

# **REACT Computer Partnership**

## **Terms and Conditions – On Site Software Support Contract**

### **1. Date of Agreement**

1.1 This Agreement shall, after signing by the Customer, come into force on the date it is signed by REACT Computer Partnership which date shall be regarded as the Date of Agreement and shall remain in force as provided by clause 6 hereof

### **2. Service**

2.1 REACT Computer Partnership, or its agents, will provide on call Software Support Service between the hours of 09:00 to 17:00 Monday to Friday excluding Public & National Holidays.

2.2 Remedial services will be provided in the first instance via the telephone or remote connections where available. On site remedial services will be provided where necessary at the installation address as defined in the Schedule.

2.3 Services not provided with this Agreement

a) Hardware malfunction or breakdown, accept where a hardware maintenance contract is also currently in force between REACT Computer Partnership and the Customer.

b) Any repair or replacement arising from causes external to the equipment including but not restricted to computer viruses, spyware, accident, neglect, misuse, or failure of the Customer to treat and use the software or the equipment on which it operates in a prudent and proper manner.

2.4 Correction or malfunction due to:

a) Alterations to the software by any party other than REACT Computer Partnership, or its agents, or any persons nominated by REACT Computer Partnership.

b) Alterations or resetting of data other than in the normal course of software operation by any party other than REACT Computer Partnership, or its agents, or any persons nominated by REACT Computer Partnership.

c) Electrical work external to the equipment or repair or replacement of any additional equipment carried out by any party other than REACT Computer Partnership or its agent.

d) Faults (bugs) which are present in software not produced by REACT Computer Partnership.

e) Operator error

2.5 Restoration of data or formatting of hard disks following hardware malfunction or breakdown.

2.5 REACT Computer Partnership reserves the right to make additional charges to cover:

a) Any service call caused by other than equipment malfunction including but not limited to incidents such as program error, loss of electrical supply, or operator error.

b) Any work carried out at the Customer's request before, 09:00 or after 17:00.

### **3. Customer Obligations**

3.1 Will ensure the environmental and electrical conditions are maintained to the manufacturers recommendations and take reasonable care that the supply of electricity to the equipment does not become affected by other equipment on the same circuitry.

3.2 Will ensure the software is operated correctly and by competent and authorised members of staff.

3.3 Carry out minor maintenance stipulated or instructions given by REACT Computer Partnership and operate the software in accordance with the software manufacturers instructions.

3.4 Will make freely available to REACT Computer Partnership, or its Agent, full and free access to the software and documentation necessary for maintenance purposes.

3.5 Notify REACT Computer Partnership immediately of any abnormal functioning of the software.

3.6 Not allow any person other than the persons nominated by REACT Computer Partnership to maintain or repair the software or attempt to do such during the period of Agreement.

3.7 Notify REACT Computer Partnership if the software is moved from the address on the Schedule.

3.8 Ensure adequate backups of programs and data are taken.

### **4. Payment**

4.1 The Customer agrees to pay in advance Annually or Monthly (where applicable) as detailed in the Schedule the Annual Maintenance Charge, with VAT at then current rate, within seven (7) days of rendering an invoice by REACT Computer Partnership.

4.2 If any sums payable hereunder shall remain unpaid fourteen (14) days after they become due REACT Computer Partnership shall be entitled to charge interest at three (3) percent per annum above the current London Clearing Banks Base Lending Rate from the date such sums become due and payable until the date REACT Computer Partnership receive payment.

4.3 Should any charges remain unpaid for 30 or more days from date of Invoice, REACT Computer Partnership will be entitled forthwith to withdraw its support service without prejudice to its rights under this Agreement or in respect of any previous breach thereof. If subsequently the charges are paid, REACT Computer Partnership may require the item(s) as specified in the Schedule to be examined at the Users expense before support resumes.

4.4 REACT Computer Partnership, by one month notice in writing, vary the amount of the Software support contract at the time of renewal.

# **REACT Computer Partnership Terms and Conditions - Software Support Contract**

## **5. Liability**

5.1 REACT Computer Partnership cannot warrant that the Service will be error free.

5.2 REACT Computer Partnership shall not in any circumstances be liable for loss of profits or revenues, anticipated savings, contracts, times or goodwill.

5.3 REACT Computer Partnership shall not be liable for any indirect or consequential loss or damage suffered by the Customer or any other person.

5.4 The Customer is responsible for maintaining the security of its data and ensuring that its data is adequately backed up. REACT Computer Partnership shall not be liable for any loss of the Customer's (or any other persons) data.

5.5 The maximum aggregate liability of REACT Computer Partnership for any loss or damage caused to the Customer or to any other person in respect of this Agreement or otherwise in respect of this Agreement which takes place in any calendar year shall in no circumstances exceed the total amount payable by the Customer to REACT Computer Partnership under this Agreement in that year.

## **6. Termination**

6.1 Subject to prior termination as provided herein, this Agreement shall remain in force for the period shown in the Schedule and may then be terminated by either party on the giving of three (3) months notice to expire at the end of the period shown in the Schedule. If no such notice is given to expire at the end of the said period then the Agreement shall continue in force until terminated by either party by the giving of three (3) months written notice of termination.

6.2 If the Customer fails to pay the Annual Maintenance Charge as detailed in clause 4 or any other sum due for thirty (30) days after the due payment date, REACT Computer Partnership, may, without prejudice to any other remedy available to it, withhold the Service provided under the Agreement for so long as the default in payment continues. The Customer shall however remain liable to pay the Annual Maintenance Charge during the period the service is withdrawn.

6.3 Notwithstanding clause 6.2 if either party commits a breach of the Agreement and fails to remedy the breach within thirty (30) days after written notice from the other party requiring it to do so, the other party may be given written notice to the party in default to terminate the Agreement forthwith.

6.4 REACT Computer Partnership may terminate this Agreement forthwith if the User (being a Limited Company) shall enter into liquidation or (being a Individual or Partnership) shall commit an act of bankruptcy or have a receiver appointed against him or any of them.

6.5 Any termination of the Agreement shall be without prejudice to any right or liability of either party accrued to or upon the result of such termination. The Customer shall pay to REACT Computer Partnership on termination by way of agreed compensation (unless such termination shall be by reason of REACT Computer Partnership's default) all sums then due hereunder for the outstanding period of the Agreement.

6.6 This Agreement may not be terminated in part without the prior written consent of the other party.

## **7. Severability**

7.1 In the event that any one or more of the provisions of the Agreement shall for any reason be held to be unenforceable in any respect, such unenforceability shall not affect any other provision and the Agreement shall then be construed as if such unenforceable provision or provisions had never been contained herein.

## **8. Force Majeure**

8.1 REACT Computer Partnership shall not be responsible for any delays or failures attributable to any causes or circumstances beyond its control.

## **9. Assignment**

9.1 This Agreement cannot be assigned by the Customer to any other party without the prior written consent of REACT Computer Partnership.

## **10 This Agreement**

10.1 This Agreement constitutes the entire agreement between REACT Computer Partnership and the Customer. No representation or statement not contained in this Agreement shall be binding on either party.

10.2 This Agreement constitutes the entire understanding between REACT Computer Partnership and the Customer for the provision of the Service and supersedes and replaces all previous communications between the parties whether made orally or in writing. Any terms and conditions contained in any purchase order or other document issued by the Customer shall not apply to the Service provided by REACT Computer Partnership under this Agreement