



**APPCHECK LTD TERMS AND CONDITIONS IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE AGREEING TO AND ACCEPTING AN APPCHECK LTD SCAN FROM THE APPLICATION:**

This licence agreement (Licence) is a legal agreement between you (Licensee or you) and AppCheck Ltd (Registered number: 06888174) whose registered office is situated at Unit 19, Pavilion Business Park, Royds Hall Road, Leeds LS12 6AJ (Licensor or we) for this AppCheck Ltd software product (AppCheck Ltd), which includes computer software, the data supplied with it, the associated media, printed materials and online documentation (Documentation).

**1 GRANT AND SCOPE OF LICENCE**

1.1 In consideration of payment (where applicable) by you of the agreed licence fee and you agreeing to abide by the terms of this Licence, AppCheck Ltd hereby grants to you a non-exclusive, non-transferable licence to use AppCheck Ltd and the Documentation in the UK on the terms of this Licence.

1.2 You may login to AppCheck Ltd for your internal business purposes only as an opportunity to scan an IP range and URLs which you are licensed for.

1.3 IP Addresses. (a) end-user represents and warrants that end-user has full right, power, and authority to consent to have the Service scan for vulnerabilities the IP addresses or domain names identified to AppCheck for scanning, whether electronically or by any other means, whether during initial Registration or thereafter. Without limiting any other remedy that AppCheck may have, end-user agrees to indemnify and hold AppCheck and its Authorised Resellers harmless from and against all liabilities, losses, damages, costs and expenses, including without limitation reasonable fees and costs, incurred by AppCheck or such Authorised Resellers resulting from end user's breach of this Section. (b) end-user also acknowledges and agrees that the scanning of such IP addresses and/or domain names may expose vulnerabilities and in some circumstances could result in the disruption of services at such site(s). Certain optional features of the Service, including exploitive scans, involve substantial risk of Denial of Service (DOS) attacks, loss of service, hardware failure and loss or corruption of data. Consequently, end-user agrees that it is end-user's responsibility to perform backups of all data contained in or available through the devices connected to end-user's IP addresses and/or domain names prior to invoking the use of the service.

**2 APPCHECK LTD SERVICES**

2.1 Security Audits AppCheck Ltd, including its security scans and audits, only serve as a connector to identify, report, and deliver fix recommendations for various avenues of insecurity or vulnerability in your licensed Web Applications and IP ranges. While the detailed post scan report contains fix steps and links to solutions if vulnerabilities are detected on your system, AppCheck Ltd does not, and is not intended to, fix, remedy, prevent, or eliminate such vulnerabilities or other insecurities. You are solely and ultimately responsible for securing and protecting your system. In addition, you acknowledge that the new security threats may not be detected by the AppCheck Ltd scan and agree that a successful scan does not guarantee or ensure that the system scanned is free of vulnerabilities or other insecurities.

2.2 AppCheck Ltd Service Packages AppCheck Ltd will only perform the number of scans associated with the licence agreement that you have purchased.

**2.3 Changes in Services**

You acknowledge and agree that AppCheck Ltd may, in its sole and absolute discretion, modify, limit, remove, or alter the services as it sees fit with. Scans, verification, and authentications performed by AppCheck Ltd may be removed, modified, or updated by AppCheck Ltd at any time without notice.

**3 LICENSEE'S UNDERTAKINGS**

3.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:

- a) not to copy AppCheck Ltd or Documentation except where such copying is incidental to normal use of AppCheck Ltd, or where it is necessary for the purpose of back-up or operational security;
- b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify AppCheck Ltd or Documentation;
- c) not to make alterations to, or modifications of, the whole or any part of AppCheck Ltd, nor permit AppCheck Ltd or any part of it to be combined with, or become incorporated in, any other programs;



- d) not to disassemble, decompile, reverse engineer or create derivative works based on, the whole or any part of AppCheck Ltd nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of
- e) AppCheck Ltd with another software program, and provided that the information obtained by you during such activities:
- i. is used only for the purpose of achieving inter-operability of AppCheck Ltd with another software program; and
  - ii. is not unnecessarily disclosed or communicated without AppCheck Ltd's prior written consent to any third party; and
  - iii. is not used to create any software which is substantially similar to AppCheck Ltd;
- f) to keep all copies of AppCheck Ltd secure and to maintain accurate and up-to-date records of the number and locations of all copies of AppCheck Ltd
- (g) to supervise and control use of AppCheck Ltd and ensure that AppCheck Ltd is used by your employees and representatives in accordance with the terms of this Licence; to include the copyright notice of AppCheck Ltd on all entire and partial copies you make of AppCheck Ltd on any medium;
- (h) not to provide or otherwise make available AppCheck Ltd in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than your employees without prior written consent from AppCheck Ltd;

#### **4 INTELLECTUAL PROPERTY RIGHTS**

4.1 You acknowledge that all intellectual property rights in AppCheck Ltd and the Documentation anywhere in the world belong to AppCheck Ltd, that rights in AppCheck Ltd are licensed (not sold) to you, and that you have no rights in, or to, AppCheck Ltd or the Documentation other than the right to use them in accordance with the terms of this Licence.

4.2 You acknowledge that you have no right to have access to AppCheck Ltd in source code form or in unlocked coding with or without comments.

#### **5 WARRANTY**

5.1 You acknowledge that AppCheck Ltd has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of AppCheck Ltd as described in the Documentation meet your requirements.

5.2 You acknowledge that AppCheck Ltd may not be free of bugs or errors, and agree that the existence of minor errors shall not constitute a breach of this Licence.

5.3 If, you notify AppCheck Ltd in writing of any defect or fault in AppCheck Ltd (within 48 hours of becoming aware of such defect or fault) in consequence of which it fails to perform substantially in accordance with the Documentation, and such defect or fault does not result from you having amended AppCheck Ltd or used it in contravention of the terms of this Licence, AppCheck Ltd will, at its sole option, either repair or replace AppCheck Ltd, provided that you make available all the information that may be necessary to help AppCheck Ltd to remedy the defect or fault, including sufficient information to enable AppCheck Ltd to recreate the defect or fault.

#### **6 INDEMNITY**

You agree to release, indemnify, defend and hold harmless AppCheck Ltd from all liabilities, claims, damages, costs and expenses, including reasonable professional fees and expenses, relating to or arising out of third party claims alleging:

- a) the breach of your warranties, representations and obligations under this Licence;
- b) falsehoods or misrepresentations of fact by you on the subscription registration;
- c) your failure to disclose a material fact on the subscription registration if the misrepresentation or omission was made negligently or with intent to deceive any party;
- d) your failure to take the precautions necessary to prevent the compromise, loss, disclosure, modification or unauthorised use of your password and account name; and
- e) your unauthorised scanning of an IP address not owned by you.



AppCheck Ltd agrees to release, indemnify, defend and hold you harmless from all liabilities, claims, damages, costs and expenses, including reasonable professional fees and expenses that is limited to AppCheck Ltd's public liability insurance, relating to or arising out of third party claims alleging that the AppCheck Ltd software product or the Documentation (or any part of either of them) or their use by you or AppCheck Ltd in accordance with this Licence infringes any intellectual property right in the UK or elsewhere

g) If a party is threatened with any action by a third party to which this indemnity by the other party applies, the indemnified party may seek written assurances from the indemnifying party concerning its undertaking to indemnify, then the indemnifying party's failure to provide those assurances may be considered by AppCheck Ltd to be a material breach of this Licence. The indemnified party shall have the right to participate in any defence by the indemnifying party of a third party claim, with counsel of its choice at its own expense. The indemnifying party shall have sole responsibility to defend the indemnified party against such a claim in these circumstances. The terms of this paragraph will survive any termination or cancellation of this Licence.

## **7 PRICE AND PAYMENT**

7.1 Prices are liable to change at any time, but changes will not affect orders in respect of which we have already activated AppCheck Ltd.

7.2 The Price (exclusive of VAT) for the license ("the price") shall be the quoted price of the Seller and payment of the price shall be made by the buyer within 30 days of the date of the invoice for the license unless otherwise agreed.

7.3. If the price is not paid by the due date then AppCheck Ltd have the right to temporarily suspend this agreement until payment is received by AppCheck Ltd.

## **8 LICENSOR'S LIABILITY**

8.1 Nothing in this Licence shall exclude or in any way limit AppCheck Ltd's liability for fraud or for death or personal injury caused by its negligence or any other liability to the extent that it may not be excluded or limited as a matter of law.

8.2 Subject to condition 8.1 AppCheck Ltd shall not be liable under, or in connection with, this Licence or any collateral contract for:

- a) loss of income;
- b) loss of business profits or contracts;
- c) business interruption;
- d) loss of the use of money or anticipated savings;
- e) loss of information;
- f) loss of opportunity, goodwill or reputation;
- g) loss of, damage to or corruption of data; or
- h) any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise; provided that this condition 8.2 shall not prevent claims for loss of or damage to your tangible property that fall within the terms of condition 5 or any other claims for direct financial loss that are not excluded by any of categories (a) to (h) inclusive of this condition 8.2.

8.3 Subject to condition 8.1 and condition 8.2, AppCheck Ltd's maximum aggregate liability under or in connection with this Licence, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to 100% of the Subscription Fee.

8.4 Subject to condition 8.1, condition 8.2 and condition 8.3, AppCheck Ltd's liability for infringement of third-party intellectual property rights shall be limited to breaches of rights subsisting in the UK.

8.5 This Licence sets out the full extent of AppCheck Ltd's obligations and liabilities in respect of the supply of AppCheck Ltd and Documentation. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on AppCheck Ltd except as specifically stated in this Licence. Any condition, warranty, representation or other term concerning the supply of AppCheck Ltd and Documentation which might otherwise be implied into, or incorporated in, this Licence, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.



## 9 TERMINATION

9.1 The Licensor may terminate this Licence immediately by written notice to you if:

- a) you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 48 hours after the service of written notice requiring you to do so; or
- b) a petition for a bankruptcy order to be made against you has been presented to the court; or
- c) the Licensee (where it is a company) becomes insolvent or unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), enters into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has a receiver or administrator manager, trustee, liquidator or similar officer appointed over the whole or any part of its assets, makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt, unable to pay your debts (within the meaning of section 123 of the Insolvency Act 1986).

9.2 Upon termination for any reason:

- a) all rights granted to you under this Licence shall cease;
- b) you must cease all activities authorised by this Licence;
- c) you must immediately pay to AppCheck Ltd any sums due to AppCheck Ltd under this Licence; and

## 10 TRANSFER OF RIGHTS AND OBLIGATIONS

10.1 This Licence is binding on you and us, and on our respective successors and assigns.

10.2 You may not transfer, assign, charge or otherwise dispose of this Licence, or any of your rights or obligations arising under it, without our prior written consent.

10.3 We may transfer, assign, charge, sub-contract or otherwise dispose of this Licence, or any of our rights or obligations arising under it, at any time during the term of the Licence. AppCheck Ltd would give 60 days notice prior to any transfer, assign, charge or sub-contract of this licence in order for alternative providers to be found, if the changes of ownership did to meet PLC or FCA policies.

## 11 NOTICES

All notices given by you to us must be given to AppCheck Ltd at [support@appcheck-ng.com](mailto:support@appcheck-ng.com) or [info@appcheck-ng.com](mailto:info@appcheck-ng.com). We may give notice to you at either the e-mail or postal address you provided to us when purchasing AppCheck Ltd. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## 12 EVENTS OUTSIDE OUR CONTROL

12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by events outside our reasonable control (Force Majeure Event).

12.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- a) strikes, lock-outs or other industrial action;
- b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- e) impossibility of the use of public or private telecommunications networks;
- f) the acts, decrees, legislation, regulations or restrictions of any government.



12.3 Our performance under this Licence is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under this Licence may be performed despite the Force Majeure Event.

### **13 WAIVER**

13.1 If we fail, at any time during the term of this Licence, to insist upon strict performance of any of your obligations under this Licence, or if we fail to exercise any of the rights or remedies to which we are entitled under this Licence, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

13.2 A waiver by us of any default shall not constitute a waiver of any subsequent default.

13.3 No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

### **14 SEVERABILITY**

If any of the terms of this Licence are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

### **15 ENTIRE AGREEMENT**

15.1 This Licence and any document expressly referred to in it represents the entire agreement between us in relation to the licensing of AppCheck Ltd and Documentation and supersedes any prior agreement, understanding or arrangement between us, whether oral or in writing.

15.2 We each acknowledge that, in entering into this Licence, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to entering into this Licence except as expressly stated in this Licence.

15.3 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Licence (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

### **16 LAW AND JURISDICTION**

This Licence, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the non-exclusive jurisdiction of the English courts.