PDS COMMUNICATIONS LIMITED (3306440)
TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. WHO THIS AGREEMENT IS BETWEEN

This agreement is between "the Customer" and PDS Communications Limited "the Provider".

"we", "us", "our" refers to PDS COMMUNICATIONS LIMITED "the Provider" whose registered office is at; 34 The Hopstore · Old Bexley Business Park · 19 Bourne Road · Bexley · Kent · DA5 1LR. Company registration number 3306440.

2. . DEFINITIONS AND INTERPRETATION

2.1.1 Provider: PDS Communications Limited (company registration number 3306440).

2.1.2 Customer: the person, firm or company who accepts a quotation from the Provider.

2.1.3 Goods: computer hardware, computer software, cabling and network equipment.

2.1.4 Services: the repair, installation training days together with any other services which the Provider specifies in writing to the Customer.

2.1.5 Personal data: any information relating to an identified or identifiable natural person ("**data subject**"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

2.1.6 Processing: any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

2.1.7 Controller: the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law; "The Customer"

2.1.8 Processor: a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller; "The Provider"

2.1.9 Sub-Processor: any data processor engaged by the Processor

2.1.10 Confidential Information: all information disclosed by a Party to the other Party pursuant to this Agreement, including (but not limited to):

- any trade secret, know-how, invention, concept, software programme, source code, object code, application, documentation, schematic, procedure, contract, information, knowledge, data, database, process, technique, design, drawing, programme, formula or test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, technical, scientific, customer, employee, investor, or business information, whether in oral, written, graphic, or electronic form;

- any non-public business information, including personnel data, correspondence with any Governmental Authority, historical customer information and data, historical cost information such as budgets, operating expenses and capital costs and projected capital additions, operating cost information and other business and financial reports and forecasts;

- any document, diagram, photograph, drawing, computer programme, or other communication that is either conspicuously marked "confidential", or is known or reasonably should have been known by the receiving Party to be confidential;

2.22 Condition headings do not affect the interpretation of these conditions.

3. ACCEPTANCE

3.1 The Customer has read and understands this order and agrees that the Customer's written acceptance or commencement of any work or services under this order shall constitute the Customer's acceptance of these terms and conditions.

3.2 These terms and conditions shall apply to this order to the exclusion of any other terms and conditions on which any quotation has been given to the Customer or subject to which the order is accepted or purposed to be accepted by the Customer.

3.3 No variation of this order or these terms and conditions shall be binding unless agreed in writing between the authorised representatives of the Provider and the Customer.

4. THE USE OF INFORMATION, CUSTOMER DATA AND PERSONAL DATA

4.1 Information will be provided by the Customer to the Provider at the time of this agreement and in advance of commencement of works. This information may include "Customer Data", that is information about the Customer's business. The information may also include "Personal Data" in respect of employees of the Customer's business.

4.2 The Provider will use any information the Customer provides to it under this agreement, or that the Provider collects under this agreement, as described in its Privacy Policy and in particular to;

4.2.1 Provide, manage and administer the Customers requirements;

4.2.2 Fulfil the Providers contractual obligations under this agreement;

4.2.3 Contact the Customer to see if the Customer would like to take part in the Provider's customer research;

4.2.4 Contact the Customer about other products and services which the Provider thinks the Customer will be interested in;

4.2.5 Do otherwise in accordance with the Provider's Privacy Policy

4.3 The Provider may disclose information to its contractors and other organisations including, without limitation, to;

4.3.1 Organisations which the Provider uses to help it send communications;

4.3.2 Organisations the Provider use to help it provide the software or services;

4.3.3 Third-parties (if any) used by the Provider to perform its obligations to the Customer under this agreement; and

4.3.4 Any other person in order to meet any legal obligations on the Provider, including statutory or regulatory reporting.

4.4 If the Customer provides the Provider with information which contains Personal Data the Provider (as The Processor) will process and the Customer (as The Controller) agrees and authorises it to process that data in accordance with the Data Protection Regulations. Where the Provider uses the terms "Personal Data", and "Data Pprocessor" and "Data Ccontroller" in this agreement the Provider means as those terms are defined in the Data Protection Laws.

4.5 If at any time the Customer does not want the Provider to use its Personal Data, the Customer must notify the Provider by email using; gdpr@pds-comms.co.uk.

4.6 The Customer owns its customer data and has sole responsibility for the legality, reliability, integrity, accuracy and quality of that customer data.

4.7 To the extent Personal Data is included in any Customer Data the Provider will process that data on the Customer's behalf as a Data Processor. The Provider will only process such personal data in accordance with the Customer's instructions (and the Customer hereby instructs the Provider to take such steps in the processing of Personal Data on its behalf as are necessary for the provision of services under this agreement and the performance of the Provider's obligations under this agreement).

4.8 The Customer warrants and represents that;

4.8.1 It will comply with the Data Protection Laws;

4.8.2 It is authorised pursuant to the Data Protection Laws to disclose any personal data which the Customer discloses or otherwise provides to the Provider regarding persons other than itself.

4.9 The Provider warrants and represents that during the term of this agreement the Provider will:

4.9.1 Comply with the Data Protection Laws applicable to the Provider whilst such Personal Data is in its control;

4.9.2 (having regard to the state of technological development and the cost of implementing any measures), take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to Personal Data, to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected; and

4.9.3 take reasonable steps to ensure the reliability of its employees, contractors and sub-processors who have access to any Personal Data.

4.10 The Provider may provide Customer Data that the Customer transfers to the Provider pursuant to this agreement to;

4.10.1 The Provider's agents, service providers;

4.10.2 Law enforcement agencies;

4.10.3 Any other person in order to meet any legal obligations of the Provider, including statutory or regulatory reporting; and

4.10.4 any other person who has a legal right to require disclosure of the information.

5. PRICE

5.1 Unless otherwise agreed by the Provider in writing, the price for the goods and/or services shall be the price on the quotation given by the Provider or in accordance with Provider charging rates for work undertaken.

6. PAYMENT

6.1 Unless otherwise agreed in writing, the Customer agrees to pay 20% of the price given in the quotation provided by the Provider prior to the commencement of work.

6.2 Upon the commencement of work, the Customer agrees to pay a further 50% of the price stated on the quotation provided by the Provider.

6.3 The Customer agrees to pay the outstanding balance owed to the Provider on completion of the work by the Provider.

6.4 The Customer agrees to pay for goods prior to delivery in accordance with clause 5.

6.5 If any sum under these conditions is not paid when due then, without prejudice to the parties' other rights under these conditions, that sum shall bear interest from the due date until payment is made in full, both before and after any judgement, at 8% per annum over Barclays Bank Plc's base rate from time to time. The Provider is entitled to suspend the provision of goods and/or services as a result of any sums being outstanding.

7. DELIVERY AND PREPARATION OF SITE

7.1 Any dates specified by the Provider for the delivery of goods and services are intended to be an estimate only.

7.2 Time shall not be of the essence.

7.3 The Customer agrees to provide all access, assistance and facilities reasonably required to allow the Provider to provide goods and/or services.

8. RISK/TITLE

8.1 Any goods supplied to the Customer shall remain the Provider's property until the Provider has received all sums due to the Provider in respect of the goods in accordance with clause 6.

8.2 Risk in the goods passes to the Customer on delivery.

8.3 Until payment any goods provided by the Provider shall be sorted by the Customer at the Customer's own cost on the Customer's premises separately from all other goods and in a manner, which makes them clearly identifiable.

8.4 Until payment the Customer shall upon request deliver up any goods of the Provider and if the Customer fails to do so that Provider may enter any premises owned occupied or controlled by the Customer where the goods are situated and repossess them.

9. QUALITY OF SERVICES AND DATA LOSS

9.1 The Provider warrants that it shall provide the services in accordance with good industry practice and legal requirements.

9.2 The Customer shall bear the sole responsibility for establishing adequate back-up plans to apply in the event of a programme or equipment malfunction.

10. CHANGES

10.1 The Provider reserves the right at any time to direct changes, or cause the Customer to make changes, to drawings and specifications of the goods and services or to otherwise change the scope of the work covered by an order including work with respect to such matters as inspection, testing or quality control as may reasonably be required.

11. WARRANTY

11.1 If the Customer is a "consumer" (a natural person who is not acting for business purposes), the Provider expressly warrants that subject to clause 11.2, all goods covered by an order will conform to a material degree to the specifications, drawings, samples or descriptions given by the Provider and will be of satisfactory quality (within the meaning of the Sale of Goods Act 1994).

11.2 Specifications given by the Provider, goods supplied and services provided by the Provider will depend upon the information provided by the Customer and the Provider is entitled to rely upon the information provided as accurate and correct.

11.3 If the Customer is a "business" (a seller or supplier acting for business purposes), or a consumer, the Provider warrants that subject to clause 11.2, all services performed under these conditions shall be performed using reasonable skill and care and a quality conforming to generally accepted industry standards and practices.

11.4 The Provider expressly warrants that all services covered by an order will be carried out by appropriately qualified and trained personnel (within the meaning of the Supply of Goods and Services Act 1982).

11.5 Any claim by a business which is based on defect in the quality or condition of the goods and/or services must be notified to the Provider within 7 days from date of delivery/completion of the work.

11.6 Where any valid claim in respect of any goods or services is notified to the Provider in accordance with these conditions, the Provider shall be entitled to repair or replace the goods free of charge or refund to the Customer the price of the goods or services but then the Provider shall have no further liability.

11.7 Except as expressly provided in this clause, all warranties and conditions whether implied by statute or otherwise are excluded from these conditions provided that nothing in these conditions shall restrict or exclude liability for death, personal injury and fraudulent misrepresentation caused by negligence of the Provider or affect the statutory rights of the Customer.

11.8 The Provider does not guarantee a particular outcome on performance or performance standard.

12. INDEMNITY

12.1 If the Provider performs any work on the Customer's premises or utilises the property of the Customer, the Customer shall indemnity and hold the Provider harmless from and against any liability, costs, claims, demands or expenses for damage to the property or injuries to the Customer, its employees or any other person arising from or in connection with the Provider's performance of work or use of the Customer's property, except for such liability, claim or demand arising out of the sole negligence of the Provider.

13. INDEPENDENT CONTRACTOR

13.1 The Provider and the Customer are contractors' independent of each other, and neither has the authority to bind the other to any third-party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties.

13.2 The Provider may in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the Customer.

14. TERMINATION

14.1 The Provider reserves the right to terminate all or any part of an order immediately, without liability to the Customer, if the Customer does not accept or breaches any of the terms of a quotation or breaches these terms and conditions.

14.2 In addition to any rights of the Provider to terminate an order, the Provider may, as its option, immediately terminate all or any part of an order, at any time, and for any reason, by giving written notice to the Customer.

14.3 Upon termination, howsoever arising, the Customer shall pay the Provider the following amounts without deduction or set-off;

14.3.1 the order price for all the goods and/or services which have been completed in accordance with an order, and not previously paid for; and

14.3.2 the actual costs of work-in-progress in relation to the services and the cost of goods supplied by the Provider.

14.3.3 On termination of contract by the Customer before the main section of work has been delivered, the Customer shall pay to the Provider all liabilities (including work in progress) and all outstanding payments due under the Agreement and without limitation the Provider shall be entitled to charge the Customer for those parts of the order already provided and/or ordered.

15. FORCE MAJEURE

15.1 The Provider reserves the right to defer the date of delivery or to cancel or vary an order by the Customer (without liability to the Provider) if it is prevented from or delayed in the carrying out of its business due to circumstances beyond the reasonable control of the Provider.

15.2 Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, storm or other event beyond the reasonable control of either party to these conditions.

16. INTELLECTUAL PROPERTY

16.1 The Customer agrees with the Provider not to cause or permit anything which may damage or endanger the intellectual property of the Provider or the Provider's title to such intellectual property or assist or allow others to do so.

16.2 Any form of intellectual property rights in all goods supplied and services provided by the Provider in accordance with these terms and conditions shall at all times be and remain the exclusive property of the Provider.

17. GDPR COMPLIANT CLAUSES

The data protection clauses in our contract with you are amended to state;

17.1 When acting for you, we are a Data Controller in respect of any personal data you provide to us or to which we have access. This is because IT Support Providers and similar providers of professional services work under a range of professional obligations which oblige them to take responsibility for the personal data they process. In doing so we would not be acting on your instructions but in accordance with our own professional obligations and therefore as a Data Controller in our own right.

17.2 Where we and you are deemed in accordance with the data protection laws to be joint Data Controllers, you shall be liable for the personal data you process and we shall only be liable for the personal data we process.

17.3 You confirm that you have the right to supply personal data to us and you will not breach applicable data protection laws. Where you are providing personal data to us about a third-party, for example, a Director (including a non-executive Director) and/or any other type of employee, business associate, customer, supplier or third-party, you confirm that you have their authority and express permission to provide us with their personal data.

17.4 Neither of us will by our act of omission put the other in breach of the applicable data protection laws.

17.5 Where we and you are joint Data Controllers, you should provide all relevant information to data subjects relating to the processing of their personal data (including the processing carried out by us) and to the exercise of their rights in relation to the processing of their personal data as required by the data protection laws in written notice ("Fair Processing Notice") and you will act as the contact point for the data subject.

17.6 To enable us to discharge the services agreed under our engagement and for other related purposes, including updating and enhancing client records, analysis for management purposes and statutory returns, crime prevention and legal and regulatory compliance, we may obtain, use, process and disclose personal data about you or your entity, its officers and employees, as applicable. We confirm when processing data on your behalf we will comply with the relevant provisions of the applicable data protection laws.

17.7 In the course of providing the services to the Controller pursuant to this Agreement, the Processor may process personal data on behalf of the Controller. The Processor agrees to comply with the following provisions with respect to any personal data processed for the Controller in connection with the provision of the services.

17.8 Where we act as a Data Processor in relation to your personal data, we will:

17.8.1 Process personal data;

▪ in line with the categories of data subjects which are provided for the service by the Controller.

▪ types and contact information, the extent of which is determined and controlled by the Controller in its sole discretion and other personal data such as, user credentials, email data, system usage data, application integration data, internet protocol (IP) and other electronic data submitted, stored, sent, or received by end users via the service.

▪ subject-matter and nature of the processing. The subject-matter of processing of personal data by the Processor is the provision of the service to the Controller that involves the processing of personal data. Personal data will be subject to those processing activities as may be specified in a Controller's Data Sharing or Data Processing Agreement signed by us.

▪ for the purpose of performing our services and obligation to you as outlined in our proposal, contract or quote and the for the performance of running and operating of our business; and

▪ for such other purposes as may be instructed by or agreed with you as otherwise notified in writing from time to time; and

▪ in accordance with the applicable data protection laws.

17.8.2 implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;

17.8.3 not otherwise modify, amend, remove or alter the contents of the personal data or (unless legally obligated to, as specified above) disclose or permit the disclosure of any of the personal data to any third-party without your prior written authorisation;

17.8.4 adopt measures to maintain up to date records of our processing activities performed on your behalf which shall include the categories of processing activities performed, information on cross border data transfers and a general description of security measures implemented in respect of processed data;

17.8.5 unless otherwise required by data protection laws or our own retention policy, we will return or delete all personal data upon the termination of our relationship with you;

17.8.6 adopt measures to ensure that only those personnel who need to have access to your personal data are granted access to it

and that all of the personnel required to access your personal data are reliable and have been informed of its confidential nature;

17.8.7 we may continue to use those Sub-Processors already engaged by us as at the date of this agreement subject to the Data Processor or Sub-Processor in each case, as soon as practicable meeting the obligations set out in this agreement;

17.8.8 not appoint additional Sub-Processors without your prior written consent, not to be unreasonably withheld and ensure an agreement is entered into with the relevant sub-contractor which includes terms which are substantially the same as the terms set out in these clauses;

17.8.9 where we transfer your personal data to a country or territory outside the European Economic Area to do so in accordance with data protection laws (including for the avoidance of doubt entering into standard form contracts);

17.8.10 notify you without undue delay if we receive: (i) a request from a data subject to access your personal data; or (ii) a complaint or request relating to the data protection laws;

17.8.11 assist you should you need to carry out a privacy impact assessment;

17.8.12 notify you without undue delay in the event of becoming aware of any breach of the data protection laws; and

17.8.13 permit without charge, on an annual basis, and / or where you become aware of a data breach or alleged breach of the data protection laws by us, reasonable access to the relevant information for the purposes of appropriately reviewing compliance with the data protection laws.

17.9 Both Parties acknowledge that during this Agreement, a Party may become privy to confidential information which is disclosed by the other Party.

17.10 The receiving Party shall keep all confidential information confidential, in particular the receiving Party shall not disclose any confidential information to any third-party and shall not use this information for purposes not resulting from this Agreement.

17.11 Any violation of this section by either of the Parties shall be deemed a material breach of this Agreement.

17.12 Each of you and us shall indemnify and keep indemnified the other in full from and against all claims, proceedings, actions, damages, costs, fines, expenses and any other liabilities which may arise out of, or in consequence of the indemnifying Party's breach of the data protection laws of the performance or non-performance by its Sub-Processor(s) and personnel of its obligations in connection with these Engagement Terms in relation to the data protection laws, including loss of or damage to property, financial loss arising from any breach of the data protection laws or any other loss which is caused directly or indirectly by any act of omission arising from any breach of the data protection laws.

17.13 We will tell you if, in our opinion, your instructions may breach the applicable data protection laws.

18. GOVERNING LAW AND JURISDICTION
This agreement shall be governed and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts

19. SEVERABILITY
19.1 If any clause of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other clauses and the remainder of the clauses in question shall not be affected.

20. PUBLIC AND PRODUCTS LIABILITY
Limit of Indemnity: £10,000.000.

AGREEMENT OF TERMS
By signing below, or by continuing to receive goods and/or services on or after 25 May 2018, each Party confirms that it has read the updated Terms & Conditions, incorporating GDPR and agrees to be bound by it.

Signed for and on behalf of PDS COMMUNICATIONS LIMITED, registered with company number 3306440 at 34 The Hopstore · Old Bexley Business Park · 19 Bourne Road · Bexley Kent · DA5 1LR	
Signature:	
Name:	Steve Rowing
Position:	Director
Date:	25 May 2018

Signed for and on behalf of:	
Company Name:	
Company No:	
Registered Address:	
Signature:	
Name:	
Position:	
Date:	