

**END USER LICENCE AGREEMENT
("EULA")**

FOR

CHS DIGITAL NAUTICAL PRODUCTS

FROM

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA, AS REPRESENTED BY
THE MINISTER OF FISHERIES AND OCEANS, ON BEHALF OF THE
CANADIAN HYDROGRAPHIC SERVICE**

(the "Crown")

615 Booth Street, Ottawa, Ontario
K1A 0E6

NOTICE TO USERS: Please read the End User Licence Agreement for the enclosed CHS Digital Nautical Product carefully.

This is an End User Licence Agreement between you and the Crown for the enclosed CHS Digital Nautical Product.

1.0 DEFINITIONS

"Backup" means one copy of the Product installed on the same or another device owned by you, as set out in clause 2.1(a) of this Agreement

"CHS Digital Nautical Product" or "Product" means the enclosed product containing raster (BSB) or vector (S57 ENC) charts, including any associated software, hardware, media, printed materials, and "online" or electronic documentation.

"Crown's Data" means Data of which the Intellectual Property Rights rests with the Crown.

"Crown's Licensed Intellectual Property" means Data where intellectual property licences have been conferred upon the Crown by third parties for the use of that Data.

"Data" means any expressed data, fixed in a form giving rise to Intellectual Property Rights.

"End User(s)" means any individual, corporation or organization to whom CHS directly or indirectly distributes and grants a licence for use of the Product. End Users do not

have the right to re-distribute, sell, grant sub-licences to, nor use the CHS Digital Nautical Product, in whole or in part, to develop new products.

“EULA” means this End User Licence Agreement.

“Intellectual Property Rights” means any and all intellectual property rights recognized by the law, including but not limited to intellectual property rights protected through legislation.

"Update" or "Product Update" means updates to the Product which may consist of a new chart, a new edition of a chart, or an electronic file, in CHS's sole discretion, as set out in clause 5.0 of this Agreement.

2.0 LICENCE GRANT

2.1 In consideration of your payment and subject to this EULA, you are granted a non-exclusive, non-assignable and non-transferable licence to use the Product for personal use, subject to the terms and conditions set out below:

- (a) This licence is for the installation and use of the Product by you on your own primary device, plus installation of one backup on the same or another device owned by you. This licence is not a licence for multiple, non-concurrent or concurrent network users/workstations; for such uses, a site licence is required directly from CHS.
- (b) You shall not, nor allow nor direct any person to:
 - (i) Disassemble, decompile or in any way attempt to reverse engineer software associated with the Product;
 - (ii) Extract, adapt or use any part of the Product to develop or derive any other product for distribution or commercial purposes or for the provision of any navigational information service without a separate licence from CHS to do so;
 - (iii) Copy, publish, communicate or redistribute the Product or any part of the Product, except one backup as set out in clause 2.1(a) above; or
 - (iv) Sell, rent, lease, lend, sublicense or transfer to any other individual or organization the Product for any purpose whatsoever.

3.0 COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

3.1 All title and Intellectual Property Rights in and to the Product shall at all times remain the property of the Crown.

3.2 All title and Intellectual Property Rights in and to Data which is not the Crown's Data ("Crown's Licensed Intellectual Property") are the property of the respective content owners and may be protected by copyright, other intellectual property laws, common law or international treaties.

3.3 At any time while this agreement is in effect or after the expiry or termination of this Agreement, you agree not to use or adopt any trade mark, trade name, trading style or commercial designation that includes or is similar to or may be mistaken for the whole or any part of any trade mark, official mark, logo or domain name used by CHS or the Crown, unless with the prior written consent of CHS.

3.4 This is a licence to use the Product as supplied, and is not a sale or assignment of any, or all, of the rights of the Crown thereto.

3.5 In the event your intended use(s) of the Product falls outside the scope of this Agreement, you agree to request written authorization from CHS, prior to such use.

4.0 REPRESENTATIONS, WARRANTIES, INDEMNITIES

4.1 The Crown does not make any representation or warranty of any kind with respect to the accuracy, usefulness, novelty, validity, scope, completeness or currency of the Product; and the Crown expressly disclaims any implied warranty of merchantability or fitness for a particular purpose of the Product.

4.2 The Crown does not ensure or warrant compatibility with past, current or future versions of operating systems to access the Product.

4.3 The Crown assumes no obligation or liability whatsoever for the provision of updates to the Product or the provision of notices in relation to the Product or for the failure to do so.

4.4 In no event shall the Crown or its employees, contractors or its agents be liable, whether by way of any suit or action or other, for any loss, liability, damage or cost that you may suffer or incur at any time, by reason of your possession or use of the Product or arising out of the exercise of your rights under this Agreement.

4.5 You shall indemnify the Crown and its employees, contractors and agents from and against and be responsible for all claims whatsoever alleging loss, costs, including solicitor and client costs, expenses, damages or injuries including injuries resulting in death, actions, suits, or proceedings, by whomsoever made, brought, and prosecuted, in any manner arising out of your possession or use of the Product or from your exercise of your rights under this Agreement.

4.6 Your obligation to indemnify the Crown under this Agreement shall not affect or prejudice the Crown from exercising any other rights under law.

4.7 GPS Navigational Disclaimer. All Global Positioning System (GPS) receivers are subject to positional error, malfunction, and failure. Prudent mariners do not rely on a single aid to navigation. Although every effort has been made to make the CHS Digital Nautical Product as accurate as possible, the location of geographic features may not coincide with positions obtained when using GPS. Differences between charted information and present conditions may be caused by the level of accuracy of the original survey and natural or man-made changes since the date of survey.

4.8 Datum Shift Note. All chart data are produced with the appropriate NAD83 datum shifts applied. Therefore when viewing a chart referenced to a geodetic datum other than NAD83, the geographic grid or border location may not agree with the cursor or vessel's GPS position. To display your vessel's position correctly on the Digital Nautical Product, the geographic position provided by the GPS receiver must be referenced to NAD83. Please ensure the datum for your GPS receiver is set to NAD83.

5.0 REGISTRATION AND UPDATES OF THE PRODUCT

5.1 You are required to register your Product, within 30 days of purchase with regard to installation on your primary device, and during the term of this Licence with regard to your backup device. CHS reserves the right to require proof of purchase prior to registration.

5.2 The Products are produced once a year, and updates are issued from time to time during the year.

5.3 You are responsible for obtaining information about any necessary updates to your Product, by monitoring the Notices to Mariners system at www.notmar.ca.

5.4 You are entitled to receive free updates from CHS to the end of the licence period. The updates may consist of a new chart, a new edition of a chart, or an electronic file, in CHS's sole discretion.

5.5 For information on registration of your Product, the frequency of updates for your Product, or how to obtain updates for your Product, see www.charts.gc.ca.

5.6 For safety reasons, outdated versions of the Products should NOT be used for navigational purposes.

6.0 TERM

6.1 This EULA is effective for one year from the date of purchase of the Product.

7.0 TERMINATION

7.1 This EULA may be terminated automatically and without notice, if you commit or permit a breach of any of your covenants or obligations under this Agreement.

- 7.2 Upon the termination of the Agreement, for whatever reason:
- (a) Clauses 4.4 and 4.5 shall survive;
 - (b) Your rights under clause 2.0 shall immediately cease; and
 - (c) You shall destroy the Product as well as any backup copies made thereof.

8.0 GENERAL

8.1 This EULA shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the province in which the Product was purchased, and of Canada; or if the Product was purchased outside Canada, then by the laws of Ontario and of Canada.

8.2 If a dispute arises between the parties concerning this Agreement, the parties shall attempt to resolve the matter by negotiation, mediation or arbitration in accordance with the federal *Commercial Arbitration Act*.

8.3 Any notices or other communications under this EULA shall be in writing and shall be addressed to:

Canadian Hydrographic Service
615 Booth St.
Ottawa, ON K1A 0E6
Fax 613-996-9053
chsinfo@dfo-mpo.gc.ca

8.4 This EULA constitutes the entire agreement between the parties with respect to its subject matter. This EULA may only be amended in writing, signed by both parties, which expressly states the intention to amend this EULA.

9.0 ACKNOWLEDGEMENT AND AGREEMENT BY USE

9.1 Any use whatsoever of this product shall constitute your acknowledgement of and agreement to adhere to all of the terms and conditions herein.