

Main Terms and Conditions

This document sets out the terms and conditions upon which Ben Knows Limited, trading as Ben Knows!, will provide you Services and/or Products.

By arranging a Call Out by one of our representatives, you agree to be bound by these Terms and Conditions.

1. DEFINITIONS

1.1 In these Terms and Conditions:

“Call Centre Hours” means 8am to 6pm on any Working Day other than Saturday and 8.30am to 4pm on any Working Day that is a Saturday;

“Call Out” means a single on-site visit made by us for the purpose of providing Services and/or Products;

“Cancellation Fee” means a fee of \$40.00 inc GST for cancelling a Call Out other than in accordance with clause 2.2; and which is intended to recompense us for our reasonable costs incurred in responding to your Call Out which you have not cancelled in reasonably adequate time.

“Fees” means, for each Call Out, the applicable Minimum Call Out Fee plus the applicable Incremental Fee set out below plus any Product Fee:

All prices are inclusive of GST

Minimum Call Out Fee

Incremental Fee

Standard Call Out within the Region Home Users

\$95.00

\$16.25 /quarter hour

Standard Call Out within the Region Business Users

\$95.00

\$16.25/quarter hour

Same day Call Out within the Region

\$120.00

\$20.50 /quarter hour

Call Out outside the Region	\$300.00	\$150.00 / half hour
Same day Call Out outside the Region	\$400.00	\$200.00/ half hour

The Incremental Fee applies for each stated period after the first hour of the Call Out. The period of each Call Out within the Region will commence from the time we arrive at your premises. The period for each Call Out outside the Region includes our travel time. Minimum Call Out Fees outside Working Hours will apply where any of the first hour of the Call Out is outside Working Hours. Incremental Fees outside Working Hours will apply where any of the applicable period for that Incremental Fee is outside Working Hours;

“Information” has the meaning given to that term in clause 6.2;

“Products” means any hardware, software or other products provided by us and for clarification it is important to note clause 5.8 of these Terms and Conditions relating to the purchase of software;

“Product Fees” means the fees or cost quoted by us for any Product purchased by you;

“Region” means the region of operation with in the greater Christchurch area

“Services” means the on-site computer maintenance, support and/or consulting services reasonably **requested by you and provided by us during a Call Out**;

“Terms and Conditions” means these terms and conditions;

“we”, “us” or “our” means the company detailed above trading as Ben Knows!;

“Working Day” means any day other than a Sunday, a statutory public holiday in the Region or a Saturday in relation to which the previous Friday or following Monday is a statutory public holiday in the Region;

“Working Hours” means 8am to 8:30pm on any Working Day; and

“you” or “your” means the customer its agent and employees or any person acting on behalf of and with the authority of the customer that requested the Call Out.

2. CALL OUTS

2.1 Where you arrange a Call Out, we will attend the premises for that Call Out at the arranged time.

2.2 To cancel or stop a Call Out, you must cancel the booking online or via phone no later than 12 hours before booking time. If you cancel a Call Out other than in accordance with this clause 2.2, you must pay a Cancellation Fee for that Call Out.

3. SERVICES

3.1 In consideration of the Fees, we will perform the Services in accordance with these Terms and Conditions.

3.2 At the beginning of the Call Out:

- (a) we will try to diagnose any problem described by you; and
- (b) we may provide an estimate of the time required to provide any Services.

However, we do not guarantee any diagnosis or estimate of time will be accurate.

3.3 The duration of the Call Out will be agreed with you. If the Services are not complete within that duration, we will discuss the options available, which may include extending that Call Out, arranging another Call Out or abandoning the Services. You may stop a Call Out at any time subject to clause 2.2.

3.4 Regardless of clauses 3.2 or 3.3, once a Call Out commences, you must pay the Fees for that Call Out, including the Minimum Call Out Fee.

3.5 To enable us to undertake the Services:

- (a) you must provide us with all information, assistance, co-operation and access to premises and equipment that we may reasonably require to undertake the Services; and
- (b) you, or some person over 16 yrs, must be present while we provide the Services.

3.6 We will use reasonable endeavours to achieve the objectives of the Services but we provide no guarantee, express or implied that the objective will be achieved and we will not be liable for any failure to meet the objectives provided we have used our reasonable endeavours.

4. PRODUCT OWNERSHIP AND RISK

4.1 Where agreed with you, we will provide Products as part of a Call Out and subject to these Terms and Conditions.

4.2 Ownership of products remains with us until payment is made in full from cleared funds for the Products.

4.3 We supply the Products to you on condition that we have a purchase money security interest (as defined by the Personal Property Security Act 1999) in the Products.

4.4 If you fail to make payment in whole or part for the Products you have ordered, we may re-possess and re-sell or retain the Products and may for that purpose enter upon your premises or any other premises upon which the Products are situated at any time and without notice and without being in any way liable to you or any other person or entity.

4.5 The risk of any loss or damage to any of the Products sold, or deterioration of the Products, due to any cause whatsoever shall pass to you upon delivery of the Products. If the Products remain in our possession owing only to the failure by you to accept the Products at your request, such Products shall be at your risk.

5. PAYMENT

5.1 You must pay the deposit via credit card specified at the time of booking online before the booking is accepted.

5.2 We will invoice the Fees for each Call Out at the end of the Call Out and you must pay those Fees to us at the end of the Call Out ("the Due Date").

5.3 Any other amounts payable under these Terms and Conditions, including Cancellation Fees, will be payable immediately upon issuance of our invoice.

5.4 Depending upon whether any further services or work may be required to be carried out by us following out diagnosis of the problem described by you or any Products you may order to be supplied to you, we may require a deposit to be paid by you on account of any additional service cost we may reasonably incur or on account of the Product Fees.

5.5 Payment must be made in cash, approved credit card online or internet banking. If using internet banking, you must provide us a printed copy of the confirmation of payment printed from your internet banking screen at the completion of the Call Out.

5.6 If you do not pay on time, you must pay interest to us at the rate of 25% per annum from the Due Date until the date payment is received by us in full and you must pay any additional administration and debt collection costs (including legal costs).

5.7 If your account is in default, we may cease work on any matter for you until the default is remedied.

5.8 Without prejudice to any other right or remedy we may have against you, if you fail to make payment of any monies due to us on the Due Date in respect of any work or installation we may have carried out on your computer while in our possession, you accept that we may at our discretion retain a worker's lien over your computer which we have worked on, pursuant to the provisions of the Wages Protection and Contractors Liens Repeal Act 1987 until payment is made by you.

IMPORTANT NOTICE:

5.9 You acknowledge and agree that if you have ordered Products comprising software by electronic delivery and that software has been installed by us and the software licence is activated either on your computer or a computer you have agreed to purchase, then it is not reasonably practicable to remove the software installation or de-activate the software. In that event and for that reason once you have ordered the software with the instruction to proceed with installation, you agree that you shall be committed to that purchase of the software and subject to these Terms and conditions and the software cannot be returned unless we agree otherwise pursuant to a specific individual agreement made with you by us at our discretion, within seven days of invoice.

5.10 Once you have confirmed your order with us for the supply of any Products, then unless we are unable to supply such Products upon the terms specified, you will be committed to the purchase of those Products and have no right of cancellation or refund of monies paid but subject at all times to these Terms and Conditions and your rights under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986, if applicable, unless we agree otherwise pursuant to a specific individual agreement made with you by us at our discretion, within seven days of invoice. We reserve the right in any such specific individual agreement to claim recovery of the reasonable administration and other cost we have incurred.

6. CONFIDENTIALITY AND PRIVACY

6.1 We will maintain as secret and confidential all information we obtain from you in providing the Services and will not use that information for any reason other than as necessary for providing the Services. This obligation will not apply to information that is in the public domain or that is known to us or obtained by us without breaching any obligation to you or that we are required to disclose by law.

6.2 You authorise us to collect, retain, use and provide to our staff and agents any personal information ("Information") about you for the purposes of credit approval, meeting our obligations to you, marketing, and enforcing our rights against you.

7. WARRANTY

7.1 We warrant that we will use reasonable skill and care in undertaking the Services.

7.2 No warranty is given for the Products where any failure or defect results from:

- (a) improper storage or handling of the Products by you, your employees, agents or customers;
- (b) use, installation, modification or alteration (including repair) of the Products other than as recommended or authorised in writing by the manufacturer or us;
- (c) fair wear and tear on the Products;

(d) failure to maintain the Products in accordance with any care or maintenance instructions provided by us or the manufacturer; or

(e) any other matter or event specified in relation to a specific Product as invalidating or being excluded from any warranty.

7.3 Except as otherwise provided in the Consumer Guarantees Act 1993 and the Fair Trading Act and subject to clause 8.1 of these terms and conditions your sole remedy in relation to the breach of any warranty under this agreement or at law, in relation to any:

(a) Service, will be for us to re-perform such Services to the required standard; or

(b) Product, will be for us to repair or replace such Product, at our option, provided that if neither option is available to us (as determined solely by us) we may refund the price paid for that Product.

7.4 We have no obligation to install, customise or provide any other Service in relation to any Products repaired or replaced due to a breach of any Product warranty.

7.5 You acknowledge that if the Services or Products are supplied for business purposes in terms of the Consumer Guarantees Act 1993 the guarantees provided under that Act do not apply.

7.6 Other than the warranties set out in these Terms and Conditions, all other express or implied warranties in respect of the Services and Products are excluded to the fullest extent permitted by law including, but not limited to, implied warranties of merchantability or fitness for a particular purpose. All statements, technical information and recommendations made by the manufacturer and/or us about the Services or Products are believed to be reliable, but do not constitute a guarantee or warranty express or implied by us to you.

7.7 You warrant that you are authorised to arrange each Call Out and, in providing the Services or Products, our access to your premises, use of the equipment, software, information or other material made available by you will not breach any third party rights.

7.8 Your Rights under the Consumer Guarantees Act

Your rights and remedies under the Ben Knows! 1-year warranty go over and over and above the Consumer Guarantees Act 1993 (CGA).

Under the CGA:

All Products Must:

- be of acceptable quality (durable, safe, fit for purpose, free from defects, acceptable in look or finish)
- be fit for any particular purpose you have told the supplier
- match a description, sample or model shown to you
- have good legal title, e.g. be able to be sold and not have any security interests

registered against them

- be a reasonable price if no price is set
- arrive on time (within a reasonable time if not agreed) and in good condition
- have spare parts and repair facilities available (manufacturer is responsible). This does not apply if you are told about limited availability before you buy.

If these guarantees are not met, the supplier must remedy the issue by either repair, replacement, or if neither are possible, then a refund of the purchase price.

CGA Act

1993 <http://www.legislation.govt.nz/act/public/1993/0091/latest/DLM311053.html>

7.9 Ben Knows! 2-year warranty is applicable to certain products only when specified.

What Ben Knows! provides to you as part of its 1-year warranty on top of all of your standard rights under the Consumer Guarantees Act;

- Parts and Labour are covered by Ben Knows! for 1 year from the time of purchase. This means you don't have to contact the manufacturer, we'll take care of it for you.
- A one stop shop for handling your repair. If you think part of the hardware inside your computer has failed inside its warranty period, all you need to do is contact us and we can take it from there. We'll assess the issue and if needed collect it from you free of charge, handle any required repair process and then return it to you.
- Priority repairs – if in the unlikely event of any hardware part/s failing inside your computer within the warranty period, we will ensure the machine is repaired as fast as possible.
- Free Insurance Report (If an insurance claim is needed).

8. LIABILITY

8.1 The Consumer Guarantees Act 1993, the Fair trading Act 1986 and any other statutes may apply warranties and conditions or impose obligations upon us which cannot by law (or which can only apply to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on us, our liability shall, where it is allowed, be excluded or if not able to be excluded, only apply to the lesser of the minimum extent required by the relevant statute or the fees paid under invoice for the Products or Services.

8.2 Except as otherwise provided in clause 8.1 in no event will we be liable (whether in contract, tort including negligence or otherwise) to you for:

(a) loss of profits or savings, loss of goodwill or opportunity, loss or corruption of data, or wasted staff time; or

(b) loss, damage, cost or expense of any kind whatsoever which is indirect, consequential, or of a special nature, arising directly or indirectly from any Services or Products supplied by us to you, even if we had been advised of the possibility of such loss, damage, cost or expense.

8.3 To the extent allowed by law, our total liability under any claim of any nature arising directly or indirectly from any Service or Product will not exceed the Fees paid by you for that Service or Product.

8.4 You indemnify us together with our officers, directors, agents, advisors and employees against any and all liability, losses, damages, costs, penalties and expenses of any nature whatsoever awarded against, incurred or suffered by us, or our officers, directors, agents, advisors and employees whether direct or consequential, arising out of or resulting from your breach of clause 7.7.

9. TERMINATION

9.1 We may immediately terminate the agreement between us if we consider:

- (a) you are in breach of these Terms and Conditions;
- (b) there is any threat to the safety of any of our staff or agents;
- (c) there to be the presence of unlicensed or illegal software;
- (d) your equipment contains any pornographic, obscene, offensive or illegal content;
or
- (e) you are insolvent, bankrupt, in liquidation, unable to pay your debts, or otherwise an unacceptable credit risk to us.

9.2 If we terminate our agreement we will cease to undertake the Services and all Fees incurred up to that time will immediately become payable.

10. GENERAL

10.1 We will not be liable to you for any breach or delay or failure to perform any of our obligations where such breach or delay or failure is caused by anything beyond our reasonable control, including (without limitation) inability to obtain supplies, war, civil commotion, terrorism, strike, lockout, other industrial act, weather phenomena or other act of God (including any failure by any of our suppliers to supply on time).

10.2 The current Terms and Conditions at any time are available on our website: www.benknows.co.nz

10.3 New Zealand law governs the formation, validity, construction and performance of these Terms and Conditions.

10.4 These Terms and Conditions shall be binding on your legal representation, assignees and successors.

10.5 If any provision of these Terms and Conditions shall be invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

10.6 No failure or delay on our part in exercising any power or right under these Terms and Conditions will operate as a waiver.

11. COMPETITIONS AND PROMOTIONS

11.1 The promoter is: Ben Knows Limited company no. 7577936 Trading as Ben Knows!

11.2 Competitions are open to residents of New Zealand except employees of Ben Knows! and their close relatives and anyone otherwise connected with the organisation or judging of the competition.

11.3 Any Competition or promotional special cannot be used in conjunction with any other offer.

11.4 Only one entry will be accepted per person unless stated otherwise

11.5 The promoter reserves the right to cancel or amend the competition and these terms and conditions without notice in the event of a catastrophe, war, civil or military disturbance, act of God or any actual or anticipated breach of any applicable law or regulation or any other event outside of the promoter's control. Any changes to the competition will be notified to entrants as soon as possible by the promoter.

11.6 The prize will be as stated and no cash or other alternatives will be offered.

11.7 Winners will be chosen: at random by software, from all entries received and verified by Promoter and or its agents.

11.8 If the winner cannot be contacted or do not claim the prize within 14 days of notification, we reserve the right to withdraw the prize from the winner and pick a replacement winner.

11.9 The promoter will notify the winner when and where the prize can be collected / is delivered.

11.10 The promoter's decision in respect of all matters to do with the competition will be final and no correspondence will be entered into.

11.11 The winner agrees to the use of his/her name and image in any publicity material, as well as their entry. Any personal data relating to the winner or any other entrants will be used solely in accordance with current New Zealand data protection legislation and will not be disclosed to a third party without the entrant's prior consent.

11.12 You authorise us to collect, retain, use and provide to our staff and agents any personal information ("Information") about you for the purposes of future marketing correspondence.

11.12 No responsibility can be accepted for entries not received for whatever reason.

11.13 Entry into the competition will be deemed as acceptance of these terms and conditions.

12. CASH NOW AND TRADE IN'S

12.1 The vendor warrants that the system described for sale or trade in to t/a Ben Knows! is owned by the vendor.

12.2 The vendor warrants that the system particulars provided by the vendor are true and correct.

12.3 The vendor is authorized to sell the system described and also able to give Ben Knows Limited t/a Ben Knows! a valid and unencumbered title to the system free from registered or unregistered securities.

12.4 The vendor warrants that all securities and monies owed against the system have been cleared or disclosed to Ben Knows Limited t/a Ben Knows!.

12.5 The vendor warrants that the system is not liable to be seized or forfeited to any authority such as the Customs Department.

12.6 The vendor has disclosed all known functional problems or issues and any known cosmetic defects to Ben Knows Limited t/a Ben Knows!.

12.7 The vendor gives permission to Ben Knows Limited t/a Ben Knows! to Refurbish, Resell, Recycle or Destroy the system provided to us by the vendor.

12.8 The vendor has a copy of all wanted data on the system or has removed any data from the system and authorizes Ben Knows Limited t/a Ben Knows! to confidentially and securely erase any data remaining on the system.

12.9 Any quote given to the vendor by Ben Knows Limited t/a Ben Knows! is subject to the system being described going through a validation process. This process involves Ben Knows Limited t/as Ben Knows!, checking the machines specifications, condition and testing it for any faults/issues.

12.10 Ben Knows Limited t/a Ben Knows! reserves the right to re-quote for the purchase of or cancel the purchase of the system described in this document should it not meet the criteria initially outlined the validation process.

13. PRE OWNED TECH TRANSLATOR APPROVED! COMPUTERS

13.1 The System is a Tech Translator Approved! Pre-Owned System not a brand-new unit from the stated manufacture. Also known as "Secondhand".

13.2 The System comes with a 12 Month Return to Base Warranty. This warranty covers the cost of parts and labor, at a nominated Ben Knows! base, should any parts in the system fail within 12 Months. Part failure caused by improper use of, care of or storage of the unit at any time is not covered by this warranty.

13.3 The purchaser reserves all of their rights under the Consumer Guarantees Act 1993.

Ben Knows Phone Support Terms and Conditions

Ben Knows Terms and Conditions

This document sets out the Terms and Conditions upon which Ben Knows Limited, trading as Ben Knows! will provide you Services through the Ben Knows.

Upon using the Per Call Phone Support Service or subscribing to a Ben Knows Subscription Membership you agree to be bound by these Terms and Conditions.

1. DEFINITIONS

1.1 In these Terms and Conditions:

“Ben Knows” means all products and services offered including the Per Call Phone Support Service or the Ben Knows Subscription service.

“Ben Knows Subscription” means the Ben Knows Home Subscription and Ben Knows Business Subscription.

“Ben Knows Subscription Business” means the subscription product designed specifically for business use, customers with a company name, customers with a trust name, or any other profit or non-profit organisation.

“Ben Knows Subscription Home” means the subscription product designed specifically for home and residential use.

“Member” means any person who has purchased a Ben Knows subscription product.

“Membership” means belonging to the Ben Knows subscription service for the specified Period.

“Online Chat” means computer and technology assistance via any Online Instant Messaging (IM) Chat Application that Ben Knows Limited has chosen to utilise for this service.

“Per Call Phone Support Service” refers to the simple break / fix Per Call Phone Support Service paid for on a per call basis

“Period” means the specified length of time from the commencement date for the duration of the Membership.

“Remote Access Support” means one of our technical experts may, if necessary, remotely access your computer or device to assess a problem, either to fix it or provide advice on available options to fix it.

“Remotely Accessible Device” means your smartphone, tablet, or desktop/laptop computer. Note: Devices must be connected to a reliable broadband internet connection and not all devices are capable of being remotely accessed.

“Services” means computer assistance, maintenance and support provided over the phone and through Remote Access Support and (where necessary) via a visit from one of our technicians.

“Session” means a period of interaction with our services through online chat, phone and/or remote access.

“User” means any person who uses any Ben Knows Service.

“we”, “us” or “our” means the company detailed above trading as Ben Knows!.

“your”, “you” means the User or Member and includes a duly authorised representative of the User or Member.

2. SERVICES

2.1 The Per Call Phone Support Service is a service that provides computer and technology assistance over the phone and/or with Remote Access Support where we deem it is required. The Per Call Phone Support Service is an escalated level of support beyond that provided by the Free Online Chat service and is designed to offer help for simple break / fix problems.

2.2 You will be able to access the Ben Knows Services between the hours of 8am – 6pm Monday to Friday, and between 9am – 12pm Saturdays. The Ben Knows Services are not available on Sundays or statutory public holidays.

2.3 At the commencement of a Ben Knows session we will endeavour to diagnose the problem described by you, however we cannot guarantee our diagnosis will necessarily be accurate.

2.4 Should we not be able to diagnose and/or resolve the matters via the Free Online Chat Service, we may, with your agreement, provide Per Call Phone Support (including Remote Access Support where we deem it is required but only with your permission) at a fee of \$35.00 (inclusive of GST) per each use. The Scope of Services offered by the Per Call Phone Support Service are designed to offer help for simple break / fix problems with your technology and include:

- Assist with error messages
- Set up emails / fix email problems
- Troubleshooting currently connected Printer / Scanners
- Schedule tasks
- Attempt to locate lost files
- Update, extend or renew software including anti-virus software
- Diagnose reasons for a computer running slowly, and if possible provide a fix
- Update or fix settings
- Repair corruptions
- Set up security
- Install software
- Malware / virus assessment and basic removal where possible
- Advice regarding scamming concerns

2.5 To enable us to undertake the Services:

- you must provide us with all information, assistance, and co-operation that we may reasonably require to undertake the Services;
- you must be present over the phone while we provide the Services;
- our Services are provided in the English language and within New Zealand only.

2.6 We will use all reasonable endeavours to achieve your objectives by providing our Services but we do not guarantee, express or implied the objectives of the call will be achieved and we will not be liable for any failure to meet the objectives.

2.7 Should it not be possible to resolve the problem via online chat, phone assistance or Remote Access Support, then you may choose to engage us to send a Geeks technician to your premises whereupon standard charges will apply unless otherwise stated.

3. PER CALL PHONE SUPPORT SERVICE EXCLUSIONS

3.1 Please note the Per Call Phone Support Services may be unable to assist with:

- Internet issues or ISP problems
 - Faulty hardware
 - Network setup or servers
 - Linux, pre-Windows XP, pre-Mac 10.11 or earlier OSX operating systems
 - Complicated malware removal
 - Reset passwords if forgotten
 - Installation of hardware
 - Data recovery
 - Device Setup (including printers / scanners)
 - Parental Controls
 - Preventative Maintenance
 - Hosting, reselling of domain names, and web design
 - Database configuration or maintenance
 - Programming
 - VoIP / IP based PBX services
 - Security (Alarm) systems / CCTV
-
- POS or bespoke software support

4. BEN KNOWS SUBSCRIPTION BUSINESS SERVICES AND EXCLUSIONS

4.1 The Ben Knows Subscription Business Services are available to customers with a company name, a trust name, use within a business, or any other profit or non-profit organisation.

4.2 Use of one Ben Knows Subscription Business Membership is limited to that licensed business site, and for the number of computers and peripheral devices as

paid for in the additional per device fee. It cannot be used for friend's devices or at home.

4.3 Please note the Ben Knows Subscription Business Services may be unable to assist with:

- Internet issues or ISP problems
- Faulty hardware
- Network troubleshooting or servers
- Linux, pre Windows XP, pre Mac 10.11 or earlier OSX operating systems
- Complicated malware removal
- Reset passwords if forgotten
- Installation of hardware
- Data recovery
- Bespoke software support
- Hosting, reselling of domain names, and web design
- Database configuration or maintenance
- Programming
- VoIP / IP based PBX services
- Security (Alarm) systems / CCTV
- POS software

4.4 Memberships are non-transferable, cannot be sold or assigned to any other person, business or organisation, and are non-refundable.

5. REMOTE ACCESS SUPPORT

5.1 Where it is appropriate to use Remote Access Support, you agree that our technical experts are entitled to access your equipment remotely to provide you with the Services. Remote Access Support is only available in relation to a Remotely Accessible Device. Remote Access Support will be used only where we deem it suitable for your specific Remotely Accessible Device issue. Where we deem appropriate, you agree that our technical expert is entitled to access your Remotely Accessible Device and provide you with the Remote Access Support. All component parts of your Remotely Accessible Device must be fully working and fully assembled. Furthermore, your Remotely Accessible Device must have access and a sustained connection to the internet in order to avail yourself of the Remote Access Support. Depending on your internet connection, speed, and plan we may not be able to provide Remote Access Support over dial-up, rural broadband or mobile internet connections.

6. CONFIDENTIALITY AND PRIVACY

6.1 All calls are recorded. We will keep a record of all contact and communication including details of your devices and equipment. Your data security and privacy are paramount and very important to us. With your express consent we will keep a record of your passwords unless and until you request otherwise. In addition to the limitation and exclusion of liability provisions contained within clause 10 of these Terms and Conditions, you expressly acknowledge and agree that we have no responsibility or liability arising out of the use of any password or passwords

provided by you, or for any loss or corruption of data, software or hardware that may arise out of the Services.

6.2 We will maintain as secret and confidential all information we obtain from you in providing the Services and will not use that information for any reason other than as necessary for providing the Services. This obligation will not apply to information that is in the public domain or that is known to us or obtained by us without breaching any obligation to you or that we are required to disclose by law.

6.3 You authorise us to collect, retain, use and provide to our staff and agents any personal information about you for the purposes of meeting our obligations to you, marketing, and enforcing our rights against you.

7. FAIR USE POLICY

7.1 All Users of the Ben Knows Services are subject to this Fair Use Policy.

7.2 Your usage of the Ben Knows Services must be fair, reasonable, and not excessive as reasonably determined by us with reference to average and/or estimated typical customer usage of the Ben Knows Services. You must not use the Services for unlawful, fraudulent, or otherwise illegal activity. We reserve the right to restrict the length of time we spend with a Member / User on any particular call having regard to the nature of the issue the Member / User is calling about, the current volumes of calls at the time and the number of calls that Member / User has made within the current week. You acknowledge and agree that except in exceptional circumstances, a single Per Call Phone support session shall not exceed 10 minutes and a single Online Chat session or Ben Knows Subscription session shall not exceed 20 minutes. We also reserve the right, in circumstances where we deem the problem is suitably complex and/or current call volumes are excessive and in our view we have provided a reasonable level of assistance over the phone, to recommend that you make an appointment with a Ben Knows! technician to come to your premises to resolve any particular problem.

7.3 If, in our reasonable opinion, we think your usage of the Ben Knows is excessive or otherwise unfair, we may refuse or limit your access to the Services. We consider excessive use to be a continuing and unreasonably disproportionate use of the service when compared to other users.

7.4 We may require that the following steps be followed if we consider a Ben Knows Subscription account to be showing excessive use:

Month 1: We may contact individual Members identified as having excessive usage compared with the average typical usage of all Ben Knows Subscription Members, to discuss their usage needs. Where the Member has a Ben Knows Subscription Home Membership, the comparison shall be made with reference to other Ben Knows Subscription Home Members. Where the Member has a Ben Knows Subscription Business Membership, the comparison shall be made with reference to other Ben Knows Subscription Business Members. Where a peak in usage occurs but is not expected to continue, no alternative arrangements are necessary.

Month 2: If the excessive usage continues in a second month, we will discuss an alternative plan and may require you to enter into replacement contract setting out

different charges.

Month 3: If the excessive usage continues into the third month, the Member may be informed that their access to the Ben Knows Subscription Services will be limited, suspended or terminated access altogether.

7.5 If we feel that your usage is so excessive that other Members are detrimentally affected, then we may also limit, suspend or terminate your access.

7.6 If your access to the Ben Knows Subscription Services is limited, suspended or terminated altogether under clause 7.4 and/or clause 7.5, your Membership is non-refundable.

8. WARRANTY

8.1 We warrant that we will always use reasonable skill and care in undertaking the Services.

8.2 All statements, technical information and recommendations made by a manufacturer and / or us about the Services are believed to be reliable, but do not constitute a guarantee or warranty express or implied by us to you.

8.3 You warrant that you are authorised to access the use of the computer or devices, software, information or other material made available by you and it will not breach any third party rights.

9. LIMITATION OF LIABILITY

9.1 While our phone based technical experts will strive to keep their diagnosis as accurate as possible, there may be a requirement for an on-site technician visit. Under these circumstances, additional cost may apply at the standard Ben Knows! service rates.

9.2 It is your responsibility to have a reliable back up of your data.

9.3 In no event will we be liable to you, other than the extent permitted by law, for:

(a) loss of profits or savings, loss of goodwill or opportunity, loss or corruption of data, or wasted staff time; or

(b) loss, damage, cost or expense of any kind whatsoever which is indirect, consequential, or of a special nature, arising directly or indirectly from any Services supplied by us to you, even if we had been advised of the possibility of such loss, damage, cost or expense.

9.4 We are not responsible for any losses you may suffer arising from your use of (or failure to use) any anti-virus software.