



THE PC SUPPORT GROUP STANDARD TERMS

for the Provision of Information Technology and Computing Equipment, Software, Subscriptions, Support and Services

February 2024

1. INTRODUCTION, DEFINITIONS AND INTERPRETATION

- 1.1 These Terms apply in respect of the Goods and Services sold and provided by The PC Support Group to You as the Client under any agreement or arrangement and shall, save where a specific written agreement states to the contrary, prevail over all other agreements which You may propose and purport to rely on.
- 1.2 In the Agreement the following words and expressions shall, save where the context or the express provisions of the Agreement otherwise requires or admits, have the following respective meanings:
- 1.3 **Agreement** means the entire agreement as defined in clause 25.1;
- 1.4 **Business Day** means Monday to Friday (inclusive) in any week but excluding English bank holidays or public holidays;
- 1.5 **Business Hours** means from 08.30 hours to 19.00 hours Greenwich Mean Time, Monday to Friday except bank holidays, and 10.00 to 17.00 GMT on Saturdays;
- 1.6 **Client/You** means the firm or company specified on the Purchase Order Form that buys the Goods and/or Services and any other person appearing to act within that person's, firm's or company's authority and includes where relevant the Client's permitted assigns;
- 1.7 **Data Protection Legislation** means the General Data Protection Regulations (EU 2016/679) (GDPR) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR or the Data Protection Act 1998
- 1.8 **Device** means any self-contained operational Hardware;
- 1.9 **EULA/ToU** means the end user licence of Subscribed Services and/or the Services and/or Software that contains the rules of how you may use the services and services (also called a terms of use);
- 1.10 **Goods** means those IT goods itemised in the Purchase Order Form or as otherwise agreed in writing between the Parties from time to time;
- 1.11 **Hardware** means the electronic and mechanical parts of a computer or system related piece of equipment;
- 1.12 **Hardware Provider** means the provider of any of Your Hardware;
- 1.13 **Intellectual Property Rights** means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;
- 1.14 **Management Software** means the software that is downloaded on to Your System to facilitate the provision of the Services;
- 1.15 **Management Software Providers** means any person who provides Management Software used by PCSG;
- 1.16 **Parties** means PCSG and You, or PCSG's and Your successors and assigns where and when applicable;
- 1.17 **Personal Data** means any information which is held by You that is protected under the Data Protection Legislation;
- 1.18 **Price** means the price payable by the Client for the Goods and/or Services;
- 1.19 **PCSG** means The PC Support Group Limited incorporated in England and Wales under company number 02198426;
- 1.20 **Purchase Order Form** means the purchase order form or other document or otherwise issued by PCSG to which either these Terms are attached or is expressed to incorporate or be subject to these Terms which sets out (amongst other things) the Client's details, the Hardware, Software and Services to be supplied pursuant to the Agreement;
- 1.21 **Quotation** means any quotation or document issued by PCSG that is expressed to incorporate or be subject to these Terms which sets out (amongst other things) the Client's details, and in detail the Hardware, Software and Services to be supplied pursuant to the Agreement;
- 1.22 **Rate of RPI** means the retail price index percentage change over 12 months announced by the Office for National Statistics (or successor body) in the month preceding an increase in our rates
- 1.23 **Services** means those IT services PCSG will provide (which will include facilitation of certain Subscribed Services) as itemised in the Purchase Order Form or as amended in writing between the Parties from time to time;
- 1.24 **Subscribed Services** means, each cloud/other service to which the Client will subscribe as itemised in the Purchase Order Form (and it will refer to each respective service separately). Each such service will be subject to the specific EULA/ToU applicable to it, which will be incorporated hereto by this reference. Should there be a conflict between these Terms and such EULA/ToU the terms of the EULA/ToU will prevail only in so far as the conflict. These services are rendered by a third party (not PCSG) and PCSG will only be a facilitator to subscribe for such services;
- 1.25 **Site** means a place of business of the Client or a nominated third party at which the Goods and/or the Services are to be provided in the Purchase Order Form;
- 1.26 **Software** means a set of instructions comprehensible by a computer that provides use, purpose and the inter-relation of Hardware;
- 1.27 **Software Provider** means the provider of any Software;
- 1.28 **System** means a collection of Hardware and Software and processes brought together and utilised for a purpose;
- 1.29 **Terms** means these terms and conditions as amended by PCSG at their sole exclusive discretion from time to time
- 1.30 **Third Party Software** means any software programs or applications supplied to the Client by third parties and not by PCSG which may include Subscribed Services;
- 1.31 **TUPE** means Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- 1.32 **You or Your** means the Client defined as such in the Purchase Order Form and if a corporate entity, its directors, shareholders and any employee, contractor or agent who is authorised to deal directly with PCSG on Your behalf;
- 1.33 In the Agreement (except where the context otherwise requires):
- 1.33.1 Headings shall not affect the interpretation of this Agreement;
- 1.33.2 use of the singular includes the plural and vice versa and use of any gender includes the other genders;
- 1.33.3 any reference to persons includes a corporate or unincorporated body (whether or not having separate legal personality);
- 1.33.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any subordinate legislation for the time being in force made under it.
- 1.33.5 any phrase introduced by the terms "including", "include", "in particular" or

similar shall be construed as illustrative and shall not limit the words preceding those terms; and

- 1.33.6 any reference to any other document is a reference to that other document as amended, varied, supplemented, or novated (in each case, other than in breach of the provisions of the Agreement) at any time.

2. CONTRACT FORMATION

- 2.1 A Purchase Order Form and/or Quotation constitutes the Client's offer to PCSG for the purchase of relevant Goods and/or Hardware, Software and/or Services. PCSG is under no obligation to accept any Purchase Order Form and/or Quotation and may, in its absolute discretion, reject or amend any proposed Purchase Order Form and/or Quotation. An Agreement shall only come into force and bind both parties once:
- 2.1.1 the Client's offer is accepted by an authorised representative of PCSG signing the Purchase Order Form and/or Quotation or PCSG commencing the performance of the Services or provision of the Goods and/or Hardware and/or Software.
- 2.1.2 the credit status of the Client being to the satisfaction of PCSG (in PCSG's sole and absolute discretion).
- 2.2 All purchase orders, quotations and estimates are given and agreements are made by PCSG subject to and only upon the terms of an Agreement which cannot be varied unless agreed in writing by PCSG in accordance with term 27. These Terms are the only terms and conditions on which the Company will supply any Goods and/or Hardware and/or Software and/or Services to the Client under a Purchase Order Form and/or Quotation and will apply to the exclusion of all other terms and conditions including any terms and conditions which the Client purports to apply under any purchase order, confirmation, of order or similar document, (whether or not such document is referred to in an Agreement) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing. Unless expressly set out in an Agreement, all other terms, conditions and warranties which are implied by law are excluded to the fullest extent permitted by law.
- 2.3 In the event of a conflict or inconsistency between any of the documents which constitute the Agreement, the following descending order of precedence shall apply:
- 2.3.1 Any written notice or communication regarding a change in rates or price list or services issued by PCSG;
- 2.3.2 Quotation;
- 2.3.3 The Purchase Order Form;
- 2.3.4 the Terms; and
- 2.3.5 any other documents referred to on the Purchase Order Form and/or Quotation or in these Terms.
- 2.4 Any illustrations, samples or descriptive material provided by PCSG, including drawings, specifications of weight, capacity or dimensions and particulars of shade shall not form part of the Agreement but shall be treated as approximate only unless specifically stated otherwise. Any savings quoted are estimates and illustrative only. All documents containing such illustrative or descriptive material (as well as the copyright therein) shall remain the exclusive property of PCSG and must not be copied or loaned or transferred by the Client. The Client acknowledges and agrees that in entering into the Agreement, it has not relied on any such illustrations, samples or descriptive material.
- 2.5 Each order for Goods and/or Hardware and/or Software and/or Services shall be deemed (subject to condition 2.1) a separate Agreement (whether or not included on the same Purchase Order Form) to the effect that any delay or failure to supply Goods and/or Hardware and/or Software and/or Services shall not entitle the Client (to the extent that any such entitlement exists) to terminate an Agreement for Goods and/or Hardware and/or Software and/or Services or any other agreement entered into under these Terms.
- 2.6 Any undertaking by the Client not to do any act or thing shall be deemed to include an undertaking that the Client shall procure that any user of the Goods and/or Hardware and/or Software and/or Services including (without limitation) any of the Client's employees, agents or contractor, shall not do such act or thing.
- 2.7 The Client warrants and undertakes to PCSG that it is entering into an Agreement for the purposes of its trade, business and/or profession, and is not acting as a consumer.

3. YOUR CORPORATE DATA

- 3.1 By corporate data PCSG means any data which identifies You or Your business account with PCSG which includes your business details, business address, registered office (where applicable), telephone, fax and email contact details which you agree to supply to us accurately and to keep up to date by notifying us of any changes to the information held. It also includes any billing information ("Corporate Data").
- 3.2 Corporate Data will be collected, processed and used by PCSG for the purposes of billing and for other purposes mentioned in these Terms.
- 3.3 In providing the Goods and Services PCSG works with other organisations who produce the Software and Hardware and is required under its licences to provide certain information about You to these organisations. By agreeing to these Terms, you agree to having your Corporate Data provided to such organisations.
- 3.4 PCSG may also collect Corporate Data for statistical purposes.
- 3.5 PCSG may hold Corporate Data relating to the transactions which you enter into with us. PCSG will disclose this Corporate Data only insofar as to facilitate the provision of the Goods and Services provided to You.
- 3.6 Any telephone calls made to or from our offices may be monitored or recorded.
- 3.7 PCSG shall disclose Corporate Data where PCSG is compelled to do so by law.
- 3.8 If you are a sole trader, director, partner or member of a limited liability partnership or a home worker or for whatever business reason PCSG hold your Personal Data or Personal Data of your personnel then such Personal Data shall be held in accordance with the Privacy Policy uploaded on our website www.pcsupportgroup.com from time to time.
- 3.9 You understand and acknowledge that some of the Software may be programmed to track the number of copies deployed and to provide the software provider with such deployment and usage information. You consent to this operation and agree at all times not to hinder, impede, alter, prevent or otherwise distort, the operation of such tracking and reporting functions and to comply at all times with the requirements of any licences issued by the Software Provider.

4. SERVICES

- 4.1 PCSG shall endeavor to provide during Business Hours, the Goods and Services specified in the Purchase Order Form or as otherwise agreed in writing between the Parties;
- 4.2 The installation and service of new Hardware and Software is not included in the Services unless expressed to the contrary in the Purchase Order Form or in writing between the Parties. Any additional Hardware or Software provided and/or installed by PCSG will be



- installed and Serviced at an extra charge in accordance with clause 7 of these Terms.
- 4.3 PCSG shall use reasonable endeavors to ensure that any routine service work or upgrade to the Management Software causes minimum disruption to the provision of the Services and Your business.
- 4.4 The provision of the Services may be temporarily suspended and without notice in the case of system failure, security issues, unexpected maintenance or repair of either the Hardware or the Software on Your System, where urgent or unexpected remedial action is required to protect the Services or Your System or for reasons beyond PCSG's control. In such instances, it may be necessary to withdraw the Services in whole or part for an indefinite period of time.
- 4.5 Where circumstances under clauses 4.4 and 4.6 occur, PCSG shall not be held liable, and you undertake that you will not make any claim against PCSG for any losses howsoever caused.
- 4.6 Where Services are unavailable due to third party acts or omissions or where factors are outside the control of PCSG, including without limitation the interference or withdrawal of support by PCSG's licensors and business partners, virus attack and System sabotage, PCSG shall use reasonable endeavors to have such support reinstated as soon as is reasonably practicable but provides no guarantee. Any such work or remedy shall be at Your cost unless it is due to PCSG's negligence.
- 4.7 PCSG has the right to require You to reimburse PCSG in full for such services provided by PCSG which in PCSG's reasonable opinion are directly attributable to Your failure to operate the Hardware and/or the Software in accordance with the operating instructions provided to you. Such fees shall be calculated by PCSG on a time and materials basis.
- 4.8 PCSG shall not be liable to You if for any reason the Services are unavailable at any time or for any period and for any reason.
- 4.9 PCSG, its Software Providers and other third party suppliers, may from time to time modify, add to or remove aspects of the Services.
- 4.10 You will be charged for using the Services in accordance with the Purchase Order Form. PCSG reserve the right to change our fees or billing methods but will provide You with at least thirty (30) days' advance notice of any such change. As the account holder, You are responsible for all charges incurred and purchases made by You.
- 4.11 In order for PCSG to provide the Services there may be minimum Hardware or Software requirements as appear from time to time on our website www.pcsupportgroup.com at the time of making this Agreement which is compliant with the Data Protection Legislation and otherwise any requirement stipulated in the Purchase Order Form (if any);
- 4.12 The Services are provided for the benefit of one (1) Device and it will be presumed and the Services will be provided on the basis that Your System consists of one (1) Device unless otherwise expressly specified by You to us.
- 4.13 In order for PCSG to provide the Services You agree for PCSG to download appropriate Management Software on to Your System for PCSG's sole use except where otherwise agreed in writing by PCSG.
- 4.14 Where non-Microsoft Software requires PCSG's service or support You shall be expected to provide access and be solely responsible for the costs of third party support for PCSG to liaise with where necessary.
- 4.15 Should a fault be Hardware related PCSG will charge You for the part(s) replaced. PCSG will use alternative, compatible parts where necessary.
- 4.16 It remains Your sole responsibility to ensure that any valid warranty in respect of any Hardware or Software is not invalidated by the performance of the Services. Any valid warranty claim remains Your sole responsibility.
- 5. DATA PROCESSING**
- 5.1 Each party agrees that, in the performance of its respective obligations under the Agreement, it shall comply with all applicable requirements of the Data Protection Legislation
- 5.2 For the purposes of Data Protection Legislation, where PCSG processes any Personal Data for You pursuant to this Agreement You shall be the data controller and PCSG shall be the data processor
- 5.3 PCSG shall process Personal Data on Your System on behalf of You only in accordance with the terms of this Agreement and only for the purposes of providing the Services
- 5.4 Nothing in this Agreement shall be interpreted as allowing PCSG to use the Personal Data on Your Systems for its own business purposes outside of the Agreement
- 5.5 You acknowledge that PCSG may use sub-processors from time to time to provide the Services;
- 5.6 You agree to PCSG's use of the sub-processors listed on our web site www.pcsupportgroup.com
- 5.7 Without prejudice to the generality of clause 5.1 You will ensure that You have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal data to enable PCSG to perform the Services
- 5.8 Without prejudice to the generality of clause 5.1, PCSG shall, in relation to any Personal Data processed in connection with the performance by PCSG of our obligations under this Agreement:
- 5.8.1 only process that Personal Data as part of the Service (unless PCSG is required by the laws of any member of the European Union or by the laws of the European Union applicable to us) (**Applicable Laws**). Where PCSG is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, PCSG shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you;
- 5.8.2 ensure that PCSG has in place appropriate technical and organisational measures in respect of the Services which PCSG performs, to protect against unauthorised or unlawful processing of Personal Data or accidental loss, destruction or damage having regard to the nature of our Services (those measures may include, where appropriate, ensuring confidentiality and availability of our systems and services, and assessing and evaluating the effectiveness of the technical and organisational measures adopted by PCSG);
- 5.8.3 ensure that all PCSG personnel who have access to and/or process Personal Data on Your Systems are obliged to keep the Personal Data on Your Systems confidential; and
- 5.8.4 notify You without undue delay on becoming aware of a Personal Data breach on the part of PCSG;
- 5.9 Upon PCSG or You receiving any notice, complaint or communication which relates directly or indirectly to the processing of Personal Data by PCSG or You or PCSG's or Your compliance with Data Protection Legislation then PCSG or You (as appropriate) shall as soon as reasonably practicable notify the other and PCSG or You (as appropriate) shall provide the other with reasonable co-operation and assistance in relation to any such notice, complaint or communication.
- 5.10 PCSG operations are based in the United Kingdom and PCSG mainly store data within the European Union (EU). Whilst it is PCSG's policy to use solutions wholly based and operated in the EU where possible, some of the solutions used by PCSG are provided by companies outside of the EU and it may be that this results in data transfer outside of the EU. PCSG will only allow this when PCSG have been given adequate reassurance that appropriate safeguards are in place if data is exported from the EU and that all data export mechanisms are in place and comply with Data Protection Legislation.
- PCSG will not be responsible for any loss of data where PCSG have acted in accordance with the terms of this Agreement.
- 5.11 PCSG will not be responsible for any delay in performing or failure to perform Our obligations to the extent that such delay or failure was due to a failure by You to perform Your obligations under this Agreement or if delay results from a failure by You to comply with reasonable requests by PCSG for instructions information or action required by it to perform its obligations within a reasonable time limit.
- 6. DATA BACKUP SERVICE**
- 6.1 This clause 6 applies only in the case where data backup managed services are expressly being provided to You by PCSG in accordance with the Services;
- 6.2 PCSG provides various managed services via third parties, including, as part of its portfolio of products, data backup services
- 6.3 The Parties acknowledge that for the purposes of the Data Protection Legislation and the data backup service which PCSG is providing, the scope and nature of the processing is only to the extent of ensuring the data backup occurs in accordance with the Agreement and not to actual storage of the data backup. In the event there has been a failure and retrieval of the backup and any information of data on your System is required to be undertaken by PCSG, then in such circumstances PCSG may copy, store or transfer the Personal Data held on your System for the purposes of data retrieval only. On completion of data retrieval as tested and determined by PCSG, PCSG will delete any temporarily stored Personal Data.
- 6.4 PCSG, at any time on not less than 30 days' notice, may revise this clause 6 by replacing it with any applicable processor standard clauses or similar terms.
- 6.5 You acknowledge that there are risks inherent in Internet connectivity and data backup that could result in the loss of your privacy, Confidential Information and data, and PCSG cannot be held liable for this unless such loss is caused by their negligence or in breach of PCSG's obligations under Data Protection Legislation.
- 6.6 The Parties agree that You are the best judge of the value and importance of the data held on Your computer System, and You will be solely responsible for:
- 6.6.1 instituting and operating all necessary back-up performance management and review procedures to ensure Your backups are working, including, but not limited to PCSG's backup notification service, for Your own benefit;
- 6.6.2 taking out any insurance policy or other financial cover for loss or damage which may arise from loss of data for any reason.
- 7. PAYMENT TERMS, REFUNDS & EXIT**
- 7.1 You should let us know about any billing problems or discrepancies promptly after they first appear on Your account statement. If You do not bring them to PCSG's attention in writing within 14 days, You will have waived Your right to dispute those problems or discrepancies.
- 7.2 All monthly rates for Services shall be paid by standing order or Direct Debit in to PCSG's nominated bank account on the first day of each month for which the Services are to be provided;
- 7.3 All payments other than those referred to in clause 7.2 shall be paid to PCSG by cleared electronic bank transfer or electronic internet payment, unless otherwise agreed between You and PCSG.
- 7.4 All invoices for Goods and Services not provided on a monthly basis shall be submitted at the time of sale and must be paid within fourteen (14) days of their issue date. In respect of this payment time is of the essence.
- 7.5 PCSG shall be entitled to charge interest at the rate specified under the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 on all sums not settled within the terms of this Agreement.
- 7.6 PCSG reserve the right at its sole discretion to suspend the supply of any Goods and/or performance of any Services until all sums due to PCSG have been paid in full (but only after having given written notice to You of our intention so to do).
- 7.7 If PCSG suspends the supply of any Subscribed Services for reason of non-payment or delayed payment, PCSG will demand full-payment for the remainder of the term of the Subscribed Services, not just what is owed, and PCSG will only re-instate the Subscribed Services when such payment is received.
- 7.8 PCSG reserves the right to increase the price each year by the increase (if any) in the Rate of RPI notified in writing by PCSG to the Client.
- 7.9 Without prejudice to condition 7.7 above, PCSG shall have the right at its sole discretion on not less than thirty days (30) days' notice to the Client, change its rates or price list, if the change arises due to:
- 7.9.1 a change in the costs to PCSG due to a requirement or direction of any Laws or statutory requirement; and/or
- 7.9.2 a change in the costs charged to PCSG by its suppliers.
- 7.10 A licence for Subscribed Services or any Third Party Software cannot be terminated before its term and the Client will remain liable for payment of the full term of such licence at PCSG's sole discretion, notwithstanding payment in full on the termination of Agreement as detailed in clause 18.3. For example:
- 7.10.1 If the Client subscribes to a Subscribed Service or a Third Party Software package for a 12 month term, and pays monthly but wants to terminate its contract with PCSG during the 12 month term, the Client will remain liable to PCSG for that remaining period of time, in this example 12 months.
- 7.10.2 If the Client subscribes to a Subscribed Service or a Third Party Software basic package for a 12 month term, and wishes to upgrade the features of that package (from a basic to a premium for instance), the Client will remain liable to PCSG for that remaining period of time for the basic package and the new premium package simultaneously for the duration of that licence.
- 7.11 Failed Direct Debit Retry Fee**
- 7.11.1 In the event of a failure of a Direct Debit payment due to insufficient funds or any other reason within the Client's control, PCSG reserves the right to charge a "Failed Direct Debit Retry Fee".
- 7.11.2 The "Failed Direct Debit Retry Fee" shall consist of 2.25% of the total amount due at the time of the failed payment, in addition to a £25 administrative fee.
- 7.11.3 The "Failed Direct Debit Retry Fee" is exclusive of VAT, which will be added to the fee at the prevailing rate.
- 7.11.4 For each event of a failed Direct Debit payment, this fee will be applied unless the Client can demonstrate that the failure was due to reasons beyond their control.
- 7.11.5 PCSG will notify the Client of the failed payment and the impending charge of the "Failed Direct Debit Retry Fee" prior to its application.
- 7.11.6 The Client is encouraged to ensure adequate funds are available in their account to meet Direct Debit payments to avoid incurring this fee.
- 8. PROPERTY AND RISK**
- 8.1 The Goods shall be at Your sole risk as from delivery and/or installation.
- 8.2 In spite of delivery and/or installation of the Software or Hardware having been made, property in the Goods shall not pass to You from PCSG until:



- 8.2.1 You have paid in full the Price plus VAT in full and in cleared funds; and
- 8.2.2 No other sums whatsoever are due from You to PCSG.
- 8.3 Until the property in the Goods has passed to You in accordance with clauses 8.2.1 and 8.2.2 You shall hold the Goods on a fiduciary basis as bailee for the Goods and store and mark them separately from all other goods in your possession where possible.
- 8.4 Until such time as property in the Goods passes from PCSG to You, You shall upon request deliver up such of the Goods as have not ceased to be in existence or been sold to PCSG. If You fail to do so, you agree that PCSG may enter upon any premises owned occupied or controlled by You where the Goods are situated and repossess the Goods.
- 8.5 You are responsible for insuring the Goods and/or the Software and Hardware against normal risks from delivery. In the event of loss or damage to any of the Goods, you will notify us straight away.
- 9. MATERIAL AND CONDUCT**
- 9.1 PCSG reserve the right to refuse to provide or stop providing any Services where it reasonably believes that Your System contains material:
- 9.1.1 that is threatening, defamatory, obscene, indecent, seditious, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience or is illegal;
- 9.1.2 for which You have not obtained all necessary licences and/or approvals;
- 9.1.3 which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in the UK or any other country in the world; or
- 9.1.4 which is technically harmful (including without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data).
- 9.2 PCSG will fully co-operate with any law enforcement authorities or court order requesting or directing PCSG to disclose the identity or locate anyone dealing with or storing any material in breach of clause 9.1.
- 9.3 PCSG will not use Your System for any purpose other than hosting any Management Software and in providing the Services.
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1 The Management Software upon or through which the Services are provided are owned by licensors ("Management Software Providers") who under agreement licence the use of the Management Software to PCSG.
- 10.2 All title and Intellectual Property Rights including those in and to the Management Software (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Management Software or otherwise) are owned by PCSG or our various Management Software Providers. The Management Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your hosting of parts of the Management Software does not transfer any ownership of the Management Software or any Intellectual Property Rights to You.
- 10.3 You shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on the Management Software or any Intellectual Property Rights or that appear during use of the Management Software or any Intellectual Property Rights.
- 10.4 You shall not reverse engineer, de-compile, or disassemble the Management Software.
- 10.5 The Management Software is for PCSG's use in providing You with the Services and under no circumstances are You to use, access or copy the same except with the express written consent of PCSG.
- 10.6 You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Management Software or any Intellectual Property Rights to any third party, and you may not permit any third party to have access to and/or use the Management Software or any Intellectual Property Rights.
- 10.7 PCSG may terminate the provision of Services if You fail to comply with these Terms. In the event of termination, You are obliged to comply with the provisions of clause 18.6.
- 10.8 In addition to any liability, You may have to PCSG, You agree that You will also be legally responsible directly to the Management Software Providers for any breach of these Terms.
- 10.9 Notwithstanding the rights specified in clause 10.8 nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.
- 10.10 Any rights not expressly granted in these Terms are reserved.
- 11. YOUR OBLIGATIONS**
- 11.1 You shall:
- 11.1.1 ensure that the Hardware and Software is used in a proper manner in accordance with any specifications supplied and only by competent, trained employees;
- 11.1.2 not alter or modify the Software or in any way or permit the Software to be combined with any other programs;
- 11.1.3 not allow anyone other than PCSG or anyone that PCSG will expressly agree with the Client to provide, or procure the provision of, any maintenance services in respect of the Hardware and Software comprising part of our Services;
- 11.1.4 inform PCSG or a part expressly appointed by PCSG of any additions or changes to Hardware and/or Software not purchased pursuant to this Agreement so PCSG can assess the functionality of its Services;
- 11.1.5 not to install any new Software on your Systems without prior consultation with PCSG;
- 11.1.6 co-operate fully with PCSG's personnel in the diagnosis of any error or defect in the Hardware and Software;
- 11.1.7 provide PCSG with full, safe and uninterrupted access to those areas of Your premises to which it is necessary for PCSG to have access in order to perform the Services; and
- 11.1.8 ensure that those of its personnel whose decisions are necessary for the performance of the Services are available to PCSG for consultation in relation to any matter connected with the Services.
- 11.2 If You fail in respect of any of your obligations under this Agreement, PCSG shall not be liable for any consequent failure on its part to perform the Services. In addition, PCSG shall be entitled to charge You on a time and materials basis for any action taken by PCSG's staff as a result of such failure, notwithstanding that it may not be able to perform the Services due to such failure.
- 12. DISCLAIMER**
- 12.1 PCSG, and its officers, directors, employees, shareholders or agents do not accept any liability for the use made by You of the Goods or Services other than is provided under statute.
- 12.2 To the extent permitted by law, PCSG excludes all representations, warranties, conditions and other terms whether actual or implied and whether in respect of PCSG, the Software Providers or Hardware Providers (including without limitation, the conditions implied by law of satisfactory quality, fitness of purpose and the use of reasonable care and skill) which but for these Terms might have effect in relation to the Goods or Services.
- 13. LIABILITY AND INDEMNITY**
- 13.1 PCSG and its officers, directors, employees, shareholders or agents exclude all liability and responsibility for any amount or kind of loss or damage that may result to You or a third party, including without limitation, any direct, indirect, punitive, or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money or loss or damages arising from or connected in any way to business interruption, and whether in thought (including without limitation negligence, contract or otherwise) in connection with the Goods or Services, in any way or in connection with the use, inability to use or the results of use of the Goods or Services, including but not limited to loss or damage due to viruses that may infect Your System or other property on account of Your using the Goods or Services, Your downloading of any material from any website, disc or other medium, or from opening an email or any of its attachments as well as or any loss or damage resulting from a cyber-attack or breach or ransomware demand. Provided that nothing in this agreement shall exclude or limit PCSG's liability for death or personal injury caused by negligence or any liability which cannot be excused or limited under statutory law.
- 13.2 All costs associated with servicing, repair or correction of equipment, software or data or any other work carried out by PCSG that is required due to Your negligent or careless actions or inactions in relation to, or use of, Your System will be at Your additional expense.
- 13.3 You have responsibility to have adequate system protections (including, but not limited to anti-virus, firewall, and spyware, malware, malicious code detection/prevention) installed and configured to provide regular updates. All problems relating to viruses, spyware, malware, and/or malicious code are chargeable even if under a service contract agreement in PCSG's discretion. Consumables are not covered under any service contract agreement. You have responsibility to ensure each consumable item (such as ink cartridge, toner, paper etc.) is installed correctly and at a level in accordance with the manufacturer's instructions. All costs associated with servicing, repair or correction of equipment, software or data due to a consumable item will be chargeable at PCSG's standard rate.
- 13.4 PCSG shall not be held liable for any costs or claims whatsoever that arise from Your neglect to meet the minimum requirements specified in clause 4.11 or to upgrade Your System when and how recommended to do so by PCSG.
- 13.5 PCSG does not guarantee the full security of the servers it uses and does not guarantee that it will be impossible to 'hack' into any servers or back-up devices.
- 13.6 You must ensure that You have appropriate, up to date and valid policies of insurance for any Hardware or Software supplied or installed by PCSG. You are responsible for insuring the Hardware or Software from the date of installation.
- 13.7 Notwithstanding the above, PCSG shall not be liable, either in contract, tort, or otherwise, for any loss, damage, costs, or expenses incurred by the Client resulting from the absence of services or solutions which were not directly and expressly ordered by the Client from PCSG, regardless of whether such services or solutions were offered by PCSG or not. The Client acknowledges and agrees that it is their sole responsibility to request and order any and all services or solutions that they deem necessary for the effective operation and protection of their IT systems. The Client hereby agrees to indemnify, keep indemnified and hold harmless PCSG against all costs (including without limitation legal costs and the costs of enforcement (on a full indemnity basis)) liabilities, claims, damages, direct, indirect and consequential losses (including without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill an like loss whether such losses are direct, indirect, or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any or resulting directly or indirectly from the absence of services or solutions which were not directly and expressly ordered by the Client from PCSG, regardless of whether such services or solutions were offered by PCSG or not.
- The Client agrees that any cause of action that it may have against PCSG and/or any of its Group members (including, its (or their) affiliates, directors, officers, agents, consultants and employees) must commence within twelve (12) months after the cause of action arose, otherwise, the Client's cause of action is permanently barred.
- 13.8 Without prejudice to any other right of PCSG, You will indemnify, keep indemnified and hold harmless PCSG against all costs (including without limitation legal costs and the costs of enforcement (on a full indemnity basis)) liabilities, claims, damages, direct, indirect and consequential losses (including without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill an like loss whether such losses are direct, indirect, or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any:
- 13.8.1 breach by You of any warranties, undertakings and/or representations given under these Terms and/or failure to comply with any of Your obligations, responsibilities and/or liabilities as set out in this Agreement; and/or
- 13.8.2 injury and/or damage suffered or incurred by or to any of PCSG's (or any of PCSG's contractors) employees and/or equipment whilst on the Site; and/or
- 13.8.3 infringement by You (including its affiliates, directors, officers, agents, consultants and employees) of any third party's Intellectual Property Rights and/or
- 13.8.4 in respect of all costs and damages arising under this Agreement for all claims or potential claims under or relating to TUPE.
- 14. SET-OFF**
- You may not at any time or times, set off any liability that You have to PCSG against any liability that PCSG may have to You (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated).
- 15. INADEQUACY OF DAMAGES**
- Without prejudice to any other rights or remedies that PCSG may have, You acknowledge and agree that damages alone may not be an adequate remedy for any breach by You of these Terms and that accordingly PCSG shall be entitled, without proof of special damages, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of these Terms.
- 16. WAIVER AND REMEDIES**
- No failure or delay by PCSG in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 17. DURATION AND TERMINATION**
- 17.1 PCSG has the right at any time to terminate the Agreement or part thereof with immediate effect and without liability or penalty to themselves by giving You written notice where:



- 17.1.1 You commit a breach of any of the Terms;
- 17.1.2 any distress, execution or other process is levied upon any of Your assets or Your business;
- 17.1.3 You have a bankruptcy order made against You or You make an arrangement or composition with Your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for winding up or for the granting of an administration order, or any proceedings are commenced relating to Your insolvency or possible insolvency;
- 17.1.4 You cease or threaten to cease to carry on business; or
- 17.1.5 Your financial position deteriorates to such an extent that in the opinion of PCSG Your capability to adequately fulfil Your obligations under the Agreement with PCSG has been placed in jeopardy.
- 17.2 In a roll over monthly Agreement, the Agreement will automatically renew monthly unless either Party gives notice to terminate the Agreement or any part thereof for any reason whatsoever by giving one month's written notice to the other Party. In the circumstances where a fixed or minimum Term has been agreed between the parties and provided so in the Quote and/or Purchase Order, the Agreement will remain in force for the fixed or minimum Term and will automatically renew for the same fixed period of time unless a party gives a notice to the other for the period specified in the Quote and / or Purchase Order or ninety (90) days whichever is the shortest. In either a roll over monthly or a fixed term Agreement, the Agreement is terminable by PCSG in accordance with clause 17.1.
- 17.3 Subsequent to clause 7.10, where a licence for Subscribed Services or any Third Party Software must continue after termination of other services, the full amount of the remaining term will be invoiced to you and immediately payable in full, and the Subscribed Services or any Third Party Software will be set to not renew at the completion of the term, unless otherwise agreed in writing by PCSG
- 17.4 Upon notice of termination having been given, all outstanding monies owed to PCSG by You must be settled within 14 (fourteen) days of receipt of that notice.
- 17.5 Following termination of the Agreement or part thereof under the Terms, all rights and obligations of the Parties shall cease except for those rights and obligations that are intended, by implication or expressly stated, to continue beyond termination.
- 17.6 In the event of Termination of this Agreement for any reason whatsoever You must permit or assist PCSG or its agents to remove, delete and destroy any Management Software and all of its component parts from Your System and return any of the materials supplied by PCSG under this Agreement.
- 18. FORCE MAJEURE**
- 18.1 Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party.
- 18.2 If either Party is prevented or delayed in the performance of any of its obligations, that Party must promptly:
- 18.2.1 serve notice on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure; and
- 18.2.2 shall, subject to service of such notice and take all reasonable steps to avoid and remedy such prevention or delay; and
- 18.2.3 for such time after they cease as is necessary for that Party, using all reasonable endeavors, to recommence its affected operations in order for it to perform its obligations.
- 18.3 If such circumstances continue for a period of more than six (6) months, either Party may terminate this Agreement by written notice to the other Party.
- 19. JOINT AND SEVERAL LIABILITY**
- An obligation of two or more parties under the Terms shall bind them jointly and severally.
- 20. LIMITATION OF LIABILITY**
- 20.1 This Clause 20 sets out the entire financial liability of PCSG (including any liability for the acts or omissions of its employees, agents and sub-contractors) to You:
- 20.1.1 arising under or in connection with these Terms;
- 20.1.2 in respect of any use made by You of the Hardware, Management Software, Services Software and System or any part of them; and,
- 20.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms.
- 20.2 Subject to Clause 20.4, PCSG shall not be liable to You in contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms.
- 20.3 PCSG's total aggregate and maximum liability, in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms shall be limited to the total amounts that PCSG has received from You in the 6 (six) months preceding the date the claim was notified to PCSG.
- 20.4 Nothing in this Clause 20 shall however exclude or restrict PCSG's liability for (i) fraudulent misrepresentations, (ii) any liability where the law does not permit such exclusion of liability, and (iii) death or personal injury arising from negligence.
- 20.5 PCSG shall not be in breach of any of its obligations under these Terms which arise or occur due to the act, omission, and default of You or Your failure to comply with any of its obligations under these Terms. Except as expressly set out in these Terms:
- 20.5.1 no conditions, warranties or other terms, including any implied terms relating to satisfactory quality or fitness for any purpose, will apply to the Hardware, Management Software, Services Software and System or to anything supplied or provided by PCSG under this Agreement which are all provided to You on an 'as is' basis. You acknowledge that the service may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
- 20.5.2 You assume sole responsibility for the results obtained from the use of the Services and for conclusions drawn from such use; and,
- 20.5.3 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms.
- 20.6 The Client agrees that any cause of action that it may have against PCSG and/or any of its Group members (including, its (or their) affiliates, directors, officers, agents, consultants and employees) must commence within twelve (12) months after the cause of action arose, otherwise, the Client's cause of action is permanently barred.
- 21. NO PARTNERSHIP/AGENCY**
- This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have nor represent that it has, any authority to make any commitments on the other's behalf.
- 22. ASSIGNMENT**
- 22.1 PCSG may assign the Agreement or any part of it to any person, firm or company.
- 22.2 You shall not without the prior written consent of PCSG (such consent not to be unreasonably withheld or delayed):
- 22.2.1 assign, transfer, charge or deal in any other manner with the Agreement or any of Your rights under it, or purport to do any of the same; or
- 22.2.2 sub-contract any or all of Your obligations under the Agreement.
- 22.3 The Parties are entering into the Agreement for their own benefit and not for the benefit of another person.
- 22.4 Subject to and upon any succession or assignment permitted by the Agreement, any successor or assignee of the Parties shall in its own right be able to enforce any term of the Agreement in accordance with the terms of the Agreement as if it were a Party, but until such time any such successor or assignee of the Parties shall have no such rights whether as a third party or otherwise.
- 23. CONFIDENTIALITY**
- 23.1 For the purposes of the Agreement, Confidential Information shall mean the existence and terms of the Agreement and all information (of whatever nature and however recorded or preserved) disclosed by one Party to the other, which is marked as or has been otherwise indicated to be confidential.
- 23.2 The Parties shall keep confidential all Confidential Information and not use it except for the purpose of exercising or performing their rights and obligations under the Agreement.
- 23.3 The Parties may disclose Confidential Information to their employees, officers, professional representatives or advisers, sub-contractors and agents, provided that such persons:
- 23.3.1 need to know it for the purpose of exercising or performing that Party's rights and obligations under the Agreement;
- 23.3.2 have been informed of the confidential nature of the Confidential Information divulged; and
- 23.3.3 agree to act in compliance with the confidentiality requirements of the Agreement.
- 23.4 The Parties must not disclose Confidential Information to any third party or use it except as otherwise permitted in the Agreement.
- 23.5 Notwithstanding any other provision of the Agreement, it shall not be a breach of the Agreement for either Party to disclose any Confidential Information pursuant to:
- 23.5.1 a court order; or
- 23.5.2 a binding request from a regulatory (or other analogous) authority with jurisdiction; or
- 23.5.3 from any other third party with power to require the disclosure of such information;
- 23.5.4 provided that (to the extent it is legally permitted to do so) the affected Party gives reasonable notice of such disclosure to the other Party.
- 23.6 Subject to the other terms of the Agreement, the terms of this clause 23 shall continue to apply notwithstanding termination of the Agreement or any other cessation of any business relationship between the Parties.
- 24. NON- SOLICITATION**
- Each party agrees that, during the term of this Agreement and for a period of six months from the date of termination of this Agreement, it shall not (without the other party's prior agreement in writing, which shall not be unreasonably withheld or delayed) directly or indirectly offer to employ, engage as an independent contractor or induce any person who has been associated in a technical or managerial capacity with any of the Services during the preceding six months to leave the other party's employment.
- 25. ENTIRE AGREEMENT**
- 25.1 These Terms as amended by us from time to time together with the details contained in the Purchase Order Form and any Quotation constitute the entire agreement and understanding of the Parties ("the Agreement") and supersedes any previous agreement between the Parties relating to the subject matter of the Agreement.
- 25.2 The Parties acknowledge and agree that in entering into the Agreement they are not relying on any pre-contractual statement or representation.
- 25.3 You acknowledge and agree that the only remedy available to You for breach of the Agreement shall be for breach of contract under the terms of the Agreement.
- 25.4 If any provisions of the Terms are inconsistent with provisions of the Purchase Order Form, the provisions in the Purchase Order Form shall prevail.
- 26. VARIATION**
- No variation of the Agreement shall be valid unless it is notified to You in writing by or on behalf of PCSG.
- 27. SEVERANCE**
- 27.1 If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of the Agreement which shall remain in full force and effect.
- 27.2 If any provision of the Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.
- 28. NOTICES**
- 28.1 Any notice or other communication given under the Agreement shall be in writing and shall be served to the address and for the attention of the relevant Party as set out in the Purchase Order Form, or such other address, or facsimile number as may be notified in writing from time to time by the relevant Party to the other, by delivering it personally or sending it by pre-paid recorded delivery or registered post or fax or by email.
- 28.2 Any such notice referred to in clause 28.1 shall be deemed to have been received, if delivered personally, at the time of delivery, in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting and in the case of fax or email, at the time of transmission, unless out of Business Hours in which case deemed receipt shall be during Business Hours the next Business Day.
- 29. COUNTERPARTS**



The Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

30. RIGHTS OF THIRD PARTIES (EXCLUSION)

30.1 Save as expressly provided in the Agreement or as otherwise agreed in writing between the Parties, no term of the Agreement shall be enforceable by a third party (being any person other than the Parties and their permitted successors and assignees).

30.2 Notwithstanding that any term of the Agreement may be or become enforceable by a person who is not a Party to it, the terms of the Agreement or any of them may be varied, amended or modified or the Agreement may be suspended, cancelled or terminated by agreement in writing between the Parties or the Agreement may be rescinded (in each case), without the consent of any such third party.

31. ALTERNATIVE DISPUTE RESOLUTION

31.1 If any dispute arises out of the Agreement the Parties must attempt to settle it by negotiation in the first instance.

31.2 If negotiations fail to resolve the dispute either Party may serve notice on the other indicating that they wish to deal with the dispute through an alternative dispute resolution procedure. Upon receipt of such a notice the other Party must agree and submit to the alternative dispute resolution procedure proposed;

31.3 A Party cannot commence court proceedings until at least one method of alternative dispute resolution has been genuinely submitted to and a decision obtained.

31.4 Nothing in this clause 31 shall prevent PCSG from taking immediate legal action no matter whether any of the procedures in clauses 31.1 to 31.4 (inclusive) have been carried out, where the interests of PCSG or the Management Software Provider are at risk of being damaged, devalued or otherwise amended in any way whatsoever.

32. YOUR OBLIGATIONS AS A CLIENT

You are responsible for agreeing to a product or service. You must supply PCSG with reasonable courtesy, information and cooperation so that PCSG may perform its duties. You are responsible for having backups of all data from your Device and/or System.

33. CALL MONITORING

33.1 Calls made to or from PCSG may be monitored and recorded:

33.1.1 for training and quality purposes;

33.1.2 to ensure compliance and self-regulatory procedures;

33.1.3 as evidence of a business transaction

34. GOVERNING LAW AND JURISDICTION

The validity, construction and performance of this Agreement shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.