

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

BETWEEN

HIS MAJESTY THE KING IN RIGHT OF CANADA,
as represented by the Minister of Fisheries, Oceans and the Canadian Coast Guard, minister responsible for
the Canadian Hydrographic Service
(The "Crown")

AND

THE END USER

FOR

CHS DIGITAL NAUTICAL PRODUCTS
(The "Products")

This is an non-exclusive, non-assignable and non-transferable Licence Agreement between the Canadian Hydrographic Service ("CHS") and the End User for the use of CHS Digital Nautical Product(s).

1.0 DEFINITIONS

"CHS Digital Nautical Product(s)" ("Product(s)") means CHS raster (BSB) charts or vector ENC(s), as available, including any associated software, hardware, media, printed materials, and online or electronic documentation.

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

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

"ENC" means an Electronic Navigational Chart in the S-57 or other format recognized by the International Hydrographic Organization ("IHO").

"End User(s)" means any individual, corporation or organization to whom CHS grants a licence for use of the Product(s).

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

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

"Update(s)" means updates to the Product which may consist of a new chart, a new edition of a chart, or an electronic file.

2.0 LICENCE GRANT

2.1 The Crown hereby grants the End User 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 EULA is for the installation and use of the Product by the End User on the End User's own primary device, plus installation of one backup on the same or another device owned by the End User. In the case of installation and use of S-57 ENC(s) on board ships, this EULA is for the installation and use of the S-57 ENC(s) on one ship, plus nine (9) additional copies on the same ship, plus installation of one backup of each S-57 ENC on the same ship or another End User's device. This EULA is not a licence for multiple, non-concurrent or concurrent network users and/or workstations.



(b) The End User 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, navigation 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 for making one backup in accordance with clause 2.1(a); and
- (iv) Sell, rent, lease, lend, sublicense or transfer the Product to any other individual or organization 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 are and shall remain the property of the Crown at all times.

3.2 All title and Intellectual Property Rights in and to Third parties' Intellectual Property are the property of the respective Third parties and may be protected by copyright, other intellectual property laws, common law or international treaties.

3.3 All title and Intellectual Property Rights in and to the Crown's and CHS' crest, logos, trade mark, trade name, trading style, official mark, commercial designation, social media identifier or domain name associated with the CHS Products and Updates or used by CHS (the "Crown's and/or CHS' Identifiers") shall at all times remain the property of the Crown. At any time while this EULA is in effect or after its expiry or termination, the End User shall not use or adopt any trade mark, trade name, trading style, official mark, commercial designation, social media identifier or domain name that includes or is similar to or may be mistaken for the whole or any part of any Crown's and/or CHS' Identifiers, 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 the rights of the Crown thereto.

3.5 No other use than as provided by this EULA is permitted without prior written permission of CHS.

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 does not make any warranty with respect to fitness of the Product for a particular purpose.

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

4.3 The End User is alone responsible for monitoring *Notices to Mariners*, the CHS website and CHS' letters and emails for important CHS notices and information.

4.4 The End User indemnifies and saves harmless the Crown, its ministers, employees, contractors and agents from and against 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 the End User's use of the Product or from the End User's exercise of rights under this EULA.

4.5 The End User's obligation to indemnify the Crown under this EULA shall not affect or prejudice the Crown from exercising any other rights under law.



4.6 GPS, Chart, Survey and Scale Disclaimer

The End User is informed of and understands that

- (a) All Global Positioning System (GPS) receivers are subject to positional error, malfunction, and failure; and inappropriate device setup;
- (b) Although every effort has been made to make the Product as accurate as possible, the location of geographic features may not coincide with positions obtained when using GPS;
- (c) Differences between charted information and present conditions may be caused by the level of accuracy of the original survey, natural or man-made changes since the date of survey, or the dynamic nature of the marine environment;
- (d) Use of this Product may result in navigational errors if not viewed at the scale displayed on raster products or set out in the metadata of S-57 ENC Products.

The End User should therefore exercise due diligence, good seamanship practices, judgment, and not rely on a single source of navigational information.

4.7 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 a vessel's position correctly on the Product, the geographic position provided by the GPS receiver must be referenced to NAD83. The datum for the GPS receiver should be set to NAD83.

4.8 Software Compatibility Disclaimer

The End User acknowledges that the Product reflects CHS' interpretation and implementation of the BSB and S-57 data formats, and that the End User's software or third party software may interpret the Data differently. The Crown does not ensure or warrant compatibility of any software with the Product.

4.9 The End User understands that the carriage and use of Products by vessels for marine navigation is governed by Division 6 of the *Navigation Safety Regulations, 2020*, made under the authority of the *Canada Shipping Act, 2001*, and agrees to comply with these regulations at all times.

5.0 **PURCHASE, REGISTRATION, DOWNLOADING AND UPDATES OF THE PRODUCT**

5.1 After purchasing the Product, the End User is required to enter the transaction code into the CHS Digital Data Portal at charts.gc.ca in order to register and download the Product(s). A Government of Canada GCKey account will be required in order to download and register the Product and to obtain Updates to the Product for the term of the EULA. More information on GCKey can be found on Canada.ca. CHS reserves the right to require proof of purchase prior to downloading and registration.

5.2 Updates are issued from time to time during the year. This EULA gives the End User the right to obtain Updates for **two (2) years** from the date of registration and downloading of the Product. The Updates may consist of a new chart, a new edition of a chart, or an electronic file, in CHS's sole discretion. The End User is responsible for obtaining information on Updates, by monitoring *Notices to Mariners* at www.notmar.ca and for downloading the Updates from the CHS Digital Data Portal.



5.3 The End User understands and agrees that during the term of this EULA, CHS, in its sole discretion, may cancel any Product(s) and replace them with Product(s) in the same or another format, as available, and remove the cancelled or replaced Product from distribution. CHS will provide timely notification to the End Users of any cancellation or replacement. The notification may be provided in any form including through *Notices to Mariners*, letters and/or emails. The replacement Product shall be subject to this EULA.

5.4 For further information on registering and downloading Products, the frequency of Updates, or how to obtain Updates, see www.charts.gc.ca or contact chsinfo@dfo-mpo.gc.ca.

5.5 All registrations are processed exclusively within the Government of Canada secure server environment. Personal information collected, used and disclosed by the federal government is governed by the *Privacy Act*.

5.6 For safety reasons, due to the constantly changing nature of the marine environment, CHS will not support, and the End User shall not use, cancelled versions of the Product.

6.0 TERM, AMENDMENT AND TERMINATION

6.1 This EULA comes into effect on the date the End User clicks on the “I agree” button if any, or registers, downloads, accesses to or uses the Product in any way, and remains effective for **two (2) years** from that date.

6.2 If the End User commits or allows any breach of this EULA during its term, CHS may immediately, unilaterally and without prior notice, terminate this EULA.

6.3 Upon the termination of this EULA

- (a) Clause 4.4 shall survive;
- (b) The End Users’ rights under clause 2.0 shall immediately cease; and
- (c) The End User shall destroy the Product(s) as well as any backup copies.

6.4 CHS may amend this EULA unilaterally, at any time, with 30 days prior written notice to the End User, which may be in the form of a notice on charts.gc.ca.

7.0 GENERAL

7.1 This EULA shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws applicable in the province in which the Product was purchased. If the Product was purchased outside Canada, by the laws applicable in the province of Ontario.

7.2 If a dispute arises between the Parties concerning this EULA, the Parties shall resolve the matter by negotiation, mediation or arbitration in accordance with the federal *Commercial Arbitration Act*.

7.3 Any communications of the End User with the CHS under this EULA shall be in writing and shall be sent by e-mail to chsinfo@dfo-mpo.gc.ca.

7.4 This EULA constitutes the entire agreement between the Parties with respect to its subject matter.

