

General Terms of Business for Use of ‘Virtual Data Protection Officer Portal’ (VDPO).

These General Terms of Business (Terms) between you, the Customer and Burns & Turner Limited trading as Data2Action apply to the Virtual Data Protection Officer portal (VDPO) and will be deemed to have been accepted by you upon the earlier of:

- (i) your signature of these Terms;
- (ii) at the time you place an order for the VDPO;
- (iii) when you begin to use the VDPO. Once accepted, these Terms constitute legal, valid and binding obligations upon you.

As applicable, Burns & Turner Limited trading as Data2Action is referred to as (“Data2Action,” “We,” “Us,” “Our”).

When purchasing the VDPO from Burns & Turner Limited trading as Data2Action you agree to the terms that will be set out within the Subscription Schedule(s) provided and these Terms, or subsequent versions of these Terms as published on the Burns & Turner Limited trading as Data2Action website (The Website).

These Terms relating to the VDPO may be updated from time to time by us without notice to you. The updated Terms will be published on our Website and we will indicate the date that the Terms were last updated. The continued use of our VDPO following any amendment constitute your acceptance of the amended Terms. We may at our sole discretion remove certain features or add new features from time to time. We will use our reasonable endeavours to notify you of features that are to be removed or added, but we are under no obligation to do so.

1. DEFINITIONS

“Customer” shall mean the organisation that contracts for and is purchasing the services.

“Subscription Schedule” shall mean any schedule pertaining to the use of the VDPO, which Burns & Turner Limited trading as Data2Action agrees may be used by the Customer from time to time on the terms set out in that Schedule and these Terms (as may be amended from time to time), such Schedule forming part of this Agreement;

“Authorised User(s)” shall mean any person authorised by the Customer and Burns & Turner Limited trading as Data2Action to use the VDPO and where applicable where log-ins are required, only those to whom log-ins have been specifically assigned;

“Fees” shall mean the fees set out in a Subscription Schedule, subject to Clause 5 of these General Terms of Business;

“Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for

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passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

2. DURATION AND TERMINATION

2.1 Unless otherwise notified to you, these Terms commence with effect from the date set out in the Subscription Schedule and shall continue for the Initial Period as stated in the Subscription Schedule, at the end of which this Agreement will automatically continue for subsequent periods of 1 year.

2.2 Either party may give the other notice of cancellation of this Agreement no less than 30 days notice before the end of the Initial Period, or with no less than 30 days notice before the end of subsequent periods of 1 year, all such notices of cancellation to be given in writing.

2.3 In the event that a Customer wishes to reduce the Subscription level of the VDPO, this must be notified in line with the notice of cancellation as defined in 2.2, with effect at the end of the Initial Period or at the end of subsequent periods of 1 year.

2.4 Either Burns & Turner Limited trading as Data2Action or the Customer shall be entitled to terminate these Terms forthwith on giving the other not less than 30 days written notice in the event that the other is in material breach of its obligations under this Agreement and the other party has failed to remedy any such breach which is capable of remedy within such 30 day period.

3. CUSTOMER'S LICENCE AND UNDERTAKINGS

3.1 The Intellectual Property Rights, including the trademark, copyright and all database rights throughout the world in the VDPO, including responses provided by participants to Surveys, data Summaries and aggregated data sets, shall at all times remain with Burns & Turner Limited trading as Data2Action (and its licensors as appropriate). If the Customer becomes aware of any potential or actual infringement of any of our rights, it shall immediately notify Burns & Turner Limited trading as Data2Action of that in writing, providing full details of the relevant facts.

3.2 The Customer shall provide all such assistance in relation to the enforcement and defence of our rights in the VDPO as shall reasonably be required by Burns & Turner Limited trading as Data2Action and Burns & Turner Limited trading as Data2Action shall meet any reasonable third party expenses incurred by the Customer (provided that they have been notified to our Company Secretary in advance) in giving such assistance.

3.3 The Customer shall ensure that up-to-date industry standard technical measures and safeguards are in place at all times to prevent unauthorised access to the VDPO. In particular the Customer will ensure that VDPO access is only granted to Authorised Users.

3.4 The Customer agrees during the Term not to do anything which may bring Burns and Turner Ltd, or the VDPOs, into disrepute.

3.5 The Customer shall take all appropriate measures (in consultation with us, where appropriate) to safeguard the copyright and Intellectual Property rights of Burns & Turner Limited trading as Data2Action in the VDPO.

4. THE LICENCE PROVISION

4.1 Burns & Turner Limited trading as Data2Action grants a licence to the Customer for use of the VDPO purchased on a worldwide, non-exclusive basis. No part of the website(s), or any VDPO, including content, information, documents, logos, names, audio, video or icons may be copied, posted, broadcast, republished or reproduced in any format whatsoever without the prior written permission of Burns & Turner Limited trading as Data2Action or the copyright holders. All copyrights, patents, trade secrets, trademarks - including any and all trademarks registered in any country or territory - logos or any other intellectual property rights owned by one Party prior to the date of this Agreement will continue to be owned by that Party.

5. PAYMENTS and FEES

5.1 In consideration of the rights granted under this Agreement, the Customer agrees to pay Burns & Turner Limited trading as Data2Action the Fees as set out in the Subscription Schedule in accordance with the payment terms set out in this Clause 5.

5.2 Unless otherwise specified in the relevant Subscription Schedule, invoices for Fees, shall fall due for payment in full within 30 days of the invoice dates.

5.3 All payments to be made under this Agreement shall be made in cleared funds, without deduction or set-off and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority save as required by law. If you are compelled to make any such deduction, You will pay to Burns & Turner Limited trading as Data2Action such additional amounts as are necessary to ensure receipt by Burns & Turner Limited trading as Data2Action of the full amount which Burns & Turner Limited trading as Data2Action would have received but for the deduction.

5.4 Burns & Turner Limited trading as Data2Action may amend the Fees with effect from the first day of each contract year after the Initial Period.

5.5 In addition, where no payment is made or payment is late in respect of any invoice, for the VDPO provided to You by us, we may at our sole discretion suspend or permanently remove Your right to access and use the VDPO.

6. WARRANTIES, INDEMNITIES & LIABILITY

6.1 We will not be liable to You (whether such liability arises in contract, tort (including negligence) or otherwise) for any loss of profits, loss of contracts, loss of anticipated savings, loss of revenue, loss of or damage to data, loss of or damage to reputation or goodwill or any indirect or consequential loss or damages.

6.2 Our maximum liability to You for any loss or damage arising is limited to a maximum of 25% of the amount paid in the calendar year prior to any claim for Customers using all the VDPO.

6.3 Nothing in the Terms will limit or exclude Our liability for:

- (i) fraud or fraudulent misrepresentation;
- (ii) personal injury or death of any person caused by our negligence; or
- (iii) any other liability which cannot be excluded or limited at law.

6.4 You agree to indemnify and hold Burns & Turner Limited trading as Data2Action harmless against all losses, costs and expenses (including without limitation all legal fees, damages payments and settlement payments) suffered or incurred by us in relation to the Terms and as a result of any claims brought by any third party in relation to Intellectual Property Infringement, including trade mark infringement, copyright infringement, design right infringement, and libel, breach of confidentiality, any discriminatory practice, breach of any statutory or regulatory duty, false or misleading advertising or sales practices arising from any advertisement placed on your behalf and/or any material to which users can link from any website advertisement, any breach by you of any data protection legislation in force in the UK at the relevant time, any breach of the ethical practices requirements set out within the Terms and any breaches relating to anti-bribery and anti-corruption.

6.5 Burns & Turner Limited trading as Data2Action provides no additional warranties, guarantees or conditions, including for merchantability, satisfactory quality, fitness for a particular purpose, title or non-infringement under these Terms. To the extent permitted by law, Burns & Turner Limited trading as Data2Action accepts no liability of any nature whatsoever if, following the use of a VDPO, a situation occurs where loss or damage is sustained by the Customer (or any of the Customer's users).

7. CONFIDENTIALITY

7.1 Confidential Information means the information contained in this Agreement, other than that which is publicly available, and additionally all information in whatever form which is disclosed by one party to the other in connection with this Agreement.

7.2 Each party to these Terms will treat in confidence all Confidential Information and will not disclose in whole or part any Confidential Information to any person unless such person is also bound by equivalent terms of confidentiality to those set out in the terms of this clause; or use any Confidential Information for a purpose other than for the exercise of its rights or the performance of its obligations under this Agreement.

7.3 However, either party may disclose any Confidential Information:

- (i) to its own personnel and professional advisors to the extent required for the proper performance of its obligations under this Agreement (where the relevant personnel are informed of the confidential nature of the information and are subject to appropriate confidentiality undertakings);
- (ii) to a 3rd party Business Partner engaged by the Customer and as notified to us; and
- (iii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8. DATA PROTECTION

8.1 Your privacy is important to us. We use your personal information to provide you with the VDPO you have requested. Our Privacy Notice can be found at www.data2action.co.uk

8.2 We agree to comply with UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA 2018), the Privacy and Electronic Communications Regulations (“PECR”), and any other applicable data protection legislation in relation to the VDPOs you are purchasing from us.

8.3 A Data Processing Agreement applies to the processing of personal data within the VDPO. For more information, these can be supplied upon request.

9. CONSEQUENCES OF TERMINATION

9.1 When the Terms and Subscription Schedule are terminated, Burns & Turner Limited trading as Data2Action may remove or take down any advertisements in place or published at that time, and will cease access to all access to the VDPO.

9.2 Following the expiry of the Agreement, the Data in the VDPO will no longer be available for access or retrieval.

9.3 All VDPO provision will end after Termination of the Terms.

10. GENERAL

10.1 Severability – if any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

10.2 Assignment – You will not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other way with all or any of Your rights under the Terms.

10.3 The Contracts (Rights of Third Parties) Act 1999 - shall not apply to these Terms and no third party will have any right to enforce or rely on any provision of these Terms.

10.4 Waivers - no failure or delay by either party or time or indulgence given in exercising any remedy or right under or in relation to these Terms will operate as a waiver of the same. Neither will any single or partial exercise of any remedy or right stop any further exercise of the same or the exercise of any other remedy or right. No waiver by either party of any requirement of the Terms, or of any remedy or right under the Terms, will have effect unless given in writing and signed by such party. No waiver of any particular breach of the provisions of the Terms will operate as a waiver of any repetition of such breach.

10.5 Entire Agreement – these Terms (together with any documents referred to or required to be entered into in connection with to these Terms and any Subscription Schedule(s) provided to you) set out the entire Agreement between the parties and supersede all prior Agreements, understandings or arrangements (both verbal and written) relating to the subject matter of these Terms. No other provisions other than those contained in these Terms (or any documents referred to or required to be entered into in connection to these Terms) will be binding on the parties unless expressly agreed to in writing by an authorised representative of us. Specifically, no advice or information provided by or on behalf of Burns & Turner Limited trading as Data2Action will create any warranty or other obligation not expressly stated in these Terms and Conditions. These Terms (together with any documents referred to or required to be entered into pursuant to these Terms) set out the full extent of our obligations and liabilities. In particular, there are no terms as to satisfactory quality, fitness for a particular purpose or of any other kind whatsoever. Any condition or other term which might otherwise be implied into or incorporated into these Terms whether by statute, common law or otherwise, is hereby excluded to the fullest extent permissible at law.

10.6 Force Majeure - a Force Majeure Event will mean any event or circumstance that is beyond the reasonable control of the affected party, including, but not limited to, flood, subsidence, terrorist act, pandemic, fire or war, failure or shortage of power supplies, acts of government and industrial action of any kind. Where either party is affected by a Force Majeure Event, it will not be under any liability to the other party for any failure or delay in performing its obligations under this Agreement to the extent that such failure or delay is caused by the Force Majeure Event. The affected party will be entitled to a reasonable extension of time for performing its relevant obligations. The corresponding obligations of the other party will also be suspended.

10.7 Jurisdiction – any dispute or claim arising out of these Terms or in connection with their subject matter will be governed by and construed in accordance with the laws of England and Wales. The parties agree that the Courts of England will have exclusive jurisdiction to settle any claim or dispute that arises out of or in connection with this Agreement or its subject matter.