

LICENCE AGREEMENT

For the use of intellectual property of the UK Hydrographic Office and some other organisations in commercial publications and merchandise (excluding web-based products and services) intended for non-navigational purposes.

LICENCE AGREEMENT NUMBER: GB XX - 000 - Name

1. THE PARTIES

This Agreement is between:

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

and

- (2) The “LICENSEE” [LICENSEE's name] [Registered company number] of [LICENSEE's registered address including country].

This and the following pages comprise the Agreement for which the duly authorised representatives below have agreed and signed on behalf of the PARTIES.

On behalf of:	The LICENSOR	The LICENSEE
Signatures:		
Name (Print):		
Position:		
Date:		

2. Definitions

The following words and expressions shall have the following meanings except where the context otherwise requires:

- | | | |
|-------|--------------------------------|--|
| 2.1. | “ACCOUNTING PERIOD” | Each period of six months from 1 January to 30 June and from 1 July to 31 December of each year during the term of this Agreement. |
| 2.2. | “AUDITOR” | An auditor that is independent of the LICENSOR, has no conflicts of interest in relation to the LICENSEE and is selected and appointed by the LICENSOR. |
| 2.3. | “COMMENCEMENT DATE” | [XX Month YYYY] |
| 2.4. | “CONFIDENTIAL INFORMATION” | Has the meaning given in clause 11.1 below. |
| 2.5. | “CUSTODIANSHIP ORGANISATIONS” | The third parties listed in Schedule C to this Agreement. |
| 2.6. | “DETERMINATION” | Has the meaning given in clause 6.15 below. |
| 2.7. | “END-USER” | Any person to whom the LICENSEE makes supplies of the LICENSEE’S MATERIAL, either directly or via its distributors or agents. |
| 2.8. | “EXPERT” | Has the meaning given in clause 6.11.2 below. |
| 2.9. | “FREE DISTRIBUTION AMOUNTS” | The quantity of LICENSEE’S MATERIAL that may be distributed free of charge for the purposes of promotion and demonstration during each ACCOUNTING PERIOD as specified in Schedule B. |
| 2.10. | LEISURE AND RECREATIONAL USERS | Intended for sale to leisure, recreational or sporting users, not part of a professional service, as shown by the merchandising of the product |

- 2.11. "LICENCE PERIOD" The period commencing from the COMMENCEMENT DATE continuing indefinitely unless terminated by either PARTY in accordance with clause 20 below.
- 2.12. "LICENSEE'S MATERIAL" The material produced by the LICENSEE or its sub-licensees as a result of the operation of this Agreement.
- 2.13. "LICENSOR'S MATERIAL" The material described in clause 4 below.
- 2.14. "PARTIES" The persons identified in clause 1 above who individually are sometimes referred to as 'the PARTY'.
- 2.15. "PERMITTED PURPOSE" For use in commercial publications and merchandise (excluding web-based products and services) intended for non-navigational purposes.
- 2.16. PROFESSIONAL USERS Intended for sale to professional non-leisure users, or for shore-based non-leisure route planning
- 2.17. "TERRITORY" Worldwide.
- 2.18. "WORKING DAY" Monday to Friday, not including official Public Holidays in England and Wales.

3. *Supply and licence*

- 3.1. The LICENSOR shall publish a list of the LICENSOR'S MATERIAL it can supply to the LICENSEE on its website. Such list shall include the form, format and normal delivery dates and update frequencies available. The LICENSOR may amend that list from time to time as it finds necessary. The LICENSEE may notify the LICENSOR which parts of the LICENSOR'S MATERIAL on that list that it wants to receive and the LICENSOR shall use reasonable endeavours to supply those parts. Otherwise, the LICENSEE acknowledges that it is responsible for obtaining the LICENSOR'S MATERIAL at its own expense through the LICENSOR's normal distribution routes.
- 3.2. The LICENSOR grants the LICENSEE, subject to the terms and conditions of this Agreement including its Schedules, a non-exclusive non-transferable licence to reproduce and adapt (as set out in Sections 17 and 21 of the Copyright, Designs and Patents Act 1988 (c. 48)) and, where the context permits and where appropriate, to extract and re-utilise (as set out in Regulation 16 of the Copyright

and Rights in Databases Regulations 1997) the LICENSOR'S MATERIAL in the TERRITORY during the LICENCE PERIOD for the purpose of:

- 3.2.1. internal research and development;
 - 3.2.2. internal quality assurance processes relating to the LICENSEE'S MATERIAL;
 - 3.2.3. creating and manufacturing the LICENSEE'S MATERIAL using only that LICENSOR'S MATERIAL shown in Schedule B for each LICENSEE'S MATERIAL; and
 - 3.2.4. distributing the LICENSEE'S MATERIAL to END-USERS in the form and format specified in this Agreement and subject to the END-USER restrictions specified in this Agreement within the TERRITORY either directly or using distributors or agents.
- 3.3. The LICENSEE shall not reproduce or adapt the LICENSOR'S MATERIAL to create and manufacture the LICENSEE'S MATERIAL for purposes other than the PERMITTED PURPOSES. The LICENSEE shall not mislead or permit or authorise others to mislead third parties about the PERMITTED PURPOSES. The LICENSEE shall not permit, by way of END USER licence provisions or otherwise, END-USERS to use the LICENSEE'S MATERIAL for other than the PERMITTED PURPOSES. If there is any conflict between this clause and Schedule B then this clause shall take precedence.
- 3.4. Unless otherwise agreed, in writing, by the PARTIES:
- 3.4.1. the LICENSEE shall supply the LICENSOR with the following:
 - 3.4.1.1. a representative sample of each product or service range listed in Schedule B within thirty days of production and before it is distributed; and
 - 3.4.1.2. copies of all products or services within those product or service ranges within thirty days of production and either before they are distributed or simultaneously with their first distribution;
 - 3.4.2. such supply shall be without charge and under an irrevocable licence such that the LICENSOR may use the LICENSEE'S MATERIAL for its internal purposes during the LICENCE PERIOD and for 12 years thereafter. The LICENSOR, and any third parties acting on behalf of the LICENSOR, shall only use the supplied LICENSEE'S MATERIAL as necessary to exercise the LICENSOR's rights or perform its obligations under this Agreement or to protect its intellectual property rights. The LICENSOR shall ensure that its employees and any third parties acting on its behalf in using any of the supplied LICENSEE'S MATERIAL are bound by an undertaking in substantially the same terms as clause 9.3 below. The LICENSEE acknowledges that such supply of the LICENSEE'S MATERIAL to the LICENSOR does not represent a quality assurance in any form by the LICENSOR. The LICENSOR acknowledges that the LICENSEE is not responsible for supporting LICENSEE'S MATERIAL supplied in accordance with this clause 3.3.
- 3.5. If the LICENSEE'S MATERIAL is used by the END-USER in digital form, in addition to supplying LICENSEE'S MATERIAL in accordance with clause 3.3 above the LICENSEE shall supply the LICENSOR any tools required for their use for the same purpose and under the same licence as clause 3.3 above if so requested by the LICENSOR.

4. The LICENSOR'S MATERIAL

- 4.1. Save as otherwise provided either by this Agreement or by any other agreement between the PARTIES the LICENSEE shall remain responsible for obtaining all

necessary permissions to reproduce material protected by intellectual property rights of third parties. The LICENSEE shall not reproduce material protected by such third party rights and published by the LICENSOR unless requisite third party permission has been obtained by the LICENSEE.

- 4.2. The LICENSOR'S MATERIAL shall consist of the following (and only to the extent that such material is the sole copyright (or other intellectual property right) of the LICENSOR or the CUSTODIANSHIP ORGANISATIONS):

4.2.1. Chart data

- 4.2.1.1. Chart data shall consist of all intellectual property that belongs to either the Crown or the CUSTODIANSHIP ORGANISATIONS that is:

4.2.1.1.1. published by the LICENSOR within its commercial range of navigational charts as listed in its publication NP 131; or

4.2.1.1.2. supplied by the LICENSOR to the LICENSEE pursuant to clause 3.1 above; or

4.2.1.1.3. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such navigational charts.

4.2.1.1.4. Chart data shall include all updates to that data published or supplied by the LICENSOR.

- 4.2.1.2. The LICENSOR shall use reasonable endeavours to provide the LICENSEE within five WORKING DAYS of signature of this Agreement by both PARTIES and within five WORKING DAYS of 1 January and 1 July during the LICENCE PERIOD the following information about third-party rights:

4.2.1.2.1. a list of navigational charts currently published by the LICENSOR and;

4.2.1.2.2. a summary, expressed to the nearest 5%, of the third parties whose material was used in the compilation of the charts. The LICENSEE acknowledges that this information is only an estimate and that it is the LICENSEE's responsibility to identify third-party rights within any material it intends to reproduce or adapt.

4.2.2. Astronomical data

- 4.2.2.1. Astronomical data shall consist of all intellectual property that belongs to the Crown that is:

4.2.2.1.1. published by the LICENSOR within its commercial range of Astronomical Publications as listed in its publication NP 131,

- 4.2.2.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Astronomical data.
- 4.2.2.1.3. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
- 4.2.2.1.4. Astronomical data shall include all updates to that data published or supplied by the LICENSOR.

4.2.3. *Distance Tables data*

- 4.2.3.1. Distance Tables data shall consist of all intellectual property that belongs to either the Crown that is:
 - 4.2.3.1.1. published by the LICENSOR within its commercial range of Admiralty Distance Tables publications as listed in its publication NP 131,
 - 4.2.3.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Distance Tables data.
 - 4.2.3.1.3. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
 - 4.2.3.1.4. Distance Tables data shall include all updates to that data published or supplied by the LICENSOR.

4.2.4. *Lights and Fog Signals data*

- 4.2.4.1. Lights and Fog signals data shall consist of all intellectual property that belongs to either the Crown that is:
 - 4.2.4.1.1. published by the LICENSOR within its commercial range of Lists of Lights and Fog Signals publications as listed in its publication NP 131,
 - 4.2.4.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Lights and Fog Signals data;
 - 4.2.4.1.3. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
 - 4.2.4.1.4. Lights and fog signals data shall include all updates to that data published or supplied by the LICENSOR.

4.2.5. *Maritime limits data*

- 4.2.5.1. Maritime limits data shall consist of all intellectual property that belongs to the Crown that is
 - 4.2.5.1.1. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.

- 4.2.5.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Maritime Limits data.
- 4.2.5.1.3. Maritime limits data shall include all updates to that data supplied by the LICENSOR.

4.2.6. Ocean Passages data

- 4.2.6.1. Ocean Passages data shall consist of all intellectual property that belongs to either the Crown that is:
 - 4.2.6.1.1. published by the LICENSOR within its commercial range of Ocean Passages publications as listed in its publication NP 131,
 - 4.2.6.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Ocean Passages.
 - 4.2.6.1.3. Ocean Passages data shall include all updates to that data published by the LICENSOR.

4.2.7. Offshore installations data

- 4.2.7.1. Offshore installations data shall consist of all intellectual property that belongs to the Crown that is
 - 4.2.7.1.1. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
 - 4.2.7.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Offshore installations data.
 - 4.2.7.1.3. Offshore installations data shall include all updates to that data supplied by the LICENSOR.

4.2.8. Practice and exercise area (PEXA) data

- 4.2.8.1. Practice and exercise area (PEXA) data shall consist of all intellectual property that belongs to either the Crown or the CUSTODIANSHIP ORGANISATIONS which is
 - 4.2.8.1.1. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
 - 4.2.8.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such PEXA data.
 - 4.2.8.1.3. PEXA data shall include all updates to that data supplied by the LICENSOR.

4.2.9. Radio Signals data

4.2.9.1. Radio Signals data shall consist of all intellectual property that belongs to the Crown that is

4.2.9.1.1. published by the LICENSOR within its commercial range of Admiralty Lists of Radio Signals publications as listed in its publication NP 131,

4.2.9.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Radio Signals data;

4.2.9.1.3. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.

4.2.9.1.4. Radio Signals data shall include all updates to that data published or supplied by the LICENSOR.

4.2.10. Sailing Directions data (text only)

4.2.10.1. Sailing Directions data shall consist only of the editorial text that belongs to the Crown that is

4.2.10.1.1. published by the LICENSOR within its commercial range of Admiralty Sailing Directions as listed in its publication NP 131,

4.2.10.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Sailing Directions data.

4.2.10.1.3. Sailing Directions data shall include all updates to that data published by the LICENSOR.

4.2.11. Tidal Predictions

4.2.11.1. Tidal Predictions shall consist of all intellectual property that belongs to the Crown that is:

4.2.11.1.1. published by the LICENSOR within its commercial range of Admiralty Tide Tables as listed in its publication NP 131; including

4.2.11.1.1.1. the application of time and height differences as published in Part II of the Admiralty Tide Tables,

4.2.11.1.1.2. the results produced from using the simplified harmonic constants as published in Part III of the Admiralty Tide Tables (using the simplified harmonic method of calculating tidal predictions) and the Angles and Factors information published in

Table VII of the Admiralty Tide Tables).

- 4.2.11.1.2. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Tidal Predictions data.
- 4.2.11.1.3. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
- 4.2.11.1.4. Tidal Predictions shall include all updates to that data supplied by the LICENSOR.

4.2.12. Tidal Streams data

4.2.12.1. Tidal stream data shall consist of all intellectual property that belongs to the Crown that is:

- 4.2.12.1.1. derived from the chart data listed in clause 4.2.1 above.
- 4.2.12.1.2. published by the LICENSOR within its commercial range of Tidal Stream Atlases as listed in its publication NP 131; or
- 4.2.12.1.3. published by any LICENSEE of the LICENSOR lawfully reproduced or adapted from such Tidal Stream Atlases.

4.2.13. Wreck, obstruction, cables and pipelines data

4.2.13.1. Wrecks, obstruction, cables and pipelines data shall consist of all intellectual property that belongs to the Crown that is:

- 4.2.13.1.1. derived from the chart data listed in clause 4.2.1 above.
- 4.2.13.1.2. supplied to the LICENSEE by the LICENSOR for the purpose of this Agreement.
- 4.2.13.1.3. Wreck, obstruction, cables and pipelines data shall include all updates to that data supplied by the LICENSOR.

4.3. The LICENSEE shall inform the LICENSOR in writing of any actual or claimed defects or errors in the LICENSOR'S MATERIAL that come to the LICENSEE's attention during the LICENCE PERIOD as soon as practicable after the LICENSEE becomes aware of any such actual or claimed defects or errors.

5. Rights and obligations

5.1. The LICENSEE shall use its best endeavours to ensure that its employees comply with the LICENSEE's obligations under this Agreement. The LICENSEE shall use its best endeavours to ensure compliance and shall supply evidence satisfactory to the LICENSOR to show such compliance when required by the LICENSOR.

- 5.2. The LICENSEE shall use its best endeavours to ensure that its obligations are passed on to its distributors, agents and contractors.
- 5.3. The LICENSEE shall use reasonable endeavours to ensure that the LICENSOR'S MATERIAL and the LICENSEE'S MATERIAL are protected from unauthorised reproduction by third parties. In the event that the LICENSOR or the LICENSEE obtains evidence that the protection is not sufficient to prevent unauthorised reproduction they shall as soon as possible notify the other PARTY of such evidence. If such unauthorised reproduction in the reasonable opinion of the LICENSOR represents a measurable risk to the LICENSOR, then the LICENSEE shall, within five WORKING DAYS of receiving notice to this effect from the LICENSOR, propose an action or actions to improve the protection, including timescales to implement such improvements, for the LICENSOR's reasonable approval. If approved, the LICENSEE shall implement the improvements within the timescales stated.
- 5.4. The LICENSEE shall procure that END-USERS agree to any restrictions that apply to them within this Agreement. The LICENSEE shall use its reasonable endeavours to ensure END-USERS comply with those restrictions. The LICENSEE shall inform the LICENSOR of any failures by END-USERS to comply with those restrictions or breaches of its END-USER licence agreements that come to its attention as soon as possible.
- 5.5. Subject to clause 5.6 below the LICENSEE shall not place or authorise others to place the LICENSOR'S MATERIAL on a computer accessible to third parties whether via the Internet or otherwise except where it is being used as the delivery mechanism to a contractor approved in accordance with clause 12.1 below and the LICENSEE has used all reasonable endeavours to ensure that it can only be accessed by the contractor.
- 5.6. The LICENSEE shall not place or permit others to place the LICENSEE'S MATERIAL on a computer accessible to third parties whether via the Internet or otherwise except where:
- 5.6.1. it is being used as the delivery mechanism to a distributor or END-USER and the LICENSEE has used all reasonable endeavours to ensure that it can only be accessed by the intended distributor or END-USER and the delivery mechanism can be audited and the number of copies supplied and the details of the recipient independently verified;
 - 5.6.2. the sole purpose is promotion of the LICENSEE'S MATERIAL and the LICENSEE'S MATERIAL to be placed on a computer accessible to third parties is limited to:
 - 5.6.2.1. digital raster images consisting of no more than 256,000 pixels;
 - 5.6.2.2. textual extracts up to 250 words in aggregate from any single item of LICENSOR'S MATERIAL;
 - 5.6.2.3. tidal predictions for the current day and six subsequent days;and the LICENSEE shall ensure that no more than one such digital raster image or textual extract may be reproduced and made available within any one window at any one time and the images show a clear notice that they are "Not to be used for navigation"; or
 - 5.6.3. an unlimited number of digital raster image extracts from the LICENSEE'S MATERIAL are placed on a computer accessible to third parties for the sole purpose of promoting the LICENSEE'S MATERIAL if such images are at a resolution lower than thirty-six dots per inch, are

not geo-referenced and show a clear notice that they are “Not to be used for navigation”.

6. Payment

- 6.1. In consideration of the LICENSOR granting the rights within this Agreement, the LICENSEE shall pay the LICENSOR:
- 6.1.1. a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS which the LICENSOR shall calculate in accordance with the terms of the annexes to Schedule A to this Agreement, and
 - 6.1.2. sums in respect of supplies made pursuant to clause 3.1 above and as described in the terms of the annexes to Schedule A to this Agreement.
- 6.2. The actual licence fees for each LICENSEE'S MATERIAL shall be shown in Schedule B for each product or service range. The LICENSEE may
- Either
- 6.2.1. account for sales made of each product or service range listed in Schedule B in each ACCOUNTING PERIOD and pay the licence fees calculated in accordance with clauses 6.5 and 6.6 below.
- Or
- 6.2.2. account for the total number of copies printed for each product listed in Schedule B and pay the licence fees calculated in accordance with clauses 6.7 and 6.8 below.
- 6.3. The FREE DISTRIBUTION AMOUNTS shown in paragraph 3.2 of Annex 1 to Schedule B (or the actual quantity distributed if lower) shall be free of all licence fees.
- 6.4. All charges in this Agreement are, unless otherwise stated, shown exclusive of taxes or duties which shall be paid by the LICENSEE in accordance with the terms of any applicable regulations.
- 6.5. Within thirty days of the end of each ACCOUNTING PERIOD, the LICENSEE shall deliver to the LICENSOR a true and accurate report giving particulars of the LICENSEE'S MATERIAL sold or otherwise distributed (including distributed free of charge) by the LICENSEE and its distributors and agents during that ACCOUNTING PERIOD in sufficient detail to allow the LICENSOR to calculate the licence fees. The report shall include the following information (in hard copy, as an electronic file in ASCII delimited format or as otherwise mutually agreed by the PARTIES), namely:
- 6.5.1. the product identification number and title for each version or edition published;
 - 6.5.2. the publication/edition date or edition number of each product;
 - 6.5.3. the number of units sold, the number of units otherwise distributed and the number of units distributed free of charge; including sufficient information to determine the appropriate pricing factors stated in this Agreement.
- 6.6. Based on the report prepared and submitted by the LICENSEE in accordance with clause 6.5 above, the LICENSOR shall prepare and provide to the LICENSEE an invoice which includes charges owed by the LICENSEE for the reported ACCOUNTING PERIOD. The LICENSEE shall pay all invoices presented by the LICENSOR within thirty days of the date of the relevant invoice such that the LICENSOR receives the full invoiced amount. The LICENSEE shall make payments in accordance with instructions issued by the LICENSOR from time to time in writing

quoting the licence number and any relevant invoice numbers. Payment made in any other form may incur additional fees to cover bank charges and currency exchange fluctuations and any such fees or charges shall be payable by the LICENSEE.

- 6.7. Alternatively, the LICENSEE will prepare and deliver to the LICENSOR a true and accurate report giving particulars of the number of copies to be printed for each product listed in Schedule B, in advance of production, including the number of units to be distributed free of charge, and other sufficient information to determine the appropriate pricing factors stated in this Agreement.
- 6.8. Based on the report prepared and submitted by the LICENSEE in accordance with clause 6.7 above, the LICENSOR shall prepare and provide to the LICENSEE an invoice which includes all charges owed by the LICENSEE. The LICENSEE shall pay all invoices presented by the LICENSOR within thirty days of the date of the relevant invoice such that the LICENSOR receives the full invoiced amount. The LICENSEE shall make payments in accordance with instructions issued by the LICENSOR from time to time in writing quoting the licence number and any relevant invoice numbers. Payment made in any other form may incur additional fees to cover bank charges and currency exchange fluctuations and any such fees or charges shall be payable by the LICENSEE.
- 6.9. In relation to any statement of sales provided by the LICENSEE, the LICENSOR may require the LICENSEE to provide a certificate at the expense of the LICENSEE, prepared and certified by the independent professional auditor that performs the periodic audit of the LICENSEE's accounts or prepared and certified by the LICENSEE if the LICENSEE is not required to be subjected to an independent audit. The LICENSOR shall only request one such certificate in any three years unless an under-declaration is discovered. Such certificate shall state whether the statement of sales in question is complete, correct and in agreement with the LICENSEE's books of account. This right may be exercised by the LICENSOR at any time up to one year from the end of the relevant ACCOUNTING PERIOD and the certificate must be supplied by the LICENSEE as agreed with the LICENSOR in writing or in the absence such agreement within three months of the request.
- 6.10. Where a certificate is provided pursuant to clause 6.9 above does not corroborate the statement or statements of sales in question or where such a certificate is not supplied within the required time period the LICENSOR may require the LICENSEE to pay the amount due plus simple interest from the date payment was due until the date payment is made at a rate of 4% per annum above the latest published annual average of the Bank of England repo rate (IUAABEDR) calculated on a daily basis during the relevant ACCOUNTING PERIOD.
- 6.11. The LICENSEE shall upon the LICENSOR giving to the LICENSEE not less than one month's notice permit the AUDITOR, at the LICENSOR's own expense, access to the LICENSEE's premises (or alternatively the LICENSEE shall procure access for the AUDITOR to such other premises as it may be necessary for it to visit for the purposes of this clause 6.11) and permit the AUDITOR to inspect the books of account of the LICENSEE at all reasonable times. This includes the right to access the LICENSEE's premises (or other premises as the case may be) to audit the performance of this Agreement. The LICENSOR shall only request one such inspection in any three years unless an under-declaration is discovered. In addition, in the event that the LICENSOR has reasonable grounds to suspect the LICENSEE to have deliberately failed to account for any payment due under this Agreement or

the LICENSEE has been negligent in preparing the account or the LICENSEE's accounting system has a systematic error that remained uncorrected from one inspection to the next then the LICENSEE shall upon the LICENSOR giving to the LICENSEE not less than 2 WORKING DAY's notice permit the AUDITOR, at the LICENSOR's own expense, access to the LICENSEE's premises (or alternatively the LICENSEE shall procure access for the AUDITOR to such other premises as it may be necessary for it to visit for the purposes of this clause 6.11) and permit the AUDITOR to inspect the books of account of the LICENSEE at all reasonable times. This includes the right to access the LICENSEE's premises (or other premises as the case may be) to audit the performance of this Agreement.

- 6.11.1. If such an inspection reveals to the reasonable satisfaction of the AUDITOR that the LICENSEE has failed to account for any payment due under this Agreement, the LICENSOR may require the LICENSEE to pay the amount due plus simple interest from the date payment was due until the date payment is made at a rate of 4% per annum above the latest published annual average of the Bank of England repo rate (IUAABEDR) calculated on a daily basis during the relevant ACCOUNTING PERIOD and, if any under-declaration exceeds 5% of the amount due to the LICENSOR or £3,000 whichever is the greater, the LICENSEE shall pay the LICENSOR for the costs of the inspection and all of the LICENSOR's related administrative expenses.
- 6.11.2. If any AUDITOR's report or reports show, to the reasonable satisfaction of the LICENSOR, the LICENSEE to have:
- 6.11.2.1. deliberately failed to account for any payment due under this Agreement; or
- 6.11.2.2. the LICENSEE has been negligent in preparing the account and that negligence has resulted in an under-declaration exceeding 15% of the amount due to the LICENSOR or £3,000 whichever is the greater over two ACCOUNTING PERIODS; or
- 6.11.2.3. the LICENSEE's accounting system has a systematic error that remained uncorrected from one inspection to the next; then the LICENSOR shall be entitled to consider the LICENSEE to have committed a repudiatory breach of this Agreement and to treat this Agreement as being at an end with immediate effect. In the event that the LICENSEE disputes the conclusion of the LICENSOR in respect to the AUDITOR's report then the LICENSEE and LICENSOR shall submit the dispute to be finally resolved by an independent expert (the "EXPERT") who shall be appointed in accordance with clause 6.12 below.
- 6.12. The identity of the EXPERT, who shall act as an expert and not as an arbitrator and shall be an accountant experienced in the relevant field, shall where possible be agreed by the PARTIES but failing agreement within 5 WORKING DAYS after the agreement of the PARTIES to submit the dispute to an EXPERT (or such other period as the PARTIES may agree) shall, on the application of either PARTY, be the nominee of the President from time to time of the Institution of Chartered Accountants in England and Wales.
- 6.13. Subject to clause 6.14 below the DETERMINATION of the EXPERT shall be binding upon the PARTIES.
- 6.14. No DETERMINATION of the EXPERT shall specify that any amendment to this Agreement shall be made.

- 6.15. The EXPERT may require each PARTY, and each PARTY shall be entitled, to provide such information as the EXPERT may reasonably require for the purposes of his or her determination as well as written representations to the EXPERT (within 14 days of his or her appointment) and the EXPERT shall provide copies of any such information and representations to the other PARTY and shall allow such other PARTY (within 14 days of their receipt of such copies) to make cross-representations in writing. Copies of such cross-representations shall be supplied to the other PARTY but no further representations by the PARTIES to the EXPERT shall be permitted. Although the EXPERT shall consider all such information, representations and cross-representations he or she shall not be precluded from determining the reference in accordance with his or her own judgment. The EXPERT shall issue his or her determination (the "DETERMINATION") in writing within 14 days of the submission to him or her of the last of the information, representations or cross-representations as the case may be.
- 6.16. If the EXPERT shall become unable to act or shall fail for any reason to determine the dispute within the period prescribed in clause 6.15 above then either PARTY may apply to the President from time to time of the Institution of Chartered Accountants in England and Wales for the appointment of a replacement and this procedure may be repeated as many times as may be necessary to secure a DETERMINATION.
- 6.17. The EXPERT shall be required to keep strictly confidential all information, representations and cross-representations provided to him or her in connection with the dispute and shall return all such confidential information, representations and cross-representations to the PARTY from which they originated. In making a DETERMINATION the EXPERT may obtain such independent professional and technical advice as he or she may reasonably require subject to such persons accepting the same obligations of confidentiality as the EXPERT under this clause 6.17.
- 6.18. The EXPERT shall determine what proportion of the fees and expenses of the EXPERT each PARTY shall pay..

7. *Review and Amendment of licence and supply fees*

- 7.1. Subject to the procedure set out in clause 7.2 below, the LICENSOR shall have the right to amend the licence and supply fees in clause 6.1 above as the LICENSOR considers necessary. The LICENSOR shall give the LICENSEE no less than 6 months notice of any such amendments and such amendments shall take effect from the next 1 January after the end of the notice period.
- 7.2. The LICENSOR shall review its licence and supply fees annually. The LICENSOR shall publish the results of each annual review on its website, together with any proposals it may have as to amendment of licence and supply fees. The LICENSOR shall hold an open consultation on any proposals to amend licence and supply fees and such consultation shall be open for a minimum of one calendar month from the publication of such proposals. The LICENSOR shall consider all responses to that consultation before deciding upon any amendments to licence and supply fees.

8. *Acknowledgements and notices*

- 8.1. The LICENSEE shall ensure that the acknowledgements and notices specified in paragraph 2 of each annex of Schedule B appear at a suitable place against or

within the LICENSEE'S MATERIAL in such a manner that they are prominent and easily accessible to END-USERS.

- 8.2. If the LICENSEE'S MATERIAL is used by the END-USER in digital form, or the LICENSEE requires the END-USER to agree to an END-USER licence agreement, the LICENSEE shall further ensure that the acknowledgements and notices appears within any END-USER licence or similar agreements entered into by END-USERS.
- 8.3. The LICENSEE shall include a list of all relevant CUSTODIANSHIP ORGANISATIONS in the acknowledgements and notices.
- 8.4. The LICENSEE shall ensure that no reference to the Crown, the Controller of Her Majesty's Stationery Office, the LICENSOR or the CUSTODIANSHIP ORGANISATIONS is made in or in association with any form of promotion or advertisement without the prior written consent of the LICENSOR.
- 8.5. The LICENSEE shall not make or authorise others to make any claim that the LICENSOR or the CUSTODIANSHIP ORGANISATIONS in any way endorses the LICENSEE'S MATERIAL save where otherwise agreed by the PARTIES in writing.
- 8.6. The LICENSEE shall not make or authorise others to make any inaccurate or misleading statement about the LICENSOR, the CUSTODIANSHIP ORGANISATIONS or their products and services.
- 8.7. The LICENSEE may re-write, translate or abbreviate the acknowledgements and/or notices specified above if, in the sole opinion of the LICENSOR, there is no material difference between the versions. As a minimum requirement, any re-written or abbreviated acknowledgement must include reference to the "UKHO", "HMSO" and the port locations of the relevant CUSTODIANSHIP ORGANISATIONS and proper names shall not be translated. The LICENSEE shall supply the LICENSOR with copies of all re-written, translated or abbreviated versions of the acknowledgement(s) and/or notice(s) within five WORKING DAYS of such re-writing, translation or abbreviation and shall not distribute any LICENSEE'S MATERIAL bearing such texts before receiving the LICENSOR's written approval to do so, which shall take no more than five WORKING DAYS and shall not be unreasonably withheld. If the LICENSOR fails to respond to the LICENSEE within five WORKING DAYS then the LICENSOR automatically gives its consent.

9. *Intellectual property rights*

- 9.1. Copyright, all other intellectual property rights and any goodwill in the LICENSOR'S MATERIAL, including where incorporated within the LICENSEE'S MATERIAL as a reproduction, translation or adaptation, shall remain at all times the property of the LICENSOR, the CUSTODIANSHIP ORGANISATIONS or their licensors as appropriate. The LICENSEE shall acquire no rights in any such material except as expressly provided in this Agreement.
- 9.2. Copyright, all other intellectual property rights and any goodwill in the LICENSEE'S MATERIAL, excluding any of the LICENSOR'S MATERIAL where incorporated within the LICENSEE'S MATERIAL as a reproduction, translation or adaptation, shall remain at all times the property of the LICENSEE or their licensors as appropriate. The LICENSOR shall acquire no rights in any such material except as expressly provided in this Agreement.

- 9.3. The LICENSEE undertakes that the LICENSOR'S MATERIAL shall not be used by the LICENSEE or accessed by any of its employees or any other person acting on its behalf for any purpose other than strictly as necessary to exercise its rights or perform its obligations under this Agreement. The LICENSEE shall ensure that its employees and any other persons acting on its behalf in using the LICENSOR'S MATERIAL are bound by an undertaking in substantially the same terms as this clause 9.3.
- 9.4. The LICENSEE warrants that at the time of signing this Agreement the LICENSEE has not infringed the copyright or any other intellectual property right in any material under the control of the LICENSOR or the CUSTODIANSHIP ORGANISATIONS.
- 9.5. The LICENSEE undertakes that it will not intentionally infringe the copyright or any other intellectual property right in any material under the control of the LICENSOR or the CUSTODIANSHIP ORGANISATIONS or seek to exploit the goodwill associated with that material.
- 9.6. Nothing in this Agreement shall prejudice the right of the LICENSEE to challenge the LICENSOR's assertion of ownership of copyright or any other intellectual property right in the LICENSOR'S MATERIAL, but in the event of such challenge this Agreement shall continue in full force and effect including but not limited to the LICENSEE's obligation under clause 6 above in respect of reproductions of the LICENSOR'S MATERIAL which are the subject of such challenge and the LICENSEE shall notify the LICENSOR in writing specifying the LICENSOR'S MATERIAL in question and setting out the reason(s) why the LICENSEE challenges the LICENSOR's right to assert ownership of copyright or any other intellectual property right in the specified LICENSOR'S MATERIAL. The PARTIES shall then seek to resolve their difference by negotiating in good faith, agreeing:
- 9.6.1. any changes necessary to this Agreement to reflect the agreed position; and
 - 9.6.2. any payments to be made by either LICENSEE or LICENSOR (as necessary); and
 - 9.6.3. how costs incurred by either PARTY shall be borne.

In the event that the PARTIES cannot reach agreement on the ownership of copyright or any other intellectual property right in the LICENSOR'S MATERIAL within one calendar month of the LICENSEE notifying the LICENSOR in accordance with this clause 9.6 (or other period mutually agreed by the PARTIES in writing) then the LICENSEE shall either drop its claim or promptly and in any event within two calendar months of notifying the LICENSOR in accordance with this clause 9.6 initiate such procedures as may be necessary to obtain the decision of an independent and competent body as to whether the LICENSOR has the right to assert ownership of copyright or any other intellectual property right in the specified LICENSOR'S MATERIAL and use all reasonable endeavours to expedite the making by such independent and competent body of a decision in accordance with this clause 9.6; and in the event that a decision in accordance with this clause 9.6 is that the LICENSOR has no right to assert ownership of copyright or any other intellectual property right in the LICENSOR'S MATERIAL in question the LICENSOR shall take immediate steps to:

- 9.6.4. refund to the LICENSEE any payments made by the LICENSEE to the LICENSOR in respect of sales of copies of the LICENSOR'S MATERIAL in question from the date of the notification given by the LICENSEE in accordance with this clause 9.6 and the date of the relevant decision; and

9.6.5. amend clause 4 above and Schedule B of this Agreement by amending or deleting as appropriate from such clause 4 above and Schedule B reference(s) to the LICENSOR'S MATERIAL in respect of which such a decision has been made;

provided that nothing in this clause 9.6 shall prevent the LICENSOR from appealing against any decision or finding and, if successful, re-instating relevant reference(s) to LICENSOR'S MATERIAL in clause 4.2 above and Schedule B of this agreement and charging fees to the LICENSEE accordingly including fees in respect of any and all payments previously refunded in accordance with clause 9.6.4 above.

9.7. The LICENSEE shall ensure that all the LICENSOR's and the CUSTODIANSHIP ORGANISATIONS' trademarks or other identifying features, are removed from the LICENSEE'S MATERIAL, except as otherwise provided either in this Agreement or in any other express written agreement between the PARTIES.

9.8. The LICENSEE shall not adopt or use any trademark, symbol or device that incorporates or is confusingly similar to, or is a simulation or colourable imitation of, the trademarks of the LICENSOR and/or the CUSTODIANSHIP ORGANISATIONS.

10. Actions for infringement

10.1. If the LICENSEE becomes aware of any infringement of any rights in the LICENSOR'S MATERIAL or the LICENSEE'S MATERIAL, whether or not arising from the LICENSEE's performance of this Agreement, the LICENSEE shall notify the LICENSOR as soon as possible. The LICENSEE shall provide all necessary information and reasonable assistance requested by the LICENSOR to ensure that the notified infringement is brought to an end as soon as possible. The LICENSOR shall reimburse the LICENSEE for costs and expenses reasonably and properly incurred in providing such information and rendering such assistance.

10.2. Where the LICENSEE'S MATERIAL is involved and the LICENSOR decides in its sole discretion to enter into any dispute resolution procedure, the LICENSEE shall provide the LICENSOR with such reasonable assistance as the LICENSOR may require including but not limited to providing such evidence as the LICENSOR may request and by appearing as a witness in support of the LICENSOR's case.

11. Confidentiality

11.1. The LICENSOR shall hold the following information (the 'CONFIDENTIAL INFORMATION') supplied by the LICENSEE in confidence unless such information is otherwise legitimately available to third parties:

11.1.1. the private residential address of the LICENSEE if they are entering into this Agreement in a personal capacity unless they can provide no other address to the LICENSOR for communications; and

11.1.2. the existence of this Agreement prior to first publication of the LICENSEE'S MATERIAL; and

11.1.3. all information shown in Schedule B of this Agreement; and

11.1.4. all information supplied to the LICENSOR in accordance with clauses 6.5 above and 12.1 below of this Agreement; and

11.1.5. any information marked 'confidential' by the LICENSEE that relates to this Agreement or its operation.

11.2. The obligation at clause 11.1 above shall not apply in the case that any disclosure is required by any applicable law, any order of the court, or any requirement of the UK Parliament.

- 11.3. The obligation at clause 11.1 above shall not apply to the disclosure of the CONFIDENTIAL INFORMATION to CUSTODIANSHIP ORGANISATIONS but the LICENSOR shall procure that CUSTODIANSHIP ORGANISATIONS hold that information in confidence on a similar basis as this clause 11.

12. Contracting

- 12.1. The LICENSEE may not contract out work for the purpose of executing the rights granted in this Agreement without first providing to the LICENSOR the full contact details of the proposed contractor involved in the creation of the LICENSEE'S MATERIAL and obtaining the LICENSOR'S written consent prior to entering into such agreement. The LICENSOR shall take no more than five WORKING DAYS to notify the LICENSEE of its decision and shall not unreasonably withhold its consent. If the LICENSOR fails to notify the LICENSEE of its decision within five WORKING DAYS then the LICENSOR automatically gives its consent.
- 12.2. The LICENSEE shall impose and enforce the following conditions on any such contractor.
- 12.2.1. all contractors shall be subject to the same restrictions as the LICENSEE under this Agreement;
 - 12.2.2. no contractor shall reproduce the LICENSOR'S MATERIAL or LICENSEE'S MATERIAL for their own purpose except for the purpose of back-up and operational security; and
 - 12.2.3. no contractor shall appoint sub-contractors to carry out work on the LICENSOR'S MATERIAL or LICENSEE'S MATERIAL.

13. Warranty and indemnity

- 13.1. The LICENSOR warrants that it is entitled to grant this licence to the LICENSEE and that, except for that material shown as belonging to third parties, the LICENSOR either owns all intellectual property rights in the LICENSOR'S MATERIAL or the LICENSOR is permitted to grant licences for the intellectual property rights of the CUSTODIANSHIP ORGANISATIONS in the LICENSOR'S MATERIAL.
- 13.2. The LICENSOR warrants that it grants licences according to the principles and practices in the statement of its Chief Executive published on the LICENSOR'S website.
- 13.3. The LICENSOR warrants that it has used reasonable skill and care to ensure that, at the point of supply from the LICENSOR'S place of business, the LICENSOR'S MATERIAL belonging to the LICENSOR is free from defects arising from faulty materials or workmanship of the LICENSOR. The LICENSOR makes no warranty in respect of any part of the LICENSOR'S MATERIAL belonging to the CUSTODIANSHIP ORGANISATIONS.
- 13.4. The LICENSEE warrants its understanding that the licence fees in this Agreement have been calculated on the basis that the LICENSOR will exclude or limit its liability as set out in clauses 13.6 below and 13.7 below.
- 13.5. The LICENSOR does not limit or exclude its liability for death or personal injury caused by the negligence of its employees, agents or contractors.
- 13.6. Except as described in clause 13.5 above, the LICENSOR'S total liability to the LICENSEE, whether directly to it or by reason of indemnity or contribution in respect of the LICENSEE'S liability to any third party, or any acts or omissions of the

LICENSOR's employees, agents or contractors shall be limited to the sum of all licence fees due to the LICENSOR in accordance with clause 6.1.1 above during the ACCOUNTING PERIOD in which the claim arose and the preceding ACCOUNTING PERIOD. This limit of liability shall apply separately to each and every claim against the LICENSOR provided that where any act or omission or series of two or more acts or omissions give rise to more than one claim, the limits shall apply to the aggregate of all claims as though they were a single claim.

- 13.7. Notwithstanding anything else contained in this Agreement, the LICENSOR shall not be liable to the LICENSEE for:
- 13.7.1. the LICENSEE's loss of profits, revenues or goodwill or loss of anticipated savings or gains (including any such loss or damage incurred by the LICENSEE as a result of any payment by the LICENSEE to a third party as a result of an action brought by a third party);
 - 13.7.2. any indirect or consequential loss (including any such loss or damage incurred by the LICENSEE as a result of any payment by the LICENSEE to a third party as a result of an action brought by a third party) even if the loss was reasonably foreseeable or the LICENSOR had been advised by the LICENSEE of the possibility of it being incurred and whether arising from negligence, breach of contract or of statutory duty or otherwise; or
 - 13.7.3. any claim which has not been notified to the LICENSOR within thirty days of the date on which the LICENSEE knew, or should have reasonably known of the existence of grounds for such claim.
- 13.8. The LICENSEE shall indemnify and keep the LICENSOR and the CUSTODIANSHIP ORGANISATIONS indemnified, both during the term of this Agreement and for 12 years after the termination of this Agreement from and against all claims, actions, suits, damages, liabilities, losses, charges and proceedings that the LICENSOR or the CUSTODIANSHIP ORGANISATIONS may incur or be put to as a result of:
- 13.8.1. any breach of this Agreement by the LICENSEE or its contractors, distributors, agents or employees;
 - 13.8.2. the unauthorised or illicit use by any END-USER or third party of the LICENSOR'S MATERIAL or the LICENSEE'S MATERIAL that has been supplied to such END-USER or third party by the LICENSEE, its distributors or agents;
 - 13.8.3. any loss or damage caused to a third party by any error or defect in the LICENSEE'S MATERIAL arising from the LICENSEE's modification of the LICENSOR'S MATERIAL in the LICENSEE's production of the LICENSEE'S MATERIAL.
- 13.9. Such indemnity at clause 13.8 above shall not extend to cover unauthorised or illicit END-USER or third party use of the LICENSOR'S MATERIAL or the LICENSEE'S MATERIAL where the LICENSEE has used its reasonable endeavours to inform END-USERS and third parties of the limitations of this Agreement and to ensure that such use cannot take place.
- 13.10. For the avoidance of doubt such indemnity at clause 13.8 above shall include but not be limited to claims brought by other sovereign states or bodies operating under delegated authority or powers for such sovereign states.
- 13.11. The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage,

course of dealings or otherwise, all of which are excluded to the fullest extent permitted by law.

- 13.12. The PARTIES have taken advice in relation to this Agreement and in particular the provisions of this clause 13 as they respectively consider appropriate and have carefully considered all the terms set out in this clause 13. The PARTIES each confirm that all exclusions of and limitations to the liability of the other PARTY as set out in this clause 13 are reasonable in the circumstances.
- 13.13. The PARTIES shall give notice to each other as a soon as they become aware of any actual or threatened claim against them or the other PARTY by any third party in connection with the LICENSEE'S MATERIAL.

14. Conduct of third party claims

- 14.1. In the event that the LICENSEE receives from any third party a claim for damages arising out of or in connection with this Agreement and attributable to any act or omission of the LICENSOR's employees agents or contractors and the LICENSEE seeks the LICENSOR's indemnity for or contribution to any damages, costs or any other expenditure to which it is as a consequence put this clause 14 shall apply.
- 14.2. Upon receipt of such a third party claim the LICENSEE shall:
- 14.2.1. promptly, and in any event within 5 WORKING DAYS of its receipt, notify the LICENSOR of the existence of such claim and provide to the LICENSOR copies of all relevant documents;
 - 14.2.2. not, without the express permission of the LICENSOR, defend, settle or otherwise compromise such claim;
 - 14.2.3. render to the LICENSOR such reasonable assistance as the LICENSOR may require in order to come to a determination in accordance with clause 14.3 below;
 - 14.2.4. ensure that any expenditure incurred by it on legal advice in relation to such claim is reasonably and properly incurred; and
 - 14.2.5. comply with any direction of the LICENSOR given in accordance with clauses 14.4 below or 14.5 below,

and the LICENSOR shall not be liable to indemnify, make a contribution to or otherwise compensate the LICENSEE for any losses, damages, costs or any other expenditure incurred by the LICENSEE in its defence or settlement of such claim if the LICENSEE has not complied with its obligations under this clause 14.2.

- 14.3. Upon receipt from the LICENSEE of a notification in accordance with clause 14.2.1 above the LICENSOR shall promptly, and in any event within 5 WORKING DAYS of receipt of such notification, confirm to the LICENSEE in writing whether the LICENSOR considers the claim to arise out of or in connection with this Agreement and whether it is attributable to the acts or omissions of its employees, agents or contractors.
- 14.4. In the event that the LICENSOR confirms that it considers the claim to be so attributable it shall within 5 WORKING DAYS of receipt of the LICENSEE's notification in accordance with clause 14.2.1 above (or within such other period as the PARTIES may jointly agree) determine whether the LICENSEE should defend or settle the claim and shall direct the LICENSEE accordingly.
- 14.5. In the LICENSEE's defence or settlement of any claim the LICENSOR may in its discretion:
- 14.5.1. direct the LICENSEE's conduct in defending such claim; or

- 14.5.2. direct the LICENSEE as to the sum in which it may settle such claim.
- 14.6. The LICENSOR agrees that any direction that it may give the LICENSEE in accordance with clauses 14.4 above and 14.5 above will be given reasonably and in the public interest, and that such direction shall, so far as it is possible to do so in the public interest, be given in the best interests of both PARTIES.
- 14.7. Any indemnity or contribution paid by the LICENSOR to the LICENSEE as a result of the operation of this clause 14 shall be subject to the provisions of clause 13.6 above.
- 14.8. In the event that the LICENSOR receives from any third party a claim for damages arising out of or in connection with this Agreement and attributable to any act or omission of the LICENSEE's employees agents or contractors and the LICENSOR seeks the LICENSEE's indemnity for or contribution to any damages, costs or any other expenditure to which it may as a consequence be put, the LICENSOR shall promptly, and in any event within 2 WORKING DAYS of its receipt, notify the LICENSEE of the existence of such claim and provide to the LICENSEE copies of all relevant documents.
- 14.9. Upon receipt of notification issued in accordance with clause 14.8 above the LICENSEE may elect to take conduct of the claim and shall within 5 WORKING DAYS of its receipt of the notification inform the LICENSOR in writing of its decision, and prior to the expiry of such 5 WORKING DAYS or receipt of the LICENSEE's decision, as the case may be, the LICENSOR shall not take any action in relation to settlement, compromise or defence of the claim.
- 14.10. If the LICENSEE elects pursuant to clause 14.9 above to take conduct of the claim it shall be entitled to settle or defend the claim as it sees fit and the LICENSOR shall upon the request of the LICENSEE render to the LICENSEE all reasonable assistance to enable the LICENSEE to settle or defend the claim.

15. *Assignment and sub-licensing*

- 15.1. The LICENSEE is not entitled to assign any of its rights or obligations under this Agreement without the LICENSOR's prior written consent. The LICENSOR shall not unreasonably withhold its consent and shall provide its decision on any request to assign within five WORKING DAYS of receiving such a request from the LICENSEE. If the LICENSOR fails to respond to the LICENSEE within five WORKING DAYS then the LICENSOR automatically gives its consent.
- 15.2. The LICENSOR shall be entitled to assign or contract out its rights and obligations under this Agreement upon the LICENSOR giving written notice of such assignment or contracting out to the LICENSEE.
- 15.3. The LICENSEE is not entitled to sub-licence any of its obligations under this Agreement.
- 15.4. The LICENSEE shall be entitled to sub-licence its rights under this Agreement to third parties during the LICENCE PERIOD.
- 15.5. In the event that the LICENSEE exercises any right to sub-licence it shall pass on to its sub-licensees the terms and conditions of this Agreement specified in this clause 15.5 and shall be responsible for ensuring sub-licensees comply with those terms and conditions. The LICENSOR shall be entitled to treat any breach of such terms and conditions by sub-licensees as though it was a breach of this Agreement by the

LICENSEE. The terms and conditions to be passed on to any sub-licensee are: clauses 3.3, 3.4, 3.5, 4.1 5, 8, 9.3, 9.4, 9.5, 20.9, 20.10 and 20.11.

- 15.6. The LICENSEE shall notify the LICENSOR in writing of the full name and contact details of each of its sub-licensees within 5 WORKING DAYS of reaching agreement with them and within 5 WORKING DAYS of any change of such details.
- 15.7. The LICENSEE shall not permit its sub-licensees to grant further sub-licences.
- 15.8. The LICENSEE shall terminate all sub-licences upon the expiry or termination of this Agreement.

16. Change of details

- 16.1. The LICENSEE shall inform the LICENSOR of any change of name or address within five WORKING DAYS of such change.

17. Rights of third parties

- 17.1. Except as provided at clause 13.8 above but notwithstanding anything to the contrary elsewhere in this Agreement, no right is granted to any person who is not a PARTY to this Agreement in its own right and the PARTIES declare that they have no intention to grant any such rights.

18. Severability

- 18.1. If any part, term or provision of this Agreement which in the reasonable discretion of the LICENSOR is not of a fundamental nature is held to be illegal or unenforceable the validity or enforceability of the remainder of the Agreement shall not be affected.
- 18.2. If any part, term or provision of this Agreement which in the reasonable discretion of the LICENSOR is of a fundamental nature and is held to be illegal or unenforceable then the PARTIES shall negotiate in good faith replacement lawful and enforceable provisions that enable the Agreement to have the effect intended by the illegal or unenforceable provision. Unless otherwise agreed between the PARTIES in writing, the PARTIES shall have six months to negotiate such replacement provisions, and if agreement cannot be reached in that period, or it is not possible to construct such provisions, then the Agreement shall be terminated immediately and the LICENSEE shall deal with all material relevant to this Agreement as provided for in clause 20.9 below.

19. Entire agreement

- 19.1. This Agreement represents the entire and only agreement between the PARTIES and supersedes any previous agreement between the PARTIES upon the matters referred to herein.
- 19.2. Save for any fraudulent misrepresentation made by one of the PARTIES to the other, no representations, warranties, inducements or promises made by one PARTY to the other and no other arrangements whether oral or otherwise not embodied herein shall add to or vary this Agreement or be of any effect, save, with the exception of the LICENSOR's rights under clause 7.1 above, and for any written amendment to this Agreement mutually agreed by the PARTIES.

20. Termination

- 20.1. The PARTIES may (without prejudice to their other rights (whether arising under this Agreement or otherwise)) terminate this Agreement at any time by mutual

written consent or at any time by giving three years' notice in writing to the other PARTY with such termination occurring at the end of the ACCOUNTING PERIOD that includes the date three years after the date of such notice.

- 20.2. The LICENSOR may at any time by written notice to the LICENSEE terminate this Agreement with immediate effect if there has been an irremediable breach of the terms and conditions of this Agreement by the LICENSEE. The LICENSOR considers breaches of the following clauses to be irremediable:
- 20.2.1. clause 5.5 above of the main Agreement;
 - 20.2.2. clause 8.1 above of the main Agreement;
 - 20.2.3. clauses 9.1 above, 9.3 above, 9.4 above, 9.5 above and 9.8 above of the main Agreement; and
 - 20.2.4. clause 15.1 and 15.3 above of the main Agreement.
- 20.3. In the event that there has been a remediable breach of the terms and conditions of this Agreement by the LICENSEE, the LICENSOR may:
- 20.3.1. require by written notice the LICENSEE to remedy such breach within either 1 month or within such other longer period as the LICENSOR might reasonably set; and
 - 20.3.2. if the LICENSEE fails to remedy such breach within the specified period terminate this Agreement with immediate effect by notice in writing to the LICENSEE.
- 20.4. The LICENSOR may in its sole discretion and without waiving any right of termination arising from a failure of the LICENSEE to pay on any other occasion or occasions or any other right of termination howsoever arising (whether under this Agreement or otherwise) refrain from exercising its right to terminate this Agreement in the event that the LICENSEE fails to fulfil on any single occasion its obligation to pay in accordance with clause 6 above provided always that full payment with interest is made to the LICENSOR within 14 days of receipt of the demand for payment. Simple interest shall be payable on such late payments and shall be calculated at a rate of 4% per annum above the latest published annual average of the Bank of England repo rate (IUAABEDR) calculated on a daily basis for each day from the date payment was due.
- 20.5. The LICENSOR may (without prejudice to its other rights (whether arising under this Agreement or otherwise)) terminate this Agreement at any time by written notice if:
- 20.5.1. the LICENSEE enters into a voluntary arrangement;
 - 20.5.2. an administration order is made in respect of the LICENSEE;
 - 20.5.3. a receiver or an administrative receiver is appointed to manage the affairs of the LICENSEE;
 - 20.5.4. a resolution or petition to wind up the LICENSEE is passed or presented (other than for the purpose of amalgamation or reconstruction);
 - 20.5.5. any circumstances arise that entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator; or
 - 20.5.6. any circumstances arise that entitle a creditor to present a winding-up petition or a winding up order is made by the Court.
- 20.6. Upon termination of this Agreement all outstanding payments and other obligations arising from this Agreement shall become due and payable as soon as practicable and no later than 30 days after termination. The LICENSEE shall also ensure that, at the LICENSEE's expense, the LICENSOR'S MATERIAL is immediately destroyed or returned to the LICENSOR as required by the LICENSOR.

- 20.7. Termination of this Agreement shall be without prejudice to the rights and liabilities of either PARTY that may have accrued up to and on the date of termination.
- 20.8. Termination of this Agreement shall not require termination of any END-USER licence agreement entered into in accordance with this Agreement prior to termination.
- 20.9. Except as stated in clause 20.11 below, in the event of the termination pursuant to clause 20.2 above, 20.3.2 above or 18.2 above the LICENSEE shall as soon as practicable destroy or procure that others destroy any LICENSEE'S MATERIAL held by the LICENSEE or its employees or contractors or other persons acting on its behalf as a result of the operation of this Agreement.
- 20.10. Except as stated in clause 20.11 below, in the event of the termination of this Agreement by notice pursuant to clause 20.1 above or 20.5 above the LICENSEE shall as soon as practicable and at its own expense restrict use of any pre-existing LICENSEE'S MATERIAL to that strictly necessary to provide support to END-USERS for a maximum period of 1 year from the date of termination.
- 20.11. In the event of the termination of this Agreement for any reason, the LICENSEE shall be entitled to archive the LICENSEE's MATERIAL indefinitely. Except as additionally provided in clause 20.10 above, the LICENSEE shall be entitled to retrieve and use (but not reproduce or adapt) the LICENSEE's MATERIAL only for the purposes of:
- 20.11.1. Internal quality control auditing; and
 - 20.11.2. Defending itself from claims from third parties.

21. No waiver

- 21.1. No waiver of any term or condition of this Agreement shall be effective unless made in writing and signed by the PARTY against which enforcement of the waiver is sought.
- 21.2. The waiver of any remedy arising from breach of any term or condition of this Agreement shall not be construed as a waiver of any subsequent breach of any other such term or condition.

22. Governing law

- 22.1. This Agreement shall be governed by and construed and interpreted in accordance with English Law and the PARTIES submit to the exclusive jurisdiction of the English Courts.

Schedule A

Licence and supply fees

1. This Schedule A shows the methodology the LICENSOR will use to determine the licence and supply fees for each of the LICENSEE'S MATERIAL shown in Schedule B. Once calculated, the LICENSOR shall show the actual licence fees payable within Schedule B.
2. The methodologies used are described for each type of data licensed under this Agreement and described in clause 4 of the main Agreement.
3. The total licence fees are determined by adding together the individual licence and supply fees calculated for each type of data (where it applies).

Annexes to this Schedule

4. The table below shows the annexes to this Schedule.

Annex 1 to Schedule A

Licence fees for the re-use of:-

1. [Chart data](#)
2. [Astronomical data](#)
3. [Distance Tables data](#)
4. [Lights and Fog Signals data](#)
5. [Maritime Limits data](#)
6. [Ocean Passages data](#)
7. [Offshore Installations data](#)
8. [Practice and Exercise Area \(PEXA\) data](#)
9. [Radio Signals data](#)
10. [Sailing Directions data \(text only\)](#)
11. [Tidal Predictions](#)
12. [Tidal Streams data](#)
13. [Wrecks, obstructions, cables and pipelines data](#)

Annex 1 to Schedule A

1. *Licence fees for the re-use of Chart data*

- 1.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

For chart extracts with no hydrography	£No Charge
For chart extracts with incidental hydrography	£0.01
For chart extracts with substantial hydrography	£0.12

2. *Licence fees for the re-use of Astronomical data*

- 2.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

For insubstantial reproductions (less than 50% of any Astronomical Publication)	£0.16
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- 2.2. The percentage of LICENSOR'S MATERIAL used in the LICENSEE'S MATERIAL shall be determined by the LICENSOR

3. *Licence fees for the re-use Distance Tables data*

- 3.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

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- 4.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

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For use in products aimed at PROFESSIONAL USERS	£3.99

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Supply of this data is tailored to the LICENSEE requirements. The LICENSOR will quote the licence fees due depending on the requirements.

6. *Licence fees for the re-use of Ocean Passages data*

- 6.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

For insubstantial reproductions (less than 50% of any of the Ocean Passages publications)	£0.08
For substantial reproductions (50% or more of any of the Ocean Passages publications)	£0.80

6.2. The percentage of LICENSOR'S MATERIAL used in the LICENSEE'S MATERIAL shall be determined by the LICENSOR

7. Licence fees for the re-use of Offshore Installations data

Supply of this data is tailored to the LICENSEE requirements. The LICENSOR will quote the licence fees due depending on the requirements.

8. Licence fees for the re-use of Practice and exercise area (PEXA) data

Supply of this data is tailored to the LICENSEE requirements. The LICENSOR will quote the licence fees due depending on the requirements.

9. Licence fees for the re-use of Radio Signals data

9.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

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For substantial reproductions (50% or more of any of the ALRS publications)	£3.49

9.2. The percentage of LICENSOR'S MATERIAL used in the LICENSEE'S MATERIAL shall be determined by the LICENSOR

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10.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

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For insubstantial reproductions (less than 50% of any Sailing Direction publication)	£1.31
For substantial reproductions (50% or more of any Sailing Direction publication)	£13.07

10.2. The percentage of LICENSOR'S MATERIAL used in the LICENSEE'S MATERIAL shall be determined by the LICENSOR

11. Licence fees for the re-use of Tidal Predictions

11.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

For 5 or fewer ports	£0.01
For 6 to 500 ports	£0.26
For 501 or more ports	£1.21

12. Licence fees for the re-use of Tidal Streams data

12.1. The LICENSEE shall pay the LICENSOR a licence fee for each copy of the LICENSEE'S MATERIAL distributed to END-USERS as follows:

Minor extracts (less than 3% of our publication)	£0.01
For use in products aimed at LEISURE USERS	£0.20
For use in products aimed at PROFESSIONAL USERS	£1.97

13. *Licence fees for the re-use of Wrecks, obstructions, cables and pipelines data*

Supply of this data is tailored to the LICENSEE requirements.
The LICENSOR will quote the licence fees due depending on the requirements.

Schedule B

The LICENSEE'S MATERIAL

- 1.1. The LICENSEE'S MATERIAL consists of a range of products and services which are defined separately in Annexes to this Schedule B. Each Annex describes one product or service range.
- 1.2. Each product range or service is defined by its title, a description of its contents, its field of use, how and in what form it is supplied, the END-USER licensing model including END-USER licensing restrictions and may include additional requirements for acknowledgements and warnings. In addition, if the product or service range is made up of pre-defined products or services, then an additional table will show the licence fees due on each product or service.

Annexes to this Schedule

- 1.3. The list below shows the annexes to this Schedule.

[Annex 1 to Schedule B](#) [Product/service name]

[Annex 2 to Schedule B](#) [Product/service name]

Annex 1 to Schedule B

1. General description of the range

1.1. Product or service title	
1.2. General description of product including its intended purpose or field of use	
1.3. Geographic coverage of product or service	
1.4. LICENSOR'S MATERIAL reproduced to create the product or service	<ul style="list-style-type: none"> → Chart Data → Astronomical data → Distance Tables data → Lights and Fog Signals data → Maritime Limits data → Ocean Passages data → Offshore Installations data → PEXA data → Radio Signals → Sailing Directions (text only) → Tidal Predictions → Tidal Streams → Wrecks, obstructions, cables and pipelines data
1.5. Form and format (including the look and feel, facsimile restrictions and translation rights (language or format))	

2. Acknowledgements and notices

2.1. Additional acknowledgements	<p>Acknowledgements</p> <p>There are two acknowledgements.</p> <p>“This product has been derived in part from material obtained from the UK Hydrographic Office with the permission of the UK Hydrographic Office, Her Majesty’s Stationery Office <i>[and the following authorities: XXX].</i>”</p> <p>“© British Crown Copyright, <i>[the year of first publication]</i>. All rights reserved.”</p>
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<p>2.2. Notices</p>	<p>Notices [There is one notice:] [There are two notices:]</p> <p>["THIS PRODUCT IS NOT TO BE USED FOR NAVIGATION"]</p> <p>"NOTICE: The UK Hydrographic Office (UKHO) and its licensors make no warranties or representations, express or implied, with respect to this product. The UKHO and its licensors have not verified the information within this product or quality assured it."</p>
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3. Licence fees

<p>3.1. PAYMENT MECHANISM</p>	<p>→ Upfront fee based on production statement in accordance with clause 6.7 of the main Agreement</p> <p>→ Licence fees based on sales reported in accordance with clause 6.5 of the main Agreement</p>
<p>3.2. FREE DISTRIBUTION AMOUNTS</p>	<p>The LICENSEE may distribute sample copies of [product/service name] to:</p> <ul style="list-style-type: none"> - its distributors and agents solely for promotional purposes; and - to journalists solely to review them and publish them in their review. <p>The LICENSEE may also make sample versions of [product/service name] available free of charge to potential END-USERS to generate sales up to a maximum of [X] in any one ACCOUNTING PERIOD. [Insert additional restrictions on what the demonstration version can do – e.g. restricts access to only a small part of the data or stops working after 30 days.]</p> <p>THE LICENSEE may also promote [product/service name] in promotional literature and on the Internet (in accordance with clause 5.6 of the main Agreement).</p> <p>In the event of any suspected misuse of the demonstration copies by END-USERS, the LICENSOR reserves the right to withdraw or amend its permission for this facility.</p>

4. Licence fee assessments

- 4.1. The actual licence fees payable for each product that exists within this product range is shown in the spreadsheet dated [XX MONTH YYYY] and titled:

XX - XX - 000 - Name - Schedule B Annex 1 – YYYY-MM-DD

Schedule C

CUSTODIANSHIP ORGANISATIONS

1. The third parties list below have granted their permission to the LICENSOR to grant licences on their behalf to reproduce, adapt and/or translate their intellectual property *where it has been incorporated within the LICENSOR'S MATERIAL*. Some of the listed third parties have not granted permission for all their intellectual property to be reproduced, adapted and/or translated. These third parties, and the limitations, are shown below.

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- Aberdeen Harbour Board
- Argyll & Bute Council
- Associated British Ports – Ayr & Troon
- Associated British Ports – Barrow
- Associated British Ports – Cardiff & Barry
- Associated British Ports – Fleetwood
- Associated British Ports – Garston
- Associated British Ports – Humber
- Associated British Ports – Ipswich
- Associated British Ports – King's Lynn
- Associated British Ports – Lowestoft
- Associated British Ports – Newport
- Associated British Ports – Plymouth
- Associated British Ports – Silloth
- Associated British Ports – Southampton
- Associated British Ports – Swansea & Port Talbot
- Associated British Ports – Teignmouth
- Belfast Harbour Commissioners
- Blyth Harbour Commission
- Brightlingsea Harbour Commissioners
- Cattewater Harbour Commissioners (Cattewater, Plymouth)
- Chichester Harbour Conservancy
- Clydeport Operations Limited
- Corporation of Trinity House
- Cowes Harbour Commission
- Cromarty Firth Port Authority
- Dart Harbour and Navigation Authority
- Dover Harbour Board
- Falmouth Harbour Commissioners
- First Corporate Shipping Limited (Bristol)
- Folkestone Harbour Company (Folkestone)
- Forth Ports plc
- Fowey Harbour Commissioners
- Fraserburgh Harbour Commissioners
- Gloucester Harbour Trustees
- Great Yarmouth Port Authority (Great Yarmouth)
- Hampshire County Council (Hamble, River Hamble)
- Harwich Haven Authority

- Heysham Port Limited
- Highland Council Harbours Authority (Gairloch, Helmsdale, Kinlochbervie, Kyle of Lochalsh, Lochinver, Portree & Uig)
- Imerys Minerals Ltd (Par)
- Inverness Harbour Trust (Inverness, Inverness Firth)
- King's Lynn Conservancy Board
- Langstone Harbour
- Larne Harbour Limited
- Lerwick Port Authority
- Littlehampton Harbour Board
- Londonderry Port and Harbour Commissioners
- Lymington Harbour Commissioners
- Manchester Ship Canal Company
- Mersey Docks & Harbour Company (Mersey, Liverpool, Birkenhead)
- Milford Haven Port Authority
- Montrose Port Authority
- Neath Port Authority
- Newhaven Port and Properties Limited
- Northern Lighthouse Board
- Orkney Islands Council
- Padstow Harbour Commissioners
- PD Teesport
- Peel Ports Medway (Port of Sheerness Ltd)
- Peterhead Port Authority (Peterhead Bay, Peterhead Harbour)
- Poole Harbour Commissioners
- Port of Boston Limited
- Port of Cairnryan Limited
- Port of London Authority
- Port of Mostyn Ltd
- Port of Sunderland
- Port of Tyne Authority (Tyne)
- Port of Wisbech Authority
- Port of Workington
- Portland Harbour Authority Limited
- Ports of Truro & Penryn
- Portsmouth Commercial Port
- Salcombe Harbour
- Scrabster Harbour Trust (Scrabster)
- Seaham Harbour Dock Company
- Shetland Islands Council
- Shoreham Port Authority
- Stena Line Ports Limited (Fishguard, Fleetwood, Holyhead, Stranraer)
- Teignmouth Harbour Commission
- Thanet District Council (Ramsgate)
- Torbay Council Marine Services (Tor Bay; Torquay, Brixham, Paignton)
- Torridge District Council (Bideford)
- Ullapool Harbour Trustees
- Warrenpoint Harbour Authority
- Weymouth & Portland Borough Council
- Whitstable Harbour
- Yarmouth Harbour, Isle of Wight

Channel Islands

- Jersey Harbours
- States of Alderney Harbour Authority
- States of Guernsey Harbour Authority

Isle of Man

- Isle of Man Harbours Division

Republic of Ireland

- Bantry Bay Harbour Commissioners
- Commissioner of Irish Lights
- Drogheda Port Company
- Dublin Port Company
- Dun Laoghaire Harbour Company
- Galway Harbour Company
- Iarnrod Eireann – Rosslare Europort
- Kinsale Harbour Commissioners (Kinsale)
- Port of Cork Company
- Port of New Ross
- Port of Waterford Company (Waterford)
- Shannon Foynes Port Company (River Shannon, Limerick, Foynes)
- Wicklow Port Company

Other port authorities

- Gibraltar Port Authority

Other hydrographic authorities

- Argentina
- Belgium
- Croatia
- Iceland
- Malta
- The Netherlands
- Oman
- Portugal
- South Africa
- Spain **(excluding tidal data)**

Other data providers

- UK Maritime & Coastguard Agency **(bathymetry data only)**
- Civil Aviation Authority **(PEXA data only)**

2. The LICENSOR shall have the right to amend the list of CUSTODIANSHIP ORGANISATIONS in paragraph 1 of Schedule C above as the LICENSOR considers necessary.
3. The LICENSOR shall endeavour to give the LICENSEE 6 month's notice of any additions to the list and such additions shall then take effect from the start of the next ACCOUNTING PERIOD after the end of the notice period unless mutually agreed to take effect earlier.

4. The LICENSOR shall endeavour to give the LICENSEE 6 months notice of any deletions from the list and such deletions shall then take immediate effect after the end of the notice period.