



# End User License Agreement (EULA)

## HTK document

This document defines the End-User License Agreement (EULA) terms and conditions for use of HTK Horizon.

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### **Notice of Confidentiality**

THIS DOCUMENT IS HTK PROPRIETARY AND CONFIDENTIAL INFORMATION. NEITHER THIS DOCUMENT NOR ITS CONTENTS MAY BE REVEALED OR DISCLOSED TO UNAUTHORIZED PERSONS OR SENT OUTSIDE THE AFOREMENTIONED INSTITUTION WITHOUT PRIOR PERMISSION FROM HTK.

# Contents

1. TERMS OF USE	5
2. DEFINITIONS	5
3. PURCHASED SERVICES	7
3.1 Provision of Purchased Services	7
3.2 User Subscriptions	7
3.3 Updates	7
3.4 Professional Services	8
4. USE OF THE SERVICES	8
4.1 Our Responsibilities	8
4.2 Your Responsibilities	8
5. THIRD-PARTY PROVIDERS	9
5.1 Acquisition of Third-Party Products and Services	9
5.2 Interoperability with Third-Party Products and Services	9
6. FEES AND PAYMENT FOR PURCHASED SERVICES	10
6.1 User Fees	10
6.2 Invoicing and Payment	10
6.3 Overdue Charges	11
6.4 Suspension of Service and Acceleration	11
6.5 Payment Disputes	11
7. PROPRIETARY RIGHTS	11
7.1 Reservation of Rights	11
7.2 Restrictions	12
7.3 Ownership of Your Data	12
7.4 Suggestions and Change Requests	12
8. CONFIDENTIALITY	12
8.1 Definition of Confidential Information	12

8.2 Protection of Confidential Information	13
8.3 Protection of Your Data	13
8.4 Compelled Disclosure	14
9. WARRANTIES AND DISCLAIMERS	14
9.1 Our Warranties	14
9.2 Your Warranty	15
9.3 Mutual Warranties	15
9.4 Disclaimer	15
10. MUTUAL INDEMNIFICATION	15
10.1 Indemnification by Us	15
10.2 Indemnification by You	16
10.3 Exclusive Remedy	16
10.4 Mitigation	16
11. LIMITATION OF LIABILITY	16
11.1 Limitation of Liability	16
11.2 Exclusion of Consequential and Related Damages	17
11.3 No Exclusion in respect of Death or Personal Injury	17
12. TERM AND TERMINATION	17
12.1 Term of Agreement	17
12.2 Term of Purchased User Subscriptions	18
12.3 Termination for Cause	18
12.4 Refund or Payment upon Termination	18
12.5 Return of Your Data	19
12.6 Surviving Provisions	19
13. NOTICES, GOVERNING LAW AND JURISDICTION	19
13.1 Governing Law	19
13.2 Manner of Giving Notice	19

14. INTERNET DELAYS 20

15. GENERAL PROVISIONS 20

    15.1 Relationship of the Parties 20

    15.2 Waiver and Cumulative Remedies 20

    15.3 Variation 21

    15.4 Severability 21

    15.5 Legal Fees 21

    15.6 Assignment 21

    15.7 Entire Agreement 22

    15.8 Force Majeure 22

    15.9 Rights of Third Parties 22

    15.10 Anti-Bribery 22

16. SIGNATURE 23

Exhibit A - Statement of Work Template 24

# 1. TERMS OF USE

THIS END-USER LICENSE AGREEMENT ("AGREEMENT") GOVERNS YOUR PURCHASE AND USE OF ANY OF OUR SERVICES.

BY EXECUTING A STATEMENT OF WORK THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are a direct competitor of HTK, except with our prior written consent.

# 2. DEFINITIONS

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Bribery Laws"** means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption.

**"Data Protection Laws"** means the Data Protection Act 1998 and (with effect from 25th May 2018) Regulation (EU) 2016/679 (General Data Protection Regulation).

**"Intellectual Property Rights"** means copyright, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights wherever existing, whether registered or not, and including any applications to protect or register such rights.

**"Malicious Code"** means viruses, worms, time bombs, Trojan horses and other harmful or

malicious code, files, scripts, agents or programs.

**"Professional Services"** means any consultancy type service which We agree to provide to you (for example, assisting you in implementing the solution, or integrating with Third-Party Applications, or general consultancy) which is set out in a Statement of Work.

**"Purchased Services"** means Professional Services or Services that you or your Affiliates purchase under a Statement of Work, as distinguished from those provided pursuant to a free trial.

**"SLA"** means our Service Level Agreement, as updated by us from time to time.

**"Security Breach"** means any incident which results in a) unauthorised or unlawful processing of Your Data; b) accidental loss, destruction or damage to Your Data; or c) the compromise of the confidentiality or integrity of Your Data.

**"Services"** means the online, Web-based applications and platform provided by us via [www.htkhorizon.com](http://www.htkhorizon.com) and/or other designated websites as described in the User Guide, and associated multi-media applications accessible via the platform.

**"Statement of Work"** means the document setting out the particulars of a Service purchased by you from us, in substantially the form attached as Exhibit A, including addenda thereto, that are entered into between you and us from time to time. Statements of Work shall be deemed incorporated herein by reference.

**"Third-Party Applications"** means online, Web-based applications and offline software products that are provided by third parties, interoperate with the Services, and are identified as third-party applications.

**"User Guide"** means the online user guide for the Services, accessible via our Website, as updated from time to time. You acknowledge that you have had the opportunity to review the User Guide prior to entering into this Agreement.

**"Users"** means individuals who are authorized by you to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by you (or by us at your request).

**"Website"** means web pages hosted on [www.htkhorizon.com](http://www.htkhorizon.com), including our e-commerce store through which a free trial and Purchased Services can be obtained.

**"We", "Us" or "Our"** means the HTK Limited company.

"**You**" or "**Your**" means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

"**Your Data**" means all electronic data or information submitted by you to the Purchased Services.

## 3. PURCHASED SERVICES

### 3.1 Provision of Purchased Services

We shall make the Purchased Services available to you pursuant to this Agreement and the relevant Statements of Work during a subscription term, or as otherwise specified. You agree that your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by us regarding future functionality or features.

### 3.2 User Subscriptions

Unless otherwise specified in the applicable Statement of Work, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term, pro-rated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

### 3.3 Updates

We will release updates to the Services from time to time (generally on a monthly basis), and such updates may remove, extend or replace the features and functionality previously available through use of the Services. We will not provide notice of these updates, but we will provide a minimum 30-days notice of the scheduled date for all major updates (for example where there are major changes in features or functionality), save where shorter notice is required to maintain the security

of the Services. Notice will be provided on the Services Web site, and it is your sole responsibility to regularly check the Services Web site for details of the scheduled updates. Updates will automatically be applied on the scheduled date, and we will not maintain previous versions of the Services.

### 3.4 Professional Services

Where We agree to provide Professional Services, We will (i) provide these in a professional manner, according to best practice in the sector, and in accordance with the relevant Statement of Work, and (ii) if applicable, review, test and evaluate with you any deliverables in accordance with the Statement of Work, and in accordance with any acceptance criteria set out therein. No support for Professional Services is included under the SLA unless specifically agreed in a Statement of Work.

## 4. USE OF THE SERVICES

### 4.1 Our Responsibilities

We shall: (i) provide to you Standard Level Support (as defined in the SLA) for the Purchased Services (excluding Professional Services) at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime which we will generally schedule to the extent practicable during weekday hours of 7am to 8am GMT, or (b) any unavailability caused by circumstances beyond our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving our employees), or Internet service provider failures or delays, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations. More particular details of the support we will provide are provided in the SLA.

### 4.2 Your Responsibilities

You shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which you acquired and process Your Data, including but not limited to complying with Data Protection Laws, (iii) use

commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify us promptly of any such unauthorized access or use, (iv) use the Services only in accordance with the User Guide, applicable laws, government and industry regulations, and (v) observe the procedures set out in the SLA. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libellous, or otherwise unlawful material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

Failure to comply with your responsibilities set out in this Section 4.2 may result in the suspension of Services.

## 5. THIRD-PARTY PROVIDERS

### 5.1 Acquisition of Third-Party Products and Services

We may offer Third-Party Applications for sale under Statements of Work. Any other acquisition by you of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between you and any third-party provider, is solely between you and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are designated by us as “certified” or otherwise, except as specified in a Statement of Work. No purchase of third-party products or services is required to use the Services.

### 5.2 Interoperability with Third-Party Products and Services

If you install or enable Third-Party Applications for use with Services, you acknowledge that we may allow providers of those Third-Party Applications to access Your Data as required for the interoperation of such Third-Party Applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Third-Party Application providers. The Services shall allow you to restrict such access by restricting Users from installing or enabling such Third-Party Applications for use with the Services.

## 6. FEES AND PAYMENT FOR PURCHASED SERVICES

### 6.1 User Fees

You shall pay all fees specified in all Statements of Work hereunder. Except as otherwise specified herein or in a Statement of Work, (i) fees are quoted and payable in UK Pounds Sterling (ii) fees are based on services purchased, (including transactional charges if specified), (iii) payment obligations are non-cancellable and fees paid are non-refundable, (iv) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Statement of Work, and (v) all amounts due under this Agreement are exclusive of VAT, sales or other tax applicable which shall be paid in addition by you at the rate and in the manner for the time being prescribed by law. User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged pro-rata for the initial month and then monthly in full for the monthly periods remaining in the subscription term. We reserve the right to modify our fees and charges and to introduce new charges at any time, upon at least 30 days prior notice to you, which notice may be provided by e-mail. All pricing terms are confidential, and you agree not to disclose them to any third party.

### 6.2 Invoicing and Payment

You will provide us with valid and updated debit/credit card information or with a valid purchase order or alternative document reasonably acceptable to us. If you provide debit/credit card information to us, you authorize us to charge such debit/credit card for all Services listed in the Statement of Work for the initial subscription term and any renewal subscription term(s) as set forth in Section 12.2 (Term of Purchased User Subscriptions). Such charges shall be made in advance, either monthly or in accordance with any different billing frequency stated in the applicable Statement of Work. If the Statement of Work specifies that payment will be by a method other than a debit/credit card, we will invoice you in advance and otherwise in accordance with the relevant Statement of Work. Unless otherwise stated in the Statement of Work, invoiced charges are due 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in the Services.

### 6.3 Overdue Charges

If any charges are not received from you by the due date, then at our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) we may condition future subscription renewals and Statements of Work on payment terms shorter than those specified in Section 6.2 (Invoicing and Payment).

### 6.4 Suspension of Service and Acceleration

If any amount owing by you under this or any other agreement for our services is 30 or more days overdue (or 10 or more days overdue in the case of amounts you have authorized us to charge to your credit card), we may, without limiting our other rights and remedies, accelerate your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend our services to you until such amounts are paid in full.

### 6.5 Payment Disputes

We shall not exercise our rights under Section 6.3 (Overdue Charges) or 6.4 (Suspension of Service and Acceleration) if the applicable charges are under reasonable and good-faith dispute and you are cooperating diligently to resolve the dispute.

## 7. PROPRIETARY RIGHTS

### 7.1 Reservation of Rights

Subject to the limited rights expressly granted hereunder, we reserve all rights, title and interest in and to the Services, including all related Intellectual Property Rights. No rights are granted to you hereunder other than as expressly set forth herein.

## 7.2 Restrictions

You shall not (i) permit any third party to access the Services except as permitted herein or in a Statement of Work, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on your own intranets or otherwise for your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

## 7.3 Ownership of Your Data

As between us and you, you exclusively own all rights, title and interest in and to all of Your Data.

## 7.4 Suggestions and Change Requests

We shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by you, including by Users, relating to the operation of the Services.

# 8. CONFIDENTIALITY

## 8.1 Definition of Confidential Information

As used herein, "Confidential Information" means all confidential information disclosed by a party ("the Disclosing Party") to the other party ("the Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Statements of Work, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to

the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

## 8.2 Protection of Confidential Information

Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

## 8.3 Protection of Your Data

You acknowledge that for the purposes of the Data Protection Laws You are the “Data Controller” in respect of Your Data and we are the “Data Processor”.

We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 8.4 (Compelled Disclosure) or to the extent necessary for the provision of the Services or as expressly permitted in writing by you, or (c) transfer or permit the transfer of any part of the Data to any territory outside the European Economic Area save to the extent that the Users may access Your Data through the Services from anywhere in the World, or (d) access Your Data except to provide the Services or prevent or address service or technical problems, or at your request in connection with customer support matters. We will not own any data, information or material that you submit to the Service in the course of using the Service. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and ownership of Intellectual Property Rights or right to use of all Your Data, and we shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store Your Data.

Where appropriate, in the event that we suspect or discover a Security Breach we will : a) promptly, but in any event within the minimum time set out in law, notify you; b) undertake an investigation to identify the cause, effect and impact of such Security Breach and the steps required to avoid, contain or mitigate the adverse impact of such Security Breach; and c) devise and implement a remedial plan to ensure the Security Breach does not reoccur.

## 8.4 Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

# 9. WARRANTIES AND DISCLAIMERS

## 9.1 Our Warranties

We warrant that (i) the Services shall perform materially in accordance with the User Guide, and (ii) the functionality of the Services will not be materially decreased during a subscription term from the functionality provided at the start of the subscription term. For any breach of either such warranty, your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.

WE DO NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR THAT THE SOFTWARE WILL RUN UNINTERRUPTED, OR THAT ALL SOFTWARE ERRORS CAN OR WILL BE CORRECTED. ALL ERROR CORRECTIONS AND BUG FIXES WHICH ARE NOT MADE GENERALLY COMMERCIALY AVAILABLE ARE PROVIDED 'AS IS' WITHOUT WARRANTY OR CONDITION OF ANY KIND.

## 9.2 Your Warranty

You warrant that by providing Your Data to us you will not be in breach, and you will not cause us to be in breach, of the Data Protection Laws or any other applicable data protection legislation of any jurisdiction, and you indemnify us for any breach of this warranty as set out in Section 10.2 (Indemnification by You).

## 9.3 Mutual Warranties

Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).

## 9.4 Disclaimer

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

# 10. MUTUAL INDEMNIFICATION

## 10.1 Indemnification by Us

We shall defend you against any claim, demand, suit, or proceeding (" Claim") made or brought against you by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the Intellectual Property Rights of a third party, and shall indemnify you for any damages finally awarded against, and for reasonable legal fees incurred by, you in connection with any such Claim; provided, that you (a) promptly give us written notice of the Claim; (b) give us sole control of the defence and settlement of the Claim, provided that we may not settle any Claim without your consent (not to be unreasonably withheld or delayed) unless the settlement unconditionally releases you of all liability; and (c) provide to us all reasonable assistance, at our expense.

## 10.2 Indemnification by You

You shall defend us against any Claim made or brought against us by a third party alleging that Your Data, or your use of the Services in violation of this Agreement, infringes or misappropriates the Intellectual Property Rights of a third party or violates applicable law, and shall indemnify us for any damages finally awarded against, and for reasonable legal fees incurred by, us in connection with any such Claim; provided, that we (a) promptly give you written notice of the Claim; (b) give you sole control of the defence and settlement of the Claim, provided that you may not settle any Claim without our consent (not to be unreasonably withheld or delayed) unless the settlement unconditionally releases us of all liability); and (c) provide to you all reasonable assistance, at your expense.

## 10.3 Exclusive Remedy

This Section 10 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

## 10.4 Mitigation

In respect of any indemnity given by either party under this Agreement, the party which receives the benefit of the indemnity shall take all reasonable steps so as to reduce or mitigate the loss covered by the indemnity.

# 11. LIMITATION OF LIABILITY

## 11.1 Limitation of Liability

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY

YOU HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF £100,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR PURCHASED SERVICES).

## **11.2 Exclusion of Consequential and Related Damages**

IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, SAVE AS PROVIDED IN SECTION 10 (MUTUAL INDEMNIFICATION). THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## **11.3 No Exclusion in respect of Death or Personal Injury**

NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS ATTEMPTING TO LIMIT THE LIABILITY OF EITHER PARTY IN RESPECT OF INJURY TO OR THE DEATH OF ANY PERSON CAUSED BY THE WILFUL OR NEGLIGENT ACT OR OMISSION OF ANY PARTY, ITS OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, OR FOR FRAUD.

# **12. TERM AND TERMINATION**

## **12.1 Term of Agreement**

This Agreement commences on the date you accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated. If you elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

## 12.2 Term of Purchased User Subscriptions

User subscriptions purchased by you commence on the start date specified in the applicable Statement of Work and continue for the subscription term specified therein. Except as otherwise specified in the applicable Statement of Work, all User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless we have given you written notice of a pricing increase at least 30 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 10% over the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Statement of Work as promotional or one-time.

## 12.3 Termination for Cause

A party may terminate this Agreement by giving written notice: (i) after a period of 30 days from giving written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

## 12.4 Refund or Payment upon Termination

Upon any termination under clause 12.3 by you, we shall refund you any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination under clause 12.3 by us, you shall pay any unpaid fees covering the remainder of the term of all Statements of Work after the effective date of termination. In no event shall any termination relieve you of the obligation to pay any fees payable to us for the period prior to the effective date of termination.

## 12.5 Return of Your Data

Upon request by you made within 30 days after the effective date of termination of a Purchased Services subscription, we will make available to you for download a file or files of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, we shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in our systems or otherwise in our possession or under our control.

## 12.6 Surviving Provisions

Sections 2 (Definitions), 6 (Fees and Payment for Purchased Services), 7 (Proprietary Rights), 8 (Confidentiality), 9.4 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.4 (Refund or Payment upon Termination), 12.5 (Return of Your Data), 12.6 (Surviving Provisions), 13 (Notices, Governing Law and Jurisdiction) and 15 (General Provisions) shall survive any termination or expiration of this Agreement.

# 13. NOTICES, GOVERNING LAW AND JURISDICTION

## 13.1 Governing Law

This Agreement will be governed by and construed with the laws of England and the parties hereby submit to the exclusive jurisdiction of the courts of England. Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules.

## 13.2 Manner of Giving Notice

Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to you shall be addressed to the system

administrator designated by you for your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by you, in each case using such details supplied by you for ordinary correspondence with them. Notices to us shall be addressed to: The Company Secretary, Chapmans Warehouse, Wherry Quay, Ipswich, Suffolk IP4 1AS and (i) if sent by fax, delivered to number 0870 600 2312, or (ii) if sent by email, delivered to email address [accounts@htk.co.uk](mailto:accounts@htk.co.uk).

## 14. INTERNET DELAYS

THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET, SMS MESSAGING AND OTHER FORMS OF ELECTRONIC COMMUNICATIONS. WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## 15. GENERAL PROVISIONS

### 15.1 Relationship of the Parties

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency or employment relationship between the parties.

### 15.2 Waiver and Cumulative Remedies

No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. No waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the waiver is to be asserted.

### 15.3 Variation

No amendment or variation of this Agreement will be valid unless in writing and either signed or accepted electronically by an authorised signatory of the party against whom the amendment or variation is to be asserted. We may present an amended version of this Agreement to you via our website or via the Services and by indicating your acceptance of the amended Agreement via the website you will be deemed to have accepted the amendment in writing.

### 15.4 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

### 15.5 Legal Fees

You shall pay on demand all of our reasonable legal fees and other costs incurred by us to collect any fees or charges due us under this Agreement following your breach of Section 6.2 (Invoicing and Payment).

### 15.6 Assignment

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld or delayed). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Statements of Work), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement immediately upon written notice to the assigning party.

## 15.7 Entire Agreement

This Agreement, including all exhibits and addenda hereto and all Statements of Work, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Statement of Work, the terms of such exhibit, addendum or Statement of Work shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in your purchase order or other order documentation (excluding Statement of Work) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

## 15.8 Force Majeure

Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 30 days, either party may terminate this Agreement by written notice to the other party.

## 15.9 Rights of Third Parties

For the purposes of the Contracts (Rights of Third Parties) Act 1999, this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. However, this does not affect any rights or remedy of such a person that exists or is available apart from that Act.

## 15.10 Anti-Bribery

Each party shall comply with applicable Bribery Laws relating to prevention of bribery and corruption (as updated from time to time), and each shall use all reasonable endeavours to ensure that all of that party's employees, subcontractors and all others associated with that party involved

in performing services for or on behalf of that party or otherwise involved with this Agreement so comply.

Without limitation to the above (i) neither party shall offer or give or request, agree to receive or accept any bribe, other improper payment or advantage or bribe any UK or foreign public official in breach of applicable Bribery Laws; and (ii) each party shall implement, maintain and enforce adequate procedures designed to prevent persons associated with that party engaging in conduct which contravenes the Bribery Act 2010.

The expressions 'adequate procedures', 'associated with' and 'foreign public official' shall be construed in accordance with the Bribery Act 2010 and associated guidance published under that Act.

## 16. SIGNATURE

IN WITNESS HEREOF this Agreement has been executed the day and year first above written.

Signed for and on behalf of:  
HTK

Signed for and on behalf of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title (Authorised to sign)

\_\_\_\_\_  
Title (Authorised to sign)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## EXHIBIT A – STATEMENT OF WORK (SOW) TEMPLATE

1. Type of SOW:
  - a. Specify the type of work to be carried out under this SOW – consultancy services, software development for a licence fee, software development for a fixed fee (and the relevant software licence).
2. Scope of project
  - a. Requirements
  - b. Solution architecture
3. Project Schedule and Milestones
4. Deliverables
5. Services
6. Roles and Responsibilities
7. Acceptance procedures
  - a. Insert details of acceptance criteria and timetable for testing, notification of acceptance/rejection, fixing and resubmission.
8. Project Management
  - a. Project review meetings
  - b. Project Governance
  - c. Reporting
  - d. Change Management
9. Pricing
  - a. Insert pricing details, including amounts, invoicing triggers and payment timetables.
10. Dependencies, HTK Materials required.
11. Assumptions
12. Attach other documents such as design documents, product specifications, performance schedules as required.