

## PISCATUS<sup>3D</sup> SOFTWARE LICENCE AGREEMENT

### 1. Agreement

1.1 This licence agreement (**Agreement**) is a legal agreement between you (**you**) and Seabed Mapping International Limited (**Licensor**) for access to and use of any version of the computer software programme known as Piscatus<sup>3D</sup> and the USB security key, together with any associated documentation including manuals and other printed, "online" or electronic materials which are designed to assist or supplement the understanding or application of the software (**Software**). This Agreement replaces and supersedes any prior licence agreement (whether oral or in writing) entered into between you and the Licensor in respect of the Software.

1.2 This Agreement governs your access to and installation and use of the Software and all updates and upgrades that replace or supplement the Software and are not distributed with a separate licence.

1.3 By installing, accessing or otherwise using the Software you agree to be bound by the terms of this Agreement. If you do not agree to all of the terms of this Agreement, do not install, access or otherwise use the Software. If you install, access or otherwise use the Software the terms and conditions of this Agreement are deemed to have been fully accepted by you.

1.4 The Licensor may change the terms of this Agreement from time to time (and shall upload such updated terms onto the Piscatus<sup>3D</sup> website at [www.piscatus.co.nz](http://www.piscatus.co.nz)). Your continued access to and use of the Software will be deemed acceptance of the updated or amended terms. If you do not agree to the changes, you should cease using the Software.

1.5 You acknowledge that the Software has been designed solely as an aid to fishing and has not been designed as and does not purport to be a navigational aid.

### 2. Grant of licence

2.1 Subject to the terms and conditions of this Agreement, the Licensor grants to you a non-exclusive and non-transferable licence to access and use the Software.

2.2 You may access and use one copy of the Software and shall not copy the Software without the Licensor's prior written consent.

### 3. Ownership

3.1 You acknowledge the Licensor's exclusive ownership of the Software, and agree that you shall not (either directly or indirectly):

3.1.1 resell, redistribute or allow access to the Software or any part of the Software to any person;

3.1.2 disassemble, decompile or reverse engineer the Software or any of its files or components;

3.1.3 translate, adapt, modify or create derivative works of/from the Software;

3.1.4 use or display the Software on any public bulletin board, website, chat room or in any other media available to the public.

3.2 You shall not cause or permit anything to be done which may damage or endanger the title of the Licensor to the Software and shall not allow any other person to do so.

### 4. Use of the Software

4.1 In accessing and using the Software you will:

4.1.1 comply with all laws;

4.1.2 comply with the terms of this Agreement and all other requirements, limitations or restrictions relating to the Software specified in any written, online or electronic materials relating to the Software;

4.1.3 keep all Software access details including passwords and codes secret; and

4.1.4 notify the Licensor if you learn of any unauthorised use of, or security breach related to, the Software.

### 5. Support services

5.1 The Licensor shall endeavour to provide the following support services (**Support Services**) in respect of the Software:

Version of Software	Applicable support category
Version 1	<ul style="list-style-type: none"> <li>Full Support until 31 March 2012</li> <li>Obsolete from 1 April 2012</li> </ul>
Version 2	<ul style="list-style-type: none"> <li>Full Support until 31 March 2012</li> <li>Obsolete from 1 April 2012</li> </ul>
Version 3	<ul style="list-style-type: none"> <li>Full Support until 31 March 2012</li> <li>Obsolete from 1 April 2012</li> </ul>
Versions 4 and 4.2	<ul style="list-style-type: none"> <li>Full Support until 30 September 2012</li> <li>Limited Support from 1 October 2012 until 31 January 2013</li> <li>Obsolete from 1 February 2013</li> </ul>
Version 5	<ul style="list-style-type: none"> <li>Full Support until 31 December 2012</li> <li>Limited Support from 1 January 2013 until 30 June 2013</li> <li>Obsolete from 1 July 2013</li> </ul>
Version 5.1	<ul style="list-style-type: none"> <li>Full Support for a period of 12 months from the date on which the Licensor issues the installations permit code in respect of Version 5.1 of the Software</li> <li>Limited Support from the date on which the Full Support for this version of the Software expires until such time as the Licensor provides notice (on the Piscatus website) advising that the relevant version of the Software is obsolete</li> <li>Obsolete from the date on which the Licensor notifies that the period of Limited Support for this version of the Software has expired and that the relevant version of the Software is obsolete</li> </ul>

5.2 The particular Support Services provided as part of each support category referred to in clause 5.1 are as follows:

Category	Description
Full Support	<ul style="list-style-type: none"> <li>Phone and email support</li> <li>Within version updates for the Software are available (free of charge)</li> <li>Version upgrades are available (at the upgrade price advised by the Licensor)</li> <li>New permit codes will available if needed</li> <li>Replacement USB security keys are available as follows:                             <ol style="list-style-type: none"> <li>when damaged and returned to the Licensor (at the replacement fee advised by the Licensor)</li> <li>when lost (at the full system price, as advised by the Licensor)</li> </ol> </li> </ul>
Limited Support	<ul style="list-style-type: none"> <li>Email support</li> <li>Within version updates for the Software are available (free of charge)</li> <li>Version upgrades are available (at the upgrade price advised by the Licensor)</li> <li>New permit codes are not available</li> <li>Replacement USB security keys are available as follows:                             <ol style="list-style-type: none"> <li>when damaged and returned to the Licensor (at the replacement fee advised by the Licensor)</li> <li>when lost (at the full system price, as advised by the Licensor)</li> </ol> </li> </ul>
Obsolete	<ul style="list-style-type: none"> <li>Phone and email support is not available</li> <li>Within version updates for the Software are not available</li> <li>Version upgrades are not available. The new version must be purchased (at the full purchase price, as advised by the Licensor)</li> <li>New permit codes are not available</li> <li>Replacement USB security keys are not available. New USB security keys must be purchased (at the full system price, as advised by the Licensor)</li> </ul>

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### 6. Privacy

6.1 You acknowledge and agree that the Licensor may access or disclose information about you in order to:

- 6.1.1 comply with the law or legal proceedings served on it;
- 6.1.2 enforce and investigate potential breaches of this Agreement or any other unauthorised use of the Software; or
- 6.1.3 protect the rights, property, or safety of the Licensor, any Licensor party, their employees, customers or the public.

You consent to the access and disclosures outlined in this clause 6.

6.2 The Licensor may use technology or other means to protect the Software, protect its customers, or to prevent you from breaching this Agreement.

6.3 In order to provide you with the Software and/or the Support Services, the Licensor may collect certain information about the Software's performance and your use of the Software and/or the Support Services.

### 7. Intellectual property

7.1 All copyright, trademarks, designs, patents and other intellectual property rights (registered and unregistered) in and to the Software (including but not limited to intellectual property rights in the Software and any images, photographs, animations, video, audio and text incorporated into the Software), the accompanying printed, "online" and electronic materials (if any), and any copies of the Software are owned or held by and shall remain vested in the Licensor.

### 8. Disclaimer of warranty

8.1 By installing, accessing or otherwise using the Software you expressly acknowledge and agree that access to and use of the Software and the Support Services is at your sole risk. The Software and the Support Services are provided on an "as is", "with all faults" and "as available" basis without warranty of any kind.

8.2 The Licensor does not guarantee the timeliness, completeness or performance of the Support Services or the Software (or any of the Software content). To the extent permitted by law, the Licensor expressly excludes all warranties, express or implied, including, but not limited to, the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy.

8.3 If the Consumer Guarantees Act 1993 would otherwise apply to your use of the Software and/or Support Services and you are accessing or otherwise using the Software and/or Support Services for business purposes (or holding yourself out as accessing or otherwise using it for business purposes), you agree that the provisions of that Act will not apply, to the extent contracting out is permitted by that Act.

8.4 The Licensor does not warrant that the functions contained in the Software will meet your requirements, or that the operation of the Software or the Support Services will be uninterrupted or error-free, or that defects in the Software will be corrected or that the Piscatus<sup>3D</sup> website or server which makes it available are free of viruses or bugs. Furthermore, the Licensor does not warrant or make any representations regarding the use or the results of the use of the Software or related documentation in terms of their correctness, accuracy, reliability, or otherwise. No oral, written, online or electronic information or advice given by the Licensor (or any authorised representative of the Licensor) shall create a warranty or in any way increase the scope of this warranty. Should the Software and/or any of the Support Services prove defective, you (and not the Licensor or an authorised representative of the Licensor) will assume the entire cost of all necessary servicing repair or correction. The entire risk arising out of use or performance of the Software and the Support Services remains with you.

### 9. Limitation of liability

9.1 To the maximum extent permitted at law the Licensor shall have no liability to you for anything (including but not limited to negligence on the part of the Licensor or any of its employees, agents or contractors) other than a breach by the Licensor of an express and material provision of this Agreement.

9.2 You shall indemnify the Licensor against any claim, action, proceeding, judgment, damage, loss, expense or liability incurred or suffered by or brought or made or recovered against the Licensor in connection with your negligence or wilful default or a breach by you of any term of this Agreement.

9.3 Notwithstanding any other provision in this Agreement, the Licensor's total aggregate liability to you for all claims under or in connection with this Agreement, the Software and/or the licence contained herein shall be limited to an amount equal to the fee paid by you for this license to the Software.

9.4 Under no circumstances, including negligence, shall the Licensor or its suppliers or distributors be liable for any incidental, special, indirect or consequential damages (including, without limitation, damages for loss of business profits, business interruption, loss of business information, loss of catch or failure to catch, or any other pecuniary loss) arising out of or relating to this Agreement, the Software or the Support Services, whether or not the possibility of such damages could have been foreseen.

### 10. General

10.1 Without prejudice to any other rights or remedies of the Licensor, the Licensor may terminate this Agreement (and the licence provided herein) if you fail to comply with the terms and conditions of this Agreement. In any such event you must, at your own cost, cease to use and permanently delete the Software from all of your systems and return to the Licensor (or the retailer from which the Software was purchased) the USB security key and any documents, materials and/or other items relating to the Software in your possession.

10.2 This Agreement will be governed by and construed according to the laws of New Zealand law and you irrevocably submit to the exclusive jurisdiction of the courts of New Zealand.

10.3 If any dispute arises in respect of this Agreement or the Software, you shall enter into good faith negotiations with the Licensor to resolve a course of action for resolution of the dispute.

10.4 If any provision of this Agreement is determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any country or area in which these terms are intended to be effective, then to the extent and within the jurisdiction in which that term is illegal, invalid or unenforceable, it shall be severed and deleted from these terms and the remaining terms shall survive and continue to be binding and enforceable.

10.5 This Agreement constitutes the entire agreement between you and the Licensor with respect to your use of the Software and/or Support Services and supersedes all prior or contemporaneous understandings regarding such subject matter.

10.6 The Licensor may assign its interest in this Agreement at any time and for the purposes of this Agreement references to the Licensor shall include any person or organisation to which it has licensed or assigned its rights and obligations.