

OMC END USER LICENCE AGREEMENT (EULA)

1. End User Licence Agreement (EULA)

- 1.1 This EULA governs the legal use of the "software-as-a-service" (also known as "SAAS software") software applications that are proprietary to OMC International Pty Ltd ACN 066709724 (**OMC, we, us**) and used for our digital port solutions and e-navigation Products (with each Product being supplied via an "App") that are specifically licensed to the Customer and Users (**Customer, you**), pursuant to the Contract the Customer has with us.
- 1.2 We reserve the right to change this EULA at any time without notice to you by posting changes on the <https://omcinternational.com/> website (the "Website") or by updating the App to incorporate the new EULA. You are responsible for regularly reviewing information posted online to obtain timely notice of such changes. Your continued use of the App after changes are posted constitutes your acceptance of the amended EULA.
- 1.3 This EULA sets out the terms of use on which you may make use of our Apps, whether the App is available on the desktop, laptop or mobile devices.
- 1.4 Please read this EULA carefully before you download, install or use the App. By downloading, installing or using the App, you indicate, and it constitutes that you accept this EULA and that you agree to abide by this EULA (which takes effect on the earlier of date on which you download, install or use the App). If you do not agree with this EULA, you should cease downloading, installing or using the App immediately.

2. SAAS Licence

- 2.1 Subject to all limitations and restrictions contained herein and the express terms of the Contract for the supply of Product, we grant the Customer and its Users a term subscription, software-as-a-service, non-exclusive, and non-transferable right to use the App/s as described in the Contract, solely for the Permitted Use and solely to perform those functions:
 - (a) as described for the relevant Product in the Product Guide; and
 - (b) for the Software Licence Term and the Renewal Term/s.
- 2.2 The licence does not permit the Customer to sub-licence, develop, modify or adapt any of our Apps, any software in them or any of our documentation in any way.
- 2.3 You must not:
 - (a) use or copy any material from an App, including, but not limited to, onto other websites or in other mobile applications;
 - (b) frame any of our Apps onto your own or another person's website or software applications (including mobile, tablet or otherwise); or
 - (c) allow or enable access to the App by any malware, bot or other malicious software.
 - (d) allow any other software, program or application to frame, syndicate, distribute, replicate, or copy any portion of our App/s or software in them.
- 2.4 Unless otherwise expressly permitted in the Contract with us, you shall not permit any third parties to access or use our Apps.

3. Licence Type

- 3.1 The Customer is responsible for and shall ensure that the number of the active Users of the App is equal to or less than the number of User accounts for which the Customer has purchased in the Contract. The Customer and each User is responsible for ensuring that access to a User account is not shared. Only one individual who is authorised may authenticate its use of the App to one User account. Hardware or software the Customer or a User uses to pool connections, reroute information, or reduce the number of users that directly access or use the Software (sometimes referred to as "multiplexing" or "pooling"), does not reduce the number of licences or active Users.
- 3.2 In no event will the Customer or any User disassemble, decompile, jailbreak or reverse engineer any of our Apps, the software in them or any confidential information in such or permit others to do so. Disassembling, decompiling, jailbreaking and reverse engineering include, without limitation:
 - (a) converting an App from a machine-readable form into a human-readable form;
 - (b) disassembling or decompiling an App by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof;
 - (c) examining the machine-readable object code or executable code that controls an App's operation and creating the original source code or any approximation thereof by, for example, studying an App's behaviour in response to a variety of inputs; or
 - (d) performing any other activity related to an App that could be construed to be reverse engineering, jailbreaking, disassembling, decompiling or is activity that is malicious in nature.
- 3.3 To the extent that any such activity may be permitted pursuant to written agreement, the results thereof will be deemed confidential information subject to the requirements of this EULA and owned by us. The Customer and Users may only use our confidential information solely in connection with our Apps and pursuant to this EULA.
- 3.4 Our Apps may contain third party software or the supply of data or information services that requires notices and/or additional terms and conditions. Such

required third party software notices and/or additional terms and conditions may be requested by us and the Customer will be bound to such terms (including Users will be bound to end user licence terms).

- 3.5 We own or have a licence to all rights, title, and interest in and to our Apps subject to any limitations associated with intellectual property rights of third parties. Our rights apply to the Apps, all output and executables of the software in them, excluding any software components developed by the Customer which do not themselves incorporate our software or any output or executables of our software.
- 3.6 The Customer and Users each irrevocably acknowledge that, subject to the licences granted, they have no ownership interest in our Apps, our software, or our documents or materials provided to you in respect of such. We reserve all rights not specifically granted herein.
4. **Use of our Apps**
- 4.1 Each User who uses our Apps will do so with due care and skill, strictly for the Permitted Use for the relevant App and in accordance with the Product Guide and Operating Procedures for that Product, the instructions and training we provide, and the instructions of third party suppliers of data and inputs for that Product.
- 4.2 Use of our Apps does not include the provision of a computer, mobile device or other necessary equipment (including hardware and operating software) to access it. To use our Apps you will require Internet connectivity and appropriate telecommunication links. We shall not have any responsibility or liability for any telephone, data or other costs you may incur.
- 4.3 You shall not in any way use our Apps, or submit to us or to an App, or to any user of an App anything which in any respect:
 - (a) is in breach of any law, statute, regulation or by-law of any applicable jurisdiction;
 - (b) you do not have consent to do so;
 - (c) is wilfully misleading, fraudulent, criminal or unlawful;
 - (d) is inaccurate or out-of-date;
 - (e) may be obscene, indecent, vulgar, profane, racist, sexist, discriminatory, offensive, derogatory, harmful, harassing, threatening, embarrassing, malicious, abusive, hateful, menacing, defamatory, untrue or political;
 - (f) impersonates any other person or body or misrepresents a relationship with any person or body;
 - (g) may infringe or breach the copyright or any intellectual property rights (including without limitation copyright, trademark rights and broadcasting rights) or privacy or other rights belonging to us or any third party;
 - (h) is contrary to any specific rule or requirement under maritime law, standard industry practice or that we stipulate in an App in relation to a particular part of an App or an App generally; or
 - (i) adversely impacts the stability of <https://omcinternational.com/>, any App or any App's servers or adversely impacts the behaviour of other applications using our Apps;
 - (j) involves your use, delivery or transmission of any viruses, unsolicited emails, trojan horses, trap doors, back doors, easter eggs, worms, time bombs, cancelbots, spyware or computer programming routines that are intended to damage, overwhelm or flood, harvest data from, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information including our App and any of our databases.
- 4.4 You agree not to reproduce, duplicate, copy or re-sell any of our Apps or any part of them save as may be permitted by this EULA.
- 4.5 You agree not to access without authority, interfere with, damage or disrupt:
 - (a) any part of an App;
 - (b) any equipment or network on which an App is stored;
 - (c) any software used in the provision of an App; or
 - (d) any equipment or network or software owned or used by any third party.
- 4.6 You assume sole responsibility for results obtained from the use of our Apps, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to us by you in connection with our Apps, or any actions taken by us at your direction.
- 4.7 You agree to comply at all times with any Operating Procedures and instructions for use of the App which we make from time to time.
- 4.8 If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential, you must keep it secure and you must not disclose it to any third party. We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of this EULA.
5. **Availability of the App, Security & Accuracy**
- 5.1 We make no warranty that your access to any of our Apps will be uninterrupted, timely or error-free. Due to the nature of the internet, this cannot be guaranteed. From time to time, we will have IT environment, infrastructure and network maintenance issues to deal with and, additionally, we may occasionally need

- to carry out repairs, maintenance or introduce new facilities and functions to our Products. These things may cause any of our Apps to suffer downtime without being a defect or resulting in any refund, loss or damages to you.
- 5.2 Access to our Apps may be suspended or withdrawn to or from you personally or all users temporarily at any time and without notice where your use is in breach of this EULA or you are no longer appropriately trained, authorised or certified to be a User.
- 5.3 We will use reasonable efforts to maintain the availability of our Apps however we provide to Users it without any specific service level or uptime level (Customers please refer to the Product Guide).
- 5.4 Except as otherwise expressly provided for Customers in their relevant Contract with us, we may change or update an App without notice to you. From time to time we will update an App and you will be required to update it at your end accordingly. If you do not update as required, you may still be able to use the relevant App however you may not receive optimised service and we do not support or warrant the older versions of our Apps. To the full extent of the law, we disclaim the service that you receive in respect of such older version (if you receive it at all).
- 6. Service Availability**
- 6.1 We will use reasonable efforts to maintain the availability of our Apps however we provide them "as is" and without any specific service level or uptime level, except as otherwise expressly provided for Customers in their relevant Contract with us.
- 6.2 Except to the extent the relevant Contract expressly provides otherwise, we may elect to provide the Customer with support or modifications for our Apps, in our sole discretion, and may terminate such support at any time without providing notice to the Customer or any User.
- 6.3 You acknowledge and agree that we may throttle down or restrict any usage of an App or our software where the Customer or Users exceed the usage provided under the relevant Contract.
- 7. Suggestions/Improvements to Software**
- 7.1 Unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by you regarding the App, any of our Products or software in them, or any of our other materials and documents, will be owned by us, and you hereby agree to assign any such rights to us. Nothing in this EULA will preclude us from using in any manner or for any purpose (we deem necessary) the know-how, techniques, and procedures acquired or used by us in the performance of Services or the supply of our Apps.
- 8. Data**
- 8.1 Customer data uploaded by the Customer is owned by or licensed to the Customer and/or the relevant individual User, not by us. Data that you provide to us may include real time or forecast environmental data (including wind, wave and tide data), hydrographic bed level data, ship particulars data (including dimensions, displacement, stability data, vessel speed, vessel position), pilotage records, and other data provided by, for or on behalf of the Shipper or any third party to be input into our App for the purpose of processing by our App.
- 8.2 The Customer and Users shall:
- be responsible and liable for securing all relevant rights, licences and consents from suppliers and individuals for the purpose of storing, accessing and using their data and personal information with the Apps;
 - collect, upload and update data and personal information in an accurate and up-to-date manner;
 - keep safe and secure all login details, passwords and security of access to the Apps;
 - ensure that only authorized recipients of the Customer use, obtain copies of, or have access to Customer data;
 - comply with any requirements or restrictions imposed on the use of Customer data and personal information by their respective owners, Customer privacy policies, third party supplier terms and conditions, and by law. In all cases, the Customer and its Users are solely responsible for making use of such data in compliance with the applicable Customer's requirements, obligations and restrictions;
 - remove from our Apps any personal information that an individual User asks the Customer to remove within 24 hours;
 - disclose through a privacy policy how it collects, uses, stores and discloses data collected from Users of our Apps;
 - notify us without undue delay (and in any event within 48 hours), of any request for information from or complaint by a regulatory authority in relation to the privacy of Customer or User data on our database.
- 8.3 Where we hold data for you, we will hold it in databases located in Australia, New Zealand, Canada, USA, UK and Ireland. Due to the nature of our Products, it may be the case that data is accessed from areas other than those listed.
- 8.4 The Customer grants us a non-exclusive, royalty-free licence to access, use, reproduce, modify, perform, display and distribute Customer data and personal information:
- as is reasonable or necessary for us to provide the App and our Product under your Contract with us; and
 - where we have anonymised or aggregated such data, for research, product development, marketing and business development purposes.
- 9. Intellectual Property**
- 9.1 As between you and us, we are the sole and exclusive owner or the licensee of all intellectual property rights in our Apps, and in the material we publish on them (other than Customer or User data). Those works are protected by copyright and trademark laws and treaties around the world. All such rights are reserved.
- 9.2 You may print off one copy, and may download extracts, of any page(s) from the App for your personal reference and you may draw the attention of others within your organisation to material available on the App.
- 9.3 You must not modify the paper or digital copies of any materials you have printed off or downloaded in any way.
- 9.4 You must not use any part of the materials on the App for commercial purposes without obtaining a licence to do so from us or our licensors.
- 9.5 If you print off, copy or download any part of an App in breach of this EULA, your right to use our Apps will cease immediately and you must, at our option, return or destroy any copies of the materials you have made.
- 9.6 We will have no liability for any claim of intellectual property infringement based on:
- any App or software in it which has been modified by a party other than us where the infringement claim would not have occurred in the absence of such modification;
 - the Customer's or User's use of an App or any of our software in conjunction with data where use with such data gave rise to the infringement claim; or
 - the Customer's or User's use of an App or our software outside the Permitted Use or outside the scope of this EULA.
- 9.7 Should an App or any of our software become, or in our opinion is likely to become, the subject of a claim of infringement, we may, at our option:
- obtain the right for the Customer (and its Users) to continue using the relevant App;
 - replace or modify the relevant App/s so it is no longer infringing or reduces the likelihood that it will be determined to be infringing; or
 - if neither of the foregoing options is commercially reasonable, terminate the access and use of the relevant App/s. Our liability upon such termination is provided for in the Contract with the Customer.
- 10. Independence from Platforms and Other Parties**
- 10.1 Our Apps are independent of any third party data or information supplier that feeds data or information into or in connection with our Apps. Our Apps are not associated with, affiliated with, sponsored by or endorsed by (nor do we sponsor or endorse) such suppliers. Your use of their data or information is subject to their terms and conditions which apply.
- 10.2 We have no control over and accept no responsibility for the content of any website, software program or mobile application which is linked to our Apps. Such linked websites and mobile applications are provided "as is" for your convenience only with no warranty, express or implied, for the information provided within them. We do not provide any endorsement or recommendation of any third party website or mobile application to which our Apps are linked. The terms and conditions, terms of use and privacy policies of those third party websites, software programs and mobile applications will apply to your use of those websites, software programs and mobile applications and any orders you make for goods and services via such websites, software programs and mobile applications. If you have any queries, concerns or complaints about such third party websites or mobile applications (including, but not limited to, queries, concerns or complaints relating to products, orders for products, faulty products and refunds) you must direct them to the operator of that third party website or mobile application.
- 11. Term and Termination**
- 11.1 Unless we terminate this EULA under a provision of the Contract with the Customer (including this EULA), the term of this EULA will continue until the expiry or termination of the last Software Licence Term or Renewal Term under the Customer's Contract with us.
- 11.2 The Customer's and the User's rights under this EULA in respect of a User will terminate automatically without notice from us if the Customer or the User fails to comply with any clause of this EULA. Upon the termination of this EULA the Customer's and relevant User's use of our Apps, Products and our software will be restricted accordingly.
- 12. General Use**
- 12.1 The Apps, software, interfaces, content, fonts, documentation and any data that we provide to the Customer and Users under the Software Licence (as may be

- updated or replaced by software updates or system restore software provided by us whether in firmware on any other media or in any other form) are licensed to the Customer (for the number of Users stated in the Contract only) on a non-exclusive, revocable, non-transferable basis for the Customer to make reasonable use of the Apps subject of the for the Permitted Use under the terms of the relevant agreed Proposal, this EULA and the Contract, and not for any other purpose.
- 12.2 We retain all ownership of and licensing rights in the Apps, the software in them and any related documentation, and reserve all rights not expressly granted to the Customer.
- 12.3 We, at our discretion, may make available future updates to the Apps.
- 12.4 The Customer remains solely responsible for implementing adequate and industry standard virus protection measures to all parts of its IT environment in order to protect the Apps from viruses, malware and other malicious action.
- 12.5 Any additional software which is downloaded by the Customer or User, which is not already pre-installed on its system or environment, is solely done at the Customer's risk.
- 12.6 The Customer will receive updates as they become available. The Customer and its Users are responsible for keeping the Apps up-to-date and must accept automatic updates to the Apps at all times. You are responsible for keeping the operating system of your devices up-to-date with available patches and upgrades at all times.
- 12.7 From time to time we will deprecate older operating system versions, supporting software, firmware or hardware minimum specifications. We will use reasonable endeavours to give 30 days' notice in such circumstances and after this period the Customer and Users must move away from any such deprecated hardware, software and/or operating systems at the Customer's expense.
- 13. Permitted Software Licence Uses and Restrictions**
- 13.1 Each Software Licence for Products in the Contract permits the Customer to use the named Apps for the number of Users and for the period of the Software Licence Term and Renewal Term/s according to the terms of the relevant Contract.
- 13.2 The Software Licence does not permit the Customer or any User to rent, lease, lend, charge, redistribute, sub-licence, develop, modify or adapt any Product, App, software or software updates in any way.
- 13.3 The Customer and the User must not make any Apps (or any software in them) available over a network where it could be used by users who are not subject to the direction or control of the Customer, unless otherwise agreed in writing by us.
- 13.4 This EULA does not grant the Customer or the User any rights to use our proprietary interfaces or any of our intellectual property rights in our Products in the design, development, manufacture, licensing or distribution of any other software, third party devices or accessories (whether for use with the Software or not).
- 13.5 Except as and only to the extent expressly permitted in this EULA or by applicable law, the Customer and each User must not copy, decompile, reverse engineer, jailbreak, disassemble, and attempt to derive the source code of, decrypt, modify, or create derivative works of our Products, the Software (or any updates) or any part thereof. Any attempt to do so is a violation of our rights. If the Customer or the User breaches this restriction, it may be subject to prosecution and damages.
- 13.6 USE OF OUR PRODUCT, APPS AND/OR SOFTWARE DOES NOT GIVE ANY INDICATION THAT USERS ARE SAFE OR IN DANGER, NOR DOES IT NECESSARILY RECORD EACH INTERACTION A USER HAS WITH ANY FAUNA, FLORA OR PLACE THAT HE OR SHE IS NEAR OR IN CONTACT WITH. USE OF OUR PRODUCTS AND/OR SOFTWARE DOES NOT MEAN THAT THE USER IS PROTECTED FROM ANY HARM, INJURY, DAMAGE OR LOSS, NOR DOES IT MEAN THAT THE USER IS NOT SOLELY RESPONSIBLE FOR HIS OR HER OWN SHIPPING AND SAFETY PROTOCOLS OR HEALTH AND SAFETY.
- 13.7 Our Products are an aid to traditional and industry standard maritime knowledge, skills and experience. Due to our Products relying on your inputs and data, the Customer's standard operating procedures, third party data and changing geographic, climate and weather conditions, inaccuracies may occur. The use of any of our Products is not a substitute for proper navigation, shipping and safety procedures. You accept that no responsibility for the operations or navigation of any vessel rests with us.
- 14. Product Warranty**
- 14.1 The warranties for our Apps are for the benefit of our Customers and are set out in the Contract with that Customer. To the maximum extent permitted by law, and except as expressly provided for in the Standard Terms & Conditions, OMC makes no other representation or warranty with respect to our Apps or software in them, especially to Users.
- 14.2 Use of our Apps and our software are subject the terms of our Product Guide. Where a non-conformance under this EULA or under a Product Guide occurs, the Customer (not individual Users) shall:
- (a) notify us promptly in writing of any such non-conformance;
 - (b) provide us with a reasonable opportunity to remedy any such non-conformance; and
 - (c) provide reasonable assistance in identifying and remedying any such non-conformance.
- 14.3 We do not warrant that our Apps will be compatible with all hardware and software which you may use.
- 14.4 Other than where we expressly represent or warrant in the Contract, we make no other representations or warranties, express or implied, in respect of the information and materials on the App. To the full extent of the law, no warranty or representation (including implied), is given that such information and materials are complete, accurate, up-to-date or fit for a particular purpose and, to the extent permitted by law, we do not accept any liability for any errors or omissions. This shall not affect any express obligation which we may have under any Contract that we may have with a Customer to provide Products.
- 14.5 To the best of our knowledge, the Apps do not contain any malicious code, program, or other similar internal component (eg: computer virus, computer worm, or similar component), which could damage, destroy, or alter the Apps, or which could reveal, damage, destroy, or alter any data or other information accessed through or processed by the Apps in any manner other than code we may use to suspend or terminate access to the Apps and/or any part of it at any time under this EULA or any part of the Contract.
- 14.6 Except as expressly stated in the Contract with Customers, the Apps, the software in them and any other technology or materials provided by us to the Customer and Users are provided "as is" and without warranty of any kind. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS EULA, WE MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NEITHER WE (NOR ANY OF OUR SUBSIDIARIES, AFFILIATES, SUPPLIERS OR LICENSORS) WARRANT OR REPRESENT THAT THE APPLICATION OR THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ERRORS WILL BE DETECTED OR CORRECTED. WE DO NOT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR ANY COMPUTER VIRUSES, BUGS, MALICIOUS CODE OR OTHER HARMFUL COMPONENTS, DELAYS, INACCURACIES, ERRORS OR OMISSIONS, OR THE ACCURACY, CURRENCY, COMPLETENESS, RELIABILITY OR USEFULNESS OF THE INFORMATION DISCLOSED OR ACCESSED THROUGH THE APP. WE EXCLUDE ANY LIABILITY OR RESPONSIBILITY FOR ANY EVENT OR LIABILITY THAT ARISES DURING OR AS A RESULT OF EXTREME OR UNFORESEEABLE WEATHER, CLIMATIC OR MARITIME CONDITIONS. THE CUSTOMER ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF CUSTOMER'S PRIVACY, DATA, CONFIDENTIAL INFORMATION, AND/OR PROPERTY. WE HAVE NO DUTY TO UPDATE OR MODIFY THE APP AND WE ARE NOT LIABLE FOR OUR FAILURE TO DO SO. IF ANY LIMITATION ON REMEDIES, DAMAGES OR LIABILITY IS PROHIBITED OR RESTRICTED BY LAW, WE SHALL REMAIN ENTITLED TO THE MAXIMUM DISCLAIMERS AND LIMITATIONS AVAILABLE UNDER THIS AGREEMENT, AT LAW AND/OR IN EQUITY.
- 14.7 Notwithstanding anything to the contrary in the Contract, any and all warranties under the Contract are VOID if the Customer or any of its Users makes any change to an App or the software in it other than by or with our express written approval (executed by one of our officers).
- 15. Liability**
- 15.1 The indemnity and liability provisions in the Contract apply to this EULA in respect of the Customer. To the maximum extent at law, our liability to Users is excluded and where it cannot be excluded, the limitations in the Contract will apply.
- 15.2 To the maximum extent permitted at law:
- (a) in respect of the EULA, our liability to any User is capped at the amount paid for the App/s for that User (as provided for in the Contract relevant to the Customer that the User is associated with);
 - (b) IN NO EVENT WILL WE BE LIABLE TO THE CUSTOMER OR USER IN RESPECT OF APPS, PRODUCT OR SOFTWARE THAT HAS NOT BEEN PAID FOR;
 - (c) IN NO EVENT WILL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING DAMAGES WHICH DO NOT NATURALLY ARISE) AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OR CORRUPTION OF DATA OR INFORMATION, BUSINESS INTERRUPTION OR LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITIES, GOODWILL OR DAMAGE OR INJURY TO THE HEALTH OR SAFETY OF ANY PERSON OR INDIVIDUAL;

- (d) THESE LIMITATIONS APPLY EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY;
- (e) we shall not be liable for damage to any equipment (including but not limited to your mobile device), software, data or other property as a result of your download, installation, access to or use of an App or your obtaining any material from, or as a result of using, an App; and
- (f) we shall not be liable for the acts or omissions of third parties (including third party data and information suppliers), changes in geographical, climate or weather conditions, the customer's standard operating procedures, standard operating procedures enforced by the harbour master or relevant authority, or user error.

16. Your Representations and Warranties

- 16.1 You represent and warrant that:
 - (a) your use of our Apps will be in strict accordance with this EULA and with all applicable laws and regulations, including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and regarding the transmission of technical data exported from the country in which you reside or are using our Apps; and
 - (b) your use of our Apps, and the data or information you upload to it, will not infringe or misappropriate the intellectual property rights of any third party.
- 16.2 You must comply with any applicable third party terms of agreement when using an App (e.g. you must ensure that your use of the App is not in violation of your mobile device agreement or any data service agreement).

17. Indemnity

- 17.1 You agree to indemnify and hold OMC and each of our affiliates, successors and assigns, and their respective officers, directors, employees, agents, representatives, licensors, and operational service providers harmless from and against any and all losses, expenses, damages, costs and expenses (including attorneys' fees), resulting from your use of an App and/or any violation of the terms of this EULA. We reserve the right to assume the exclusive defence and control of any demand, claim or action arising hereunder or in connection with an App and all negotiations for settlement or compromise. You agree to fully cooperate with us in the defence of any such demand, claim, action, settlement or compromise negotiations, as requested by us.

18. Personal information

- 18.1 We process personal information (including cookies) in accordance with our Privacy Policy, which is available on our website at <https://omcinternational.com/>. By using an App, you consent to such processing and our use of your data (including personal information).
- 18.2 You warrant that all data provided and used by you with our Apps is accurate and up-to-date.

19. General terms

- 19.1 This EULA (and any other document expressly referred to in this EULA and any other terms and conditions specifically agreed between you and us in writing) contain all of the terms agreed between us and you regarding their subject matter and supersedes and excludes any prior terms and conditions, understanding or arrangement between us and you, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between us and you prior to this EULA except as expressly stated in this EULA.
- 19.2 Clauses in this EULA which are intended to survive termination or expiration (eg: terms in respect of intellectual property, liability and indemnities) will survive the termination or expiration of this EULA and any applicable licence hereunder.
- 19.3 This EULA and any access to or use of any of our Apps will be governed by the laws of Victoria, Australia and subject to the non-exclusive jurisdiction of Victoria, Australia.
- 19.4 A waiver by either party of any term or condition of this EULA or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof.
- 19.5 You may not assign your rights under this EULA to any party. We may assign our rights under this EULA. We may subcontract any part of the services we provide.
- 19.6 This EULA makes up part of the Contract with the Customer however separately it binds Users. This EULA is to be read with the Standard Terms & Conditions. In respect of any App, in the event of any inconsistency with those terms and this EULA, this EULA will prevail.
- 19.7 Terms used in this EULA not defined in this EULA will have the meanings used in the Standard Terms & Conditions.

20. OMC INFORMATION

For further information (including relating to a Product Guide), please contact OMC at +61 3 9412 6500