



# Check-Tek

creating IT solutions

Check-Tek Limited

Terms and Conditions

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**Check-Tek Limited**  
**Standard Terms and Conditions**

**1. Introduction**

1.1 In these Terms and Conditions (“**these Conditions**”) the following terms have the following meanings, unless the context indicates otherwise:-

“**Contract**” means the agreement between you and us for the provision by us of IT consultancy services and/or computer hardware and software and/or support and maintenance services

“**us**” means Check-Tek Limited, a company incorporated under English law with registered number 3567544 and having its registered office at 38-42 Newport Street, Swindon, Wiltshire SN1 3DR

“**you**” means the person, partnership or company entering into the Contract with us

1.2 All Contracts shall be governed solely by these Conditions which may only be varied by written agreement, including any covering letter from us to which these Conditions are attached.

**2. Computer Audit**

2.1 Where appropriate we shall carry out an audit of your existing computer network and procedures (or, where there is no existing network, an audit of your relevant business processes and requirements) in order to enable us to make proposals to assist you in achieving your IT objectives. We shall produce a written report and proposals on completion of this computer audit.

2.2 All work done by us in carrying out the computer audit shall be governed by these Conditions, and we reserve the right to make a reasonable charge for such work, at our prevailing consultancy rates, in the event that you decide not to proceed to place an order for further services and/or hardware and software.

2.3 All prices contained in our report shall be valid for a period of 30 days following the date of the report. If no order is placed within this period we reserve the right to change all or any of such prices.



### **3. Your Obligations**

- 31 You shall allow our personnel and sub-contractors to enter your premises at all reasonable times for any purpose arising from the Contract.
- 32 We will normally carry out installation work during your usual working hours but may, on reasonable notice, require you to provide access at other times. At your request we may agree, exceptionally, to work outside usual working hours; you shall pay our reasonable charges for complying with such request.
- 3.3 A standard charge is payable if we are unable to gain access to your premises on any occasion on which we have made an appointment to enter your premises.
- 3.4 You shall ensure that adequate and safe facilities and procedures are in place at your premises and that we are notified in advance of any relevant regulations or statutory requirements that affect such premises.
- 3.5 Subject always to clause 11, you shall provide us with all relevant information and co-operation to enable us to perform our obligations under the Contract.
- 3.6 You shall appoint a member of your staff to act as a single point of contact with whom we may discuss all technical and other issues arising from the Contract and who shall be duly authorised to act on your behalf in all such matters.

### **4. Our Obligations**

- 4.1 All consultancy, installation, training and other services we agree to provide to you under the Contract shall be performed with reasonable care and skill.
- 4.2 The services we provide to you under the Contract shall be provided in a professional manner and will conform to standards generally observed in the computer industry for similar services.
- 4.3 Except in relation to any post-implementation support (see clause 6) services we agree to provide, all of your dealings with us may be addressed through one member of our staff who shall act as a single point of contract.
- 4.4 We shall not accept any commission or gift from any supplier or potential supplier of hardware and/or software.
- 4.5 We have and shall maintain for the period of the Contract professional indemnity insurance and shall not do anything to vitiate this insurance.
- 4.6 Where we provide software to you, we shall procure the grant of appropriate third party licences for you to use relevant operating system and applications software.
- 4.7 Where we provide hardware to you we shall, where reasonably possible, procure that the benefit of the manufacturer's warranty is assigned or otherwise made available to you.



## **5. Hardware and Software**

- 5.1 This clause shall apply whenever we supply hardware and/or software to you, such hardware and/or software being referred to in this clause collectively as “**Products**”. We do not manufacture or distribute any Products and our liability in respect of Products that we supply is strictly as set out expressly in the Contract.
- 5.2 Any dates quoted for delivery of the Products are approximate only and we shall not be liable for any delay in delivery however caused. Time shall not be of the essence in relation to any matter arising from the Contract.
- 5.3 Where we agree to install the Products, you must, at your own expense, obtain all necessary consents for the installation and use of the Products including consents for any necessary alterations to buildings, and provide electrical power needed by us when installing and testing the Products.
- 5.4 Delivery of the Products shall take place, unless otherwise agreed in writing, when they are delivered to your premises.
- 5.5 Risk in all Products shall pass to you on delivery. All Products shall be deemed to have been accepted by you on completion of installation, provided they have been demonstrated to be in proper working order.
- 5.6 The Products shall remain our sole and absolute property as legal and beneficial owners until you have paid us all sums due under the Contract.
- 5.7 Until such payment has been made you shall be in possession of the Products solely as bailee for us and in a fiduciary capacity and shall store the Products in such a way as to enable them to be identified as our property.
- 5.8 We reserve the immediate right of re-possession of any Products to which we have retained title as above and for the purpose you grant an irrevocable right and licence to us to enter your premises during normal business hours.

## **6. Support**

- 6.1 We will, if required, provide support and maintenance services to assist you in the operation of your system. We offer these services on fixed cost annual contracts, on a voucher system or on an ad-hoc basis.
- 6.2 Where the manufacturers or resellers of any hardware and/or software we supply to you offer support services to end users, we shall liaise with such manufacturers or resellers to arrange that you obtain the benefit of these support services.

## **7. Warranty**

- 7.1 We warrant that all services to be provided by us to you under the Contract will be carried out in a professional manner and with reasonable care and skill, and that all personnel assigned to provide such services shall be suitably skilled and experienced.



- 72 We warrant that we will provide independent and unbiased advice to you in providing services under the Contract.
- 7.3 All software we supply to you in accordance with advice we have given you will be sourced by us from reputable software licensors, but the quality of such software, and its fitness for your purposes, is a matter for those licensors and the terms of the licences they offer to you.
- 74 We warrant that all hardware supplied to you under the Contract will, at the time of delivery and for a period of 30 days following the time of delivery, be free from defects and conform with the relevant technical specification, provided that our sole liability under this warranty shall be our option to repair or replace or give credit for any hardware.
- 75 Where reasonably possible we shall pass on to you the benefit of all manufacturer's warranties applying to hardware and/or software we supply to you.
- 76 We do not manufacture any hardware or license any software, and therefore we cannot make any representation that any hardware and/or software that we source for you will not suffer any loss of function relating to leap years or other date-related issues or that it will enable euro or other currency conversion. We shall, however, use our reasonable endeavours to ensure that the suppliers of all such hardware and/or software offer warranties to you where appropriate.

## 8. Liability

- 8.1 Nothing in this clause shall be construed as excluding or restricting our liability for fraud or fraudulent misrepresentation, or for personal injury or death resulting from our negligence.
- 8.2 The express warranties given in the Contract are in lieu of all warranties as to quality or fitness for purpose implied by statute or common law.
- 8.3 Our liability to you under the Contract, whether in respect of breach of contract, tort (including negligence), breach of statutory duty or otherwise, shall in no event exceed £12,000 (or, if greater, the amount paid by you to us under the Contract over the previous 12 months) in any year of the Contract. For the purpose of this clause the years of this Agreement start on the date that the Contract starts and each anniversary.
- 8.4 Subject to the immediately preceding sub-clause, we shall be liable to you under the Contract in respect of all direct loss or damage caused by our acts or omissions and those of our employees, agents or sub-contractors, other than Excluded Loss (whether or not the possibility of such loss arising on a particular breach of contract or duty has been brought to our attention at the time of making the Contract). In this clause the expression "**Excluded Loss**" means all special loss and all claims for lost management time, economic loss or other loss of business, production, revenue, profit, goodwill, anticipated savings or anticipated tax mitigation, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise. For the avoidance of doubt, we shall not be liable to you for any indirect or consequential loss of any nature and howsoever caused.



85 We shall not be liable to you for the consequences of any services we provide to you or hardware and/or software we supply to you in circumstances where such provision or supply is contrary to advice we have given you but you have nevertheless instructed us to carry out the same. You agree to indemnify us against all costs and expenses we may incur in relation to any third party claims or legal proceedings brought in relation to such provision or supply.

## 9 **Corruption or loss of data**

91 We agree to use all reasonable skill and care to recommend suppliers of suitable and reliable data back-up equipment and to install and integrate such equipment into your system.

9.2 If any of your data are lost or corrupted as a result of our negligence in the provision of services to you, we shall be responsible to you for such loss or corruption, subject to the terms of the Contract.

9.3 Unless otherwise agreed in writing, we have no responsibility for making data back-ups or for ensuring that the backed-up data are saved in a retrievable form. You agree to make data back-ups at the periods we recommend.

9.4 Subject to sub-clauses 9.1 and 9.2, our responsibility in respect of loss or corruption of your data is limited to working with you to restore data from the most recent retrievable data back-up that you have made. Work in this respect is covered by our support charges, but any other work we do to help restore data will be subject to additional charges at our then current rates.

## 10. **Payment**

101 All invoices will be due for payment 30 days after their date.

102 Where we are to incur significant expense in supplying hardware and/or software to you, we reserve the right to require you to pay money to us on account for this purpose only.

10.3 If any sum payable to us under the Contract is not paid by the date on which it is due, then (without prejudice to any other available remedy) we reserve the right in our discretion;

(a) to suspend provision of services and/or the supply of any hardware and/or software under the Contract; and/or

(b) to charge interest on the sum overdue at the rate set by order of the Secretary of State from time to time for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

## 11. **Confidentiality**



Each party shall treat as confidential all information obtained from the other and shall not disclose such information to any person other than its employees, agents or sub-contractors where such disclosure is required for the performance of the party's obligations under the Contract. This clause shall not extend to information which is already in the lawful possession of a party or which is already public knowledge (other than as a result of a breach of this clause) or which is trivial or obvious.

## **12. Joint and Several Liability**

Where you are two or more individuals (not being a partnership) entering into the Contract with us, each of you takes full responsibility for the obligations of the other(s), as well as your own obligations.

## **13. Employment Restriction**

For as long as the Contract exists and for a period of 12 months afterwards, you will not employ or offer employment in a similar capacity to any of our employees, agents or sub-contractors who were assigned to provide services to you in connection with the Contract at any time in the immediately preceding 12 months.

**14. Dispute Resolution** If any dispute arises out of the Contract the parties will attempt in good faith to negotiate a settlement. If the matter is not resolved by negotiation, the parties will refer it to mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. (See [www.cedr.co.uk](http://www.cedr.co.uk)). Unless otherwise agreed, the mediator shall be appointed by CEDR. If the parties fail to agree terms of settlement within 42 days of the start of the first meeting held under such procedure, the dispute may be referred to litigation by either party. However nothing in this clause shall prevent or delay us in issuing proceedings for the recovery of any undisputed debt.

## **15. General**

- 15.1 The clause headings of these Conditions are for convenience only and shall be ignored when construing these Conditions. References to clauses are references to the clauses of these Conditions.
- 15.2 You may not assign the Contract without our prior written consent, which shall not be unreasonably withheld. We shall be entitled to sub-contract any of our obligations under the Contract, without reference to you.
- 15.3 Neither party will be liable to the other for any delay or default in the performance of its obligations due to any cause or circumstance beyond its reasonable control, including but not limited to any industrial dispute.
- 15.4 These Conditions, together with any document that we agree in writing shall form part of the Contract, constitute the entire Contract. Each party confirms that it has not relied upon any representation not recorded in the Contract inducing it to enter into the Contract. No variation of the Contract shall be valid unless it is in writing, refers specifically to the Contract and is duly executed by the authorised representatives of both parties.



- 15.5 No forbearance or delay by either of us in enforcing our respective rights will prejudice or restrict those rights, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.
- 15.6 Any notice given under the Contract by either party to the other shall be in writing and shall be delivered personally or by post. In the case of post delivery shall be deemed to be effected two working days after the date of posting. Notices shall be delivered or posted to the registered or last known correspondence addresses of the parties.
- 15.7 The parties to the Contract do not intend any third party to have the right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 15.8 This Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.





## **Reach Lite – Support**

### **Additional Terms and Conditions**

(To be read in conjunction with Check-Tek Ltd Standard Terms and Conditions)

#### 1. SERVICE DESCRIPTION

##### Service Overview

1.1 The Service provides IT support on the hardware, applications and operating systems detailed at

[www.check-tek.co.uk/reachlite](http://www.check-tek.co.uk/reachlite) and does not include the provision of any hardware.

1.2 The Service will have a Minimum Period of 12 months from the Service Start Date

1.3 The Service provides the following facilities:-

- (a) remote access to the Customer's registered PCs for diagnostics and problem solving;
- (b) telephone-based help and advice on use of the supported applications and operating systems detailed in paragraph 1.1 above.

1.4 The telephone-based support described in paragraph 1.5 above is available during normal office hours of 8:30 to 5:00pm, excluding public holidays.

1.5 The charges for the Service are based upon the provision of a reasonable level of telephone support by Check-Tek. If Check-Tek believes that the Customer is using the Service excessively without good reason, and are failing to comply with the provisions of paragraph 3.1 below, Check-Tek reserves the right to raise an additional charge against the Customer.



## 2. SERVICE LEVELS

### Fault Repair

2.1 Check-Tek will respond to reported faults as soon as it reasonably can

## 3. RESPONSIBILITIES OF THE CUSTOMER

### General

3.1 The Service is not intended to be a substitute for the Customer taking appropriate steps to maintain and safeguard its IT system through regular data back-up, running current virus software and adopting other appropriate security or maintenance procedures.

3.2 If as part of the Service, the Customer is required to install any software, the Customer agrees to install and keep installed such diagnostic and technical support software to assist in the support process. If the Customer refuses to install such software this may mean that Check-Tek may, at its option, either provide the Customer with a reduced level of Service or withdraw provision of the Service in its entirety.

## 4. ADDITIONAL CONDITIONS

4.1 In order to use the Service, the Customer's computer systems must meet the following minimum requirements:

a Windows 2000, Windows XP, or Windows Vista operating system;

a processor speed of 233MHz or greater;

256MB or more of RAM; at least 200MB available hard drive space;

an available USB, Ethernet or wireless port, Live Internet Connection

4.3 The Customer agrees that Check-Tek or its representatives may access the faulty equipment via a remote access client.

(a) to install and keep installed any anti-virus, technical support and diagnosis software on each supported computer when required to do so by Check-Tek;

(b) to have technical details of the supported computing equipment, local area network and connected devices, collected and securely stored by Check-Tek for use during fault diagnosis and support incidents;



(c) to allow Check-Tek's technical support agents to create, as necessary, systems administration accounts on the Customer's PCs and to keep these accounts active and unchanged as required to deliver the Service; and

(d) to give permission for Check-Tek's technical support agents to remotely access and monitor the Customer's computer systems and network for the purposes of fault diagnosis and resolution.

4.4 Check-Tek does not guarantee that it will be able to fix all faults reported by the Customer, or that Check-Tek will be able to advise on all service related issues.

4.5 The Customer accepts that Check-Tek will not be liable for any failures in the supported applications and operating systems that cannot be resolved using the Service, or for the Customer's failure to correctly follow Check-Tek's advice and recommendations. Check-Tek recommends that the Customer regularly and frequently backs-up any stored data as Check-Tek cannot accept any liability for loss or corruption of the Customer's data.

4.6 If a fault is due to a failure in the Customer's equipment which is not covered by the Service, Check-Tek will quote in advance for an onsite visit to rectify the problem.

