

License Agreement No. K076-18

Embracing Rights for the Derivation of Data

by and between

MARITIME ADMINISTRATION OF ESTONIA (MAE)

and

Renate Rosner Consult S.L.

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LICENSE AGREEMENT

Whereas the Maritime Administration of Estonia (MAE) is the producer of the official nautical charts for its country, and claims that it possesses the copyright for its products and permission is required in order to use its products and the navigational information contained in such charts, nautical publications, or other publications in physical or electronic form.

Whereas Renate Rosner Consult S.L. is desirous of utilizing navigational information contained in such charts, nautical publications, or other publications in physical or electronic form and the parties having reached **License Agreement** in this regard and desire to record such **License Agreement** in writing,

Now therefore these present witnessed:

DEFINITIONS

To avoid repetition, the following expressions, wherever used within this **License Agreement** have the specific meanings given below.

Licensors	Maritime Administration of Estonia (MAE)
Licensee	This includes Renate Rosner Consult S.L. executors, administrators and assignees or successors in business as the case may be. It does not include any other present or future subsidiary or co-operating companies, unless this is clearly stated in this License Agreement
Licensors's Products	This refers to Licensors products that are listed in Schedule (A).
Derived Products	These are those products or services listed in Schedule (B) that are derived by Licensee from Licensors products within the rights granted to Licensee in this License Agreement and are meant to be used or sold by Licensee and its distributors.
Security Copy	A security copy is a single copy taken solely for the purposes of protecting against accidental loss or corruption, and servicing customers.
Sale	Sale includes hiring out or otherwise distributing whether for a charge, on a non-profit basis, or free. Cognates of "sale" shall be construed accordingly.
Customers, End-users or Users	These shall consist of any third party to whom Licensee, or someone on Licensee's behalf, have sold derived products.
Distributors	These shall consist of third parties, who are not a subsidiary company to Licensee, who sells the derived products on Licensees behalf.
Derivation	Derivation includes any kind of derivation in any type or form, whether direct or indirect, permanent or intermediate, in analogue or digital form
Accounting Period	The period during which accounts are kept for settlement by Licensee.

1. Provision of Data

- 1.1. Licensor shall provide Licensee one copy of products as listed in Schedule (A).
- 1.2. Licensor shall also provide Licensee one copy of any updates to Licensor's products as listed in Schedule (A).
- 1.3. Licensee will be charged a fee as laid out in Schedule (C) of this License Agreement.
- 1.4. Licensee may utilize whichever or any combination of Licensor's products as best suits Licensee derivation purposes.

2. Grant and Obligations

- 2.1. Licensor grants to Licensee a non-exclusive right to use Licensor's products as listed in Schedule (A) within Licensee product as listed in Schedule (B).
- 2.2. The grant to Licensee is subject to the terms and conditions of this License Agreement. Licensee's rights do not limit the use by Licensor or any third party authorized by Licensor to use, distribute or sell Licensor's products.
- 2.3. Licensee shall, during the term of this License Agreement:
 - 2.3.1. generally act diligently as a user;
 - 2.3.2. perform all functions and obligations and refrain from acting contrary to its obligations as set out in this License Agreement;
 - 2.3.3. maintain detailed records of transactions and inquiries, relating to Licensor's products and Licensee products as specified in by this License Agreement;
 - 2.3.4. account to Licensor promptly after the end of each Accounting Period for fees due to Licensor, provide particulars of the calculation of the fees, and report as specified in this License Agreement;
 - 2.3.5. permit Licensor access to Licensee's records as specified in this License Agreement;
 - 2.3.6. not without Licensor's prior written consent, use or apply in relation to a Derived Product any names, chart numbers, emblems, trademarks or other signs of Licensor, except as provided in this License Agreement;
 - 2.3.7. provide Licensor one of each Derived Product listed in Schedule B for free upon Licensor's request for purposes of data quality control;
 - 2.3.8. draw to Licensor's attention any claimed defects or errors in Licensor's products or updates which come to Licensee's attention during the term of this License Agreement;
 - 2.3.9. liaise generally with, and report to Licensor as reasonably required in relation to matters the subject of or connected to this License Agreement;
 - 2.3.10. nominate a person who has authority to receive and sign notices and written communications for Licensee under this License Agreement and accept any request or direction in relation to the License Agreement;
- 2.4. Licensor shall, during the Term of this License Agreement:
 - 2.4.1. generally act diligently as an owner;
 - 2.4.2. perform all functions and obligations and refrain from acting contrary to its obligations as set out in this License Agreement;
 - 2.4.3. liaise with any other HO(s) or equivalent authorities, with whom Licensee may have similar License Agreements, in order to ensure that total proportion administered of any single derived product does not exceed 100%;
 - 2.4.4. not subsequently grant more favourable License Agreement conditions to a third party in similar circumstances without offering substantially similar terms to Licensee.

3. Virtual Access

- 3.1. Licensee shall not place or permit the Derived Product to be placed on a computer/server accessible to third parties whether via the Internet or otherwise except where:
 - 3.1.1. it is being used as the delivery mechanism to a distributor or End-User and Licensee have used the best endeavours to ensure that it cannot be accessed by third parties and the delivery mechanism can be audited and independently verified for the number of copies supplied and the details of the recipient;
 - 3.1.2. It is open to third parties on an unrestricted basis but Licensee have used best endeavour to ensure that the Derived Product may only be used by third parties for a period not exceeding thirty days from the date of the first installation and for the sole purpose of demonstrating the Derived Product;
 - 3.1.3. it is open to third parties on an unrestricted basis but only in respect of the following limited extract:
 - a) all graphic images shall be in a raster format that is not geo-referenced (i.e. no lat/lon grid or coordinates printed on the image);
 - b) no more than one graphical or textual extract from each Derived Product may be reproduced and made available at any one time;
 - c) where third parties have access to more than one graphical extract at different times, then Licensee shall use its best endeavours to ensure such graphical extracts cannot be copied and seamlessly joined in order to exceed the limits stated above.
- 3.2. As an acknowledgment that the derived product is derived from Licensor's products, the name of Licensor shall appear in association with each derived product, as foreseen in clause 7 and defined in Schedule (D).

4. Intellectual property

- 4.1. The Parties acknowledge that intellectual property law protects their products. The Parties will respect the rules and regulations that are determined by law, and by this License Agreement.
- 4.2. Neither party waive any rights they might have under national or international intellectual property law or any rights to seek litigation at a later stage.
- 4.3. Neither party shall achieve, by means of this contract and of contract law, any rights beyond those granted under intellectual property law. In case of conflict with any other part of this License Agreement, this clause shall prevail and any conflicting clauses shall automatically be null and void, including this entire License Agreement if it is determined that under intellectual property law no permission is needed by Licensee.
- 4.4. The parties acknowledge that they do not intend to prevent each other continuing their current business whilst their rights under intellectual property law are not infringed.

5. Payment

Licensee shall agree to make payments in the manner set out in Schedule (C), which form part of this License Agreement.

6. Reporting and Payment

- 6.1. Licensee shall, within thirty (30) days after the last day of December of each year, make available to Licensor a true and accurate report giving the following details on the derived products made, used or sold by Licensee and/or Licensee's Distributors during the preceding twelve (12) months:
 - 6.1.1. the number of products, as listed in Schedule (B), registered as sold;

- 6.1.2. the net gross income for each of the products sold, as listed in Schedule (B);
- 6.1.3. the retail price (excl. VAT) for each of Licensee's products as listed in Schedule (B).
- 6.2. Licensor will keep all information confidential.
- 6.3. Licensor shall communicate appropriate payment instructions.
- 6.4. During the term of this License Agreement and for a further seven (7) years period thereafter Licensee shall keep full, true and accurate books of account containing all particulars which may be necessary for the purpose of showing the amount payable to Licensor by way of royalty fees.
- 6.5. Licensor reserves the right, at Licensor's own expense, to assign a mutually acceptable independent auditor to access Licensee's books at all reasonable times, and with at least two weeks advance notice, to verify Licensee's sales figures. If an audit concludes that Licensee have failed to account for the payment due under this License Agreement, and the amount unpaid is more than 5% of the total payment due according to Licensee's sales reports, Licensee shall pay both the amount outstanding and the costs of the audit. The auditor will be bound to confidentiality and will only report to Licensor what is relevant to conclude on the performance of the License Agreement.

7. Acknowledgments

- 7.1. Licensee undertakes that derived products shall carry an acknowledgment that they are: derived from Licensor's products; they do not replace the need for official products, except where explicitly stated otherwise by national laws and/or regulations; and may not be up to date. Licensee shall incorporate this acknowledgment in the derived product in the forms and manner determined in Schedule (D). Licensee shall also ensure that any information distributed by Licensee or on Licensee's behalf that promotes or describes the derived product shall include the acknowledgment defined in Schedule (D).

8. Contracting

- 8.1. Licensee may contract out work for the purpose of exercising Licensee's rights as granted by this License Agreement. The terms of any such contract shall impose upon the contractor the obligations below:
 - 8.1.1. all contractors shall be subject to the same obligations to which Licensee is subject under this License Agreement;
 - 8.1.2. no contractor shall be given power to grant authorization for Licensor's products or Licensee's product;
 - 8.1.3. no contractor shall use Licensor's products or Licensee's product for any purpose other than that for which this license is issued.
- 8.2. Licensor further grants Licensee's contractors permission to store a single copy of Licensee's product for as long as it is necessary to fulfil the purpose of their contract with Licensee.
- 8.3. The prior written permission of Licensor is required should Licensee's contractors wish to exceed these rights.

9. Advertising

- 9.1. Licensee shall not make, or cause to be made, any inaccurate or misleading statement about the International Hydrographic Organization (IHO), the International Hydrographic Bureau (IHB), Licensor or Licensor's products, or cause the name of the IHO, the IHB, Licensor or Licensor's products to be used without Licensor's consent in Licensee's advertisements.

- 9.2. Licensee shall not make, or cause to be made, any claims that the IHO, the IHB or Licensor in anyway endorses the Licensee's derived products or that the derived products in any way carry equivalent liability to Licensor's products.

10. Warranty and Indemnity

- 10.1. Licensor warrants that it is entitled to grant to Licensee this permission. Licensee assumes the sole risk of interpreting and applying Licensor's products.
- 10.2. Licensee shall keep harmless and indemnify Licensor against all claims, actions, suits, damages, liabilities, losses, charges and proceedings that Licensor may incur or be put to as a direct result of:
- 10.2.1. any breach of this License Agreement by Licensee or Licensee's sub-contractors;
- 10.2.2. the illicit and/or improper use by any third party of Licensor's products or Licensee's product which have been supplied by Licensee. Indemnity shall not extend to cover illicit and/or improper third party use of Licensor's products or the Licensee's product where reasonable care has been taken by Licensee to inform third parties of the limitations of this License Agreement, and to take reasonable precautions to ensure that such third party use cannot take place;
- 10.2.3. any modification of Licensor's products through Licensee's production of Licensee's product, to the extent that the loss, damage or injury or portion thereof is judged attributable to that modification;
- 10.2.4. Licensee use of withdrawn chart(s) for initial derivation of Licensee's products provided that Licensee have been informed by Licensor's ENC update that the ENC has been cancelled.
- 10.3. Licensee shall promptly draw Licensor's attention to any claimed defects or errors in Licensor's products that come to Licensee's attention during the term of this License Agreement.
- 10.4. Licensor shall keep harmless and indemnify Licensee against all claims, actions, suits, damages, liabilities, losses, charges and proceedings that Licensee may incur or be put to as a direct result of:
- 10.4.1. any breach of this License Agreement by Licensor; or the illicit or/and improper use by any third party of Licensee's product which have been supplied by or taken from Licensor.
- 10.4.2. errors contained in Licensor products or any other material supplied by Licensor. This clause shall survive the expiration or termination of this License Agreement.
- 10.5. In the event of any threatened or actual suit against one or both Parties to this License Agreement, the Parties shall promptly inform each other and shall collaboratively decide on the steps to be taken in the circumstances. Each Party shall cooperate with the other Party in defending or pursuing any actions or claims.

11. Force Majeure

- 11.1. In the event that any party is delayed in the performance of its obligations under this License Agreement by force majeure, this License Agreement shall remain in suspense until the cause thereof ceases. Upon cessation of the cause of the delay, the duties and obligations imposed on both parties by this License Agreement shall again become fully operative. However, should such delay exceed six months, either party may give written notice of termination and this License Agreement shall then terminate according to clause 18.
- 11.2. Force Majeure shall include, although not by way of limitation, strikes, lockouts, riots, sabotage, acts of war or piracy, destruction of essential equipment by fire, explosion, storm, flood or earthquake and delay caused by failure of power supplies or transport facilities.

12. Assignment

Licensee shall not assign this License Agreement, or any part thereof, without the consent of Licensor first being obtained in writing. Licensee shall undertake to inform Licensor of any change of company name, address or takeover details that pertain to this License Agreement within ten working days of any such change.

13. Dispute resolution

- 13.1. Before resorting to any external dispute resolution mechanism, the Parties shall attempt to settle by amicable negotiation any dispute in relation to this License Agreement. Either party may request that the dispute be submitted to a mediator or to arbitration. Both parties must agree on whom to use as mediator. Both parties can reject the results of the mediation.
- 13.2. Notwithstanding the existence of a dispute, each Party shall continue to perform its obligations under this License Agreement, and this License Agreement cannot be terminated before the procedure relating to the dispute has been concluded.

14. Interpretation and Amendment

- 14.1. This License Agreement shall be interpreted in all respects according to general principles of international contract law, as reflected in the UNIDROIT Principles of International Commercial Contracts, and be governed according to the laws of the Republic of Estonia. Only the English language version of this License Agreement shall be considered enforceable.
- 14.2. This License Agreement with its Schedules A, B, C and D constitute the entire License Agreement between Licensor and Licensee. This License Agreement may be amended at any time, in writing, by mutual consent of both parties. Save as otherwise provided, no modification, amendment or translation shall be binding unless both parties agree it in writing. All prior negotiations, representations, License Agreements and understandings are merged into, extinguished by or completely expressed by it.

15. Variation

This License Agreement may be amended at any time, in writing, by mutual consent of Licensor and Licensee.

16. Sole License Agreement and Non Representation

This License Agreement constitutes the entire License Agreement between Licensor and Licensee as to the material and products listed in Schedule (A). All prior negotiations, representations, License Agreements and understandings are merged into, extinguished by or completely expressed by it.

17. Period

- 17.1. This License Agreement shall have effect beginning from the last date given in paragraph 23 for three (3) years and shall be automatically renewed for consecutive three (3) year terms thereafter unless terminated by any party, giving not less than 6 (six) months' notice in writing to the other party.
- 17.2. Licensor will not terminate or modify the License Agreement so as to restrict competition or to grant any other party an unfair advantage in the sales of digital cartographic products.

18. Termination

- 18.1. In the event that any party commits a material breach of this License Agreement and the breach is not remedied (if remediable) within 6 (six) months, the party giving the notice may terminate this License Agreement without prejudice to any existing rights of any party against the other under, or arising from the terms of this License Agreement. Notice of the breach and termination shall be sent, by registered post, to the address as given in paragraph 23 to this License Agreement.
- 18.2. If the Licensee does not report any sales for 3 (three) consecutive years or annual royalty fee is less than €500 for 3 (three) consecutive years the Licensor may terminate the agreement with 6 months' notice.
- 18.3. Termination may not take place if the breaching party within 3 (three) months from the breach has put forward a plan to remedy the breach within a certain time. The period for remedying the breach cannot be more than 1 (one) year from the breach. If the plan is not duly adhered to, termination can take place immediately, provided that 6 months from the receipt of the notice of the breach by the party committing the material breach have elapsed.
- 18.4. Termination of this License Agreement shall, unless Licensor determines otherwise, terminate any sub-contract, which relies for its performance on access to Licensor's products.
- 18.5. In the event of the termination of this License Agreement, Licensee shall as soon as practicable stop utilizing Licensor's products for Licensee's products, and destroy or have destroyed all non-essential copies of Licensor's products, the relative portion of any derived products, and their derivatives, that are held by Licensee or Licensee's contractors. Essential copies of Licensor's products, the relative portion of any derived products and derivatives may be held by Licensee for the sole purposes of servicing existing customers and legal reference.
- 18.6. If the parties at some time in the future should agree that the License Agreement no longer has to be fully performed, or a court having jurisdiction according to this License Agreement should reach or cause an equivalent conclusion, this License Agreement can be terminated with 6 months' notice. The License Agreement should still be fully performed up to that time. Such a change shall have no influence on the contractual relationship between the parties prior to that time and there will be no question that any outstanding fees, expenses and other obligations arising from the License Agreement, accrued to that time, shall still be due.

19. Rights after Termination

The expiration of this License Agreement shall not relieve either party of any obligation to the other party arising prior to the expiration date.

20. Waiver of Default

No waiver by either party of any default of the other party shall be held to be a waiver of any other or subsequent default. The failure of either party at any time, to enforce or require performance of any of the provisions of this License Agreement, or to exercise any right or option provided, shall in no way be construed to be a waiver of that or any other provisions of this License Agreement or to affect the right of such party thereafter to enforce each such provision.

21. Confidentiality

This License Agreement and any information pertaining to this License Agreement is not confidential unless the parties have stated otherwise in this License Agreement or when supplying the information. Any information considered confidential shall not be passed to any third party without the express permission of both parties or as may be required by any applicable rule of law or as expressed in the paragraph below.

Schedule B and any proprietary information disclosed by a party to the other including, but not limited to, any of Licensee's reports on sales, is confidential and can be handled only by authorized personnel within Licensor who need to know and for the sole purpose of fulfilling this License Agreement.

22. Communication

All communications must be sent to the receiving party's initial address set forth in paragraph 23 or forwarded to a person handling the contractual matters by media specified in section below:

Maritime Administration of Estonia

Olavi Heinlo
Head Cartography Department
Phone: + 372 205 621
E-mail: olavi.heinlo@vta.ee

Renate Rosner Consult S.L.

Andreu Aranda
Managing Director
Phone: +34-93 635 0345
E-mail: info@o-charts.org

23. Domicile

Licensor has as its Domicile:

Maritime Administration of Estonia
Valge 4
11413, Tallinn
ESTONIA
Phone : +372 620 5500
VAT number : EE100220188

Licensee has as its Domicile:

Renate Rosner Consult S.L.
Av. Carl Friedrich Gauss, 11
08860, Castelldefels
SPAIN
Phone: +34-93 635 0345
VAT number: (ES)B66823386


Signed:

for **Maritime Administration of Estonia**



Rene Arikas
Director General

for **Renate Rosner Consult S.L.**



Andreu Aranda
Managing Director

Date: 29.11.2018

Date: 04/12/2018

SCHEDULE (A): Licensor's Products

Licensor's products shall consist of the whole collection of Licensor's ENC's.

With Licensor's written permission the Licensee may use information from other nautical publications or other publications, including any/all updates, reprints and new editions in physical or electronic form, for which Licensor, under its responsibility, claims copyright to the extent that Licensee utilize them in Licensee's products as listed in Schedule B.

Licensor shall provide updates to its ENC's by e-mail to the recipient assigned by Licensee. Updates for all ENCs are free of charges.

SCHEDULE (B): Licensee's Products

SCHEDULE UPDATED ON: 6.11.2018

Description of Licensee's products:

The description of Licensee's products does not imply acceptance of the quality of these products by Licensor. Licensor will collect all royalty fees for Licensee's products as listed in these tables.

Product:	MAE Proportion	Hardware and Packaging cost	Price ex. VAT
Estonian Waters	100%	5€	15€
Northern Baltic Sea	20,2%	5€	47,20€

Discount to distributors shall be indicated in the annual royalty report.

The "Proportion administered by MAE" for each individual product above - and any new products added to this Schedule - shall be approved by Licensor before being utilized for royalty calculations.

Unless otherwise agreed, Licensor's acceptance of Licensee's sales reports and royalty payment may be considered approval of any proportions estimated by Licensee.

Licensee may add new derived products to Schedule B. Licensee shall inform Licensor of any new products derived by Licensee within the accounting period in which they may be sold.

Should any conflict arise between the proportion administered by Licensor and that administered by any other HO(s) for the same derived product (whereby the total proportion administered exceeds 100%), Licensor shall liaise with said HO(s) in order to resolve such conflict and communicate any adjusted proportions to Licensee.

Upon request, Licensee shall supply to Licensor, without charge, a copy of Licensee's derived product, the software used for its display, and copies of any literature associated with it. Use of this software and the supplied data will be restricted to internal use by Licensor. Such supply is for the purpose of ensuring compliance with the provisions of this License Agreement only and does not represent a quality assurance in any form by Licensor.

SCHEDULE (C): Fees and Payment

During the term of this License Agreement, Licensee shall pay to Licensor for the following rights:

- Royalty Rights,

The following payments shall be due with respect to these rights.

1. Royalty Fee

A royalty fee shall be due for each copy of Licensee's products or updates sold.

The royalty rate for each of Licensee's products sold is defined as follows:

Formula: [(Retail Price excl. VAT) – (% discount to Licensee's distributor) – (cost price of hardware and packaging)] X royalty rate X Proportion administered by MAE*.

Where...

- The current Retail Price of Licensee's products will be announced by Licensee each year.
- % discount to Licensee's distributor as defined in Schedule B for each product type.
- Cost of hardware and packaging will be announced by Licensee each year (or at the time of significant changes).
- The royalty rate is 30% for Licensor's ENC's

* "Proportion administered by MAE" expresses the percentage value of the number of Licensor's ENC's from the total number of ENC's included in the product (as defined for each of Licensee's products in Schedule B).

N.B. Special note regarding the eventual incorporation of Non-Licensor data into Licensee's derived products:

Both parties understand that Licensee may in the future derive products by incorporating data from sources other than Licensor's products, within or without Licensor's prime responsibility area.

By way of example and not of limitation, Licensee may incorporate in its products data pertaining to land and marina-based services, roads, points of interest, elevations, tourist information, commercial data, etc. In such case the proportion of Licensor data contained in the Licensee's product cannot be determined by the % of Licensor-derived Megabytes of data vs. the total Megabytes of data contained in the Licensee's product. The proportion will be negotiated between parties and expressed in written form.

The royalty fee shall be paid following invoicing by Licensor.

SCHEDULE (D): Acknowledgements, Warnings and Supplementary Information

A standard copyright *acknowledgement* will take the form:

'This product is derived, in part, from the products and with the permission of the hydrographical office(s) of Nation1, Nation2, etc in an alphabetical list, including Licensor.

If the derived product is used to assist in navigation the following *warnings* shall also be included:

'WARNING: No National Hydrographical Office has verified the information in this product and none accept liability for the accuracy of reproduction or any modifications made thereafter. No National Hydrographic Office warrants that this product satisfies national or international regulations regarding the use of appropriate products for navigation.'

'WARNING: The electronic chart is an aid to navigation designed to facilitate the use of authorized government charts, not to replace them. Only official government charts and notices to mariners contain all information needed for the safety of navigation.'

Manner of Display

The full acknowledgement and warning(s) shall be communicated in a visible way to users of the derived products.

Where space does not permit the full acknowledgement to be included or Licensee wish to combine this acknowledgement with others required by other copyright holders then it can be abbreviated.

Such abbreviation is on the condition that the full acknowledgement is available in one place in association with the derived product and any abbreviated acknowledgement contains, as a minimum, a reference to permission being obtained from Licensor.

The warnings shall not be abbreviated or reworded without prior written approval by Licensor, which will not unreasonably withheld.

Where technically feasible Licensee shall ensure that the acknowledgement and warning(s) are incorporated in the derived product itself.