interests of the Company during its appointment.
- 3.5 To delegate performance of its Services to such suitably qualified and experienced personnel as it may from time to time deem appropriate if it is unable at any time to perform its services due to circumstances beyond its control.
- 3.6 To keep the Company informed of progress on the Services in which they are engaged. While DPAS's method of working is entirely its own and they are not subject to the control of the Company, they shall nevertheless comply with any reasonable requests of the Company (or its clients) where this falls within the scope of the Schedule of Works.
- 3.7 To consult with, and obtain written approval, including the agreed price and timescale, from the Company before undertaking any work, or providing any additional materials other than those set out in the Schedule of Works.

4. Relationship with DPAS

- 4.1 The Company's relationship in respect of this agreement is solely with DPAS and not with any DPAS associated company, officer, or representative.
- 4.2 The relationship is between the Company and DPAS only. No other person or organisation may rely on DPAS's advice, documents, or contract without prior written agreement.

5. Sub-Contracting

DPAS will not sub-contract any rights or obligations under this Agreement without the Company's prior written consent.

6. Intellectual Property Rights

- 6.1 DPAS shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding any Customer Materials contained within them.
- 6.2 DPAS grants to the Company a royalty-free, non-exclusive, non-transferrable and irrevocable license to, publish, amend, translate, or reproduce any documents prepared by DPAS, with the exception of resale or other similar commercial purposes other than the Company's internal operations, save the Company has obtained license to do so from DPAS.

7. Fees

- 7.1 Fees for the Services are outlined in the Schedule of Works.

7.2 Where necessary, VAT will be added at the appropriate rate.

8. **Invoices and Payment**

8.1 DPAS shall invoice the Company for the sum detailed in the Schedule of Works. The Company shall pay the invoice properly issued by DPAS to the Company pursuant to this Agreement within 30 days. Such invoices shall be in Pounds Sterling (GBP) (unless otherwise agreed between the parties).

9. **Expenses**

9.1 DPAS shall be entitled to be reimbursed by the Company for all reasonable out of pocket expenses wholly, exclusively, and properly incurred in the performance of the Services subject to DPAS providing the Company with vouchers, receipts, or other evidence of actual payment of such expenses.

10. **Non-Payment**

10.1 In the event that a dispute arises around an invoice, the parties commit to resolving the dispute. In the event of a disputed invoice, the 30 day payment deadline will be paused.

10.2 If an undisputed invoice remains unpaid after 30 days DPAS may:

- Cease working for the Company;
- Charge interest at a rate of 2% per month or part thereof, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended;
- Take action, including legal action, to recover the unpaid invoice, together with the costs of such action, including legal costs and fees and;
- Retain all the Company's documents and information until DPAS are paid in full.

11. **Confidentiality**

11.1 Each party shall keep the other party's Confidential Information secret and confidential and shall not:

- (a) use that Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this agreement (**Permitted Purpose**); or
- (b) disclose that Confidential Information in whole or in part to any person, except as permitted by Clause 11.2

11.2 Each party may disclose the other party's Confidential Information:

- (a) to its employees, officers, representatives, and advisers who need to know that information for the Permitted Purpose (**Representatives**). Each party shall ensure that its Representatives comply with confidentiality obligations which are substantially equivalent to those set out in this clause 11; and

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

11.3 The provisions of this Clause 11 shall continue to apply indefinitely after the termination or expiry of this agreement until the Confidential Information no longer qualifies as Confidential Information under applicable law or as set forth hereunder.

12. The Company's Property

Upon the expiration or termination of DPAS's appointment under this Agreement, DPAS shall forthwith deliver up to the Company or its authorised representative all its property, including all equipment, materials, tools, keys, swipe cards, credit cards, computer hardware and/or software, books, documents, account records and any other papers which may be in his or her possession, custody or control and which are the property of the Company or which otherwise relate in any way to the business or affairs of the Company and no copies of the same or any part thereof shall be retained by it. DPAS shall then (if required by the Company) make a declaration that the whole of the provisions of this clause have been complied with.

13. Termination of Agreement

Either party shall have the right at any time, after the initial 12 months, to terminate this Agreement by not less than one months' notice in writing to the other party. In addition, either party shall have the right to terminate this Agreement at any time by summary notice in the event of either of the parties:

- 13.1 Being in material or persistent breach of any of the terms of this Agreement.
- 13.2 Having a bankruptcy order made against it or making any arrangement with its creditors or having an interim order made against it.
- 13.3 Persistently and wilfully neglecting or becoming incapable of efficiently performing its Services.
- 13.4 Doing any action manifestly prejudicial to the interests of the other party or which may bring the other party into disrepute.

The non-terminating party shall have no claim against the other in respect of the termination of this Agreement for any of the reasons specified pursuant to Clauses 13.1 to 13.4.

13.5 Effects of Termination

Where applicable upon termination for any reason:

- 13.5.1 All clauses which, either expressly or by their nature, relate to the period after termination shall remain in full force and effect.
- 13.5.2 Termination shall not affect or prejudice any right to damages or other remedy which either party may have.
- 13.5.3 Each party shall immediately cease to use, either directly or indirectly, any confidential information and shall immediately return to the other party any documents in its possession or control which contain or record any confidential information.

13.5.4 If it has been deemed that clauses 13.1 to 13.4 are applicable to The Company, the sum owing by the Company to DPAS shall become immediately due and payable.

14. Tax Liabilities

The Company and DPAS declare and confirm that it is the intention of the parties that DPAS shall be responsible for all income tax liabilities and national insurance or similar contributions in respect of its fees and accordingly DPAS hereby agrees to indemnify the Company in respect of any claims that may be made by the relevant authorities against the Company in respect of income tax and national insurance or similar contributions relating to the Services under this Agreement.

15. Liability and Indemnity

Liability of DPAS:

15.1 The total aggregate liability of DPAS to the Company shall be limited to £30,000. Nothing in this Agreement shall limit or exclude liability for death, personal injury, fraud or any liability which cannot be limited by law.

15.2 DPAS shall not be liable howsoever caused for indirect or consequential loss including but not limited to loss of profits; loss of revenue; loss of goodwill; failure to achieve savings.

DPAS further warrants to the Company that they will:

15.3 Take out and maintain throughout the term of this Agreement, adequate insurance in respect of Public Liability Insurance coverage with an insurance office of repute to protect themselves against any liabilities arising out of this Agreement and shall produce, at the request of the Company, a copy of the insurance policy or policies and relevant renewal receipts for inspection by the Company within 7 days of the contract commencement.

15.4 Take out and maintain throughout the term of this Agreement, adequate liability insurance coverage (minimum £5 million cover) with an insurance office of repute to protect themselves against any liabilities arising out of this Agreement in respect of all and any contractors/employees they utilise to carry out the Services and shall produce, at the request of the Company, a copy of the insurance policy or policies and relevant renewal receipts for inspection by the Company.

16. Data Protection

16.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause is in addition to, and does not relieve, remove, or replace, either party's obligations under the Data Protection Legislation.

16.2 Where under this Agreement DPAS is acting as a Processor and the Company is acting as Controller, the Processor shall:

a) Process Personal Data only (i) for the benefit of and on behalf of the Company, (ii) as required by Data Protection Legislation, or (iii) as otherwise directed by the Company in writing and always in compliance with Data Protection Legislation. Furthermore, DPAS will endeavour to Process Personal Data in the UK and EU, however, at times, where we engage Sub-

Processors that are located outside of the UK and EU, Personal Data may be sent outside of the UK. In accordance with the requirements imposed by the UK GDPR, we shall ensure the appropriate safeguards are in place, including but not limited to implementing UK IDTA/SCC Addendum;

b) ensure that all employees and other representatives accessing the data are (i) aware of the terms of this Agreement and (ii) have received comprehensive training on Data Protection Laws and related good practice, and (iii) are bound by a commitment of confidentiality;

c) agree to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk;

d) taking into account the nature of the processing, assist the Controller by appropriate technical and organisational measures, in so far as this is possible, for the fulfilment of the Controller's obligation to respond to requests from Data Subjects exercising their rights laid down in Chapter III of GDPR – rights to erasure, rectification, access, restriction, portability, object and right not to be subject to automated decision making;

e) assist the Controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of GDPR – security, notification of data breaches, communication of data breaches to Data Subjects, data protection impact assessments and when necessary, consultation with the ICO, taking into account the nature of the Processing and the information available to the Processor;

f) on the Controllers written instruction safely delete or return the data at any time. Where the Processor is to delete the data, deletion shall include destruction of all existing copies unless otherwise a legal requirement to retain the data. Where there is a legal requirement, the Processor will prior to entering into this Agreement confirm such an obligation in writing to the Controller. Upon request by the Controller the Processor shall provide certification or written confirmation of destruction of all data;

g) make immediately available to the Controller all information necessary to demonstrate compliance with the obligations laid down under this Agreement and allow for and contribute to any audits, inspections or other verification exercises required by the Controller from time to time;

h) make arrangements relating to the secure transfer of the data from the Controller to the Processor;

i) maintain the integrity of the data, without alteration, ensuring that the data can be separated from any other information created; and

j) immediately contact the Controller if there is any personal data breach or incident where the data may have been compromised.

16.3 DPAS is registered with the Information Commissioner's Office (ICO) under registration number ZA283976.

16.4 DPAS will store and process information about the Company and the people within it for the purpose of carrying out the Services. For example, DPAS will use the details of the Company for billing, administration, record keeping and for legal and regulatory compliance purposes. It may also be necessary to process personal information about the Company's directors, employees, customers, and potential customers for the same or a related purpose.

- 16.5 DPAS will keep confidential the Company's information and any personal information it comes across when providing the Services. Further details are set out in the Confidentiality clause above. DPAS will not share the information with anyone else without the Company's prior written consent, subject to certain legal exceptions.
- 16.6 In order to satisfy legal, tax and insurance requirements, DPAS will keep the Company's information and any personal information obtained when providing the Services for 6 years after DPAS cease working for the Company, with the exception of documents provided for redaction services to enable response to a data subject access request (DSAR), which shall only be retained for 6 months.
- 16.7 DPAS full privacy notice can be viewed at www.dataprivacyadvisory.com/privacypolicy.

17. Notices

All notices shall be in writing and shall be deemed to have been duly given when posted by pre-paid first-class post to the intended recipient at the address stated in this Agreement. Notices which have been posted as above shall be deemed received on the second business day following posting.

18. No Employment

- 18.1 Nothing in this Agreement shall render or be deemed to render DPAS an employee or agent of the Company. This Agreement does not create any mutuality of obligation between DPAS and the Company.
- 18.2 During the term of the Contract and for a period of 12 months thereafter, the Client shall not directly or indirectly employ or solicit for employment any employees of DPAS.

19. Entire Agreement

- 19.1 This Agreement, and the Confidential Disclosure Agreement, signed in conjunction with one another, contain the entire agreement and understanding of the parties relating to the subject matter of this Agreement and extinguishes all previous agreements, promises, assurances and warranties, between the parties, whether written or oral.
- 19.2 Where agreement has not been provided in writing, any additions or variations to this Agreement shall be null and void.

20. Force Majeure

- 20.1 Force Majeure Event means any circumstance not within a party's reasonable control including:
- (a) acts of God, flood, drought, earthquake or other natural disaster;
 - (b) epidemic or pandemic;
 - (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

- (d) nuclear, chemical or biological contamination, or sonic boom;
- (e) any law or action taken by a government or public authority, including imposing an export or import restriction, quota, or prohibition, or failing to grant a necessary license or consent;
- (f) collapse of buildings, fire, explosion or accident;
- (g) any labour or trade dispute, strikes, industrial action or lockouts.

20.2 A party (**Affected Party**) shall not be liable for any failure or delay in performing any of its obligations under this agreement for so long as, and to the extent that, its performance is prevented, hindered or delayed by a Force Majeure Event.

20.3 The Affected Party shall promptly notify the other party of the start of a Force Majeure Event and use reasonable endeavours to limit the effect of the Force Majeure Event on the performance of its obligations.

21. **Survival of Causes of Action**

The termination of this Agreement howsoever occurring shall not affect the rights and liabilities of the parties already accrued at such time nor affect the continuance in force of such of its provisions as are expressed as or capable of having effect after such termination.

22. **Severability**

If any provision of this Agreement is held invalid, illegal, or unenforceable for any reason by any Court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed with the illegal or unenforceable provision eliminated.

23. **Waiver**

23.1 Failure of any party to insist upon strict performance of any provision of this Agreement or the failure of any party to exercise any right or remedy to which they are entitled hereunder shall not constitute a waiver thereof and shall not cause a diminution of the obligations under this Agreement.

23.2 No waiver of any of the provisions of this Agreement shall be effective unless it is expressly stated to be such and signed by all the parties to this Agreement.

24. **Communications**

Any communication to be given pursuant to the terms of this Agreement shall be in writing and shall be sent by email to the designated person for each party.

Party	Contact Name	Contact Email
DPAS		
Company		

25. Third Party Rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

26. Law and Jurisdiction

This Agreement is governed by the laws of England and Wales and the parties submit to the jurisdiction of the Courts of England and Wales.

27. Time Limit for Service Utilisation

27.1 The Services provided under this contract shall be available for use by the Company for a period of 12 months from the effective date of this contract (the "Service Period").

27.2 The Service Period shall commence on the date of execution of this contract, unless otherwise specified herein.

27.3 During the Service Period, the Client shall have the right to utilise the Services in accordance with the terms and conditions of this contract. Any unused Services at the end of the Service Period shall expire and shall not be carried forward or refunded.

27.4 Any extensions or exceptions to the Service Period may be granted in writing by DPAS at its sole discretion.

27.5 The Company agrees to make all applicable payments for the Services in accordance with the payment terms specified in this contract, regardless of whether the Services are fully utilised during the Service Period.