

## **HET SOFTWARE LIMITED**

### **STANDARD TERMS AND CONDITIONS OF BUSINESS**

In this document “**HET**” refers to HET Software Limited whose registered office is Rook Tree Barn, Withersfield Road, Great Wratting, Suffolk CB9 7HD. All transactions with HET are subject to these conditions.

#### **Formation of Contract**

- 1 Quotations are valid for 30 days. All prices quoted are exclusive of Government taxes, appropriate to the country, which will be charged at the current rate.
- 2 Contracts with HET for the purchase of goods (“**Goods**”) and services are completed on HET issuing an acknowledgement of order following a purchase order from the customer.
- 3 HET shall deliver the Goods to the customer for payment of the price. Subject to Clause 4, details of dates of the delivery of licensed software and of any hardware delivery (together “**Delivery**”) are estimates given in good faith.

#### **Delivery and acceptance**

- 4 HET will use its reasonable endeavours to meet Delivery estimates, but will not be liable for any costs or damages resulting from any delays. Time is not of the essence in respect of Delivery.
- 5 Where the software has already been physically delivered, the Customer should allow at least 2 working days for delivery of a new activation key by HET following receipt by HET of the Customer’s request for a new activation key and any payment due.
- 6 The customer will be deemed to accept the Goods on Delivery to the customer.
- 7 Complaints or queries regarding Goods supplied under this Contract must be made in writing within 30 days of Delivery.

#### **Payment**

- 8 HET will normally issue an invoice on acknowledgement of order.
- 9 Payment in full is due on Delivery, or in any event within 30 days of the invoice, unless a specific payment schedule has been agreed in writing prior to Delivery. If payment by the customer is delayed, HET may charge interest of 3% per month or part of a month on sums remaining outstanding from the due date until payment in full. If the customer does not meet the agreed payment terms HET reserves the right to recover in full any discounts that

were stated in the quotation.

### **Electronic Call Monitoring (ECM) and CareManager3 Mobile.**

10. 10.1 Hourly transaction charges will be reviewed annually on 1<sup>st</sup> October and increased subject to CPI +1%. Transaction charges cannot be reduced.

10.2 Monthly charges will be invoiced monthly in arrears and debited from your nominated account by Direct Debit on or around the 15<sup>th</sup> of the month. The charge will be based on the hours set out in our quotation and accepted by you. Any hours in excess of the stated number will be reconciled annually in January of each year of the contract and charged at the standard rate.

10.3 Monthly transaction charges are based on actual hours confirmed against contracts with Electronic Call Monitoring checked. Unless otherwise agreed in writing, monthly charges will commence 60 days from the date of the Acknowledgement of Order or activation of the system by an on-site trainer whichever the sooner.

10.4. Any order for mobile devices are subject to the credit approval of the customer by the supplier chosen by HET. The customer accepts full responsibility for obtaining the necessary credit approval and in the event that they are refused this does not invalidate any part of the order that HET is able and willing to supply. In the event of a refused credit application HET may at its sole discretion refuse to supply other software or services contained on the same order.

10.5. Where a software subscription contract is made, the payment due is the software subscription amount for each month of the agreed minimum contract period.

12. The customer may not withhold payment of any invoice by reason of any right of set-off or counterclaim which the customer may have or for any reason whatever.

### **Software**

13. All software is licensed subject to Standard Licence Agreement of HET.
14. The customer confirms and acknowledges that software licensed by HET will cease to operate on expiry of the activation key supplied to the customer.

### **Bespoke Work**

15. Any changes or additions to specification and designs of software made at the request of the customer, if agreed, are chargeable at extra cost.

16. Fifty percent of the total development cost of customisation and bespoke work is invoiced on acknowledgement of the customer order. The balance is invoiced monthly as the work proceeds. HET has the right to suspend work where any invoice in respect of that work is not paid within 30 days, until the full sum due under that invoice is paid.
17. Any errors which are notified to HET within 90 days of delivery of customised and bespoke software will be rectified by HET, where possible, at no cost to the customer. After this period any rectification work will be chargeable.

### **Hardware**

18. Any benefit passing to HET under a manufacturer's warranty in relation to the Goods is hereby assigned to the customer in so far as HET is able to do so. It is the customer's responsibility to arrange its own maintenance contracts in respect of hardware.
19. The risk in all Goods, except software, will pass to the customer upon Delivery, but legal and beneficial ownership will remain with HET until full payment has been received for the Goods (each order being considered as a whole). Where the Goods supplied are software, ownership of the physical media on which the software is supplied shall remain with HET until full payment has been received, but ownership of the software itself shall always remain with HET.

### **Privacy**

20. HET Software Limited is registered with the Information Commissioner under the Data Protection Act 1998 and will apply appropriate protection and management to all data shared. Some HET products may automatically send usage data to our servers. This information is used in accordance with our data protection policy. By accepting the quotation the customer agrees to this usage.

### **Cancellation Policy**

21. Where a contract exists for HET to supply personnel to the customer for an on-site visit for any purpose, HET shall at its sole discretion charge 90% of the agreed cost in the event that the customer cancels the visit less than 28 days prior to the agreed date of the visit. Where HET agrees to re-arrange

the dates of the visit this shall not vary the original payment terms of the contract.

In the event that a customer contracts for the provision of training and other on-site visits, HET shall at its sole discretion agree to change the dates of such training or on-site visits but on no account will any credit or refund be due.

In the event that the customer licenses Postcode and Routing software notice of cancellation must be given in writing a minimum of 60 days in advance of the licence renewal date to avoid full charges for the next 12 months.

### **General**

22. HET shall not be liable for any delay in or for failure to perform obligations if that delay or failure is caused by circumstances beyond the control of HET including, without limitation, fires, strikes, insurrection, riots, embargoes, inability to obtain supplies, refusal or revocation of licence or regulations of any civil or military authority.

23. The following provisions set out HET's entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the customer its agents, employees and sub-contractors in respect of any breach of its contractual obligations arising under this Contract and any representation, statement or tortious act or omission including negligence arising under or in connection with this Contract:

23.1 HET's liability to the customer under Part I of the Unfair Contract Terms Act 1977 or for death or injury resulting from the negligence of HET or that of its employees or agents and for loss or damage resulting from fraudulent misrepresentation shall not be limited.

23.2. HET shall be liable to the customer in respect of direct damage to the physical property of the customer resulting from the negligence of HET, its employees or agents up to a limit of one hundred thousand pounds (£100,000) in respect of any one event or series of connected events.

23.3. In all other cases HET's liability to the customer will not exceed the aggregate of the payments made to HET by the customer.

23.4 HET shall in no circumstances be liable to the Customer in respect of any loss of profits, goodwill or any type of special indirect or consequential loss (including business interruption, loss of business information or data and loss or damage suffered by the customer as a result of any action brought by a third party) even if such loss was reasonably foreseeable or HET had been advised at any time of the possibility of the customer incurring the same.

23.5. Subject to clause 0 above, HET shall not be liable for any loss or

damage whatsoever which results directly or indirectly from the customer's failure to allow adequate time to request, receive and enter any activation key in relation to any software forming part of the Goods.

23.6. Nothing in this clause 0 shall confer any right or remedy upon the customer to which it would not otherwise be entitled.

24. Except as expressly set out in this Contract and, where software is licensed, HET's Standard Licence Agreement, all conditions, warranties, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including without limitation as to quality, performance or fitness or suitability for purpose) in respect of the Goods are hereby excluded to the fullest extent permissible by law.
25. Although HET may advise on the selection of software or hardware for a particular application, the responsibility of ensuring that the Goods are adequate for the customer's purpose rests entirely with the customer.
26. The Customer undertakes and agrees that it will not at any time during the term of this Agreement or for a period of 6 (six) months from the date at which this Agreement or contract terminates or expires, however that may occur, solicit, entice away from or employ, or endeavour to solicit, entice away from or employ, any person who is, or has been, engaged as an employee or director of HET within the previous 12 months.
27. HET undertakes and agrees that it will not at any time during the term of this Agreement or for a period of 6 (six) months from the date at which this Agreement or contract terminates or expires, however that may occur, solicit, entice away from or employ, or endeavour to solicit, entice away from or employ, any person who is, or has been, engaged as an employee or director of the customer within the previous 12 months.
28. If any of the terms contained in this Contract are held to be invalid or unenforceable in whole or in part, the invalid or unenforceable wording shall be deemed to be omitted without affecting or impairing the validity and enforceability of the rest of the Contract.
29. Any notice, request, instruction or other document to be given hereunder shall be delivered or sent by first class post or by facsimile (such facsimile notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Contract (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by facsimile) upon the

expiration of 12 hours after dispatch.

30. The customer shall not be entitled to assign this Contract nor any of its rights or obligations hereunder. HET shall be entitled to assign and/or subcontract this Contract or any of its rights or obligations hereunder at any time.
31. The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.
32. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract and nothing in this Contract shall confer or purport to confer on or operate to give any third party any benefit or any right to enforce any term of this Contract except as expressly provided in this Contract.
33. This Contract together with any quotation and, where software is licensed, HET's Standard Licence Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreements or understandings between the parties relating to the subject matter of this Contract. No substitution or change in the terms and conditions of this Contract (even if included in or referred to in the document placing the order) shall be binding on HET unless the changes have been agreed in writing and signed on behalf of HET.
34. This Contract shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the exclusive jurisdiction of the English courts.