



**No-Fee End-Use Restricted Licence Agreement  
For Government Geographic Data**

**This Licence Agreement**

**BETWEEN:**

**Her Majesty the Queen in Right of Canada, as represented by  
the Minister of Environment (“Canada”)**

**AND:**

\_\_\_\_\_ (“Licensee”)

**WITNESSES THAT:**

**I. WHEREAS** Canada is the owner, or licensee, of Intellectual Property Rights in and to Canada Digital Data, as described in Schedule “A” attached hereto;

**II. AND WHEREAS** the Licensee is interested in acquiring certain rights to the Canada Digital Data for the purpose of informing land use planning activities; and

**III. AND WHEREAS** Canada, in support of their development of recovery strategies for species at risk and in order to meet their obligations under the *Species at Risk Act* (including Sections 39 and 61), is willing to grant to the Licensee certain rights to the Canada Digital Data,

**NOW THEREFORE**, in consideration of the covenants contained in this Agreement, the Parties agree as follows:

## 1.0 DEFINITIONS

1.1 “**Agreement**” means this no-fee end-use licence agreement, its recitals and the schedule attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

1.2 “**Canada’s Data**” means that Data contained in the Canada Digital Data, the Intellectual Property Rights of which vest in Canada.

1.3 “**Canada Digital Data**” means the Digital Data, metadata and related documentation described in Schedule “A” attached hereto, provided by Canada to the Licensee in accordance with the terms and conditions of this Agreement. Canada’s Data is contained in the Canada Digital Data. Canada Digital Data may also contain Data, the Intellectual Property Rights of which vest with third parties, and which is licensed to Canada.

1.4 “**Data**” means any expressed original data fixed in a form giving rise to Intellectual Property Rights, such as described in Schedule “A” attached hereto.

1.5 “**Derived Products**” means any product, system, sub-system, device, component, material or software developed or caused to be developed by the Licensee that interprets the Canada Digital Data or is based on that Data, in whole or in part.

1.6 “**Intellectual Property Rights**” means any and all Intellectual Property Rights recognized by the law, including but not limited to, Intellectual Property Rights protected through legislation.

1.7 “**Party**” means either one of the signatories to this Agreement and includes their respective servants, agents and employees. “**Parties**” means the signatories to this Agreement and includes their respective servants, agents and employees.

## 2.0 INTELLECTUAL PROPERTY RIGHTS

2.1 Subject to section 2.2 hereof, and without affecting Canada’s Intellectual Property Rights in and to Canada’s Data and any third-party’s Intellectual Property Rights in Data contained in the Canada Digital Data, all Intellectual Property Rights in and to any modification, translation, improvement or further development made by the Licensee to the Canada Digital Data, including any Derived Product, shall vest in the Licensee or in such person as the Licensee shall decide.

2.2 All Intellectual Property Rights in and to Canada’s Data shall remain the Property of Canada. All Intellectual Property Rights in and to the Data contained in the Canada Digital Data which is not Canada’s Data shall remain the Property of the respective content owners and may be protected by copyright, other Intellectual Property laws, common law or international treaties.

### **3.0 LICENCE GRANT**

3.1 Subject to this Agreement, Canada hereby grants to the Licensee a royalty-free, nonexclusive, world-wide, non-assignable licence to use, reproduce, extract, modify, translate and further develop the Canada Digital Data, for the Licensee's own internal use, and as is necessary for the manufacture and distribution of Derived Products, for the whole of the period of time described in section 8.0 below (*Term*) PROVIDED all reproductions of the Canada Digital Data include the notice provided in section 5.1 and shall carry the caveat contained in section 7.1 hereof. For clarity, and as indicated in subsection 1.5 above, a Derived Product does not contain Canada Digital Data, in whole or in part.

### **4.0 RESTRICTIONS ON USE OF THE CANADA DIGITAL DATA**

4.1 Notwithstanding section 3.1 above, the Licensee shall not, nor allow or direct any person to:

- (a) disassemble, decompile except for the specific purpose of recompiling for software compatibility, or in any way attempt to reverse engineer the Canada Digital Data or any part thereof;
- (b) publish, communicate or distribute the Canada Digital Data or any part thereof, to a third party, for any purpose whatsoever; or
- (c) merge or link the Canada Digital Data with any product or database in such a fashion that gives the appearance that the Licensee may have received, or had access to, information held by Canada about any identifiable individual, family, household, organisation or business.

### **5.0 PROTECTION AND ACKNOWLEDGEMENT OF SOURCE**

5.1 The Licensee shall include and maintain on all reproductions of the Canada Digital Data, produced pursuant to section 3.0 above, as well as all metadata that was provided by Canada with the Canada Digital Data, the following notice:

*Reproduced with the permission of Environment Canada.*

5.2 The Licensee shall ensure that no acknowledgment of Canada, except as permitted under section 5.1 above, shall be shown in association with any form of promotion or advertisement of Derived Products. The Licensee shall not include in its promotional material:

- (a) the name, crest, logos, flags or other insignia or domain names of Canada, without the prior written approval of Canada, which approval may be refused at Canada's sole discretion; or
- (b) any annotation of any kind that may be interpreted as an endorsement by Canada of the Derived Products.

5.3 The Licensee shall include in a prominent location on all Derived Products the following notice:

*This product has been produced by or for  [LICENSEE NAME]  based on data provided by Environment Canada.*

## **6.0 OBLIGATIONS OF THE LICENSEE**

6.1 The Licensee shall promptly notify Canada of any infringement by third parties of the Canada Digital Data when such becomes known to the Licensee and where possible provide a sample of such infringement and co-operate with Canada in enforcing Canada's Intellectual Property Rights against the infringer. The Licensee shall not institute any suit or take any action on account of any such infringements without Canada's prior written consent.

6.2 The Licensee shall not use any identifier or mark of Canada, or the name of Environment Canada in a manner that would imply that the Licensee has an exclusive arrangement for any or all of the Canada Digital Data, or that the Licensee has access to any confidential information or information not available to any other party.

6.3 The Licensee shall not use the Canada Digital Data in any way which in the opinion of Canada, may bring disrepute to or prejudice the reputation of Canada.

6.4 The Licensee shall supply to Canada, prior to its use or publication, a copy of all recommended marketing and promotional literature that identifies the Canada Digital Data or refers to the relationship between the Licensee and Canada. Canada shall notify the Licensee of any required changes within seven (7) working days of receipt of the materials. The Licensee shall make all changes to such materials as Canada, in its sole discretion, deems advisable.

6.5 The Licensee shall promptly notify Canada of any action or proceeding or any event that may affect its ability and capacity to exercise its licensed rights and fulfill its obligations under this Agreement.

## **7.0 REPRESENTATIONS, WARRANTIES, INDEMNITIES**

7.1 Canada makes no representation and gives no warranty of any kind with respect to the accuracy, usefulness, novelty, validity, scope, completeness or currency of the Canada Digital Data and expressly disclaims any implied warranty of merchantability or fitness for a particular purpose of the Canada Digital Data.

7.2 The Licensee shall have no recourse against Canada, whether by way of any suit or action or other, for any loss, liability, damage or cost that the Licensee may suffer or incur at any time, by reason of the Licensee's possession or use of the Canada Digital Data, or arising out of the exercise of its rights or the fulfillment of its obligations hereunder.

7.3 The Licensee shall at all times indemnify and hold Canada and its ministers, employees and agents harmless from all claims, demands, losses, damages, costs, actions or other proceedings

made, sustained, brought or prosecuted by any person in any manner, based upon, or occasioned by, or attributed to any injury, infringement or damage arising out of any action or omission of the Licensee, arising from erroneous communication by the Licensee, or arising from the performance or non-performance by the Licensee of its rights and obligations hereunder, or arising from the manufacture, publication, distribution or use of Derived Products.

## **8.0 TERM**

8.1 This Agreement is effective as of the date of the last signature of the Parties and shall remain in effect for a period of five (5) years, subject to section 9.0 below.

## **9.0 TERMINATION**

9.1 Notwithstanding section 8.0 above, this Agreement may be terminated prior to its expiration:

- (a) automatically, upon Canada giving written notice to the Licensee of a breach or default by the Licensee of any of the terms and conditions of this Agreement;
- (b) upon written notice of termination given by either Party at any time, and such termination shall take effect thirty (30) days after the receipt by the other Party of such notice; or
- (c) upon written agreement of the Parties.

9.2 Upon the expiration or termination of this Agreement, for whatever reason, the obligations of Canada hereunder shall immediately cease, the Licensee's rights as granted hereunder shall immediately cease, and the Licensee shall return to Canada, or destroy the Canada Digital Data and all reproductions thereof, and certify in writing to Canada, within thirty (30) days of expiration or termination, that this has been done.

9.3 Notwithstanding the expiration or termination of this Agreement, all agreements entered into prior to such expiration or termination by the Licensee, in the exercise of its rights hereunder and in conformity with the requirements set out herein, and all obligations imposed therein shall continue in full force and effect subject to their terms.

9.4 All obligations of the Parties which expressly or by their nature survive expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding such expiration or termination, until they are satisfied or by their nature expire. For greater clarity, and without limiting the generality of the foregoing, the following provisions survive expiration or termination of this Agreement:

- (a) section 5 (*Protection And Acknowledgement of Source*);
- (b) section 7 (*Representations, Warranties and Indemnities*); and
- (c) sections 9.2 (*Effect of Termination*).

**10.0 NOTICES**

10.1 Any report or notice required or permitted to be given by the Parties under this Agreement shall be in writing and given by delivering it in person, or sending it by mail, courier or facsimile addressed as follows:

if to Canada, to:

Randal Lake  
Head, Species at Risk Recovery Unit  
Canadian Wildlife Service, Environment Canada  
5421 Robertson Road Delta, BC, V4K 3N2

and if to the Licensee, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10.2 Any such report or notice shall be effectively conveyed upon receipt, unless received on a day which is not a business day, in which case it shall be deemed to be received on the next business day. Either Party may change its address from time to time by notice given in accordance with this section, and any subsequent notice must be sent to the Party at its changed address.

**11.0 GENERAL PROVISIONS**

11.1 Applicable Law

This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws in effect in the Province of British Columbia, and the laws of Canada, as applicable.

## 11.2 Entire Agreement

This Agreement, including the recitals and Schedule “A” attached hereto and incorporated herein constitute the entire agreement between the Parties with respect to its subject matter and supersedes any prior agreement or communication of any kind between the Parties. This Agreement may only be amended in writing, signed by both Parties, which expressly states the intention to amend this Agreement.

## 11.3 Alternate Dispute Resolution

If a dispute arises concerning this Agreement, or if a recommended modification of any term of this Agreement cannot be agreed between the Parties, the Parties shall resolve the matter:

- (a) firstly, by negotiation;
- (b) secondly, by mediation by a mutually acceptable mediator; and
- (c) thirdly, by binding arbitration.

## 11.4 No Waiver

No condoning, excusing or overlooking by Canada of any default by the Licensee, at any time or times, in performing or observing any of the Licensee’s obligations hereunder, will operate as a waiver, renunciation, surrender of or otherwise affect the rights of Canada in respect of any continuing or subsequent default. No waiver of these rights will be inferred from anything done or omitted by Canada except by an express waiver in writing.

## 11.5 Order of Precedence

If there is a conflict or ambiguity between this Agreement and any schedules thereto, this Agreement shall prevail.

## 11.6 No Joint Venture/Licensee not an Agent or Partner

The Parties expressly disclaim any intention to create a partnership, joint venture or joint enterprise. The Parties acknowledge and agree that nothing contained in this Agreement nor any acts of any Party shall constitute or be deemed to constitute the Parties as partners, joint ventures or principal and agent in any way or for any purpose. No Party has the authority to act for, or to assume any obligation or responsibility on behalf of the other Party.

## 11.7 No Updates

Canada assumes no obligation or liability whatsoever for the provision of updates to the Canada Digital Data.

In acceptance of the foregoing, the Parties have apposed their signatures as follows:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**, as represented by the Minister of Environment,

by: \_\_\_\_\_  
Signature Date (yyyy/mm/dd) \_\_\_\_\_

\_\_\_\_\_ Title  
Printed name \_\_\_\_\_

\_\_\_\_\_ Phone and email  
Address \_\_\_\_\_

**LICENSEE'S FULL NAME**

by: \_\_\_\_\_  
Signature Date (yyyy/mm/dd) \_\_\_\_\_

\_\_\_\_\_ Title  
Printed name \_\_\_\_\_

\_\_\_\_\_ Phone and email  
Address \_\_\_\_\_

**SCHEDULE “A” to the No-Fee End-Use Licence Agreement  
DESCRIPTION OF THE CANADA DIGITAL DATA**

Canada provides to the Licensee rights to access the following Canada Digital Data in accordance with the terms and conditions of this Agreement.

Title	Critical habitat or candidate critical habitat data for species at risk within the province of British Columbia at the discretion of Environment Canada.
Description	Spatial data representing areas within which critical habitat occurs or within which candidate critical habitat being used to inform Environment Canada’s identification of critical habitat under the Species at Risk Act for species at risk occurs at the discretion of Environment Canada.
Species	Any species listed on Schedule 1 of the <i>Species at Risk Act</i> for which critical habitat is identified or for which candidate critical habitat is being considered in a draft recovery strategy or action plan.
Date of data	Varies. Refer to the metadata included with each new file.
Format of data	GIS polygon data, ESRI shapefiles, and/or pdf maps
Location of data	Within British Columbia at the discretion of Environment Canada.
Status of data	Varies. Refer to the metadata included with each new file.
Conditions of data use	<ul style="list-style-type: none"> <li>• If applicable, member organisations (including individual bands or municipalities) may be provided and may use the data outlined above under this agreement.</li> <li>• The Licensee should refer to relevant recovery documents or draft recovery documents for information about specific criteria that define the critical habitat or draft critical habitat within the spatial boundaries depicted by the data.</li> <li>• Footnotes, captions, and map legends should refer to, as appropriate for the situation, “Area contains candidate critical habitat for species being considered for identification under the Species at Risk Act”.</li> <li>• Source data (e.g., species occurrence data, habitat data) used to inform critical habitat identification are not provided under this Agreement. If required, this data should be obtained from individual data custodians (e.g., BC Conservation Data Centre) and will be subject to separate data sharing agreements.</li> </ul>