



----- AGENT AGREEMENT -----
Terms and Conditions for
Certified Raster Navigational Chart Distributors

1) PURPOSE –

The Office of Coast Survey, National Ocean Service, NOAA produces Raster Navigational Charts (NOAA RNCs™) that comply with the International Hydrographic Organization Standard S-61. These RNCs are an official product of the agency. They are intended for use in meeting federal chart carriage regulations as promulgated by the United States Coast Guard, and for other purposes.

NOAA distributes the official RNCs over the Internet at no charge to the public. When downloaded by an end user, or when downloaded and redistributed by a certified NOAA Raster Navigational Chart Distributor, the RNCs retain their official status for meeting federal chart carriage regulations. No other distribution process retains this official status of NOAA RNCs™.

The Terms and Conditions herein describe the conditions under which an entity agrees to distribute official NOAA Raster Navigational Charts in order to become a certified NOAA Raster Navigational Chart Distributor (hereinafter referred to as a Distributor).

2) AUTHORITIES –

a) 33 U.S.C. 883b, which states:

“In order that full public benefit may be derived from the operations of the National Ocean Survey by the dissemination of data resulting from the activities herein authorized, and of related data from other sources, the Secretary of Commerce is authorized to conduct the following activities:

- (1) Analysis and prediction of tide and current data;
- (2) Processing and publication of data, information, compilations, and reports;
- (3) Compilation and printing of nautical charts;
- (4) Distribution of nautical charts and related navigational publications.”

b) 33 U.S.C. 883f, which states:

“The Secretary of Commerce is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the National Ocean Survey when he deems such procedure to be in the public interests.”

- c) 33 U.S.C. 892(b)(2) which gives the Administrator the following authority:

“may enter into contracts and other agreements with qualified entities, consistent with subsection (a)(8) of this section, for the acquisition of hydrographic data and the provision of hydrographic services;”

The authority in 33 U.S.C. 883b(2) and (3) permits the compilation of the Raster Navigational Charts. The authority in 33 U.S.C. 883b(4) permits their distribution. The authorities in and 33 U.S.C. 883f and 33 U.S.C. 892(b)(2) permits contracts such as this Agreement.

3) DEFINITIONS –

NOAA Raster Navigational Chart (NOAA RNC™) means a digital facsimile of a paper nautical chart, produced by or distributed on the authority of NOAA, and which conforms to International Hydrographic Office Standard S-61. Updates to NOAA RNCs are also considered as NOAA RNCs for the purposes of this Agreement.

Certified NOAA Raster Navigational Chart Distributor means an entity that has signed this Agreement, has had this Agreement cosigned by NOS, and who is adhering the terms and conditions herein while distributing NOAA Raster Navigational Charts.

- 4) METHOD OF APPLICATION TO BECOME A DISTRIBUTOR –** An entity may apply to become a Distributor by agreeing to the terms herein, and submitting a signed copy of this Agreement to:

Director; Office of Coast Survey, NOAA (N/CS)
1315 East West Highway
Silver Spring, MD 20910.

The Agreement will become effective upon co-signing by an authorized NOAA official.

- 5) PERMITTED USE OF NOAA RNCs BY DISTRIBUTOR –** NOAA Raster Navigational Charts and updates are provided to certified Distributors in order that they may be redistributed to end users and others. Distributors may redistribute, repackage, compress, encrypt, package with other data or services, and sell NOAA Raster Navigational Charts for whatever price they chose.

- 6) LIMITATIONS ON USE –** Distributor agrees to the following.

- a) NOAA Raster Navigational Charts shall be ordered and received in the manner specified by NOS. Received files shall be appropriately inspected to insure that the NOAA RNCs are uncorrupted.
- b) Only the most recent files made available by NOAA shall be distributed. New files shall be acquired from NOAA when a Distributor’s distribution event (e.g., CD mastering, electronic distribution) takes place.
- c) Updates to NOAA Raster Navigational Charts provided by NOAA shall be made readily available to Distributors’ customers in a timely manner
- d) The NOAA Raster Navigational Charts shall be distributed without alteration except as noted in the section “Permitted Use of NOAA RNCs by Distributor” herein.
- e) Should Distributor compress or encrypt the NOAA RNCs, it shall be done in such a manner that when uncompressed or unencrypted, the resulting file is identical to that provided by NOAA (e.g., any compression method used shall be lossless.)

- f) NOAA RNCs shall not be used or distributed for the production of other official products of NOAA. For example, should a NOAA RNC be printed, the result is not a NOAA paper chart, shall not contain the NOAA emblem, and shall not be represented as meeting federal chart carriage regulations.
- g) Any data or services that a Distributor provides with or using NOAA RNCs shall not result in a safety hazard, or in embarrassment to the Department of Commerce or NOAA.
- h) Distributor shall adhere to the standards of quality and service and representation for the NOAA RNCs, their delivery, and related matters as may be specified by NOS.

7) LABELING –

- a) Distributor shall provide a clear indication as to what is being provided using such means as package labeling, and notifications in software. For example, if Distributor packages other data with the NOAA RNCs, Distributor shall clearly indicate what files are official NOAA RNC data and what files are not.
- b) Distributors shall provide a clear indication as to the purpose of its products using such means as package labeling, and notifications in software. For example, labels may indicate whether the product is suitable for navigation and meets Federal chart carriage requirements. If only some files meet carriage requirements, Distributor shall provide clear indication as to which files do and which files do not.
- c) No advertising or claims shall constitute any endorsement of, or favoritism toward, any non-NOAA data concurrently distributed, nor any services provided by Distributor. Additionally, no advertising or claim shall result in embarrassment to the Department of Commerce or NOAA.

8) RECORD KEEPING –

- a) Distributor agrees to establish a means of communicating with recipients to whom it has distributed NOAA RNCs, such as by keeping a list of recipients and their contact information and which NOAA RNCs they received. In the event NOAA finds it necessary to provide NOAA RNC users with information about the RNCs, such as safety notifications, Distributor agrees to notify the recipients of that information.
- b) Distributor agrees to report quarterly to NOS on the quantity of each NOAA RNC and RNC update that were distributed.

9) TERMINATION –

- a) NOS may terminate a Distributor's certification and its access to NOAA RNCs at any time without notification if, in its sole judgment, public safety is affected in an adverse manner by actions or products of the Distributor.
- b) NOS may terminate a Distributor's certification and its access to NOAA RNCs at any time by giving 30 days written notification if, in its sole judgment, the Distributor is not in conformance with the Terms and Conditions stated herein. Distributor shall have said 30 days to remedy any lack of conformance to the Terms and Conditions identified by NOS. Distributors terminated for Agreement infractions normally will not be considered for reinstatement for one year.
- c) Either party may terminate this Agreement at any time by giving 45 days written notification.
- d) NOS participation in the provision of NOAA Raster Navigational Charts is subject to the availability of funds.
- e) In the event this Agreement is terminated for any reason, Distributor shall return all data, digital files, and information provided by NOS. In addition, Distributor shall cease to manufacture and/or sell NOAA RNCs, and shall notify all recipients of its product that its certification has

been revoked and that products being distributed by Distributor may no longer be valid for all uses.

- 10) **AUDIT** – A representative of NOAA may audit the Distributor’s compliance with this Agreement. Distributor agrees to provide information requested by that representative in the performance of the audit.
- 11) **USE OF THE NOAA EMBLEM AND NAME** – Distributor may use the phrase “Certified NOAA Raster Navigational Chart Distributor” and the Certified NOAA Raster Navigational Chart Distributor “Certificate of Authenticity,” which includes the NOAA emblem, in correspondence and promotional materials.
- 12) **FRANCHISE** – Distributors do not have exclusive franchise to distribute NOAA Raster Navigational Charts in any geographic area or to any group of consumers. NOS reserves the right to determine the number of Distributors.
- 13) **LIABILITY** – Distributor agrees to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, arising out of actions by the Distributor, its employees, or any Party acting on its behalf or under its authorization, in performance of activities under this Agreement.
- 14) **INSURANCE** – Distributor agrees to carry insurance in an amount reasonably appropriate for the product being sold that is or includes NOAA RNCs.
- 15) **TRANSFER OF DISTRIBUTORSHIP** – This Distributorship is not transferable. A change in ownership, firm name, or address must be reported immediately to the NOS in writing. A new Agreement will be required for a change in ownership or firm name.
- 16) **CONFIDENTIALITY** – Any information requested by the government from the Distributor, and appropriately identified as confidential by the Distributor, shall be deemed confidential and proprietary to the Distributor. The government agrees to not reveal, divulge, make known, or in any other way transfer said confidential information to any third party or to utilize any confidential information so disclosed in direct or indirect competition with the Distributor during the term of this Agreement or for six (6) months after its termination.
- 17) **PATENTS, TRADEMARKS AND COPYRIGHT** – Distributor accepts the following. The BSB file format used for the NOAA RNCs is the sole property of Maptech, Inc. and as such is protected by U.S. and International foreign copyright and patent laws. “NOAA[®]” and the NOAA[®] emblem are registered trademarks of the National Oceanic and Atmospheric Administration. NOAA RNC[™] is a trademark of the National Oceanic and Atmospheric Administration. “Maptech” and the Maptech emblem are registered trademarks of Maptech, Inc. “BSB File Format” is a trademark of Maptech, Inc.
- 18) **APPEALS** – Any entity may appeal an action or decision made by the Office of Coast Survey under this Agreement. Said appeal shall be submitted in writing to the Director, Office of Coast Survey, (N/CS), 1315 East West Highway, Silver Spring, MD 20910. The Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA, shall arbitrate appeals using procedures to be established at the time of the appeal, and which shall be appropriate to the nature and circumstances of the appeal. The determination from said arbitration shall be final for purposes of judicial review under the Administrative Procedure Act and other statutes.

19) **AMENDMENT** – The Terms and Conditions herein may be amended by NOS upon giving 30 days notice and opportunity for comment.

ACCEPTANCE BY DISTRIBUTOR

I agree to become a certified Raster Navigational Chart Distributor for NOAA raster navigational charts, and accept and will adhere to the foregoing terms.

Signed (for the Distributor) Date

Printed Name:

Business Name:

Address:

Phone: _____

Fax: _____

E-mail: _____

Website Address: _____

(Note: NOAA will display this Website address if you include it.)

ACCEPTANCE BY NOAA

Signed (for NOAA) Date

Printed Name:

Address:

Phone: _____

Fax: _____

E-mail: _____