

# INSPEC ONDISC DATABASE AND SOFTWARE LICENCE AGREEMENT

PLEASE READ THIS LICENCE CAREFULLY. BY LOADING THE PRODUCT INTO ANY COMPUTER YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENCE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, PROMPTLY RETURN THE PRODUCT TO THE INSTITUTION OF ENGINEERING AND TECHNOLOGY TOGETHER WITH PROOF OF PAYMENT. THE INSTITUTION WILL THEN REFUND THE SUBSCRIPTION FEE PAID BY YOU IN RESPECT OF THE CANCELLED ORDER.

## 1. Definitions

In this Licence, the following words have the following meanings:

- Discs:** the CD-ROM discs supplied by the Owner to the Subscriber comprising copies of the Software and the Database.
- Database:** the version of the Inspec Ondisc database specified in the Order, as may be updated by the Owner from time to time.
- Licence:** this agreement between the Subscriber and the Owner.
- Order:** the order placed by the Subscriber for an annual subscription to the Inspec Ondisc database, specifying the version of the database, the number of copies and the type of licence required and the annual subscription fee payable.
- Owner:** The Institution of Engineering and Technology.
- Product:** the Database, the Discs, the Software, the accompanying printed documentation and any Updates.
- Software:** the computer programs used for accessing and manipulating the Database.
- Subscriber:** the person, company or organisation named in the Order.
- Updates:** the updates to the Database provided by the Owner to the Subscriber.

## 2. Subscriber Licence

- 2.1 The Owner grants the Subscriber a non-exclusive, non-transferrable Licence to use the Product subject to and in accordance with the terms of this Licence. The Subscriber acknowledges that the Database is the sole property of the Owner and that the Software is the sole property of Head Software International Ltd. The Subscriber confirms that it will only use the Product as permitted under the terms of this Licence. The Database and Software are protected by copyright laws, intellectual property rights and international treaties.
- 2.2 Different types of Licence to use the Product are available from the Owner. Provided the Subscriber has paid the appropriate subscription fee, the type of its Licence shall be as specified in its Order. The Subscriber shall be entitled to change the type of its Licence by notifying the Owner in writing and paying any additional subscription fee specified by the Owner.
- 2.3 The following terms shall apply to the different types of Licence:-
- (a) Single Terminal - the Subscriber may provide users with access to the Database from a single computer only;
  - (b) Small Network (of two to ten computers) - the Subscriber may provide users with access to the Database only from the number of computers notified to the Owner;
  - (c) Networking from Disc - the Subscriber may provide users with access to the Database by means of a physically linked local area network - the transfer of the Product to hard disk is not permitted;
  - (d) Networking from Hard Disk - the Subscriber may download the Database to hard disk and provide users with access to the Database by means of a physically linked local area network.
  - (e) Remote Web access – the Subscriber may have online search access to an Owner-designated server.

## 3. Subscription, Updates and Renewal

The Product is licensed on a calendar year subscription basis. Following payment by the Subscriber of the appropriate annual subscription fee, Updates will be supplied to the Subscriber as and when published by the Owner. Upon receipt of each Update Disc, the Subscriber will destroy any previous Discs which that Update Disc supersedes. In the event that the Subscriber elects not to renew its subscription, it shall be entitled to retain only the latest version of the Product received during the course of a subscription.

#### **4. Use and Restrictions**

The Subscriber shall:-

- (a) install and use the Product only on computers which it owns or are under its control and which are located at its premises;
- (b) permit only the following categories of person to use the Product:-
  - (i) where the Subscriber is a corporate or government organisation - members of its own staff, including bona fide consultants;
  - (ii) where the Subscriber is an academic organisation - staff, students, faculty and in-library users; or
  - (iii) where the Subscriber is a public library - staff and in-library users;
- (c) ensure that the Subscriber's staff (including bona fide consultants) use the Product for the Subscriber's own internal purposes only and that any other authorised users use the Product for research purposes only;
- (d) provide users access to the Database at a single site only and ensure that all users use the Product in accordance with the terms of this Licence;
- (e) keep the Software confidential;
- (f) not make any copies of the Software except to the extent necessary for operational security and the Subscriber's use of the Product in accordance with this Licence - all copies of Software must bear the copyright and any other proprietary notices reproduced in the Product;
- (g) not decompile, disassemble or reverse engineer the Software except to the extent permitted by law;
- (h) not make the Product available on a network or through remote access technology except as authorised by the Owner (see Clause 2);
- (i) not transfer the Database to hard disk except as authorised by the Owner (see Clause 2);
- (j) not modify, adapt, merge, publish, transmit sell, lend, rent, commercially exploit or make available to any third party (including any subsidiary, parent company or any other related or affiliated company or organisation) the whole or any part of the Product;
- (k) not transfer, assign or sub-license this Licence.

#### **5. Warranty and Liability**

- 5.1 The Owner warrants that when put into normal use the Discs will be free from defects in materials and workmanship. The Owner will replace any defective Disc at no charge if the defective Disc is returned to the Owner within ninety (90) days from the date of the Subscriber's receipt of the Disc. This clause (5.1) sets out the Owner's entire liability with respect to this Licence. The right to a replacement Disc shall not apply if:-
  - (a) the Subscriber is in breach of any of the terms of this Licence;
  - (b) the defects in the Disc have arisen other than as a direct result of any act or omission of the Owner.
- 5.2 The Owner and the Subscriber acknowledge that the Owner supplies the Product on an "as is" basis. The Owner gives no warranties as to its performance, functionality, freedom or errors, or that the Product will satisfy the individual requirements of the Subscriber. Save as expressly provided in this Licence, the Owner excludes all liability for any defect in the Product and for any loss or damage which the Subscriber may suffer as a result of its use of (or inability to use) the Product or otherwise as a result of any breach of contract or negligence by the Owner.
- 5.3 While the Owner believes that the contents of the Database are an accurate representation or interpretation of the original materials from which the Database has been drawn, the Owner does not warrant that the Database will be accurate,

complete or error-free. The Owner will not in any event be liable to the Subscriber for any loss or damage of any kind suffered by the Subscriber if the Database is found to contain any errors or to be incomplete or misleading in any way, whether as a result of the Owner's negligence or otherwise.

5.4 Without limiting any of the above, the Owner excludes liability for indirect or consequential loss, loss of profits or revenue, loss of business, business interruption or loss of business information.

5.5 The Owner does not seek to exclude or limit its liability for personal injury or death caused by its negligence.

## **6. Termination**

6.1 The Owner shall be entitled to terminate this Licence by serving written notice on the Subscriber if the Subscriber:-

(a) becomes insolvent, goes into liquidation, has an administrator or receiver appointed over any of its assets or enters into any arrangement with any of its creditors; or

(b) is in breach of any of these terms and conditions, and in the case of a breach which it is possible to remedy, the Subscriber has not remedied the breach within 30 days of receiving notice from the Owner specifying the breach.

6.2 Where the Owner terminates this Licence in accordance with Clause 6.1, the Subscriber shall cease all use of the Product and return all copies of the Product to the Owner or demonstrate to the Owner that it has destroyed all copies.

6.3 In addition, the Owner reserves the right to refuse to renew the Subscriber's subscription for any year for any reason

## **7. General**

7.1 The Owner will not be responsible for any delay or failure in performance resulting from any cause beyond its control.

7.2 If any provision of this Licence is found to be invalid or unenforceable, the remaining terms and conditions shall remain in full force and shall be enforceable to the maximum extent permitted by law.

7.3 The failure by the Owner to enforce or exercise any provision of this Agreement at any time or for any period shall not constitute a waiver of any such provision and will not affect the Owner's right later to enforce or execute any such provision.

7.4 This Licence shall be governed by English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

7.5 This Licence constitutes the entire agreement between the Subscriber and the Owner with respect to the use of the Product and supersedes all prior purchase orders, written terms and conditions, written or verbal representations, advertising or statements relating in any way to the Product. The Subscriber shall not be entitled to rely on any representation or warranty other than those expressly set out in this Licence.

7.6 No modification or amendment to these terms shall be binding unless accepted by the Owner and unless details are provided in writing by a person authorised to do so.

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