

# End-User Licence Agreement for digital data services

Version: 2.8

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## 1. The Parties

The UK Hydrographic Office (**UKHO**), for and on behalf of the UK Secretary of State for Defence, of Admiralty Way, Taunton, Somerset, TA1 2DN, United Kingdom.

**"The Licensee" or "You"** the user of the Data who has confirmed its acceptance of the terms set out in this Licence pursuant to Clause 2.

## 2. Purpose

2.1. Depending on the manner in which the Licensee receives the Data, it confirms agreement to the terms and conditions set out in this Licence either by:

2.1.1. clicking the ["I accept"] button to proceed with the installation where downloading or installing electronically;

2.1.2. breaking the seal securing any DVD or other physical media on which the Data is stored where obtaining a hard copy of the Data; or

2.1.3. continuing to use the Data where the Data is supplied on activation of the relevant software, under Permit or via a UKHO service.

**If you do not agree with the terms of this Licence you must not use the Data and must either return the hard copy of the Data to your supplier and/or delete any electronic version of the Data from your systems or Workstations.**

## 3. Definitions

**Authorised User** means the Licensee, the person notified to the UKHO by the Licensee's nominated representative and the supplier of the Data to the Licensee.

**Data** means any electronic chart information, image or other data and/or software provided and licensed by the UKHO under this Licence, including any updates, new versions or replacements subsequently provided, including any accompanying documentation.

**Digital Licensing Certificate** means the certificate setting out the Licensee's details and details of the Data that the Licensee is licensed to use.

**Effective Date** means the date ascertained as specified in clause 8 below of this Licence.

**Licence** means this End User Licence.

**Licensed Location** means a single Vessel or a shore-based establishment with a fixed address, which has been Registered.

**Permit** means the electronic product key supplied by the UKHO and used to give the Licensee access to the Data.

**Professional Advisor** means a business (which is authorised and/or regulated by a supervisory authority or financial regulator) engaged in the practice of providing professional legal and/or insurance services.

**Professional Advisor Use** means Use of the Data (as downloaded during the Licensee's subscription period) for the purposes of providing professional advice and representing its clients in relation to actual or anticipated insurance claims and/or legal claims and/or proceedings (and/or as evidence in proceedings relating to the same) in the course of its normal business activities and excludes any other Use of the Data for purposes of monetary reward, including by means of sale, resale, loan, transfer or hire to third parties, or other form of commerce.

**Registered** means registered with the UKHO by the Licensee for the Use of Data.

**SHOM © Data** means information licensed to the UKHO by the French Naval Hydrographic and Oceanographic Office (SHOM) for inclusion in the Data as identified by cells denoted FR.

**Use** means to load, install, access or process the Data on Workstations, or for the supplier of the Data to do the same remotely for installation and set-up purposes on behalf of the Licensee.

**Vessel** means any type of ship, boat or water craft with no fixed address. Including non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transportation on water.

**Workstation** means the relevant hardware or other device upon which the Data is loaded, installed, accessed or processed.

## 4. Grant and Scope

4.1. The UKHO hereby grants to the Licensee a non-exclusive, non-transferable licence to:

4.1.1. Use, and permit Authorised Users, to Use the Data on Workstations at the Licensed Location;

4.1.2. Use, and permit Authorised Users to access the Data remotely in preparation for use at a Licensed Location, provided that the Data is not used at such Licensed Location at the same time or on more than the maximum number of Workstations specified in clause 6.2;

4.1.3. make, subject to the restriction set out at clause 6.3 below of this Licence, hard copies of the Data;

4.1.4. make one working copy of the Data supplied on physical media for backup purposes only, with such copy to be subject to all terms and conditions of this Licence; and

4.1.5. where the Licensee is a Professional Advisor, Use the Data in accordance with Professional Advisor Use.

4.2. Use of the Data is licensed where the Licensee has either:

4.2.1. purchased a periodic subscription to Use the Data; or

4.2.2. **in the strictly limited case only** of the Use of the Data on a Registered Vessel on passage or engaged in the planning of their own passage, being subscribed to a type-approved and UKHO-approved dynamic licensing scheme such as Pay-as-you-Sail, provided such Use is not by way of demonstration, research and development, training or trial.

4.3. For the avoidance of doubt, Use other than in accordance with clause 4.2 shall be unlicensed. In particular, Use of any Data shall be unlicensed if the Licensee has entered into any arrangement or agreement with any supplier to obtain its Use by means of:

4.3.1. any combination of the two methods of subscription set out in clause 4.2; or

4.3.2. any other method of subscription not expressly approved in writing by the UKHO.

4.4. The Licensee agrees to ensure that the Authorised Users are made fully aware of, and understand and agree to abide by, the terms of this Licence before they are allowed to Use the Data. The Licensee accepts full responsibility for the actions of its Authorised Users and agrees in relation to any action of any Authorised User that, if any such action were an action of the Licensee which would constitute a breach of this Licence, the Licensee will be in breach of this Licence.

4.5. ENC Data only meets SOLAS chart carriage requirements if it is kept up to date and is used on an ECDIS with a suitable back up arrangement.

## 5. Intellectual Property Rights

5.1. All intellectual property rights in the Data shall remain the property of the British Crown, the UKHO or its licensors and suppliers. The Licensee shall acquire no intellectual property rights in the Data, save as otherwise expressly provided in this Licence (including without limitation the Data and/or any intellectual property rights).

5.2. The Licensee undertakes that all material (including without limitation the Data and/or any Intellectual Property rights) belonging to or under the control of the UKHO to which the Licensee gains access or receives directly or indirectly as a result of the operation of this Licence, shall not be used or accessed by the Licensee, its Authorised Users, any of its employees or any other person acting on its behalf for any purpose other than as set out in this Licence.

- 5.3. The Licensee shall give prompt notice to the UKHO if the Licensee becomes aware of any unauthorised use or exploitation of the whole or any part of the Data by any third party, and shall procure that Authorised Users, its employees or any other person acting on its behalf do likewise.
- 5.4. All copies of Data made by the Licensee or its Authorised Users shall be the property of the UKHO regardless of the format of the copy.

## 6. Restrictions

- 6.1. The Licensee confirms that the rights set out at clause 4, above, constitute the entire licence granted to the Licensee, and that this clause 6 is not exhaustive and does not operate to prejudice the legal rights of the UKHO or to exclude or limit the applicability of applicable law.
- 6.2. The Licensee shall only be permitted under this Licence to use the Data on Workstations at a Licensed Location only. The Data contains varying permissions, so please refer to the "README.TXT" file in the supplied exchange set which will confirm the maximum number of Workstations you are permitted to use the Data on. Further licences may be purchased by the Licensee if additional usage is required.
- 6.3. Hard copies of the Data must not be sold, hired or transferred in any way to a third party without the express permission of UKHO, and shall not be used for navigation.
- 6.4. The Licensee undertakes:
  - 6.4.1. subject to clause 4.1.4 not to copy the Data;
  - 6.4.2. not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Data;
  - 6.4.3. not to make alterations to, or modifications of, the whole or any part of the Data, nor permit the Data or any part of it to be combined with, or become incorporated in, any other data;
  - 6.4.4. not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Data;
  - 6.4.5. to keep all copies of the Data secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Data;
  - 6.4.6. not to load the Data on to a network server for the purposes of distribution to one or more computer(s) on that network, or to effect such distribution (such use requiring a separate licence);
  - 6.4.7. to supervise and control use of the Data and ensure that the Data is used by the Authorised Users, employees and representatives of the Licensee in accordance with the terms of this Licence;
  - 6.4.8. to ensure that Registered Vessels using the Data, pursuant to a subscription of the sort described at clause 4.2.2, maintain operational at all times during such Use any equipment enabling them to be tracked by means of Long-Range Identification & Tracking or Automatic Identification System, or such other system of vessel tracking that may be adopted by the International Maritime Organisation (except for in relation to the ADMIRALTY Vector Chart Service ("AVCS") Online, to which this clause 6.4.8. shall not apply);
  - 6.4.9. to include the copyright notice of the UKHO on all entire and partial copies of the Data in any form;
  - 6.4.10. not to provide, or otherwise make available, the Data in any form, in whole or in part, to any person without prior written consent from the UKHO;
  - 6.4.11. not to sell, hire out, sub-license, re-supply, or in any way transfer the Data to any third party other than an Authorised User. Bundling or repackaging of any or all elements of the Data in any way is not permitted.

### **SHOM © Data within AVCS Online**

- 6.5. In respect of SHOM © Data within AVCS Online:
  - 6.5.1. the Licensee shall ensure that, analogue copies of any Data containing SHOM © Data are only used for the Licensee's internal purposes, which, for the avoidance of doubt includes Professional Advisor Use. All other copies must be destroyed immediately;

6.5.2. the Licensee shall not use any SHOM © Data for marketing purposes;

6.5.3. No official hydrographic department has checked the SHOM © Data contained herein or can be held responsible for the accuracy of their reproduction or any subsequent modification. The possession of this derived product does not constitute an exemption from the obligation to use the appropriate naval documents provided for by national and international regulations. The Licensee acknowledges that this product includes SHOM © Data – updated on a weekly basis.

## 7. Term and Termination

7.1. This Licence shall become effective upon the occurrence of any of the events set out at clause 2.1 and will terminate on:

7.1.1. expiry of a periodic subscription of the sort set out at clause 4.2.1; or 7.1.2. termination of a subscription of the sort set out at clause 4.2.2.

7.2. This Licence shall, in respect of each Licensed Location, terminate if the Licensee transfers ownership of any Licensed Location.

7.3. The UKHO may terminate this Licence immediately on written notice if:

7.3.1. the Licensee commits a material or persistent breach of the Licence; or

7.3.2. the Licensee's financial position is such that its directors, shareholders or creditors take, or are entitled to take, steps to institute formal insolvency proceedings of a type provided for by the Insolvency Act 1986 (or any similar or analogous legislation, whether under English law or otherwise), including without limitation: administration, liquidation, administrative receivership, receivership, voluntary arrangement, scheme of arrangement or bankruptcy, or if the Licensee is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

7.4. The UKHO may terminate this Licence for any reason by giving the Licensee not less than 90 days' written notice.

7.5. Upon termination of this Licence the Licensee shall return or destroy all copies, including partial copies, of the Data supplied to it under this Licence.

## 8. Variation

8.1. The UKHO reserves the right to amend the provisions of this Licence. Details of any such amendments, and the date from which they will become effective, shall be notified via e-Navigator or [admiralty.co.uk/EULA](http://admiralty.co.uk/EULA) by the UKHO. The Licensee should regularly check [admiralty.co.uk/EULA](http://admiralty.co.uk/EULA) for any updates. The terms of this Licence shall be deemed to have been varied from the date on which they are updated on [admiralty.co.uk/EULA](http://admiralty.co.uk/EULA).

## 9. Disclaimer

9.1. The UKHO shall make all reasonable efforts to ensure that Data is accurate and error free at the time it is accessed. The Licensee acknowledges that some Data will be obtained by the UKHO from third parties that the UKHO has no control over, and that the UKHO will not be responsible for the content or accuracy of such third party data. In these circumstances, separate licence terms may apply and the Licensee should review these carefully before agreeing to use the data to which those third party terms apply.

9.2. Other than for fraud, fraudulent misrepresentation or death or personal injury caused by the UKHO's negligence (unless this can be excluded under local law), the UKHO's total aggregate liability under or in connection with this Licence, whether in contract, tort (including negligence) or otherwise will be limited to the price paid by the Licensee for the Data or the Permit (whichever is the greater).

9.3. The Licensee acknowledges that it is responsible for complying with local laws and regulations of the jurisdiction in which it uses and imports the Data. The Data should not be accessed or imported in any jurisdiction where for any reason the use or availability of the Data is prohibited. UKHO does not represent that the Data complies with laws in all jurisdictions.

- 9.4. The UKHO's liability for infringement of third-party intellectual property rights shall be limited to breaches of rights subsisting in the UK.
- 9.5. This Licence sets out the full extent of the UKHO's obligations and liabilities in respect of the supply of Data. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the UKHO, except as specifically stated in this Licence. Any condition, warranty, representation or other term concerning the supply of the Data which might otherwise be implied into, or incorporated in, this Licence, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.
- 9.6. Nothing in this Licence is intended to affect any statutory rights that you may have if you are receiving this Licence as a consumer and are using the Data for private Use and not for commercial Use.
- 9.7. The Licensee acknowledges that some Data will be obtained by the UKHO from third parties that the UKHO has no control over, and that the UKHO will not be responsible if third parties withdraw their data from any service. If coverage is lost as a result of third parties withdrawing their data, then no refund or replacement coverage will be provided by the UKHO.

## 10. General

- 10.1. *Assignment and Sub-Licensing:* Save as otherwise provided in this Licence, the Licensee is not entitled to assign or sub-license to any third party any of its rights or obligations under this Licence without the UKHO's prior written consent. The UKHO shall be entitled to assign or contract-out its rights and obligations under this Licence to any person, but the UKHO shall give notice of such assignment in writing to the Licensee.
- 10.2. *Severability:* If any part, term or provision of this Licence, not being of a fundamental nature, is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Licence shall not be affected.
- 10.3. *Rights of third parties:* No rights are granted to any person who is not a party to this Licence in their own right, and the parties declare that they have no intention to grant any such right.
- 10.4. *Privacy and your personal information:* For information about UKHO's data protection policies, please read UKHO's privacy policy at [www.admiralty.co.uk/cookie-policy](http://www.admiralty.co.uk/cookie-policy). This policy explains how UKHO treats your personal information and protects your privacy.
- 10.5. *Entire Agreement:* This Licence supersedes and cancels all previous agreements and working arrangements whether oral or written, express or implied between the parties in respect of or in connection with the matters referred to in this Licence.
- 10.6. *No Waiver:* No waiver of any term or condition of this Licence shall be effective unless made in writing and signed by the party against which enforcement of the waiver is sought. The waiver of any breach of any term or any condition of this Licence shall not be construed as a waiver of any subsequent breach of a term or condition of the same or different nature.
- 10.7. *Governing Law:* This Licence shall be governed by and construed and interpreted in accordance with English Law, and shall be subject to the exclusive jurisdiction of the English Courts, except that either party may seek an interim injunction or other urgent relief in any court of competent jurisdiction. It is hereby agreed for the benefit of the UKHO that the submission to the jurisdiction of the English Courts shall not (and shall not be construed so as to) limit the right of the UKHO to bring legal proceedings in any other court of competent jurisdiction including without limitation the courts having jurisdiction by reason of the Licensee's domicile. Legal proceedings by the UKHO in any one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction whether by way of substantive action, ancillary relief, enforcement or otherwise.