

PRIVILEGED



SaaS Standard Terms and Conditions – G Cloud



1 Purpose

- 1.1 These Standard Terms and Conditions set out the terms on which PDMS provides Applications to Clients where no other agreement for the provision of Applications has been entered into between PDMS and the Client.
- 1.2 Please read these Terms and Conditions carefully, as they set out PDMS' and the Clients' legal rights and obligations in relation to PDMS' Software-as-a-Service (SaaS) Applications and Services in respect to GCloud procurements. Clients will be asked to agree to these Terms and Conditions before becoming PDMS accepts their business.
- 1.3 These Terms and Conditions are available in the English language only.
- 1.4 These Terms and Conditions are designed to supplement and work in conjunction with the Terms and Conditions set out in the GCloud Call Off Contract and GCloud Framework Agreement.
- 1.4.1 Any specific term of this Agreement can be overridden by specific and referenced terms contained within the Call Off Contract, which would then supersede these.
- 1.5 These Standard Terms and Conditions also apply where PDMS provides Clients with a Trial use of Software or a demo version of Software or related services before entering into legally binding contract for the provision of such Software.

2 Definitions

- 2.1 Unless the context otherwise requires, the following expressions shall apply throughout Standard Terms and Conditions:

| Expression | Definition |
|----------------------------|--|
| "Agreement" | the agreement between PDMS and the Client for the provision of the Application, incorporating these Terms and Conditions (including the Schedules), the Call Off Contract and the Framework Agreement, and any amendments to the Agreement from time to time |
| "Applicable Law" | All applicable laws, statutes and regulations in force from time to time. |
| "Application" | the Software-as-a-Service Application defined by the Call Off Contract that is owned and operated by PDMS, and that will be made available to the Client as a Service via the internet under the Agreement. |
| "Call Off Contract" | GCloud terms and conditions, that are over and above this Agreement, that govern the provision of Services by PDMS to the Client. |
| "CCN" | a Change Control Notice issued in accordance with Clause 14, Contract Change Control Procedure, which may be in the form specified in Schedule 1, Form of Change Control Notice (CCN). |
| "CCN Consideration Period" | the period of 30 Working Days following the receipt of a CCN sent by the other party. |
| "Change" | any change to the terms of the Agreement. |
| "Charges" | The sum payable for the Application as set out in a Quotation and/or invoice. |
| "Client" | The person who purchases the Applications from PDMS or conducts a Trial use of Software or uses a demo version of Software. |
| "Client Application" | a Software application (other than an internet browser) supplied by PDMS to the Client for the purpose of enabling the Client to access and use the Application |

| Expression | Definition |
|--------------------------------|--|
| "Client Group" | The Client and any subsidiary of the Client, any holding company of the Client and any subsidiary of a holding company of the Client. |
| "Client Materials" | all works and materials: (a) uploaded to, stored on, processed using or transmitted via the Application by or on behalf of the Client or by any person or application or automated system using the Client's account; and (b) otherwise provided by the Client to PDMS in connection with the Agreement; |
| "Confidential Information" | Information of a confidential nature, in whatever form or medium, including technical and commercial know-how, technology, information pertaining to business operations and strategies, and information pertaining to Clients, pricing and marketing. |
| "Configurations" | Setting of parameters within the Client Application as required to ensure the Client Application works as intended. |
| "Control" | the legal power to control (directly or indirectly) the management of an entity (and " Controlled " will be construed accordingly) |
| "Documentation" | the documentation produced by PDMS and supplied to the Client or made available to the Client via the PDMS Website describing the Application and specifying how the Application should be used |
| "Effective Date" | the date that the Agreement comes into force as specified in the Call Off Contract. |
| "Framework Agreement" | An Agreement that governs the relationship between the UK government and PDMS. It covers the provision of G-Cloud Services by the PDMS to the UK government and to the Client. |
| "GCloud" | A framework between the UK government and private sector suppliers who can provide cloud-based services. |
| "Governing Jurisdiction" | the Governing Jurisdiction as specified in the Call Off Contract and Framework Agreement. |
| "Hardware" | A physical piece of equipment. |
| "Intellectual Property Rights" | Patents, rights to inventions, copyrights and related rights, Trade Marks, trade names, domain names, right in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in Confidential Information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all existing and future rights capable of present assignment, applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. |
| "Location" | The location(s) where Software or Hardware are to be installed or Hardware delivered or Services performed. |
| "Minimum Payment Term" | The terms of payment as described in the Call Off Contract. |
| "Party" | PDMS or the Client. |
| "PDMS" | Professional Data Management Services Limited, whose registered office is Global House, Isle of Man Business Park, Cooil Road, Braddan, Isle of Man, IM2 2QZ, registered in the Isle of Man under Registration Number: 061568c |
| "PDMS Group" | Professional Data Management Services Limited (with company number 061568c), Professional Data Management Services (UK) Limited (with company number 6081783), PDMS Ventures Limited (with company number 128182c) and |

| Expression | Definition |
|---------------------------------------|---|
| | any company that is from time to time a holding company, a subsidiary or a subsidiary of a holding company, of any of the above-named companies. |
| "Permitted Purpose" | the purpose(s) for which the Application is intended for use as defined in the Call Off Contract. |
| "Personally Identifiable Information" | Is information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context. |
| "Planned Outage" | planned maintenance work that needs to take place on our network or the Application. During this time the Application will not be available for use by the Client. |
| "Quotation" | The Charges quoted in writing by PDMS to provide the Application. |
| "Schedule" | any schedule attached to this Agreement. |
| "Services" | Services provided by PDMS or to be provided by PDMS to the Client under the Agreement, including the Support Services, but not limited to, the provision of the Application, licensing, installation of Software, hosting services and managed services and any other such services as agreed between the Parties. |
| "Software" | Any programs, applications, scripts or code together with any operating system software or other licensed material and residing in Hardware which may be embodied in or on various media such as tapes, disks, cards or chips. |
| "Solution" | Any Software, Service or Hardware provided by a member of the PDMS Group. |
| "Support Services" | support and maintenance services provided or to be provided by PDMS to the Client as detailed in the Call Off Contract. |
| "Third Party" | A person who is not a Party other than a member of the PDMS Group or the Client Group. |
| "Trade Marks" | Any brands, products or names clearly identified with the universal trade mark symbols; ® or ™ or equivalent |
| "Trial" | The provision of a Solution provided on a Trial basis |
| "User Documentation" | Any documentation supplied by PDMS or PDMS' suppliers, to include manufacturer instruction manuals, hardcopy or electronic format which are associated with the recommended guidelines for use of the Solutions as may be modified in writing by PDMS or PDMS' third party suppliers or manufacturers periodically. |
| "Working Days" | any week day, other than a bank or public holiday in England |
| "Working Hours" | any time between 09:00 and 17:00 London time on a Working Day |

2.2 In these SaaS Standard Terms and Conditions, unless the context otherwise requires:

2.2.1 A reference to a "Clause" is a reference to a clause of these terms and conditions;

2.2.2 a reference to a "holding company" or a "subsidiary" means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 (an Act of Parliament);

2.2.3 references to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended and any subordinate legislation made from time to time under it, unless otherwise stated;

2.2.4 references to a "person" include any individual, company, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency, whether or not having a separate legal personality;

2.2.5 references to one gender shall include all genders and references to the singular shall include the plural and vice versa;

2.2.6 headings are included for ease of reference only and shall not affect the interpretation or construction of these Standard Terms and Conditions.

3 Agreement and Term

3.1 The advertising of the Services on PDMS' website and the GCloud constitutes an "invitation to treat"; and the Client's order for the Services constitutes a contractual offer. No contract will come into force between PDMS and the Client unless and until PDMS accepts the Client's order in accordance with the procedure detailed in this Clause 3.

3.2 In order to enter into the Agreement, the Client must take the following steps:

- 1) The Client must read the definition of the Application, for the Service or Services on the PDMS website or GCloud and satisfy itself that this is what is required;
- 2) The Client must contact PDMS to request one of the subscription options to the Service (as will also be described in the Call Off Contract for the Service) by using one of the following mechanisms:
 - I. By use of the Contact Form (www.pdms.com/Contact-Us) on the PDMS Website;
 - II. Via e-mail to saas@pdms.com
 - III. Via the telephone number +44(0)1624 664000.
- 3) The Client will be sent, and must complete and return, a Client Agreement form and/or Call Off Contract;
- 4) The Call Off contract, as well as terms relating to the product/service will outline any payment terms, milestones and payment methods
- 5) Once PDMS has verified the Client details, PDMS will send the Client an order confirmation (at which point the Agreement/ Call-off will come into force) and further information on how to use the Service, or PDMS will confirm to the Client that PDMS does not accept the Client's offer.
- 6) If the payment received subsequently fails to clear, then PDMS will inform the Client and, at the discretion of PDMS, suspend/terminate the Services pending resolution.

3.3 Once in force, the Agreement will continue until the term of the Call Off Contract expires, upon which, after PDMS has notified the Client, it will terminate automatically, or until terminated earlier in accordance with Clause 18, or the relevant Call Off Contract.

4 Application & Licence

4.1 PDMS will make available the Application to the Client by setting up an account for the Client on the Application and providing to the Client login details for that account within 3 Working Days following the Effective Date.

4.2 Subject to the limitations set out in Clause 4.3, the terms set out in clause 4.4 and the prohibitions set out in Clause 4.5, PDMS hereby grants to the Client a non-exclusive, non-transferable, revocable licence to use the Application for the Permitted Purpose via a web-browser (as determined by the Call Off Contract) (or by downloading any required Client Application as determined by the Service Definition and subject to Clause 5) in accordance with the Documentation.

4.3 The licence granted by PDMS to the Client under Clause 4.2 is subject to the following limitations:

- a) the Application must not be used at any point in time by more than the number of users specified in the Client Agreement, providing that the Client may add or remove users using the Application;

- b) unless by prior written agreement with PDMS, the Application may only be used by the employees of, agents of, sub-contractors of, Clients of and suppliers to the Client and:
 - (i) where the Client is a company, the Client's officers;
 - (ii) where the Client is a partnership, the Client's partners; and
 - (iii) where the Client is a limited liability partnership, the Client's members;
- c) the Client must comply at all times with the terms of the "Client Code of Conduct.pdf" and must ensure that all users of the Application agree to and comply with the terms of that acceptable use policy.

4.4 The use of a Client Application shall also be subject to the following licensing terms:

- a) the Client may only use the Client Application for the Client's business purposes;
- b) where applicable, the Client may download, install and use a number of copies of the Client Application equivalent to the number of users specified in the Client Agreement, on any computer owned and operated by the Client anywhere in the world;
- c) the Client must not:
 - i. copy or reproduce the Client Application or any part of it other than in accordance with the licence granted in this Clause 5;
 - ii. sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Client Application or any part of it;
 - iii. modify, alter, adapt, translate or edit, or create derivative works of, the Client Application or any part of the it;
 - iv. reverse engineer, decompile, disassemble the Client Application or any part of the it (except as mandated by Applicable Law);
 - v. use the Client Application other than in accordance with the Documentation;
 - vi. circumvent or remove or attempt to circumvent or remove the technological measures applied to the Client Application for the purposes of preventing unauthorised use

4.5 Except to the extent mandated by Applicable Law or expressly permitted in the Agreement, the licence granted by PDMS to the Client under this Clause 4 is subject to the following prohibitions:

- a) the Client must not sub-license its right to access and use the Application or allow any unauthorised person to access or use the Application;
- b) the Client must not frame or otherwise re-publish or re-distribute the Application;
- c) the Client must not alter or adapt or edit the Application save as expressly permitted by the Documentation.

4.6 For the avoidance of doubt, the Client has no right to access the object code or source code of the Application, either during or after the expiration of this Agreement.

4.7 All Intellectual Property Rights in the Application shall, as between the parties, be the exclusive property of PDMS.

5 Client Use of Application

- 5.1 When a Client Application is indicated as being required, or as an optional extra, by the Call Off Contract, then PDMS will following the Effective Date make available for download by the Client a copy or copies of the Client Application in a timeframe to be mutually agreed.
- 5.2 The Client shall use all reasonable endeavours to ensure that no unauthorised person will or could access the Application using the Client's account.
- 5.3 The Client must not use the Client Application:
- a) in any way that is unlawful, illegal, fraudulent or harmful or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity; or
 - b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity; or
 - c) in any way that causes, or may cause, damage to the Application or impairment of the availability or accessibility of the Application, or any of the areas of, or services on, the Application; or
 - d) to store, host, copy, distribute, display, publish, transmit or send content that is illegal or unlawful, or that will or may infringe a Third Party's legal rights, or that could give rise to legal action whether against the Client or PDMS or a Third Party (in each case in any jurisdiction and under any Applicable Law); or
 - e) to conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Application without PDMS' express written consent; or
 - f) to promote or distribute any viruses, trojans, worms, root kits, spyware, adware or any other harmful software, programs, routines, applications or technologies; or
 - g) to promote or distribute any software, programs, routines, applications or technologies that will or may negatively affect the performance of a computer or introduce significant security risks to a computer; or
 - h) without the prior written agreement of PDMS, to transmit or send unsolicited commercial communications or to market, distribute or post chain letters, ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar schemes, programs or materials; or
 - i) without the prior written agreement of PDMS, use the Application for any purpose related to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity; or
 - j) without the prior written agreement of PDMS, link to any website or web page containing material that would, were it posted on the Application, breach the above provisions of this clause 5.
- 5.4 Without prejudice to its other rights or remedies, if PDMS reasonably believe that the provisions of the clause 5.3 may have been breached, PDMS may, at its sole discretion for any reason, without notice or explanation to the Client, edit, delete or remove any content from the Client Application and/or temporarily suspend the access to a part or all of the Client Application and/or permanently prohibit the Client from using a part or all of the Client Application.
- 5.5 Notwithstanding the provisions of this clause 5, PDMS do not actively monitor content of the Client Application.

5.6 The Client shall be responsible for the security of the Client's copies of the Client Application and will use all reasonable endeavours to ensure that access to the Client Application is restricted to persons authorised to use it.

6 Support Services and Upgrades

6.1 During the life of this Agreement PDMS will provide the Support Services to the Client and may apply Upgrades to the Application described by and in accordance with the terms set out in the Call Off Contract.

7 Configuration

7.1 From time to time PDMS and the Client may agree that PDMS will configure the Application (and/or the Client Application) in accordance with a specification agreed in writing between the parties.

7.2 From the date when a Configuration is first made available to the Client, the Configuration shall form part of the Application (and/or Client Application where appropriate) under the Agreement, and accordingly from that date the Client's rights to use the Configuration shall be governed by Clause 4 (or Clause 5).

7.3 The Client acknowledges that PDMS may make any Configurations available to its other Clients at the same time as or following the making available of that Configuration to the Client.

7.4 All Intellectual Property Rights in the Configuration shall, as between the parties, be the exclusive property of PDMS.

7.5 The Client will provide PDMS with:

- a) such access to the Client's computer systems and such other co-operation as is required by PDMS (acting reasonably) to enable the performance by PDMS of its obligations under this Clause 7;
- b) all information and documents required by PDMS (acting reasonably) in connection with the performance by PDMS of its obligations under this Clause 7;
- c) any advice reasonably required to ensure the compliance of the Configurations with Applicable Laws, regulations and standards.

7.6 The Client will be responsible for procuring any Third Party co-operation reasonably required by PDMS to enable PDMS to fulfil its obligations under this Clause 7.

8 Hosting Services

8.1 PDMS will use the services of multiple Internet Service Providers (ISPs) to provide the Service. The parties acknowledge that an ISP is a Third Party provider of services and in no event shall PDMS (in contract, tort or otherwise) be liable for any acts or omissions of an ISP beyond the terms explicitly set out in the Service Level Agreement. PDMS shall be entitled to use the services of any ISP that PDMS decides in its sole discretion is capable of providing the services reasonably required for PDMS to provide the Service.

8.2 In the event that the Client is not reasonably satisfied with the Services supplied by PDMS that are the responsibility of the ISP, the Client shall inform PDMS of such in writing and PDMS shall use all reasonable endeavours to work with the ISP to improve the ISP services to the reasonable satisfaction of the Client or to obtain the services of a replacement ISP. Beyond the terms explicitly set out in the Call Off Contract or Framework Agreement, no warranty is given by PDMS to the Client regarding the services of the ISP.

8.3 The parties acknowledge that the ISP and/or PDMS may require to suspend the Hosting Services and/or the PDMS Services due to a Planned Outage. The Client shall be notified of the Planned Outage as soon as reasonably possible and PDMS shall procure that the ISP will use all reasonable efforts to minimise the downtime incurred due to the Planned Outage, in the terms of the Call Off Contract or Framework Agreement. The Client acknowledges that the ISP and/or PDMS may be required to undertake urgent maintenance of its systems and in this event, PDMS shall use all reasonable endeavours to advise the Client of such, subject to the information provided by the ISP to PDMS regarding the same.

9 Management

9.1 The Client will ensure that all instructions in relation to the Agreement will be given by a Client representative to PDMS. PDMS:

- a) may treat all such instructions as the fully authorised instructions of the Client; and
- b) will not comply with any other instructions in relation to the Agreement without first obtaining the consent of a Client representative.

9.2 The parties will hold contract management meetings at:

- a) PDMS, Global House, Isle of Man Business Park, Cooil Road, Douglas, Isle of Man, IM2 2QZ, British Isles, or
 - b) another location, by agreement,
- or by telephone or via the internet, at the reasonable request of either party.

9.3 A party requesting a contract management meeting to be held will give to the other party at least three (3) Working Days' notice of the meeting.

9.4 Wherever necessary to enable the efficient conduct of business, the Client will be represented at a contract management meeting by at least one Client representative and PDMS will be represented at a contract management meeting by at least one PDMS representative.

10 Assignment and Sub-Contracting

10.1 PDMS may, without Client consent, assign or subcontract to any other member of the PDMS Group any of PDMS' rights or obligations to the Client.

10.2 Subject to clause 10.1, neither Party shall have the right to assign their rights and obligations to the other Party without the written agreement of the other Party.

10.3 PDMS shall be entitled to sub-contract any part of the provision of the Application to any Third Party, only with the prior written agreement of the Client.

11 Copyright and Intellectual Property Rights

11.1 Title to the Application and Client Application, including any Intellectual Property Rights, shall remain vested in PDMS, or PDMS' Third Party suppliers (as the case may be). Risk in the Client Application shall pass to the Client upon delivery.

- 11.2 The Client grants to PDMS a non-exclusive licence to store, copy and otherwise use the Client Materials for the purposes of operating the Application, providing the Services, fulfilling its other obligations under the Agreement, and exercising its rights under the Agreement.
- 11.3 The Client warrants and represents to PDMS that the Client Materials, and their use by PDMS in accordance with the terms of the Agreement, will not:
- c) breach any laws, statutes, regulations or legally-binding codes;
 - d) infringe any person's Intellectual Property Rights or other legal rights; or
 - e) give rise to any cause of action against PDMS or the Client or any Third Party,
- in each case in and under the law of the Governing Jurisdiction.
- 11.4 The Client shall not reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of any Intellectual Property Rights belong to PDMS, other than as permitted by Applicable Law.
- 11.5 Any and all Intellectual Property Rights in and to any Trade Marks applicable to the Application are the exclusive property of PDMS or PDMS' Third Party supplier (as the case may be). The Client shall not use, register, attempt to register (or assist or procure any Third Party to undertake the foregoing) any mark, device, logo, name, trade mark or similar which is the same or confusingly similar (including, without prejudice to the generality of the foregoing, phonetically similar) to the Trade Marks.
- 11.6 Any breach by the Client of this Clause 11 will be deemed to be a material breach of the Agreement for the purposes of Clause 18.

12 Trial Period

- 12.1 Where PDMS allows the Client to access Software, or installs Software on the Client's Hardware, for the purpose of allowing the Client to use any demo version of Software or to carry out a Trial use of any Software or related Services, a "Trial", without the Client entering into a binding agreement for the ongoing further provision of such Software or related Services, the following additional terms set out in this clause 12 shall apply.
- 12.2 PDMS shall have the right to withdraw or restrict access to the Software and/or to terminate the Trial without notice to the Client and without reason.
- 12.3 PDMS shall be under no obligation to provide Software after the Trial period has ended.
- 12.4 PDMS shall be under no obligation to finalise and make available demo Software.
- 12.5 The use of Trial Software or related Services is carried out entirely at the Client's own risk. PDMS accept no liability for any loss howsoever caused arising from the Client's use of the Trial Software or related Services including, without limitation, any loss or corruption of any data.
- 12.6 PDMS recommends that the Client does not use 'live data' when using demo Software or conducting a Trial use of Software, unless with prior written agreement of PDMS.

13 Charges

- 13.1 PDMS will issue invoices for the Charges to the Client in accordance with the prices determined by the Call Off Contract and the subscription option determined by the Client Agreement.

13.2 The Client will pay the Charges to PDMS in advance of using the Service for a period of not less than the Minimum Payment Term determined by the related Call Off Contract.

13.3 Unless otherwise indicated all prices exclude Value Added and any other sales taxes where applicable. These taxes will be payable by the Client to PDMS in addition to the principal amounts.

13.4 Charges will be paid by BACS, PayPal, Cheque, Electronic Bank Transfer or Other, by agreement, (using such payment details as are notified by PDMS to the Client from time to time).

14 Contract Change Control Procedure

14.1 The provisions of this Clause 14 apply to all Changes requested by either party.

14.2 Either party may request a Change at any time.

14.3 When requesting a Change, the requesting party will notify the other party and provide a CCN (which may be in the form specified in Schedule 1). The CCN will set out (as a minimum):

- a) details of the impact on the Services;
- b) details of any additional resources expected to be required as a result of the Change;
- c) details of any variation to the Charges consequent upon the Change.

14.4 The other party will consider any proposed Change within the CCN Consideration Period.

14.5 Either party may:

- a) accept or reject a CCN issued by the other party;
- b) request further information concerning any aspect of a CCN issued by the other party; and/or
- c) request amendments to a CCN issued by the other party.

14.6 Following agreement of a CCN, each party will confirm its agreement to the CCN by:

- a) signing a copy of the CCN and sending the signed CCN to the other party; or
- b) otherwise sending its written acceptance of the CCN to the other party.

14.7 Until a CCN recording a proposed Change has been signed or agreed in writing by each party, the proposed Change will not take effect.

15 Incident Management

15.1 The mechanism by which incidents (including, but not limited to, faults in the Services, failure of PDMS to deliver the Services, suspected security breaches in the Services) are to be raised with PDMS is described in the Call Off Contract.

15.2 Further to this, incidents can be escalated, if deemed appropriate, using the following mechanisms:

- i. Via e-mail to saas@pdms.com

- ii. Via the telephone number +44(0)1624 664000 during Working Hours

15.3 The PDMS officers responsible for dealing with incident escalation are:

- i. PDMS G-Cloud Framework Manager
- ii. PDMS Director
- iii. PDMS Managing Director

Contact should be made in the order identified above.

16 Data Protection

16.1 In circumstances where either Party may process Personally Identifiable Information of the other Party, the Parties shall enter into a Data Processor / Controller Contract for Personally Identifiable Information on PDMS' standard terms.

17 Confidentiality

17.1 The Client will keep confidential any Software, User Documentation and PDMS Confidential Information provided and will not disclose the same to any Third Party without PDMS' prior written consent.

17.2 PDMS shall ensure that the Client Materials stored and processed by the Application are stored separately from, and are not co-mingled with, the materials of other Clients of PDMS.

17.3 The PDMS will keep confidential any Client Confidential Information provided and will not disclose the same to any Third Party without the Clients' prior written consent.

18 Termination

18.1 The Client may terminate the Agreement in accordance with the provisions of the Call Off Contract and Framework Contract.

18.2 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:

- a) commits any material breach of any term of the Agreement, and:
 - i. the breach is not remediable; or
 - ii. the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt, or mutually agreed timeframe, of a written notice requiring it to do so;
- b) persistently breaches the terms of the Agreement (irrespective of whether such breaches collectively constitute a material breach).

18.3 If PDMS stops or makes a good faith decision to stop operating the Application generally, then PDMS may terminate the Agreement by giving at least 90 days' written notice of termination to the Client.

18.4 Either party may terminate the Agreement by giving written notice of termination to the other party in the event that the parties cannot reasonably agree on any Change request made in accordance with Clause 14.

18.5 PDMS may terminate the Agreement immediately by giving written notice of termination to the Client where the Client fails to pay to PDMS any amount due to be paid under the Agreement by the due date.

19 Effects of Termination

19.1 Subject to Clause 19.3, within 30 days following the termination of the Agreement, PDMS will:

- a) irrevocably delete from the Application all Client Confidential Information;
- b) irrevocably delete from its other computer systems all Client Confidential Information;
- c) either:
 - i. in the case where the Agreement was terminated by a mechanism other than described in Clause 18.5, return to the Client by the mechanism described in the Call Off Contract or dispose of as the Client may instruct all documents and materials containing Client Confidential Information; or
 - ii. in the case where the Agreement was terminated by the mechanism described in Clause 18.5, dispose of as PDMS sees fit all documents and materials containing Client Confidential Information.

19.2 Subject to Clause 19.3, within 30 days following the termination of the Agreement, the Client will:

- a) return to PDMS or dispose of as PDMS may instruct, all documents and materials containing PDMS Confidential Information;
- b) irrevocably delete from its computer systems all PDMS Confidential Information.

19.3 A party may retain any document (including any electronic document) containing the Confidential Information of the other party after the termination of the Agreement if:

- a) that party is obliged to retain such document by any law or regulation or other rule enforceable against that party;
- b) the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar document addressed to the party retaining the document.

20 Notices

20.1 Any notice given under the Agreement must be in writing (whether or not described as “written notice” in the Agreement) and must be delivered personally, sent by post, or sent by fax or by email (provided confirmation of receipt is received from the recipient), for the attention of the relevant person, and to the relevant address or fax number or email address given, in the case of PDMS, below or, in the case of the Client, in the Client Agreement:

PDMS:

Post: PDMS, Global House, Isle of Man Business Park, Cooil Road, Douglas, Isle of Man, IM2 2QZ, British Isles

Fax: +44 (0) 1624 678787

Email: saas@pdms.com

20.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Working Hours, when Working Hours next begin after the relevant time set out below):

- a) where the notice is delivered personally, at the time of delivery;
- b) where the notice is sent by post, 48 hours after posting;
- c) where the notice is sent by fax or email, at the time of the transmission (providing the sending party retains written evidence of the transmission).

21 Non-Solicitation

21.1 In order to protect the legitimate business interests of PDMS and each other member of the PDMS Group, the Client covenants with PDMS for itself and as agent for each other member of the PDMS Group that it shall not (and shall procure that no member of the Client Group shall) (except with the prior written consent of PDMS):

- a) employ or engage or otherwise facilitate the employment or engagement of any Restricted Person; or
- b) solicit or entice away, or attempt to solicit or entice away, from the employment or service of a member of the PDMS Group the services of any Restricted Person other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of any member of the PDMS Group.

21.2 The Client shall be bound by the covenant set out in Clause 21.1 during the term of this Agreement, and for a period of 12 (twelve) months after termination of this Agreement.

21.3 For the purposes of this Clause 21 (Non-Solicitation), a “**Restricted Person**” shall mean any person employed or engaged by any member of the PDMS Group during the term of this Agreement who has been engaged in the provision of Solutions to the Client or the management of this Agreement either as principal, agent, employee, independent contractor or in any other form of employment or engagement.

21.4 If the Client commits any breach of this Clause 21 (Non-Solicitation), the Client shall, on demand, pay to PDMS (or the relevant member of the PDMS Group) a sum equal to 12 (twelve) months’ worth of fees that the Client would have paid PDMS for the supply of the resource. The parties confirm that these liquidated damages are reasonable and proportionate to protect the legitimate interest of PDMS and members of the PDMS Group in performance.

22 PDMS Staff

22.1 Where any PDMS staff are located at Client premises the Client shall ensure that:

- 22.1.1 PDMS staff are provided with any required Health and Safety training;
- 22.1.2 The Client extends the same level of obligation to the staff as is required to its own staff in terms of health, safety and personal security;
- 22.1.3 PDMS staff are provided with any required passes or security access to provide the Application; and
- 22.1.4 the normal office services will be extended to the PDMS staff at no cost.

22.2 PDMS staff shall at all times remain under the direction and control of PDMS.

22.3 PDMS staff shall be entitled to work on the Application either at client’s premises or not, at PDMS’ discretion.

23 Information Security

23.1 Where the Client is granted access to PDMS information or systems:

23.1.1 The Client agrees to follow such aspects of the PDMS Information Security Management System as shall be communicated to them as being applicable; and

23.1.2 PDMS reserve the right to revoke or limit that access authorisation at any time.

23.2 The Client agrees that only those persons who have been identified to PDMS and authorised will access that information and any extension of access rights will be requested from PDMS before the individual attempts to access the information or system.

23.3 The Client will report any security incident or potential security incident to PDMS immediately it is discovered and agrees to implement any reasonable corrective action identified as a result of that breach.

23.4 The Client will comply with any reasonable requests from PDMS with regard to security.

23.5 The Client will at all times comply with all Applicable Law relating to information and systems security.

23.6 PDMS shall not be liable for any loss of integrity, confidentiality or availability of the Client's information which is caused by any failure of the Client to maintain appropriate security precautions and standards in respect of such information.

24 General

24.1 If any provision of these SaaS Standard Terms and Conditions is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity shall not render these SaaS Standard Terms and Conditions unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of Applicable Law or applicable court decisions. If such modification is not possible, the relevant provision or part provision shall be deemed deleted.

24.2 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.

24.3 These Standard Terms and Conditions are not intended to benefit any Third Party or be enforceable by any Third Party.

Schedule 1 - Form of Change Control Notice (CCN)

| | |
|--|--|
| Title of Change: | |
| CCN number: | |
| Change proposed by: | |
| Date of issue of CCN: | |
| Date of CCN expiry: | |
| Summary details of proposed Change: | |

| |
|--|
| |
| 1. Detailed description of Change. |
| |
| 2. Details of the impact on the timetable for the provision of the Services. |
| |
| 3. Details of any additional resources expected to be required as a result of the Change. |
| |
| 4. Details of any changes to any contractual terms |
| |
| 5. Details of any variation to the Charges consequent upon the Change. |
| |
| 6. Any other consequences of, or matters relating to, the Change. |
| |

Find Out More

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