

CD Licence Order Form

Hire Guide Solutions Guides are supplied on a CD and may only be issued to your customer under a 12 month licence agreement. To receive the CD and the authority to use it, please complete this form and send with your payment to:

**Hire Guide Solutions Ltd
55, Ferry Road
Barrow Upon Humber
North Lincolnshire
DN19 7BA**

Title: First Name: Last Name:

Position: Mobile Tel:

Contact Tel: Fax No:

Email Address: Web Address:

Company Name Trading Name:

No of Branches:

Main Business address:

.....

..... Postcode:

No of Staff:

Member of HAE CPA THA other please state:

I have read and fully accept the terms and conditions of the licence agreement (see overleaf).

Signed:

Print:

Position:

Date:/...../.....

SOFTWARE LICENCE AGREEMENT

Date:

Parties:

- 1 "The Company": Hire Guide Solutions Limited (registered number 7391178) whose registered office is at 55 Ferry Road, Barrow-upon-Humber, North Lincolnshire DN19 7BA.
- 2 "The Licensee": * (registered number * whose registered office is at *

Recital:

The Company has agreed to grant the Licensee a non exclusive licence to use the computer software programs and/or associated documentation listed in the Schedule upon the terms and conditions of this agreement.

Operative provisions:

1 Definitions

1.1 In this agreement the following expressions have the meanings stated, unless the context otherwise requires:

"LICENCE FEE" the annual fee for the licence set out in the Schedule as the same may be varied in accordance with clause 3.3 below;

"NEW RELEASE" any improved modified or corrected version of any of the Licensed Programs or Program Documentation from time to time issued by the Company pursuant to clause 6 below;

"PROGRAM DOCUMENTATION" the instruction manuals user guides and other information (identified by title and reference number in the Schedule) to be made available from time to time during this Agreement by the Company at its discretion in either printed or machine readable form to the Licensee;

"USE" the copying or transmission of the Licensed Programs or (where in machine readable form) the Program Documentation into the Designated Equipment for the processing of the instructions contained in the Licensed Programs or (as the case may be) the Program Documentation.

2 Grant of licence and provision of services

2.1 The Company in consideration of the payment by the Licensee from time to time of the Licence Fee in accordance with clause 3 below hereby grants to the Licensee a non exclusive licence to Use the Licensed Programs.

3 Licence Fee

3.1 The Licence Fee shall include the cost of the delivery of the Licensed Program Materials.

3.2 The Licence Fee (together with value added tax) shall be levied by the Company annually in advance by invoice with effect from the Acceptance Date. The Licence Fee shall be paid within 28 days of the expiry of the Licence.

3.3 The Company shall be entitled to vary the Licence Fee not more than once in every successive period of 12 months during the currency of this agreement upon giving not less than 30 days' notice thereof to the Licensee.

3.4 The Company reserves the right to charge the Purchaser interest in respect of the late payment of any sum due under this agreement (as well after as before judgment) at the rate of 4 per cent per annum above the base rate from time to time of National Westminster Bank plc from the due date thereof until payment.

4 Delivery

4.1 The Company shall use all reasonable endeavours to deliver one copy of each of the Licensed Programs and the Program Documentation to the Licensee's premises within 28 days of receipt of the Licensee's Order.

5 Property and confidentiality in the licensed program materials

5.1 The Licensed Program Materials contain confidential information of the Company and all copyright trade marks and other intellectual property rights in the Licensed Program Materials are the exclusive property of the Company.

5.2 The Licensee shall not:

5.2.1 make back up copies of the Licensed Program Materials;

5.2.2 reverse compile, copy or adapt the whole or any part of the Licensed Program Materials for the purposes of correcting errors in the Licensed Program Materials;

5.2.3 save solely for the purposes expressly permitted by and in accordance with s. 296A(1) CDDPA or s. 50B(2) CDDPA copy adapt or reverse compile the whole or any part of the Licensed Program Materials;

5.2.4 assign transfer sell lease rent charge or otherwise deal in or encumber the Licensed Program Materials or use the Licensed Program Materials on behalf of any third party or make available the same to any third party;

5.2.5 remove or alter any copyright or other proprietary notice on any of the Licensed Program Materials;

5.2.6 use the Licensed Program Material at any location other than the premises set out at the head of this agreement;

5.2.7 in any way copy the Licensed Program Material.

5.3 The Licensee shall:

5.3.1 keep confidential the Licensed Program Materials and limit access to the same to those of its employees agents and sub contractors who either have a need to know or who are engaged in the Use of the Licensed Programs (including where appropriate the Program Documentation);

5.3.2 reproduce on any copy (whether in machine readable or human readable form) of the Licensed Program Materials the Company's copyright and trade mark notices;

5.3.3 notify the Company immediately if the Licensee becomes aware of any unauthorised use of the whole or any part of the Licensed Program Materials by any third party;

5.3.4 without prejudice to the foregoing take all such other steps as shall from time to time be necessary to protect the confidential information and intellectual property rights of the Company in the Licensed Program Materials; and

5.3.5 only issue first generation copies of the Licensed Program Material to the customer.

5.4 The Licensee shall inform all relevant employees agents and sub contractors that the Licensed Program Materials constitute confidential information of the Company and that all intellectual property rights therein are the property of the Company and the Licensee shall take all such steps as shall be necessary to ensure compliance by its employees agents and sub contractors with the provisions of this clause 7.

6 Warranty

6.1 Subject to the exceptions set out in clause 10.4 below and the limitations upon its liability in clause 11 below the Company warrants that its title to and property in the Licensed Program Materials is free and unencumbered and that it has the right power and authority to license the same upon the terms and conditions of this agreement;

6.2 The Licensee shall give notice to the Company as soon as it is reasonably able upon becoming aware of a breach of warranty.

6.3 The Licensed Programs are based on manufacturers models used in conjunction with genuine spare parts, accessories and consumables. The Licensed Programmes are not to be used in conjunction with any other type of product. Save for death or personal injury caused as a result of the Company's negligence, the Company accepts no liability for any loss or damage in the event that non-genuine spares, accessories or consumables are so used.

7 Limitation of liability

7.1 The following provisions set out the Company's entire liability to the Licensee in respect of:

7.1.1 any breach of its contractual obligations arising under this agreement; and

7.1.2 any representation statement or tortious act or omission including negligence (but excluding any of the same made fraudulently) arising under or in connection with this agreement

7.2 Any act or omission on the part of the Company falling within clause 7.1 above shall for the purposes of this clause 11 be known as an "Event of Default".

7.3 The Company's liability to the Licensee for:

7.3.1 death or injury resulting from its own or that of its employees' agents' or sub contractors' negligence; and

7.3.2 damage suffered by the Licensee as a result of any breach of the obligations implied by, as applicable, section 12 of the Sale of Goods Act 1979, section 2 of the Supply of Goods and Services Act 1982 or section 8 of the Supply of Goods (Implied Terms Act) 1973 shall not be limited.

7.4 Subject to the limits set out in clause 7.5.1 below the Company shall accept liability to the Licensee in respect of damage to the tangible property of the Licensee resulting from the negligence of the Company or its employees agents or sub contractors, provided that any such fault is notified to the Company within two working days of the Licensee becoming aware of the same. The Licensed Program Material must not be used during this period.

7.5 Subject to the provisions of clause 7.3 above the Company's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to:

7.5.1 £[PRICE PAID FOR LICENCE] in the case of an Event of Default falling within clause 7.4 above; and

7.5.2 in the case of any other Event of Default the aggregate of the Licence Fee paid in the immediately preceding period of 12 months.

7.6 Subject to clause 7.3 above the Company shall not be liable to the Licensee in respect of any Event of Default for loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Licensee as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Licensee incurring the same.

7.7 The Licensee hereby agrees to afford the Company not less than 14 days (following notification thereof by the Licensee) in which to remedy any Event of Default hereunder.

7.8 Except in the case of an Event of Default arising under clause 7.3 above the Company shall have no liability to the Licensee in respect of any Event of Default unless the Licensee shall have served notice of the same upon the Company within 1 year of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.

7.9 Nothing in this clause shall confer any right or remedy upon the Licensee to which it would not otherwise be legally entitled.

8 Intellectual property rights indemnity

8.1 The Company will indemnify and hold harmless the Licensee against any damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation possession or use of the Licensed Program Materials by the Licensee infringes the patent copyright registered design or trade mark rights of said third party (an "Intellectual Property Infringement") provided that the Licensee:

8.1.1 gives notice to the Company of any Intellectual Property Infringement forthwith upon becoming aware of the same;

8.1.2 gives the Company the sole conduct of the defence to any claim or action in respect of an Intellectual Property Infringement and does not at any time admit liability or otherwise settle or compromise or attempt to settle or compromise the said claim or action except upon the express instructions of the Company; and

8.1.3 acts in accordance with the reasonable instructions of the Company and gives to the Company such assistance as it shall reasonably require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

8.2 The Company shall reimburse the Licensee its reasonable costs incurred in complying with the provisions of clause 8.1 above.

8.3 The Company shall have no liability to the Licensee in respect of an Intellectual Property Infringement if the same results from any breach of the Licensee's obligations under this agreement.

8.4 In the event of an Intellectual Property Infringement the Company shall be entitled at its own expense and option either to:

8.4.1 procure the right for the Licensee to continue using the Licensed Program Materials; or

8.4.2 make such alterations modifications or adjustments to the Licensed Program Materials so that they become non infringing without incurring a material diminution in performance or function; or

8.4.3 replace the Licensed Program Materials with non infringing substitutes provided that such substitutes do not entail a material diminution in performance or function.

8.5 If the Company in its reasonable judgement is not able to exercise any of the options set out at clauses 8.4.1, 8.4.2 or 8.4.3 above within 21 days of the date it received notice of the Intellectual Property Infringement then the Licensee without prejudice to any other rights or remedies it may have hereunder or at law shall be entitled to terminate this agreement by 7 days' notice upon the Company. Upon any such termination the provisions of clause 12.3 below (but not 12.4) shall apply.

8.6 The provisions of clause 7 above shall not apply to this clause 8.

9 Confidentiality

9.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of this agreement save that which is:

9.1.1 trivial or obvious;

9.1.2 already in its possession other than as a result of a breach of this clause; or

9.1.3 in the public domain other than as a result of a breach of this clause.

9.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 9.1 above by its employees agents and sub contractors.

10 Duration of agreement

10.1 This agreement shall continue until terminated in accordance with the provisions of clause 12 below.

11 Licensee's representatives

11.1 The Licensee shall communicate to the Company upon the date hereof the identity of the person(s) or the department within its undertaking at the Site who shall act as the sole contact point and channel of communication for the provision by the Company of the Services during the currency of this agreement. The Licensee shall forthwith inform the Company of any change in the identity of any such person(s) or department.

12 Termination

12.1 This agreement may be terminated:

12.1.1 by the Licensee upon giving not less than 2 months notice to expire on any anniversary to the date of this Licence to the Company;

12.1.2 forthwith by either party if the other commits any material breach of any term of this agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 14 days of a written request to remedy the same;

12.1.3 forthwith by either party if the other shall convene a meeting of its

creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

12.2 Any termination of this agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

12.3 Within 7 days of the termination of this agreement (howsoever and by whomsoever occasioned) the Licensee shall at the Licensor's sole option either return all copies of the Licensed Program Materials in its possession or control or shall destroy all copies of the Licensed Program Materials in its possession or control and a duly authorised officer of the Licensee shall certify in writing to the Company that the Licensee has complied with its obligation as aforesaid.

13 Force Majeure

13.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires strikes (of its own or other employees) insurrection or riots embargoes container shortages wrecks or delays in transportation inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "Event of Force Majeure").

13.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

13.3 If a default due to an Event of Force Majeure shall continue for more than 12 weeks then the party not in default shall be entitled to terminate this agreement. Neither party shall have any liability to the other in respect of the termination of this agreement as a result of an Event of Force Majeure.

14 Waiver

14.1 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 any 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.

15 Notices

15.1 Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or by telex or facsimile transmission (such telex or facsimile transmission notice to be confirmed by letter posted within 12 hours) to the address or to the facsimile number of the other party set out in this agreement (or such other address or numbers 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 telex or facsimile transmission) upon the expiration of 12 hours after dispatch.

Notices to the Company:

Email address: info@hireguidesolutions.co.uk

Notices to the Purchaser:

Facsimile Number *

16 Invalidity and severability

16.1 If any provision of this agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

17 Entire agreement

17.1 The Company shall not be liable to the Licensee for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of execution of this agreement other than those representations agreements statements or undertakings confirmed by a duly authorised representative of the Company in writing or expressly incorporated or referred to in this agreement.

17.2 The Licensee accepts that the Licensed Program Materials were not designed and produced to its individual requirements and that it was responsible for their selection.

17.3 Nothing in this agreement is intended to exclude a party's liability for fraud or fraudulent concealment.

18 Successors

18.1 This agreement shall be binding upon and enure for the benefit of the successors in title of the parties hereto.

19 Assignment and sub licensing

19.1 The Licensee shall not be entitled to assign or otherwise transfer this agreement nor any of its rights or obligations hereunder nor sub license the use (in whole or in part) of the Licensed Program Materials without the prior written consent of the Company.

20 VAT

20.1 Save insofar as otherwise expressly provided all amounts stated in this Agreement are expressed exclusive of value added tax and any value added tax arising in respect of any supply made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the party making such supply by the party to whom it is made in addition to any other consideration payable therefore.

21 Headings

21.1 Headings to clauses in this agreement are for the purpose of information and identification only and shall not be construed as forming part of this agreement.

22 Law

22.1 This agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non exclusive jurisdiction of the English courts.

23 Exclusion of third party rights

23.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no rights or benefits expressly or impliedly conferred by it shall be enforceable under that Act against the parties to it by any other person.